

# ASSEMBLY, No. 4407

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JULY 16, 2020

**Sponsored by:**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**SYNOPSIS**

Eliminates eligibility of postsecondary students and other individuals for State student assistance, training, and employment services if school or training provider requires student to consent to arbitration agreement or proceeding or to waive certain rights.

**CURRENT VERSION OF TEXT**

As introduced.



A4407 JASEY

2

1 AN ACT concerning eligibility for State student assistance or other  
2 employment and training services and supplementing chapter  
3 71B of Title 18A of the New Jersey Statutes and P.L.1989,  
4 c.293.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. The Legislature finds and declares that the State spends  
10 considerable funds on educational institutions, including proprietary  
11 schools, training providers, and other postsecondary schools. It is  
12 in the State's interests to ensure that State funds going to schools,  
13 training providers, or their students, are funding consistently high-  
14 quality educational experiences, but the State does not have the  
15 resources to monitor these programs daily. Instead, to ensure that  
16 limited State funds are expended on high-quality programs, the  
17 State depends on students' ability to effectively vindicate their  
18 rights under State and federal law in litigation against educational  
19 institutions that are or may receive funds. Lawsuits like these deter  
20 the misuse of State funds without the expenditure of State resources  
21 on enforcement, and public filings resulting from such litigation  
22 may be monitored by the State to assess whether it is spending its  
23 limited funds appropriately.

24 The Legislature further finds and declares that such educational  
25 institutions frequently require their students to sign enrollment  
26 contracts that include forced arbitration and other restrictive  
27 clauses, including clauses that require students to waive their right  
28 to participate in a class action against the company. These clauses  
29 impede students from being able to sue to enforce State and federal  
30 law against their educational institutions, and the few private and  
31 individual arbitrations that students are able to file against  
32 educational institutions are not publicly filed and available for  
33 monitoring by the State.

34

35 2. a. A student enrolled in a public or independent institution of  
36 higher education or a proprietary institution licensed to offer  
37 academic degrees shall be ineligible to receive any form of student  
38 assistance from the State, including grants, scholarships, and loans,  
39 in the event that the institution or school requires the student to:

40 (1) submit to an agreement to arbitrate or to an arbitration  
41 proceeding to resolve any matter thereafter relating to the student's  
42 enrollment prior to the commencement of any legal action;

43 (2) resolve a complaint relating to the student's enrollment  
44 through an internal dispute process;

45 (3) waive any right, forum, or procedure afforded to the student,  
46 including any right to file and pursue a civil action, class action or a  
47 complaint with, or otherwise notify, any State agency, other public  
48 prosecutor, law enforcement agency, or any court or other

1 governmental entity of any alleged violation of the student's rights;  
2 or

3 (4) be prohibited from disclosing, discussing, describing, or  
4 commenting upon the terms of the student's enrollment agreement  
5 or any violation thereof.

6 b. A public or independent institution of higher education or a  
7 proprietary institution licensed to offer academic degrees shall not  
8 threaten, retaliate, or discriminate against any student because of  
9 the refusal by the student to: consent to an agreement to arbitrate or  
10 to an arbitration proceeding; resolve a complaint through an internal  
11 dispute process; waive any right, forum, or procedure; or consent to  
12 a prohibition to disclose, discuss, describe or comment upon any  
13 enrollment agreement terms or violations thereof.

14 c. A public or independent institution of higher education or a  
15 proprietary institution licensed to offer academic degrees shall not  
16 require a student to opt out of a waiver or take any affirmative  
17 action in order to preserve his rights pursuant to this section.

18 d. In the event that a public or independent institution of higher  
19 education or a proprietary institution licensed to offer academic  
20 degrees requires a student to enter into an enrollment contract or  
21 similar agreement, the institution shall annually submit such  
22 contracts or agreements to the Secretary of Higher Education.

23 e. Nothing in this act shall be construed to invalidate a written  
24 arbitration agreement that is otherwise enforceable under the  
25 Federal Arbitration Act (9 U.S.C.s.1 et seq.) .

26

27 3. a. An individual receiving or seeking employment and  
28 training services from a training provider shall be ineligible to receive  
29 the services or any form of funding for the services, including grants,  
30 scholarships, loans, or other State job training funds or federal job  
31 training funds, if the training provider requires the individual to:

32 (1) submit to an agreement to arbitrate or to an arbitration  
33 proceeding, prior to the commencement of any legal action, to  
34 resolve any matter thereafter relating to the individual's receiving  
35 the services;

36 (2) resolve, through an internal dispute process, a complaint  
37 relating to the individual's receiving the services;

38 (3) waive any right, forum, or procedure afforded to the  
39 individual, including any right to file and pursue a civil action, class  
40 action or a complaint with, or otherwise notify, any State agency,  
41 other public prosecutor, law enforcement agency, or any court or  
42 other governmental entity of any alleged violation of the  
43 individual's rights; or

44 (4) be prohibited from disclosing, discussing, describing, or  
45 commenting upon the terms of the individual's receiving the  
46 services or any violation thereof.

