

[First Reprint]

ASSEMBLY, No. 4407

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 16, 2020

Sponsored by:

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

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 reported by the Assembly Higher Education Committee on October 8, 2020, with amendments.



(Sponsorship Updated As Of: 10/19/2020)

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 academic
37 degrees shall be ineligible to receive any form of student assistance
38 from the State, including grants, scholarships, and loans, in the event
39 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 through
44 an internal dispute process;

45 (3) waive any right, forum, or procedure afforded to the student,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHI committee amendments adopted October 8, 2020.

1 including any right to file and pursue a civil action, class action or a
2 complaint with, or otherwise notify, any State agency, other public
3 prosecutor, law enforcement agency, or any court or other
4 governmental entity of any alleged violation of the student's rights; or

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

8 ¹Nothing in this subsection shall be construed to prohibit a student
9 from receiving any form of student assistance from the State for which
10 the student is eligible at a different institution of higher education or
11 proprietary institution licensed to offer academic degrees.¹

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

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

24 d. In the event that a public or independent institution of higher
25 education or a proprietary institution licensed to offer academic
26 degrees requires a student to enter into an enrollment contract or
27 similar agreement, the institution shall annually submit such contracts
28 or agreements to the Secretary of Higher Education.

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

32
33 3. a. An individual receiving or seeking employment and training
34 services from a training provider shall be ineligible to receive the
35 services or any form of funding for the services, including grants,
36 scholarships, loans, or other State job training funds or federal job
37 training funds, if the training provider requires the individual to:

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

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

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

48 or

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

4 ¹Nothing in this subsection shall be construed to prohibit an
5 individual from receiving employment and training services or any
6 form of funding for the services for which the individual is eligible
7 from a different training provider.¹

8 b. A training provider shall not threaten, retaliate, or discriminate
9 against any individual because of the refusal by the individual to:
10 consent to an agreement to arbitrate or to an arbitration proceeding;
11 resolve a complaint through an internal dispute process; waive any
12 right, forum, or procedure; or consent to a prohibition to disclose,
13 discuss, describe or comment upon any enrollment agreement terms or
14 violations thereof.

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

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

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

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

33 g. For the purposes of this section, "federal job training funds",
34 "State job training funds", "training provider" shall have the meanings
35 set forth in section 4 of P.L.1989, c.293 (C.34:15C-1), and
36 "employment and training services" shall have the meanings set forth
37 in section 1 of P.L.1992, c.48 (C.34:15B-35) and section 3 of
38 P.L.1992, c.43 (C.34:15D-3).

39
40 4. This act shall take effect in the next full academic year
41 beginning after the date of enactment.