

**Enrolled**  
**House Bill 2701**

Sponsored by Representatives DOHERTY, KENNEMER; Representatives ESQUIVEL, RESCHKE  
(Presession filed.)

CHAPTER .....

AN ACT

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

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

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

345.120. (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 or agent, or any person who assumes to act in either capacity within this state.

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

~~[(2)]~~ **(3)** 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]~~ **issue a notice for corrective action or, subject to the procedures set forth in subsection (4) of this section,** 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)]~~ **(4)(a)** 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).

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

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

~~[(5)]~~ **(6)** 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)]~~ **(7)** A licensee whose license has been revoked is not authorized to continue in operation on and after the effective date of the revocation.

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

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

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

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

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

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

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

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

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

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

(b) Proof of compliance with the tuition protection policy established by the commission pursuant to ORS 345.110; and

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

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

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

(c) An applicant is not required to provide fingerprints under paragraph (a) or (b) of this subsection if the commission has conducted a state or nationwide criminal records check on the person within the three years preceding the date of the application.

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

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

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

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

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

- (A) The owner of the school dies, is incapacitated or is incarcerated; or
- (B) Other circumstances render the owner unable to operate the career school.
- (10) Each career school shall display its license in a prominent place.

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

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

- (1) The quality and content of each course or program of instruction can achieve its stated objective;
- (2) The facilities, instructional equipment and materials are sufficient to enable students to achieve the program goals and are adequate for the purposes of the program;
- (3) The directors, administrators and instructors are properly qualified;
- (4) Prior to an applicant signing an enrollment agreement, the school provides the applicant with a catalog or brochure that includes an accurate description of the program for which the applicant is enrolling, total costs of tuition and fees and other information specified by rule;
- (5) Upon satisfactory completion of instruction and training, the student is given appropriate educational credentials;
- (6) Adequate records and standard transcripts are maintained;
- (7) The career school is maintained and operated in compliance with all applicable ordinances and laws;
- (8) The career school is financially sound and capable of fulfilling its commitments to students;
- (9) Neither the career school nor its agents engage in advertising, sales, collection, credit or other practices of any type which are unlawful under ORS 646.608;
- (10) The directors, administrators, supervisors and instructors of the school are of good reputation and character, except that a school shall not be *[placed on probation]* **issued a notice for corrective action** or a license shall not be denied, suspended or revoked because a faculty member has been convicted of a crime except as authorized under ORS 670.280;
- (11) Any student housing owned, maintained or approved by the career school is appropriate, safe and adequate;
- (12) The school has a written placement assistance plan; and
- (13) A license application from a new school or an application for approval of a new program from an existing school shall include labor market information that identifies the need for the new school or program.

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

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

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

- (a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.
- (b) Any prior violations of ORS 345.010 to 345.450 or rules adopted pursuant thereto.
- (c) The economic and financial conditions of the person incurring a penalty.
- (3) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the commission considers proper and consistent with the public welfare.
- (4) The commission may impose penalties that may be remitted or mitigated on condition that a particular violation not continue or occur after a certain period not to exceed 15 days.
- (5) From each penalty recovered under this section, the commission may retain reasonable costs related to the investigation and assessment of the penalty. This subsection does not apply to penalties that are required to be deposited in the Tuition Protection Fund established under ORS 345.110.

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

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

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**Passed by House May 2, 2017**

**Received by Governor:**

**Repassed by House June 13, 2017**

.....M.,....., 2017

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Timothy G. Sekerak, Chief Clerk of House

**Approved:**  
.....M.,....., 2017

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Tina Kotek, Speaker of House

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Kate Brown, Governor

**Passed by Senate June 7, 2017**

**Filed in Office of Secretary of State:**

.....M.,....., 2017

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Peter Courtney, President of Senate

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Dennis Richardson, Secretary of State