

Enrolled House Bill 2117

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber for Oregon Student Assistance Commission)

CHAPTER

AN ACT

Relating to higher education degrees; amending ORS 348.597, 348.604, 348.605, 348.608 and 659A.318.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 348.597 is amended to read:

348.597. (1) Except as provided in subsection (2) of this section, ORS 348.594 to 348.615 apply to all schools that operate in this state.

(2) ORS 348.594 to 348.615 do not apply to:

- (a) An Oregon community college;
- (b) A state institution of higher education within the Oregon University System;
- (c) The Oregon Health and Science University;
- (d) A school, or a separately accredited campus of a school, if the school:

(A) Is a nonprofit school that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code;

(B) Conferred degrees in this state under the same control for at least five consecutive years; and

(C) Is accredited by a regional accrediting association or its national successor;

(e) A school that, on *[the date preceding July 15, 2005, was a school described in ORS 348.594 (2)(d)]* **July 14, 2005, was a school that met the criteria and followed procedures to obtain a religious exemption adopted by rule by the Oregon Student Assistance Commission and that offered only degrees with approved titles in theology or religious occupations;** or

(f) A school that is exempt from ORS 348.594 to 348.615 under ORS 348.604.

(3) The Office of Degree Authorization shall issue a separate license to issue degrees to each school that meets the requirements for exemption from evaluation by the office set forth in subsection (2)(d) of this section. The license shall remain in effect if the school continues to meet the requirements of subsection (2)(d) of this section.

SECTION 2. ORS 348.604 is amended to read:

348.604. Upon application from a school, as defined in ORS 348.594, the Oregon Student Assistance Commission, through the Office of Degree Authorization, shall grant an exemption from ORS 348.594 to 348.615 to the school if the school:

- (1) Is, or is operated by, a nonprofit corporation;
- (2) Offers only associate, bachelor's or master's degrees with titles in theology or religious occupations, or, if the school also offers doctoral degrees, offers doctoral degrees in theology or religious occupations that have been approved by a federally recognized accrediting organization;
- (3) Teaches students with faculty members who:

(a) Hold degrees:

(A) From a school that, at the time of the conferral of the degrees, was accredited by a federally recognized accrediting organization, held an exemption under this section, or was a school [*described in ORS 348.594 (2)(d) on the date preceding July 15, 2005*] **that, on July 14, 2005, met the criteria and followed procedures to obtain a religious exemption adopted by rule by the Oregon Student Assistance Commission and that offered only degrees with approved titles in theology or religious occupations;**

(B) That are at least one level above the degree level of the program in which the faculty members teach or that are the terminal degrees in the field in which the faculty members teach; and

(C) That are not honorary degrees; or

(b) Possess sufficient compensatory qualifications to substitute for academic degrees in the fields in which the faculty members teach;

(4) Offers a curriculum:

(a) Of a duration and level that is comparable to the curriculums offered by schools that are not exempt under this section; and

(b) That, with higher degrees, increases the difficulty of the work expected of students;

(5) Requires students to complete academic assignments and to demonstrate learning appropriate to the curriculum;

(6) Awards credit toward degrees proportionate to the work done by students;

(7) Offers admission:

(a) To a student:

(A) With a high school diploma or an equivalent credential; or

(B) Who completed the equivalent of a high school education through home study; and

(b) Based on evidence that the student can reasonably expect to complete a degree and benefit from the education offered;

(8) Provides or arranges for faculty members and students to have access to information that supports instruction and stimulates research or independent study in all areas of the curriculum;

(9) Provides accurate and appropriate credit transcripts to students of the school and accurate and appropriate diplomas to graduates of the school;

(10) Charges tuition by the credit hour or other fixed rate for instruction during an academic term and does not charge tuition or fees for the award of a degree or charge a single fee for an entire degree program;

(11) Provides the oversight required by the commission through the office over a faculty member or administrator who has:

