

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 22-123—SB 105

Higher Education and Employment Advancement Committee

AN ACT CONCERNING RECOMMENDATIONS BY THE OFFICE OF HIGHER EDUCATION AND EXTENDING THE TIME TO CONDUCT A SEXUAL MISCONDUCT CLIMATE ASSESSMENT AT INSTITUTIONS OF HIGHER EDUCATION

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Eliminates a requirement that hospital-based occupational schools pay annual fees and quarterly assessments into the Private Career School Student Protection Account

SUMMARY: This act makes various changes in the laws governing private occupational schools and higher education institutions overseen by the Office of Higher Education (OHE). It also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2022, unless otherwise noted below.

§ 1 — DEPARTMENT HEAD

Makes the OHE executive director a “department head” appointed by the governor and subject to legislative approval

The act adds OHE’s executive director to the statutory list of “department heads” appointed by the governor and subject to legislative approval. Existing law already requires the governor to appoint the executive director with confirmation by the legislature.

§ 2 — INFORMATION ON POSTSECONDARY EDUCATION OPPORTUNITIES

Requires OHE to spread information on postsecondary education opportunities throughout the state

The act requires OHE to spread information throughout the state about postsecondary education opportunities in the state. By law, OHE regulates the state’s independent colleges and universities, licenses in-state academic programs offered by out-of-state institutions, and regulates postsecondary career schools, among other things. The act eliminates a provision allowing the Board of Regents for Higher Education to prescribe additional responsibilities for OHE’s executive director.

§§ 3-10 — OVERSIGHT OF HIGHER LEARNING PROGRAMS

Makes various changes to OHE’s academic program approval process for independent higher education institutions

The act standardizes various statutory references to OHE’s “licensure,” “approval,” and “accreditation” of higher education institutions by replacing these terms with “authorization,” which it defines as OHE’s approval to operate a higher learning program or higher education institution for subsequent periods and confer specified degrees. Under existing law, a “program of higher learning” that OHE

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regulates is any course of instruction for which college- or university-level credit may be given or received by transfer. The act specifies that this includes any course offered by dual enrollment.

Appeal of Application Denial (§ 3)

Prior law required OHE to establish academic review commissions to hear each individual appeal of a denial of an application for a higher learning program's or higher education institution's licensure or accreditation. For each appeal, OHE had to select a nine-person commission from a panel appointed by legislative leaders and the governor, which had to review the appeal and decide on it within 30 days. The act instead requires OHE to conduct a hearing on the appeal under the Uniform Administrative Procedure Act.

Focused and On-Site Reviews (§ 3)

The act requires the OHE executive director or his designee to conduct a focused or on-site review of an application for program modifications, nonsubstantive changes, or authorizations if he determines that further review is needed due at least in part to the higher education institution's financial condition indicating that it is at risk of imminent closure, as determined through the financial screening required by the act (see § 4). Existing law already requires a focused or on-site review if further review of an application is needed due to the applicant offering instruction in a new higher learning program or new degree level.

By law, a "focused review" is one conducted by an out-of-state curriculum expert and an "on-site review" is a full team evaluation by OHE at the higher education institution (CGS § 10a-34(e)).

Accreditation by Another Entity (§ 3)

Prior law required OHE to accept, unless it found cause not to, (1) regional accreditations that satisfied its requirements and (2) national accreditation for Connecticut institutions accredited before July 1, 2013. The act instead requires OHE to accept accreditation recognized by the U.S. Department of Education secretary unless it finds cause not to accept it.

Financial Conditions (§ 3)

The act allows OHE, for any program or institution accredited or authorized to award degrees granted under the law before July 1, 1965, to discontinue the accreditation or authority if OHE finds the institution is at risk of imminent closure, as determined through a financial screening conducted under the act (see § 4).

Financial Screenings and Imminent Risk of Closure Determinations (§ 4)

The act requires OHE to enter into a memorandum of understanding with one

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or more accrediting agencies (i.e., accrediting associations recognized by the U.S. Department of Education secretary) to conduct an annual financial screening of each independent higher education institution. If the institution does not annually complete a financial screening with an accrediting agency, then OHE must conduct the screening, in a form and way OHE's executive director prescribes.

