

Assembly Committee on Accountability & Administrative Review
Assembly Committee on Higher Education

Joint Hearing on the State's Role in Oversight of Diploma Mills

Wednesday, May 9, 2012
State Capitol, Room 437
9:30 AM

OVERVIEW

PURPOSE OF HEARING & KEY QUESTIONS

The purpose of today's hearing is to allow the committees to explore the problem of diploma mills in California. The Members will hear suggestions about how to define the term "diploma mills" but simply put, these are businesses that offer fraudulent degrees and certificates requiring no coursework or requiring very little coursework (such as one course or exam for a degree). The increasingly diverse array of private, postsecondary ("for-profit") institutions and the evolving role of the Internet make it difficult to clearly distinguish between good and bad actors.

At a time when California's public institutions have reduced enrollments due to major budget cuts, for-profit higher education institutions are in a position to play a role in providing access and education for otherwise underserved students. The challenge for the Legislature is to establish an oversight structure that supports innovative programs but prevents predatory practices.

Some key questions Members should keep in mind as they review background materials and listen to the presentations include:

- What types of institutions of higher education should be allowed to operate in California?
- How should the State of California define diploma mills?
- What types of bad actors exist in the proprietary higher education system?
- Who are the victims of diploma mills?
- What are the consequences of diploma mills issuing tens of thousands of fake degrees?
- Should California require more types of schools to be accredited?
 - Does California need to limit or prohibit the operation of schools not accredited by an accrediting agency recognized by the U.S. Department of Education?
- Should California require more types of schools to be licensed?
- Does California have a responsibility to protect consumers in other states or countries from diploma mills in our state?
 - Should unaccredited or unlicensed schools in California be allowed to offer degrees in other states or other countries?
- How can we strengthen protections against diploma mills operating in California?

The worst actors in the for-profit higher education sector are commonly referred to as *diploma mills* or *degree mills* because of their partial and sometimes complete disregard for widely-accepted standards of quality education programs. Unscrupulous colleges and universities in California

defraud students in California, throughout the United States and throughout the world. Tab five includes one example of a "university" based in Sacramento in 1997 that sold degrees, detailed transcripts, letters of recommendation and lifetime degree validation service (in case employers tried to verify the degree). This is thought to be part of a larger operation that earned a million dollars per week for over nine years. This type of operation is the easiest to identify as a diploma mill. But for-profit colleges and universities take many forms, making it difficult to distinguish a legitimate program from a fraudulent one.

With diploma mills, the customer/student is usually complicit because most people understand that their diploma is either completely fake or is not equivalent to a legitimate diploma. The cost to society may be greater than the harm to customers/students because these individuals use these credentials to obtain employment, raises and promotions for which they are not qualified. After examining less than five percent of federal agencies, the General Accountability Office (GAO) found evidence to suggest that more than 100,000 federal employees have at least one fake degree, many of them paid for by taxpayers. This and other investigations identified federal employees with fake masters' degrees and PhD's in the Pentagon, NASA and the Department of Education.

Perhaps the gravest consequence of diploma mills is the harm done by individuals with fake medical degrees. Holders of MD's from degree mills have been prosecuted for manslaughter in the U.S.

According to John Bear, an author and expert on diploma mills, "the number of earned PhD degrees in the United States is 40,000 to 45,000 each year. The number of fake PhDs bought each year from diploma mills exceeds 50,000. In other words, more than half of all people claiming a new PhD have a fake degree."

PROPRIETARY HIGHER EDUCATION SECTOR

California's system of public higher education includes three "segments": the University of California, the California State University, and California Community Colleges. The state's Master Plan for Higher Education, originally adopted in 1960, ascribes distinct missions to each of the segments and expresses a set of general policies for higher education in the state. California's private, nonprofit, higher education sector includes some of the nation's most competitive schools, such as Stanford University and the Claremont Colleges.

State law broadly defines private postsecondary education to include private entities with a physical presence in California that are offering formal postsecondary academic, vocational, or continuing professional education programs to the public for a charge. Among the thousands of institutions falling under this definition, however, there are significant differences in institutional missions and corporate organization, the types of students served and the programs offered, and the quality of education and opportunities provided for graduates. While there are numerous options for categorizing private institutions, California has generally looked to for-profit/nonprofit distinctions and accreditation status as means for evaluating institutions.