(a) Been convicted of a felony; or

(b) Violated a state or federal law related to the operation of a school;

(12) Provides facilities that permit private communication between faculty members and students;

(13) Provides a number of faculty members that is adequate for the number of students enrolled;

(14) Provides clear and accurate information to students about the school's expectations of students in the school's courses;

(15) Ensures that a student who is pursuing a degree is making continuous progress toward the degree;

(16) Before a student enrolls in the school, informs the student that a school to which the student might transfer retains the discretion whether to accept the transfer of credits earned at the school;

(17) Provides official transcripts of faculty members to the office; and

(18) Pays the fee imposed by ORS 348.607.

SECTION 3. ORS 348.605 is amended to read:

348.605. (1) A school that obtains an exemption under ORS 348.604 or that, [*on the date preceding July 15, 2005, was a school described in ORS 348.594 (2)(d)*] **on July 14, 2005, met the criteria and followed procedures to obtain a religious exemption adopted by rule by the Oregon Student**

Assistance Commission and that offered only degrees with approved titles in theology or religious occupations may not:

(a) Award more than 25 percent of the credit toward a degree for noninstructional activities, such as challenge examinations and professional or life experiences;

(b) Represent that the school is:

(A) Approved by the State of Oregon; or

(B) Accredited by an organization unless the organization is recognized as an accreditor by the United States Department of Education; or

(c) Pay a faculty member a commission or otherwise base a faculty member's compensation on the faculty member's recruitment of students to the school.

(2) A school that obtains an exemption under ORS 348.604 or that, *[on the date preceding July 15, 2005, was a school described in ORS 348.594 (2)(d)]* **on July 14, 2005, met the criteria and followed procedures to obtain a religious exemption adopted by rule by the Oregon Student Assistance Commission and that offered only degrees with approved titles in theology or religious occupations** shall:

(a) Preserve official transcripts for all faculty members and students;

(b) Notify the Office of Degree Authorization if a faculty member or administrator at the school has:

(A) Been convicted of a felony; or

(B) Violated a state or federal law related to the operation of a school;

(c) Place in any course catalog that is available to students or to the public a notice that states: "(Name of school) has been granted exempt status by the State of Oregon to offer theological and/or religious occupations degrees.";

(d) If the school closes, return to students tuition payments for the current term on a prorated basis;

(e) If the school provides placement services to a student, describe the placement services clearly and accurately to the student and avoid giving unrealistic expectations of placement to the student; and

(f) If an administrator claims to possess an academic degree:

(A) Ensure that the administrator possesses the academic degree that the administrator claims to possess; and

(B) Require that the degree is from a school that, at the time of the conferral of the degree, was accredited by a federally recognized accrediting organization, held an exemption under this section, or was a school *[described in ORS 348.594 (2)(d) on the date preceding July 15, 2005]* **that, on July 14, 2005, met the criteria and followed procedures to obtain a religious exemption adopted by rule by the Oregon Student Assistance Commission and offered only degrees with approved titles in theology or religious occupations.**

SECTION 4. ORS 348.608 is amended to read:

348.608. (1) Each year, on a date prescribed by the Office of Degree Authorization, a school that obtains an exemption under ORS 348.604 or a school that, on *[the date preceding July 15, 2005, was a school described in ORS 348.594 (2)(d)]* **July 14, 2005, met the criteria and followed procedures to obtain a religious exemption adopted by rule by the Oregon Student Assistance Commission and that offered only degrees with approved titles in theology or religious occupations,** shall submit to the office a statement that reads: "(Name of School) hereby certifies that the school remains in compliance with all conditions for a religious exemption from ORS 348.594 to 348.615."

(2) A school that obtains an exemption under ORS 348.604 or a school that, on *[the date preceding July 15, 2005, was a school described in ORS 348.594 (2)(d)]* **July 14, 2005, met the criteria and followed procedures to obtain a religious exemption adopted by rule by the Oregon Student Assistance Commission and that offered only degrees with approved titles in theology or religious occupations** remains exempt unless the office suspends or revokes the exemption.

