

B-Engrossed House Bill 2701

Ordered by the Senate June 5
Including House Amendments dated April 24 and Senate Amendments
dated June 5

Sponsored by Representatives DOHERTY, KENNEMER; Representatives ESQUIVEL, RESCHKE (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Replaces ability of Higher Education Coordinating Commission to place career school on probation with ability of commission to issue career school notice for corrective action.

Requires commission to notify career school about investigations and to engage with both career school and any affected students during investigations. When career school requests contested case hearing, prohibits commission from suspending or revoking license of career school prior to determination by hearing officer that there is proper cause.

Takes effect July 1, 2018.

A BILL FOR AN ACT

1
2 Relating to sanctions for career schools; creating new provisions; amending ORS 345.030, 345.120,
3 345.325 and 345.995; and prescribing an effective date.

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

5 **SECTION 1.** ORS 345.120 is amended to read:

6 345.120. (1) On the written complaint of any person, the Higher Education Coordinating Com-
7 mission shall, and on the commission's own motion may, investigate the actions of any career school
8 or agent, or any person who assumes to act in either capacity within this state.

9 **(2) After receiving a written complaint or deciding to proceed to an investigation on its**
10 **own motion under subsection (1) of this section, the commission shall notify the career**
11 **school that is the subject of the investigation. When conducting an investigation under this**
12 **section, the commission shall engage with both the career school under investigation and**
13 **with any affected students.**

14 [(2)] **(3)** As a result of the investigation, and in addition to any penalty that may be imposed
15 under ORS 345.992, the commission may [*place a licensee on probation or*] **issue a notice for cor-**
16 **rective action or, subject to the procedures set forth in subsection (4) of this section,** may
17 suspend or revoke any license issued under ORS 345.010 to 345.450 when the licensee has:

18 (a) Obtained a license by misrepresentation.

19 (b) Violated ORS 345.010 to 345.450 or any applicable rule.

20 (c) Ceased to engage in the business authorized by the license.

21 (d) Willfully used or employed any method, act or practice declared unlawful by ORS 646.608.

22 [(3)] **(4)(a)** When notice of suspension or revocation is issued, the licensee shall be notified and,
23 upon request, shall be granted a contested case hearing under ORS 183.310 (2).

24 **(b) If a licensee requests a contested case hearing under this subsection, the suspension**
25 **or revocation may take effect only after a hearing officer determines that there is proper**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 **cause.**

2 [(4)] (5) A licensee [*placed on probation*] **that is issued a notice for corrective action** must
3 be formally notified by the commission that it has deficiencies that must be corrected within a time
4 specified in the notice.

5 [(5)] (6) A licensee whose license is suspended is prohibited from advertising, recruiting or en-
6 rolling students but may remain in operation to complete training of students enrolled on the ef-
7 fective date of the suspension.

8 [(6)] (7) A licensee whose license has been revoked is not authorized to continue in operation
9 on and after the effective date of the revocation.

10 **SECTION 2.** ORS 345.030 is amended to read:

11 345.030. (1) A person may not open, conduct or do business as a career school in this state
12 without obtaining a license under ORS 345.010 to 345.450.

13 (2) Except as provided in subsection (8) of this section, the Higher Education Coordinating
14 Commission may issue a license to conduct a career school only after the applicant has presented
15 proof satisfactory to the commission that the applicant complies with applicable standards adopted
16 under ORS 345.325 and 670.280. For the purpose of this subsection, ORS 670.280 applies to individ-
17 uals who hold positions of authority or control in the operation of the school and to its faculty
18 members and agents.

19 (3) A career school licensed in any other state must be licensed in this state before establishing
20 a physical presence in this state such as offices or agents, or both, for the purpose of solicitation
21 of students.

22 (4) In determining whether to issue a license to a career school, the commission may consider
23 the prior history of the applicant in operating other career schools. The prior history of operating
24 other career schools includes, but is not limited to:

25 (a) Conduct by the applicant that is cause for [*probation of a licensee*] **a notice of corrective**
26 **action** or for suspension or revocation of a license as provided in ORS 345.120 [(2)] (3);

27 (b) Failure to comply with ORS 345.010 to 345.450 or rules adopted under ORS 345.010 to
28 345.450; and

29 (c) The history of the applicant in operating career schools in other states.

30 (5) The commission may not issue a license to or renew the license of a career school until the
31 applicant provides all of the following to the commission:

32 (a) A financial statement, certified true and accurate and signed by the owner of the school;

33 (b) Proof of compliance with the tuition protection policy established by the commission pursu-
34 ant to ORS 345.110; and

35 (c) Fingerprints of individuals as described in subsection (6) of this section.

36 (6)(a) Except as provided in paragraph (c) of this subsection, an applicant for an initial issuance
37 of a license or a renewal of a license must provide to the commission the fingerprints of faculty
38 members and agents of the school and individuals who hold positions of authority or control in the
39 operation of the school if the career school will be enrolling or does enroll persons under 18 years
40 of age.

41 (b) In addition to requirements provided under paragraph (a) of this subsection, the commission
42 may require a career school to provide the fingerprints of any agents of the school who will have
43 contact with persons under 18 years of age on behalf of the career school.

