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Sixty-ninth
Legislative Assembly
of North Dakota

# HOUSE BILL NO. 1064

Introduced by

Education Committee

(At the request of the State Board of Higher Education)

A BILL for an Act to create and enact a new section to chapter 15-18.1 of the North Dakota Century Code, relating to the national council for state authorization reciprocity agreements membership; to amend and reenact sections 15-18.1-01, 15-18.1-02, 15-18.1-05, 15-18.1-06, and 15-18.1-10, and subsection 4 of section 15-18.1-13 of the North Dakota Century Code, relating to postsecondary education institution standards; and to repeal section 15-18.1-03 of the North Dakota Century Code, relating to the authorization of a postsecondary educational institution not operating in this state.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 15-18.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**15-18.1-01. Definitions.**

As used in this chapter:

1. "Accredited" means approved by an accrediting body recognized by the United States department of education.
2. "Authorization to operate" or like term means approval of the board or North Dakota university system office, as applicable, to operate or to contract to operate a postsecondary educational institution in this state.
~~2.~~3. "Board" means the state board of higher education.
4. "Distance education" is education using one or more types of technology to deliver instruction to a student who is separated from the instructor and to support regular and substantive interaction between the student and the instructor synchronously or asynchronously.
~~3.~~5. "Education" or "educational services" or like term includes any class, course, or program of training, instruction, or study.

~~4.~~6. "Educational credentials" means ~~degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution operating in this state~~a postsecondary credential leading to a diploma; certificate; or an associate, bachelor, master, or doctorate degree. This term does not include a postsecondary credential leading to an honorary degree or other unearned degree.

7. "Person" means an individual, organization, government, political subdivision, or government agency or instrumentality. The term does not include environmental elements, artificial intelligence, an animal, or an inanimate object.

~~5.~~8. "Postsecondary educational institution" means an ~~academic, technical, home study, business, professional or other school, college, or university, or other person, operating in this state, offering educational credentials or offering instruction or educational services, primarily to any individual who has completed or terminated secondary education or who is beyond the age of compulsory high school attendance, for attainment of educational, or professional objectives at the associate in arts level or higher~~agency or political subdivision of the state, individual, partnership, company, firm, society, trust, association, corporation, or any combination that:

a. Is, owns, or operates a postsecondary educational institution.

b. Provides a postsecondary course of instruction leading to a degree.

c. Uses in its name the term "college", "academy", "institute", or "university" or a similar term to imply the person is primarily engaged in the education of students at the postsecondary level, and charges for its services.

9. "Presence" means a location in North Dakota where a student may participate in a structured activity that is not a proctored examination, which is related to a school's distance education course of instruction.

~~6.~~10. "To grant" includes awarding, selling, conferring, bestowing, or giving.

~~7.~~11. "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any individual, directly or indirectly, in any form, to perform the act described.

~~8. "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person to perform any such act.~~

**SECTION 2. AMENDMENT.** Section 15-18.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**15-18.1-02. Exemptions.**

The following education and educational schools or institutions are exempted from the provisions of this chapter:

1. ~~Education sponsored by a bona fide~~Educational programs conducted by a trade, business, professional, or fraternal organization, ~~so recognized by the board,~~ solely for that organization's membership, or offered on a no-fee basis.
2. Education offered by charitable institutions, organizations, or agencies, so recognized by the board, provided the education is not advertised or promoted as leading toward educational credentials.
3. Postsecondary educational institutions established, operated, and governed by this ~~or any other~~ state ~~or its political subdivisions, as determined by the board and any educational consortium that includes one or more of the institutions~~.
4. Private four-year institutions chartered or incorporated and operating in the state prior to July 1, 1977, so long as the institutions retain accreditation ~~by national or regional accrediting agencies~~and are recognized by the United States ~~office~~department of education.
5. Schools of nursing regulated under chapter 43-12.1.
6. Native American colleges operating in this state, established by federally recognized Indian tribes.

~~7. Postsecondary educational institutions not operating in this state.~~

~~8.~~7. Institutions whose only physical presence in this state consists of students enrolled in practicums, internships, clinicals, or student teaching in this state.

~~9.~~8. Postsecondary career schools regulated under chapter 15-20.4.