Under the act, OHE may determine that an independent higher education institution is at risk of imminent closure through (1) an OHE-conducted financial screening (i.e., a review and evaluation of financial information to determine whether the institution's financial status puts it at risk of imminent closure) or (2) OHE's acceptance of an accrediting agency's determination.

Under the act, an independent higher education institution is "at risk of imminent closure" if OHE determines it is at risk of being unable to continue operations or substantially fulfill its obligations to enroll and admit students for the balance of the current and subsequent academic year.

The act requires OHE, upon determining that an independent higher education institution is at risk of imminent closure, to submit a summary of the reasons for the determination to the institution. Once an institution receives the summary, it must submit to the office, in a form and manner prescribed by OHE's executive director, (1) notice of any known financial liability or risk, (2) any information needed to accurately determine and monitor the institution's financial status and risk of imminent closure, and (3) an updated closure plan approved by the institution's governing board.

Under the act, if an independent higher education institution fails to comply with the above requirements, the OHE executive director may (1) request to suspend state funding designated for the institution, (2) establish a date to suspend or revoke the institution's degree-granting authority, or (3) impose other penalties he deems appropriate.

The act exempts financial information and records submitted to OHE for this purpose from disclosure under the state's Freedom of Information Act.

Closure Plan Updates (§ 6)

Beginning July 1, 2023, when an independent higher education institution receives a summary from OHE indicating risk of imminent closure, the act requires the institution's governing board to update the institution's closure plan to include plans for the following actions:

1. providing notice of impending closure to the institution's relevant stakeholders (e.g., enrolled students, applicants, recent graduates, faculty, staff, and surrounding communities);
2. disseminating information on student borrowers' rights and responsibilities;
3. managing the institution's finances, accreditation status, and any compliance issues with federal or state financial aid programs; and
4. refunding student deposits and paying the cost of student record maintenance through means such as providing a surety bond or a letter of credit in an amount to meet these costs.

EFFECTIVE DATE: July 1, 2022, except provisions on OHE's memo of

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understanding for financial screenings, related notice requirements, and suspension requests (§ 4) are effective July 1, 2023.

§§ 8, 11-12, 16, 18, 21, 23-25 & 27-42 — PRIVATE CAREER SCHOOLS

Renames “private occupational schools” as “private career schools” in various statutes

The act renames “private occupational schools” as “private career schools” and makes related conforming changes throughout the statutes. As under prior law, these schools are postsecondary career schools operated by a person, board, association, partnership, limited liability company, or other entity offering instruction in any trade or industrial, commercial, service, professional, or other occupation for a remuneration, consideration, reward, or fee. These schools do not offer (1) publicly supervised and controlled instruction, (2) employee or member training by a firm or organization, (3) instruction from a school authorized by the legislature to confer degrees, or (4) instruction in the arts or recreation.

Under the act, when the term “private occupational school” appears in any 2022 public or special act, it must be substituted with the term “private career school.” The act requires the Legislative Commissioners’ Office (LCO) to make technical, grammatical, and punctuation changes as necessary in codifying this section’s provisions.

EFFECTIVE DATE: July 1, 2022, except the provision requiring LCO to make related changes is effective upon passage.

§§ 12-14 — APPLICATION PROCESS

Modifies the private career school authorization certificate application requirements and process; removes the time limit on a private career school’s irrevocable letter of credit; and requires a private career school to provide evidence to OHE that it has the financial resources to serve its students in order to renew its authorization certificate

Application Requirements, Fees, and Evaluation Teams (§ 12)

Application Requirements. The act eliminates requirements for specific information on the application for a certificate of authorization, including the names and addresses of all school stockholders and the proposed student enrollment agreement and school catalog. The act instead requires OHE to prescribe forms for the application.

It also requires (1) OHE to adopt regulations specifying the nonrefundable initial application fee amount and (2) each initial authorization application submitted to be accompanied by the fee once the regulations become effective. By law, anyone seeking to offer occupational instruction must submit an application to the OHE executive director or designee.

Evaluation Team. By law, OHE must appoint an evaluation team for applicants seeking to offer occupational instruction. Existing law establishes the team’s membership, procedures for challenging membership, and its duties, which include (1) conducting on-site inspections, (2) submitting noncompliance reports, (3)

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giving the school 30 days to provide evidence of compliance, and (4) submitting a final recommendation within 120 days after the inspection. Existing law also requires the evaluation team to consider certain factors (e.g., whether the school has adequate space, equipment, instructional materials, and personnel for the instruction offered).

