

State of Wisconsin



2015 Senate Bill 511

Date of enactment: **March 1, 2016**
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2015 WISCONSIN ACT 208

AN ACT *to create* 15.07 (5m) (d), 15.675, 20.235 (3), 38.50 (1) (e) 9. and 10., subchapter V (title) of chapter 39 [precedes 39.85], 39.85, 39.86, 39.87 and 227.01 (13) (yo) and (yp) of the statutes; **relating to:** creating a Distance Learning Authorization Board and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.07 (5m) (d) of the statutes is created to read:

15.07 (5m) (d) *Distance learning authorization board.* The members of the distance learning authorization board shall not be reimbursed for expenses under sub. (5).

SECTION 2. 15.675 of the statutes is created to read:

15.675 Same; attached board. (1) DISTANCE LEARNING AUTHORIZATION BOARD. There is created a distance learning authorization board, for higher education, that is attached to the higher educational aids board under s. 15.03 and that consists of all of the following members:

- (a) The president of the University of Wisconsin System or his or her designee.
- (b) The president of the technical college system as appointed under s. 38.04 (2) or his or her designee.
- (c) The president of the Wisconsin Association of Independent Colleges and Universities or his or her designee.
- (d) The executive secretary of the educational approval board.
- (e) One person representing tribal colleges in this state, appointed for a 4-year term.

SECTION 3. 20.235 (3) of the statutes is created to read:

20.235 (3) DISTANCE LEARNING AUTHORIZATION BOARD. (g) *General operations.* All moneys received from fees collected under s. 39.86 (5) for the operations and administration of the distance learning authorization board.

SECTION 4. 38.50 (1) (e) 9. and 10. of the statutes are created to read:

38.50 (1) (e) 9. The distance education program of an eligible institution that has been authorized by the distance learning authorization board under s. 39.86 (3) (a) 1.

10. If the distance learning authorization board enters into an agreement under s. 39.86 (2) (a), a postsecondary institution to which all of the following apply:

- a. The institution does not have its principal campus in this state.
- b. The jurisdiction in which the institution has its principal campus has joined an agreement, as defined in s. 39.86 (1) (a), of which this state is a member or for which there is reciprocity with the agreement entered into by the distance learning authorization board under s. 39.86 (2) (a).
- c. The institution has obtained authorization, from the jurisdiction in which the institution has its principal

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

campus, to offer distance education programs to students located beyond the borders of the state where the institution is located.

SECTION 5. Subchapter V (title) of chapter 39 [precedes 39.85] of the statutes is created to read:

CHAPTER 39

SUBCHAPTER V

DISTANCE LEARNING

AUTHORIZATION BOARD

SECTION 6. 39.85 of the statutes is created to read:

39.85 Definitions. In this subchapter:

(1) “Board” means the distance learning authorization board.

(2) “Other jurisdiction” or “another jurisdiction” means any state of the United States other than Wisconsin, any foreign country, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.

SECTION 7. 39.86 of the statutes is created to read:

39.86 Distance education reciprocity agreement.

(1) **DEFINITIONS.** In this section:

(a) “Agreement” means any of the following:

1. The agreement developed by the National Council for State Authorization Reciprocity Agreements that, as of the effective date of this subdivision [LRB inserts date], is known as the “State Authorization Reciprocity Agreement” and that, for the region that includes this state, is administered under the midwestern higher education compact entered into by this state under s. 39.80.

2. Any amendment or superseding version of the agreement described in subd. 1.

3. Any other interstate reciprocity agreement related to state authorization and oversight of postsecondary institutions that offer distance education to students located beyond the borders of the state where the institution is located.

(b) “Distance education program” means the offering of courses for credit to students in another jurisdiction that will lead to a degree or certificate from the institution offering the course, but also includes noncredit courses and field experiences offered as part of the program.

(c) “Eligible institution” means a postsecondary institution to which all of the following apply:

1. The institution holds institutional accreditation by name, as a single entity, from an accrediting agency or association that is recognized by the federal secretary of education as meeting the criteria established under [20 USC 1099b](#) and that has formal recognition to accredit distance education programs.

2. The institution maintains its principal campus in this state, and this state is the state where the institution’s principal campus holds its institutional accreditation as described in subd. 1.

3. The institution has authority, which is not derived under this section, to offer in this state degrees at the associate level or higher.

4. The institution offers any distance education program and grants degrees or certificates in connection with the program.

(2) **AUTHORIZATION TO ENTER INTO AN AGREEMENT.**

(a) Subject to par. (b), the board, on behalf of this state, may enter into an agreement.

(b) 1. Before entering into an agreement, the board shall provide written notice to the joint committee on finance of the board’s intention to enter into an agreement, which notice shall include a copy of the agreement.

2. If, within 14 working days after the date of the notice under subd. 1., the cochairpersons of the joint committee on finance do not notify the board that the committee has scheduled a meeting to review the board’s proposal to enter into the agreement, the board may enter into the agreement. If, within 14 working days after the date of the notice, the cochairpersons of the committee notify the board that the committee has scheduled a meeting to review the board’s proposal to enter into the agreement, the board may not enter into the agreement unless the committee approves.

(c) If the board enters into an agreement under par. (a), the board shall comply with the provisions of the agreement.