As the number of students served by private postsecondary institutions has increased, so has the focus on fraudulent practices and low academic standards. There have been numerous high-profile federal investigations into the practices of for-profit institutions in recent years. Among the most notable are the United States Government Accountability Office (GAO) series of investigations raising concerns regarding the amount of federal student aid dollars directed to for-profit

institutions, the misleading and deceptive recruitment practices at certain institutions, and substandard academic performance expectations in some for-profit programs.

While evidence of dishonesty in marketing, high student debt and low completion rates, and general questions surrounding quality have focused the vast majority of state and federal conversations regarding the sector on regulatory oversight, the industry argues against painting all schools with the same brush and that there are high-quality programs offered at many for-profit institutions.

Accreditation is a voluntary, non-governmental peer review process used to determine academic quality. Under federal law, the United States Department of Education (USDE) establishes the general standards for accreditation agencies and is required to publish a list of recognized accrediting agencies that are deemed reliable authorities on the quality of education provided by their accredited institutions. While accredited and unaccredited education and training programs are allowed to operate in California, only accredited institutions are authorized to participate in federal and state financial aid programs.

The California Bureau for Private Postsecondary Education (Bureau), housed within the Department of Consumer Affairs (DCA), maintains responsibility for oversight of unaccredited institutions in California. It is unclear exactly how many unaccredited institutions are operating in California, as the Bureau does not currently track accreditation status of approved institutions. Estimates based on the limited available information would put the number of unaccredited school locations in California near 1000.

EVOLUTION OF OVERSIGHT SYSTEM

California has a long and arduous history of attempted oversight of the private postsecondary sector. During the late 1980s regulation of the industry was carried out by a division within the State Department of Education. During that time the state developed a reputation as the "diploma mill capital of the world." As a result of concerns over the integrity and value of the degrees issued by private institutions, the state's regulatory program was overhauled and oversight responsibility for private colleges was transferred to a 20-member Council. Concurrently, the Maxine Waters School Reform and Student Protection Act was adopted, and provided somewhat different requirements and standards for private institutions. The law governing the Council was merged with the Waters Act, but doing so created a fragmented structural framework with numerous duplicative and conflicting statutory provisions. On January 1, 2007, the law authorizing the regulation of the private postsecondary education sector in California was allowed to sunset, leaving the state without any regulatory body overseeing private institutions.

Bureau for Private Postsecondary Education: Between 2007 and 2009 there were several failed attempts to establish a new regulatory structure. In 2009, the Legislature and the Governor reached agreement on AB 48 (Portantino, Chapter 310, Statutes of 2009). AB 48 established a new Private Postsecondary Education Act and created a new oversight Bureau within DCA for the purpose of regulating private postsecondary educational institutions that provide educational services in California. Today's Bureau is generally responsible for protecting consumers and students against fraud, misrepresentation, or other business practices at private postsecondary institutions that may lead to loss of students' tuition and related educational funds; establishing and enforcing minimum

standards for ethical business practices and the health and safety and fiscal integrity of postsecondary education institutions; and establish and enforcing minimum standards for instructional quality and institutional stability for all students in all types of private postsecondary educational and vocational institutions.

However, not all private postsecondary educational institutions are regulated by the Bureau. AB 48 contained numerous exemptions to state-level oversight. The most notable exemption is the one granted to for-profit and nonprofit regionally accredited institutions. WASC-accredited institutions are provided a complete exemption from Bureau oversight.¹ Students attending institutions that are accredited by a regional accrediting agency other than WASC are eligible for very limited tuition recovery assistance, but are not eligible for any other consumer protections provided under the Act. While California exempts numerous institutions from specific aspects of oversight based on accreditation, several reports previously prepared on the issue of whether or not accrediting agencies provide a sufficient level of protection in the state's interest in ensuring that students are treated fairly have not definitively answered this question. Under the provisions of AB 48 (Portantino, 2009), the LAO is required to report on this topic by 2014.

Consumer advocates and institutional representatives alike have been critical of the Bureau's seemingly slow implementation in the two years since the passage of AB 48. Many of the concerns and delays can be linked to understaffing at the Bureau. In October of 2010, after the adoption of AB 48 implementing regulations, the Bureau was approved to hire 63 staff to carry out various licensing and enforcement duties. Unfortunately, the ongoing administrative hiring freeze significantly impacted the Bureau's ability to hire staff. Between January 2010 and January 2011 the Bureau staffing levels ranged from 5 - 13 individuals. In 2011 staffing slowly increased, and by December 2011 the Bureau staffing level was at 49. With this increased staff the Bureau has been able to review over 1200 applications for approval from schools, respond to over 1000 complaints against schools, and begin implementation of an inspection and enforcement program to ensure institutional compliance with the provisions of AB 48. Laura Metune, who will be addressing the committees today, was appointed Bureau Chief in April 2012.