The act requires OHE to appoint evaluation teams under this existing law until new regulations become effective. Then OHE must appoint an evaluation team in accordance with the regulations, and the evaluation team must submit a written report to the OHE executive director recommending authorization or nonauthorization after an on-site inspection.

Hospitals and Barbering or Hairdressing Schools. The act eliminates provisions that required hospitals offering postsecondary career instruction to obtain a certificate of authorization and OHE to prioritize hospitals based on the size and scope of instruction offered.

The act also eliminates provisions that required schools offering postsecondary career instruction in barbering or hairdressing to get a certificate of authorization.

Credit Requirement (§ 13)

By law and unchanged by the act, a private career school must file with the OHE executive director an irrevocable letter of credit, issued by a bank with its main office or branch in Connecticut, guaranteeing the school's payments to the Private Career School Student Protection Account. Under prior law, the letter of credit was for \$40,000. Under the act, OHE must set the amount in regulations.

The Private Career School Student Protection Account is used to refund tuition to students unable to complete a course at a private career school because the school goes bankrupt or closes (CGS § 10a-22u).

The act removes the time limit on the irrevocable letter of credit and requires OHE to set the associated penalty amount in regulations. Under prior law, the letter of credit was released 12 years after the date of initial approval.

Renewal Application (§ 14)

The act also requires a private career school to provide evidence to OHE, as part of its renewal application and at the executive director's discretion, that it has adequate financial resources to serve its current students for OHE to renew its certificate of authorization to operate.

§§ 14, 15 & 19-22 — FEES, FINES, AND OTHER PAYMENTS IN REGULATIONS FOR PRIVATE CAREER SCHOOLS

Requires OHE to establish certain fees, fines, penalties, and other payments in regulations and eliminates amounts set in statute when the regulations become effective

The act sunsets certain fee, fine, and payment amounts set in statute and instead requires OHE to set them in regulations. Prior law set the following fines, fees, and other payments for private career schools:

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1. renewing a certificate: \$200 for each school and \$200 for each branch;
2. changing ownership: \$2,000, plus \$200 for each in-state branch;
3. violating laws or regulations governing private career schools: \$500 per day;
4. operating without a certificate of operation: \$500 per day; and
5. failing to comply with school closure requirements: \$500 per day.

Existing law requires OHE to make regulations to carry out its duties. The act specifies that the regulations may prescribe fines, fees, or penalties instead of the amounts established under prior law. Under the act, the statutory amounts described above are only effective until OHE regulations setting amounts for these payments become effective. After the regulations become effective, applicants must submit nonrefundable application fees in the amounts established in regulations.

§ 17 — DISTANCE LEARNING PROGRAMS

Requires private career schools to request authorization to offer existing or new programs through a distance learning program

The act requires an OHE-authorized private career school to request authorization to offer existing or new programs through a distance learning program at least 60 days before establishing the program. Existing law already requires an OHE-authorized private career school to request authorization to establish and operate additional classroom sites or branch schools at least 60 days before establishing the new location.

By law, a “distance learning program” is a program of study in which lectures are broadcast or classes are conducted by correspondence or over the internet, without requiring a student to attend in person (CGS § 10-22h).

§ 26 — PRIVATE CAREER SCHOOL STUDENT BENEFIT ACCOUNT

Requires the advisory committee tasked with assisting the OHE executive director in administering the Private Career School Student Benefit Account to be established only when there are available funds to award

The act requires the advisory committee tasked with assisting the OHE executive director in administering the Private Career School Student Benefit Account to be established only when there are funds available in the account. By law, the account awards financial aid grants to benefit students.

§ 44 — REPEALER

Eliminates a requirement that hospital-based occupational schools pay annual fees and quarterly assessments into the Private Career School Student Protection Account

The act eliminates a requirement that hospital-based occupational schools pay (1) a \$200 annual fee to the Private Career School Student Protection Account for each year after the school’s initial authorization period, (2) quarterly assessments on tuition revenue, and (3) a \$200 certificate renewal fee.