44 (c) An applicant is not required to provide fingerprints under paragraph (a) or (b) of this sub-
45 section if the commission has conducted a state or nationwide criminal records check on the person

1 within the three years preceding the date of the application.

2 (d) Fingerprints acquired under this subsection may be used only for the purpose of requesting
3 a state or nationwide criminal records check under ORS 181A.195.

4 (7) Notwithstanding ORS 345.325 (10), the commission may [*place a school on probation*] **issue**
5 **a notice for corrective action** or deny, suspend or revoke a license if the commission finds that
6 an individual who holds a position of authority or control in the operation of the school was con-
7 victed of a crime listed in ORS 342.143.

8 (8) The commission may issue a conditional license to a career school that meets the require-
9 ments of subsection (5) of this section but that does not comply with the applicable standards
10 adopted by rule under ORS 345.325. A conditional license issued under this subsection is effective
11 for a period prescribed by the commission, which may not exceed 90 days.

12 (9)(a) Except as provided in paragraph (b) of this subsection, a career school license is
13 nontransferable. The licensee must give 30 days of notice to the commission when transferring
14 ownership of a career school.

15 (b) The commission may transfer a career school license or allow the ownership of a career
16 school to transfer with less than 30 days of notice if:

17 (A) The owner of the school dies, is incapacitated or is incarcerated; or

18 (B) Other circumstances render the owner unable to operate the career school.

19 (10) Each career school shall display its license in a prominent place.

20 **SECTION 3.** ORS 345.325 is amended to read:

21 345.325. The Higher Education Coordinating Commission shall adopt by rule minimum standards
22 for the licensing of career schools under ORS 345.010 to 345.450 that are reasonably calculated to
23 ensure that:

24 (1) The quality and content of each course or program of instruction can achieve its stated ob-
25 jective;

26 (2) The facilities, instructional equipment and materials are sufficient to enable students to
27 achieve the program goals and are adequate for the purposes of the program;

28 (3) The directors, administrators and instructors are properly qualified;

29 (4) Prior to an applicant signing an enrollment agreement, the school provides the applicant
30 with a catalog or brochure that includes an accurate description of the program for which the ap-
31 plicant is enrolling, total costs of tuition and fees and other information specified by rule;

32 (5) Upon satisfactory completion of instruction and training, the student is given appropriate
33 educational credentials;

34 (6) Adequate records and standard transcripts are maintained;

35 (7) The career school is maintained and operated in compliance with all applicable ordinances
36 and laws;

37 (8) The career school is financially sound and capable of fulfilling its commitments to students;

38 (9) Neither the career school nor its agents engage in advertising, sales, collection, credit or
39 other practices of any type which are unlawful under ORS 646.608;

40 (10) The directors, administrators, supervisors and instructors of the school are of good reputa-
41 tion and character, except that a school shall not be [*placed on probation*] **issued a notice for**
42 **corrective action** or a license shall not be denied, suspended or revoked because a faculty member
43 has been convicted of a crime except as authorized under ORS 670.280;

44 (11) Any student housing owned, maintained or approved by the career school is appropriate,
45 safe and adequate;

1 (12) The school has a written placement assistance plan; and

2 (13) A license application from a new school or an application for approval of a new program
3 from an existing school shall include labor market information that identifies the need for the new
4 school or program.

5 **SECTION 4.** ORS 345.995 is amended to read:

6 345.995. (1) After consultation with the advisory committee established under ORS 345.330, the
7 Higher Education Coordinating Commission shall adopt by rule a schedule or schedules establishing
8 the amount of civil penalty that may be imposed for a particular violation of ORS 345.010 to 345.450.
9 A civil penalty may not exceed \$500 per violation. The commission shall consult with the Attorney
10 General before adopting the schedule of penalties for violations of ORS 345.120 [(2)(d)] **(3)(d)**.

11 (2) In imposing a penalty for violation of ORS 345.010 to 345.450 pursuant to the schedule or
12 schedules authorized by this section, the commission shall consider the following factors:

13 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures
14 necessary or appropriate to correct any violation.

15 (b) Any prior violations of ORS 345.010 to 345.450 or rules adopted pursuant thereto.

16 (c) The economic and financial conditions of the person incurring a penalty.

17 (3) The penalty imposed under this section may be remitted or mitigated upon such terms and
18 conditions as the commission considers proper and consistent with the public welfare.

19 (4) The commission may impose penalties that may be remitted or mitigated on condition that
20 a particular violation not continue or occur after a certain period not to exceed 15 days.

21 (5) From each penalty recovered under this section, the commission may retain reasonable costs
22 related to the investigation and assessment of the penalty. This subsection does not apply to penal-
23 ties that are required to be deposited in the Tuition Protection Fund established under ORS 345.110.

24 **SECTION 5. The amendments to ORS 345.030, 345.120, 345.325 and 345.995 by sections 1**
25 **to 4 of this 2017 Act apply to any action taken by the Higher Education Coordinating Com-**
26 **mission with respect to a career school or agent on or after the effective date of this 2017**
27 **Act.**

28 **SECTION 6. This 2017 Act takes effect July 1, 2018.**

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