The Legislature
of the
State of New Mexico

52nd Legislature, 1st Session

LAWS 2015

CHAPTER 23

SENATE BILL 446, as amended,

with certificate of correction

Introduced by
SENATOR JOHN M. SAPIEN
STATE OF NEW MEXICO
Senate

FIFTY-SECOND LEGISLATURE
FIRST SESSION, 2015

March 23, 2015

CERTIFICATE OF CORRECTION

I certify that the following error was found in

SENATE BILL 446, as amended

and has been corrected in enrolling and engrossing:

1. Education Committee Amendment was corrected to read: 1. On page 4, line 1, after "technology", insert ",, New Mexico Military Institute". to conform.

Respectfully submitted,

[Signature]

Lenore M. Naranjo, Chief Clerk
CHAPTER 23

AN ACT


BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 21 NMSA 1978 is enacted to read:

"SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Interstate Distance Education Act"."

SECTION 2. A new section of Chapter 21 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Interstate Distance Education Act:

A. "accreditation" means the status of public recognition that an accrediting agency recognized by the United States department of education pursuant to Title 4 of the federal Higher Education Act of 1965 grants to an institution or educational program that meets the department's established requirements;"

SB 446
Page 1
B. "complaint" means a formal written assertion that a provision of an agreement pursuant to Subsection B of Section 3 of the Interstate Distance Education Act is being or has been violated;

C. "department" means the higher education department;

D. "distance education" means instruction offered online or through correspondence or interactive video or other means enabling a student in one state to receive instruction from a higher education provider in another state;

E. "higher education" means education or training beyond secondary education;

F. "operate" means providing instruction, marketing, recruiting, tutoring, field experiences and other services for students in support of offering distance education;

G. "physical presence" means the ongoing occupation of a physical location in the state for, or the ongoing maintenance of an administrative office to support, the provision of higher education instruction;

H. "post-secondary educational institution" includes public post-secondary educational institutions and private post-secondary educational institutions;

I. "private post-secondary educational
"institution" means an educational institution that:

(1) operates in the state under the
provisions of the Post-Secondary Educational Institution Act;

(2) has a physical presence in the state;

and

(3) is not a public post-secondary
educational institution;

J. "public post-secondary educational institution"
means:

(1) a branch community college of a state
educational institution established pursuant to Chapter 21,
Article 13 NMSA 1978;

(2) a community college or technical and
vocational institute established pursuant to Chapter 21,
Article 16 NMSA 1978; and

(3) eastern New Mexico university, western
New Mexico university, New Mexico highlands university,
northern New Mexico college, the university of New Mexico,
New Mexico state university or the New Mexico institute of
mining and technology, New Mexico Military Institute; and

K. "state authorization reciprocity agreement"
means an agreement, developed by the national council for
state authorization reciprocity agreements, that provides
uniform standards and parameters for the interstate provision
of post-secondary distance education courses and programs."
SECTION 3. A new section of Chapter 21 NMSA 1978 is
enacted to read:

"INTERSTATE DISTANCE EDUCATION PROGRAM--AGREEMENT.--

A. The department shall establish a program for
facilitating:

(1) the receipt of distance education by
students in the state; and

(2) the provision of distance education by
participating post-secondary educational institutions to
students in other states.

B. In furtherance of the provisions of Subsection
A of this section, the department may enter into:

(1) an agreement for the western interstate
commission for higher education to administer and the state
to participate in a state authorization reciprocity
agreement; or

(2) a reciprocal agreement with another
state for the:

(a) receipt by students in the state of
distance education from the other state's institutions that
provide higher education instruction and are approved for
participation in the reciprocal agreement by the appropriate
agency of the other state; and

(b) provision of distance education by
participating post-secondary educational institutions to
students in the other state.

C. The department may terminate an agreement entered into pursuant to Subsection B of this section pursuant to the provisions of that agreement or department rule."

SECTION 4. A new section of Chapter 21 NMSA 1978 is enacted to read:

"PROGRAM PARTICIPATION BY POST-SECONDARY EDUCATIONAL INSTITUTIONS--QUALIFICATIONS.--

A. The department shall provide an application form to allow post-secondary educational institutions to apply to participate in the interstate distance education program.

B. The department shall establish qualifications that an applicant shall demonstrate for acceptance as a participating post-secondary educational institution. At a minimum, the department shall require an applicant to provide documentation showing:

(1) compliance with the interregional guidelines for the evaluation of distance education programs adopted by the council of regional accrediting commissions;

(2) current accreditation; and

(3) for private post-secondary educational institutions, a financial responsibility composite score of one and five-tenths or greater as assigned by the United
States department of education in its most recent fiscal year report.

C. An applicant accepted for participation in the interstate distance education program shall enter into a participation agreement with the department."

SECTION 5. A new section of Chapter 21 NMSA 1978 is enacted to read:

"MONITORING--COMPLAINT RESOLUTION--SANCTIONS.--

A. The department shall regularly monitor the compliance of participating post-secondary educational institutions with the Interstate Distance Education Act.

B. Upon the receipt of a complaint about a participating post-secondary educational institution, the department shall timely:

(1) monitor the resolution process and resolution by the post-secondary educational institution and document the resolution; or

(2) investigate the complaint, conduct or coordinate a resolution process appropriate for responding to the complaint and document the resolution.

C. The department may sanction a participating post-secondary educational institution that:

(1) fails to resolve a complaint or comply with the department's efforts to respond to a complaint pursuant to Subsection B of this section; or
(2) violates a provision of the Interstate Distance Education Act or an agreement pursuant to Section 3 of that act.

D. Sanctions the department may impose include:

(1) requiring the payment of fees, fine or other monetary remedies; or

(2) the termination or nonrenewal of the participation agreement entered into pursuant to Subsection C of Section 4 of the Interstate Distance Education Act."

SECTION 6. A new section of Chapter 21 NMSA 1978 is enacted to read:

"RULES--REPORTING.--

A. The department shall publish rules for conducting the interstate distance education program.

B. By July 31, 2016 and each subsequent year, the department shall report to the legislative finance committee and the legislative education study committee on the interstate distance education program."

SECTION 7. Section 21-1-26.1 NMSA 1978 (being Laws 1980, Chapter 145, Section 2, as amended) is amended to read:

"21-1-26.1. ADDITIONAL DUTIES.--In addition to the duties imposed upon the higher education department in Chapter 21 NMSA 1978, the department shall perform the same planning and budgeting functions for the university of New Mexico hospital as it performs for other post-secondary
"21-24-3. EXCEPTIONS.--The Out-of-State Proprietary School Act does not apply to:

A. courses recognized by the public education department for the purpose of complying with the Compulsory School Attendance Law;

E. courses offered by an employer solely for the employer's employees;

C. courses offered by a nonprofit religious institution relating primarily to religion; and

D. courses offered under a participation agreement pursuant to the provisions of Subsection C of Section 4 of the Interstate Distance Education Act."