**SECTION 3. AMENDMENT.** Section 15-18.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**15-18.1-05. Minimum standards to operate with a presence in North Dakota.**

All postsecondary educational institutions must be accredited ~~by national or regional accrediting agencies recognized by the United States department of education~~, have a federal financial responsibility composite score greater than one and one-half, and provide students with institutional public disclosures as defined by the board. The board additionally may ~~additionally~~ require ~~such~~ further evidence and make ~~such~~ further investigation as in its judgment may be necessary. ~~Any postsecondary educational institution operating in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the institution becomes eligible for accreditation by a recognized accrediting agency. Institutions issued a provisional authorization to operate must demonstrate a substantial good-faith showing of progress toward such status. Only upon~~Upon accreditation ~~may~~ an institution may become eligible for ~~a regular~~state authorization to operate. An institution shall give written notification to the board within thirty days of any change to the institution's accreditation status, change of ownership, or change in federal financial responsibility composite score.

**SECTION 4. AMENDMENT.** Section 15-18.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**15-18.1-06. Prohibition - Penalty.**

1. A person may not:
   a. Operate, in this state, a postsecondary educational institution not exempted from the provisions of this chapter, unless the institution has a currently valid authorization to operate issued under this chapter.
   b. Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to perform any such act, at a facility or location in this state unless ~~such~~the person~~, group, or entity~~ observes and ~~is in compliance~~complies with the minimum standards and criteria established by the board and the policies adopted by the board.
   c. Use the term "university", "institute", or "college" without authorization to do so from the board.

d. Grant, or offer to grant, educational credentials, without authorization to do so from the board.

2. A person who violates this section, or who fails or refuses to deposit with the board the records required by the board under this chapter, is subject to a civil penalty not to exceed ~~one hundred~~one thousand five hundred dollars for each violation. Each day's failure to comply with these provisions is a separate violation. The fine may be imposed by the board ~~in an administrative proceeding or by any court of competent jurisdiction~~consistent with board policy and procedure.

3. A person who willfully violates this section, or who willfully fails or refuses to deposit with the board the records required by the board under this chapter, is guilty of a class B misdemeanor. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state or a state's attorney pursuant to section 15-18.1-12.

4. The board may suspend or revoke a person's authorization to offer distance education to North Dakota residents until the person complies with the national council for state authorization reciprocity agreements membership requirements.

5. The North Dakota university system office will notify in writing a person found to be out of compliance and the person will have thirty days to remedy the deficiency. If the deficiency is not remedied within the thirty-day period, penalties may be assessed under subsection 2.

**SECTION 5. AMENDMENT.** Section 15-18.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**15-18.1-10. Board review.**

A person aggrieved by a decision of the ~~board~~North Dakota university system respecting denial or revocation of an authorization to operate, or the placing of conditions thereon, whether on initial application or on application for renewal may appeal to the board in the manner provided by the board. Appeals must be filed with the North Dakota university system within thirty days of receiving the notice of noncompliance. The board shall review the appeal and issue a final decision.

**SECTION 6. AMENDMENT.** Subsection 4 of section 15-18.1-13 of the North Dakota Century Code is amended and reenacted as follows:

4. As used in this section, "duly authorized institution of higher learning" means an institution that:
   a. Has accreditation recognized by the United States ~~secretary~~department of education or has the foreign equivalent of such accreditation;
   b. Has an authorization to operate under this chapter or under chapter 15-20.4;
   c. Operates in this state, and is exempt from this chapter under section 15-18.1-02 or is exempt from chapter 15-20.4 under section 15-20.4-02;
   d. Does not operate in this state and is:
      (1) Licensed by the appropriate state agency; and
      (2) An active applicant for accreditation by an accrediting body recognized by the United States ~~secretary~~department of education; or
   e. Has been found by the state board of higher education or the state board for career and technical education to meet standards of academic quality comparable to those of an institution located in the United States that has accreditation recognized by the United States ~~secretary~~department of education to offer degrees of the type and level claimed.

**SECTION 7.** A new section to chapter 15-18.1 of the North Dakota Century Code is created and enacted as follows:

**Required national council for state authorization reciprocity agreements membership.**

A postsecondary educational institution offering distance education programs to students in North Dakota must be a member of the national council for state authorization reciprocity agreements and comply with the requirements of the council. Institutions must adhere to all standards, policies, and fees established by the national council for state authorization reciprocity agreements for membership and participation, including reporting requirements, quality standards, and consumer protection measures.

**SECTION 8. REPEAL.** Section 15-18.1-03 of the North Dakota Century Code is repealed.