

## Why is HB 2701 Needed?

### **PRIVATE DEGREE-GRANTING COLLEGES HAVE DUE PROCESS BEFORE PROBATION CAN BE IMPOSED:**

**ORS 348.612 Probation or suspension or revocation of approval; rules; hearing.** (1) *The Higher Education Coordinating Commission may place a school,<sup>1</sup> or a program within a school, on probation, or suspend or revoke any approval given to a school under ORS 348.606, for proper cause after a hearing.*  
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(4) At least 20 days before holding a hearing under this section, the school must have received written notice of the place, time and reason for the hearing. Hearings shall be held in accordance with rules adopted by the commission. [1997 c.652 §13; 2011 c.637 §188; 2015 c.327 §3]

### **BUT PRIVATE NON-DEGREE-GRANTING CAREER COLLEGES HAVE NO DUE PROCESS\* BEFORE BEING PLACED ON PROBATION!**

**345.120 Investigations; probation; suspension or revocation of licenses.** (1) On the written complaint of any person, the Higher Education Coordinating Commission shall, and on the commission's own motion may, investigate the actions of any career school<sup>2</sup> or agent, or any person who assumes to act in either capacity within this state.

(2) As a result of the investigation, and in addition to any penalty that may be imposed under ORS 345.992, the commission may place a licensee on probation or may suspend or revoke any license issued under ORS 345.010 to 345.450 when the licensee has:

- (a) Obtained a license by misrepresentation.
- (b) Violated ORS 345.010 to 345.450 or any applicable rule.
- (c) Ceased to engage in the business authorized by the license.
- (d) Willfully used or employed any method, act or practice declared unlawful by ORS 646.608.

(3) *When notice of suspension or revocation is issued, the licensee shall be notified and, upon request, shall be granted a contested case hearing under ORS 183.310 (2).*

\* (4) *A licensee placed on probation must be formally notified by the commission that it has deficiencies that must be corrected within a time specified in the notice.*

(5) A licensee whose license is suspended is prohibited from advertising, recruiting or enrolling students but may remain in operation to complete training of students enrolled on the effective date of the suspension.

(6) A licensee whose license has been revoked is not authorized to continue in operation on and after the effective date of the revocation. [Amended by 1965 c.409 §3; 1975 c.478 §13; 1989 c.333 §12; 1993 c.45 §265; 1995 c.343 §11; 2012 c.104 §32]

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<sup>1</sup> ORS 348.594 Definitions for ORS 348.594 to 348.615. "As used in ORS 348.594 to 348.615: . . .

'School' means a person, organization, school or institution of learning that confers or offers to confer an academic degree upon a person or to provide academic credit applicable to a degree. [1997 c.652 §8; 1999 c.59 §93; 2005 c.546 §8; 2007 c.325 §1]

<sup>2</sup> ORS 345.010 Definitions for ORS 345.010-.450: "Career school or school means any private proprietary professional, technical, home study, correspondence, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession."

## **WHY DOES IT MATTER IF A PRIVATE CAREER COLLEGE IS PLACED ON PROBATION WITHOUT DUE PROCESS?**

1. Most private career colleges in Oregon are owned and operated by small businessmen and women who provide valuable services in short-term training that equip Oregonians for employment above the minimum wage level.
2. Due process provides for fundamental fairness in governmental regulation:
  - Without any right to appeal, HECC can and has violated the law by imposing probation even though no statute or regulation is found to be violated.
  - Without any right to appeal, HECC can conduct an inadequate or biased investigation and the college has no opportunity to present contrary evidence or to cross-examine the accusers.
  - Without any right to appeal, HECC can stigmatize the college by communicating the probationary status, all the while denying the college any opportunity to set the record straight.
3. Due process is a fundamental right of Americans prior to governmental action that deprives them of a property right. Being placed on probation can be a death warrant for these small privately-owned businesses:
  - Probation can lead to loss of accreditation necessary for these career colleges to operate and prepare students for certificates in fields like Clinical Medical Assisting (CMA).
  - Probation can terminate the eligibility of students of these schools for federal loans and other financial assistance.
  - HECC notifies the complainant of its action of placing a private career college on probation, and a complainant can and has broadcasted that information to mass media and social media in an effort to close down the college.
4. The lack of due process for these non-degree-granting private career colleges is fundamentally unfair in comparison with degree-granting private colleges, which are accorded due process because HECC cannot place them on probation except “for proper cause after a hearing” held by an independent hearing officer.
5. Changes in administrative rules to add due process protections are not enough; they can be changed with minimal notice and minimal public involvement.

*For more information, contact Nancy Hungerford, The Hungerford Law Firm, nancy@hungerfordlaw.com.*