(3) The office may suspend or revoke an exemption if:

(a) After the notice and opportunity to cure provided in subsection (4) of this section, a school fails to provide the statement required by subsection (1) of this section;

(b) The office has received a complaint from a student or former student of the school that the school is failing to comply with a condition for exemption under ORS 348.604, the office determines that the complaint is valid, the school has been provided with notice and opportunity to cure as required by subsection (4) of this section and the school fails to comply with the condition listed in the notice; or

(c) After the notice and opportunity to cure provided in subsection (4) of this section, a school is in violation of ORS 348.605.

(4) The Oregon Student Assistance Commission, through the office, shall provide notice of and 90 days to cure a school's:

(a) Failure to provide the statement required by subsection (1) of this section;

(b) Failure to maintain compliance with a condition for exemption under ORS 348.604 if the office has received a complaint from a student or former student of the school that the school is failing to comply with a condition for exemption under ORS 348.604 and the office has determined the complaint is valid; or

(c) Violation of ORS 348.605.

(5) A school may appeal the denial, suspension or revocation of an exemption to the commission.

(6) A school may appeal to the commission the office's decision that a faculty member does not possess sufficient compensatory qualifications to substitute for an academic degree in the field in which the faculty member teaches.

(7) The commission shall conduct an appeal under this section as a contested case under ORS chapter 183.

(8)(a) If a school appeals the denial, suspension or revocation of an exemption and the commission upholds the denial, suspension or revocation, the commission shall provide the school 90 days to cure the grounds for the denial, suspension or revocation. If the school does not cure the grounds for the denial, suspension or revocation within 90 days after the commission upholds the denial, suspension or revocation, then the denial, suspension or revocation becomes effective 90 days after the issuance of the decision on the appeal by the commission.

(b) If a school does not appeal the denial, suspension or revocation of an exemption to the commission and the school does not cure the grounds for the denial, suspension or revocation within the period of time to appeal the decision to the commission, then the denial, suspension or revocation becomes effective upon the expiration of the period of time to appeal.

SECTION 5. ORS 659A.318 is amended to read:

659A.318. (1) If an employer requires an applicant or employee to have an academic degree from a post-secondary institution to qualify for a position, but does not require a degree with a specific title, it is an unlawful employment practice for the employer to refuse to hire or promote or in any manner discriminate or retaliate against the applicant or employee only because the applicant or employee meets the educational requirements for the position by having a degree with a title in theology or religious occupations from a school that, when the degree was issued, was a school [described in ORS 348.594 (2)(d) on the date preceding July 15, 2005, or was a school]:

(a) That, on July 14, 2005, met the criteria and followed procedures to obtain a religious exemption adopted by rule by the Oregon Student Assistance Commission and that offered only degrees with approved titles in theology or religious occupations; or

(b) Exempt from ORS 348.594 to 348.615 under ORS 348.604.

(2) If an employer other than a public body, as defined in ORS 192.410, offers employees benefits of tuition reimbursement, educational debt reduction, educational incentive or educational contribution or gift match for educational services provided by a post-secondary institution and the employer does not restrict the program to specific institutions or degrees with specific titles, it is an unlawful employment practice for the employer to refuse to offer the benefit to or in any manner discriminate or retaliate against an employee because the employee attends or seeks to attend a school that is:

(a) A school that [was, on the date before July 15, 2005, described in ORS 348.594 (2)(d)], on July 14, 2005, met the criteria and followed procedures to obtain a religious exemption adopted by rule by the Oregon Student Assistance Commission and that offered only degrees with approved titles in theology or religious occupations; or

(b) Exempt from ORS 348.594 to 348.615 under ORS 348.604.

Passed by House May 19, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 26, 2011

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Peter Courtney, President of Senate

Received by Governor:

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Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State