Department of Consumer Affairs: In addition to the oversight provided by the Bureau, there are nine professional licensing boards within the Department of Consumer Affairs that have a direct oversight connection to the Bureau. While some are required to independently review the curriculum and facilities of institutions offering programs, others only require Bureau approval in order to meet educational requirements for licensure, certification or registration. The board of Barbering and Cosmetology for example, approves curriculum, facilities, equipment and textbooks for schools offering training programs for license seekers. The Board of Vocational Nursing and Psychiatric Technicians staff grants approval of Vocational Nursing and Psychiatric Technician programs but does not have oversight of institutions offering these programs. The Board of Registered Nursing approves all nursing programs in the state.

¹ WASC is the Western Association of Schools and Colleges. WASC's Accrediting Commission for Senior Colleges and Universities is responsible for evaluation of the quality and effectiveness of colleges and universities offering the baccalaureate degree and above in California, Hawaii, Guam and the Pacific Basin. The Commission is reviewed periodically for renewal of recognition by the US Department of Education and is recognized the UN's Council for Higher Education Accreditation.

The California Student Aid Commission (CSAC) provides some oversight of public and private institutions that participate in the Cal Grant program. CSAC reviews all institutions seeking to participate in the program to ensure institutions meet eligibility standards. Accredited institutions with eligible programmatic offerings are potentially authorized for Cal Grant participation if they meet other outlined requirements. Legislation enacted in 2011 (SB 70, Budget and Fiscal Review Committee) further requires the following of eligible institutions:

- **Student Loan Default:** Participating institutions with more than 40% of their undergraduate students borrowing federal loans must have a three-year 2008 Cohort Default Rate of less than 24.6% to be eligible for new and renewal Cal Grant awards in the 2011-12 academic year, and less than 30% for each subsequent year. A limited exception allows renewal Cal Grant A and B recipients to continue to use their Cal Grant awards at a newly ineligible institution, but their Cal Grant maximum award amounts are reduced by 20%. The Cal Grant B access awards of up to \$1,551 for these renewal Cal Grant B recipients, however, is not reduced.
- **Data Reporting:** As a condition for participation in the Cal Grant program, institutions are required, beginning in 2012, to annually report to CSAC enrollment, persistence and graduation data for all undergraduate students, including aggregate information on Cal Grant recipients, and the job placement rate and salary and wage information for programs that are designed or advertised to lead to a particular type of job or are advertised with any claim regarding placement.

The California Department of Veterans Affairs provides limited oversight of postsecondary education programs through its role as the State Approving Agency for veterans' education benefits (CSAAVE). The education benefits authority and approval process was established by an act of Congress in 1947 to insure that veterans and eligible dependents can use the GI Bill educational entitlement in an approved educational program. The CSAAVE is federally funded and operates under an annual reimbursement contract with the federal Department of Veterans Affairs. The primary function of CSAAVE is to review, evaluate and approve quality educational and training programs for veteran's benefits. CSAAVE approves colleges and universities, vocational schools, business schools, professional schools, and licensing and certification training and tests. All courses and training must lead to an educational, professional or vocational objective.

RELATED LEGISLATION

- **AB 1637 (Wieckowski):** Establishes the student default risk index (risk index) and limits institutional participation in the Cal Grant Program based on risk index scores. Heard but not voted upon in the Assembly Higher Education Committee.
- **AB 2190 (Pérez):** Establishes the California Higher Education Authority, its governing board and its responsibilities, which includes pursuing an integrated approach to the state's overall postsecondary education policy by including private postsecondary education within the Authority's jurisdiction. On the Assembly Appropriations suspense file.

- AB 2296 (Block): Requires institutions regulated by the Bureau for Private Postsecondary Education to provide additional disclosures to prospective students, including accreditation status. Pending in the Assembly Appropriations committee.
- AB 2534 (Block): Extends the sunset date on the California Private Postsecondary Act by one year, to January 1, 2016. On the Assembly Appropriations suspense file.