47 b. A training provider shall not threaten, retaliate, or  
48 discriminate against any individual because of the refusal by the

1 individual to: consent to an agreement to arbitrate or to an  
2 arbitration proceeding; resolve a complaint through an internal  
3 dispute process; waive any right, forum, or procedure; or consent to  
4 a prohibition to disclose, discuss, describe or comment upon any  
5 enrollment agreement terms or violations thereof.

6 c. A training provider shall not require an individual to opt out  
7 of a waiver or take any affirmative action in order to preserve his  
8 rights pursuant to this section.

9 d. If a training provider requires an individual to take actions  
10 which make the individual ineligible to receive employment and  
11 training services pursuant to subsection a. of this section, or the  
12 training provider violates the provisions of subsection b. of this  
13 section, the training provider shall not be placed or retained on the  
14 State Eligible Training Provider List maintained pursuant to section  
15 14 of P.L.2005, c.354 (C.34:15C-10.2), and shall not receive any  
16 federal job training funds or State job training funds.

17 e. In the event that a training provider requires an individual to  
18 enter into an enrollment contract or similar agreement, the provider  
19 shall annually submit such contracts or agreements to the  
20 Commissioner of Labor and Workforce Development.

21 f. Nothing in this act shall be construed to invalidate a written  
22 arbitration agreement that is otherwise enforceable under the  
23 Federal Arbitration Act (9 U.S.C.s.1 et seq.)

24 g. For the purposes of this section, “federal job training funds”,  
25 “State job training funds”, “training provider” shall have the  
26 meanings set forth in section 4 of P.L.1989, c.293 (C.34:15C-1),  
27 and “employment and training services” shall have the meanings set  
28 forth in section 1 of P.L.1992, c.48 (C.34:15B-35) and section 3 of  
29 P.L.1992, c.43 (C.34:15D-3).

30  
31 4. This act shall take effect in the next full academic year  
32 beginning after the date of enactment.

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35 STATEMENT

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37 This bill provides that a student enrolled in a public or  
38 independent institution of higher education or a proprietary  
39 institution licensed to offer academic degrees, or an individual  
40 receiving or seeking employment and training services from a training  
41 provider, will be ineligible to receive any form of student assistance  
42 from the State, including grants, scholarships, and loans, or receive  
43 any other employment and training services, if the institution, school,  
44 or training provider requires the student or individual to:

45 (1) submit to an agreement to arbitrate or to an arbitration  
46 proceeding, prior to the commencement of any legal action, to  
47 resolve any matter thereafter relating to the student’s enrollment or  
48 the individual’s receiving the services;

1 (2) resolve a complaint relating to the student's enrollment or  
2 the individual's receiving the services through an internal dispute  
3 process;

4 (3) waive any right, forum, or procedure afforded to the student  
5 or individual, including any right to file and pursue a civil action,  
6 class action or a complaint with, or otherwise notify, any State  
7 agency, public prosecutor, law enforcement agency, or any court or  
8 other governmental entity of any alleged violation of the rights of  
9 the student or individual; or

10 (4) be prohibited from disclosing, discussing, describing, or  
11 commenting upon the terms of the student's or individual's  
12 enrollment agreement or any violation thereof.

13 The bill also provides that such school, institution, or training  
14 provider cannot threaten, retaliate, or discriminate against any  
15 student or individual because of the refusal by the student to:  
16 consent to an agreement to arbitrate or to an arbitration proceeding;  
17 resolve a complaint through an internal dispute process; waive any  
18 right, forum, or procedure; or consent to a prohibition to disclose,  
19 discuss, describe or comment upon any enrollment agreement terms  
20 or violations thereof. Additionally, the bill provides that a school,  
21 proprietary school, or training provider cannot require a student to  
22 opt out of a waiver or take any affirmative action in order to  
23 preserve his rights.

24 Finally, the bill provides that if a training provider requires an  
25 individual to take actions which make the individual ineligible to  
26 receive employment and training services under the bill or takes  
27 retaliatory actions against an individual prohibited by the bill, the  
28 training provider shall not be placed or retained on the State  
29 Eligible Training Provider List and shall not receive any federal job  
30 training funds or State job training funds.