(d) If the board enters into an agreement under par. (a), the board shall provide notice to the legislative reference bureau and the legislative reference bureau shall publish a notice of the state’s joinder in the agreement in the Wisconsin administrative register under s. 35.93 (2).

(e) If the board enters into an agreement under par. (a), the board shall be this state’s lead contact agency, or portal agency, for purposes of the agreement, including administration, enforcement, and compliance under the agreement.

(3) **POWERS AND DUTIES OF THE BOARD.** (a) Subject to sub. (7), if the board enters into an agreement under sub. (2) (a), the board shall do all of the following:

1. Review and authorize eligible institutions for the offering of distance education programs, consistent with the provisions of the agreement.

2. Create and maintain a list of eligible institutions authorized by the board under subd. 1.

3. Maintain and administer a complaint resolution process, consistent with the provisions of the agreement, for complaints related to the distance education programs of eligible institutions authorized by the board, including complaints originating outside of this state. The complaint resolution process shall require complaints to be first addressed at the institutional level.

4. Monitor the eligible institutions authorized by the board with respect to consumer protection of students

enrolled in these institutions' distance education programs.

5. Compile and provide data related to students enrolled in board–authorized distance education programs to the extent required by the agreement. The board's responsibility under this subdivision is subject to any provision of state or federal law protecting the privacy of student data.

6. Administer and enforce the provisions of the agreement, including through investigation and appropriate action, with respect to those eligible institutions authorized by the board. The board may take action, consistent with the provisions of the agreement, against a non–complying eligible institution, including suspending or revoking, or denying renewal of, the eligible institution's authorization under subd. 1.

7. Work cooperatively with any other jurisdiction that has entered into the agreement and, as applicable, other agencies of this state with responsibilities that include consumer protection or oversight of postsecondary institutions.

8. Beginning with the first January 30 to occur not less than 6 months after the board enters into the agreement, and no later than January 30 of each year thereafter, and also upon specific request of the governor, submit a report to the governor and to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) that summarizes the board's actions taken during the immediately preceding calendar year relating to the provisions of the agreement.

(b) If the board enters into an agreement under sub. (2) (a), the board may impose, upon eligible institutions authorized by the board, any requirement dictated by or consistent with the provisions of the agreement, including requiring the institution to do any of the following:

1. Provide a complaint form for student complaints related to the institution's distance education programs.

2. Compile and provide data to the board relating to the institution's distance education programs and students enrolled in these programs, subject to any provision of state or federal law protecting the privacy of student data.

(c) If the board enters into an agreement under sub. (2) (a), the board may establish procedures consistent with the provisions of the agreement.

(4) **STAFFING.** The board may require each agency or organization represented on the board to provide staffing resources for the board.

(5) **FEEES.** The board may establish reasonable fees to be imposed in connection with any function or service provided by the board under this section, including fees for authorizing eligible institutions for the offering of distance education programs. All fees collected by the board shall be credited to the appropriation account under s. 20.235 (3) (g).

(6) **JURISDICTIONAL DIVISION.** (a) The regulatory authority of the board is limited to the authority specified in this section and summarized in par. (b).

(b) If the board enters into an agreement under sub. (2) (a), all of the following apply:

1. The board has jurisdiction over postsecondary institutions only with respect to distance education programs of eligible institutions.

2. This section does not grant the board responsibility or control over the operations of a postsecondary institution headquartered in this state, including with respect to curriculum, admission requirements, graduation standards, finances, student information covered by federal or state privacy laws, or governance, beyond the provisions of the agreement.

(7) **VOLUNTARY PARTICIPATION BY POSTSECONDARY INSTITUTIONS.** If the board enters into an agreement under sub. (2) (a), an eligible institution is not required to obtain authorization from the board for its distance education program but, if the institution elects not to obtain the board's authorization, the institution may not receive any benefit under the agreement and is subject to applicable federal and state laws of any other jurisdiction where the student is located.

SECTION 8. 39.87 of the statutes is created to read:

39.87 Listing of exempt institutions. (1) **DEFINITIONS.** In this section, "program integrity rules" means the final regulations of the federal department of education set forth in 75 Fed. Reg. 66832 to 66975 (October 29, 2010), as amended.

(2) **LIST OF EXEMPT INSTITUTIONS.** (a) The board shall create and maintain a list of the names of all postsecondary institutions that, under the program integrity rules, are legally authorized in this state and constitute institutions of higher education under 20 USC 1001 (a) (2) and that are exempt from additional state authorization requirements as provided under the program integrity rules. The board shall make this list available to the public.

(b) At least annually, the board shall provide the list of names of exempt institutions under par. (a) to the legislative reference bureau and the legislative reference bureau shall publish the list in the Wisconsin administrative register under s. 35.93 (2).

(3) **REPORTS.** No later than January 30, 2017, and by January 30 of each year thereafter, and also upon specific request of the governor, the board shall submit a report to the governor and to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) that summarizes the board's actions taken during the immediately preceding calendar year relating to the list of exempt institutions under sub. (2) (a) and compliance with related requirements and regulations of the federal department of education.

SECTION 9. 227.01 (13) (yo) and (yp) of the statutes
are created to read:
227.01 (13) (yo) Establishes procedures under s.

39.86 (3) (c) or fees under s. 39.86 (5).
(yp) Lists exempt institutions under s. 39.87 (2).

