
OLR Bill Analysis

SB 105

AN ACT CONCERNING RECOMMENDATIONS BY THE OFFICE OF HIGHER EDUCATION.

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SUMMARY

This bill makes various changes to the laws governing private occupational schools and higher education institutions overseen by the Office of Higher Education (OHE).

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2022, except for the provision making the OHE executive director a "department head," which is effective July 1, 2022.

§ 1 — DEPARTMENT HEAD

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

The bill adds the OHE 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 OHE executive director with confirmation by the legislature.

§ 2 — INFORMATION ON POSTSECONDARY EDUCATION OPPORTUNITIES

Requires OHE to provide information on postsecondary education opportunities to prospective students

The bill requires OHE to provide information to prospective students regarding 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.

§§ 3-9 — OVERSIGHT OF HIGHER LEARNING PROGRAMS

Makes various changes to the academic program approval process for independent higher education institutions administered by OHE

The bill defines "authorization" as the approval by OHE to operate a higher learning program or higher education institution for subsequent periods and confer specified degrees. The bill replaces references to "licensure" and "accreditation" of higher education institutions with "authorization." Under current law, a "program of higher learning" OHE regulates is any course of instruction for which college or university-level credit may be given or received by transfer. Under the bill, this includes any course offered by dual enrollment.

OHE Advisory Council

Current law requires OHE to establish academic review commissions to hear each individual appeal of a denial of an application for licensure or accreditation of a higher learning program or higher education institution. Under current law, for each appeal, OHE must select a nine-person commission from a panel of 35 members appointed by legislative leaders and the governor. Current law requires a commission to review the appeal and make a decision on it within 30 days after the applicant submits the appeal.

The bill eliminates this requirement and instead allows OHE to establish an advisory council to advise on issues related to authorizing higher education institutions and private career schools. The bill requires the OHE executive director to appoint council members with:

1. expertise in the quality assurance and relevance of programs of higher learning;
2. knowledge of, and experience in, the business operations and financing of higher education institutions;
3. knowledge of the laws and regulations applicable to higher education institutions; and
4. expertise in consumer protection for students and prospective students.

Focused and On-Site Reviews

The bill requires the OHE executive director or his designee to

conduct a focused or on-site review of an application for program modifications, nonsubstantive changes, and authorizations if he determines that further review is needed due at least in part to the higher education institution's financial condition. A focused or on-site review is required under existing law 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 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

The bill eliminates provisions (1) allowing OHE to deem accredited any program for which evidence of programmatic accreditation is presented (e.g., accreditation by a professional association), and (2) requiring OHE to accept regional accreditation that satisfy its requirements, unless it finds cause not to accept it.

Financial Conditions

The bill allows OHE, for any program or institution accredited or authorized to award degrees granted in accordance with law before July 1, 1965, to discontinue the accreditation or authority if OHE finds the institution is in an unsound financial condition or showing financial indicators that it is in danger of closure.

The bill requires, beginning July 1, 2023, each authorized higher education institution to annually submit to OHE, at a time and in a manner the office prescribes, a report that includes certain financial information described below. Under the bill, an "authorized institution of higher education" is any proposed new higher education institution and any higher education institution located in the state or authorized by another state, but does not include any public higher education institution governed by the Board of Regents for Higher Education and the UConn Board of Trustees or any higher education institution authorized to award degrees prior to July 1, 1965.

The bill requires the report to include:

1. a list of higher learning programs the institution offers;
2. a single point of contact at the institution for student complaints;
3. the schedule of tuition, fees, and all other charges and expenses necessary for completing a higher learning program;
4. any decisions by the institution's accrediting agency or the federal government that adversely affects the institution's status;
5. any change of ownership;
6. a copy of the most recent audited financial statements detailing the institution's status; and
7. the student and graduate retention rates, information concerning graduate employment outcomes, and any other information, as determined by OHE in consultation with the institution, to determine whether the institution is maintaining quality higher learning programs.

The bill also requires the report to include any other information necessary to determine whether the institution is in an unsound financial condition or showing financial indicators that it is in danger of closure. Under the bill, this information is exempt from the state's Freedom of Information Act.

§§ 7, 10-11, 15, 17, 21, 23, 26-39 — PRIVATE CAREER SCHOOLS

Renames "private occupational schools" as "private career schools"

Under current law, a "private occupational school" is 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. The bill renames these schools as "private career schools" and makes conforming changes throughout the statutes. Under current law and the bill, these schools do not include (1) publicly supervised and controlled instruction, (2) employee or member training offered by

a firm or organization, (3) instruction from a school authorized by the legislature to confer degrees or (4) instruction offered in the arts or recreation.

§§ 11-13 — APPLICATION PROCESS

Modifies the application requirements and process; removes time limit on a private occupational school's irrevocable letter of credit; and requires a private occupational 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 (§ 11)

Application requirements. The bill 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 bill instead requires OHE to prescribe forms. The bill also requires OHE to adopt regulations specifying the initial application fee amount. By law, anyone seeking to offer occupational instruction must submit their application to the OHE executive director or designee.

Evaluation team. By law, for applicants seeking to offer occupational instruction, OHE must appoint an evaluation team. Current 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) giving the school 30 days to provide evidence of compliance, and (4) submitting a final recommendation within 120 after the inspection. Under current law, the evaluation team must consider set factors (e.g., whether the school has adequate space, equipment, instructional materials, and personnel for the instruction offered).

The bill eliminates these provisions and instead requires OHE to appoint an evaluation team in accordance with regulations and requires the evaluation team to submit a written report to the OHE executive director recommending authorization or nonauthorization after an on-site inspection.

Hospitals and schools offering barbering or hairdressing instruction. The bill eliminates provisions requiring that hospitals offering

postsecondary career instruction obtain a certificate of authorization and that OHE prioritize hospitals based on the size and scope of instruction offered.

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

Credit Requirement (§ 12)

By law and unchanged by the bill, a private occupational 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 current law, the letter of credit is for \$40,000. Under the bill, 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 occupational school because the school goes bankrupt or closes (CGS § 10a-22u).

The bill removes the time limit on the irrevocable letter of credit and requires OHE to set the associated penal amount in regulations. Under current law, the letter of credit is released 12 years after the date of initial approval.

Renewal Application (§ 13)

The bill also requires a private occupational 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.

§§ 13, 14, 18-20 & 25 — FEES, FINES, AND OTHER PAYMENTS IN REGULATIONS

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 bill sunsets certain fee, fine, and payment amounts set in statute

and instead requires OHE to set them in regulations. Current law sets the following fines, fees, or other payments:

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. penalty for violations of laws or regulations concerning private occupational schools: \$500 per day;
4. operating without a certificate of operation: \$500 per day;
5. failure to comply with school closure requirements: \$500 per day; and
6. underpayment into the Private Career School Student Protection Account: the underpayment amount plus a 10% penalty.

Existing law requires OHE to make regulations to carry out its duties. Under the bill, the statutory amounts described above are only effective until OHE regulations setting amounts for these payments become effective.

§ 16 — DISTANCE LEARNING PROGRAMS

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

The bill requires an OHE-authorized private occupational school to request authorization to offer existing or new programs through a distance learning program at least 60 days before establishing the new program (see BACKGROUND). Existing law already requires an OHE-authorized private occupational 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).

§ 22 — DISCLOSURE REQUIREMENTS

Prohibits any private occupational school from imposing disclosure requirements on students requiring them, as a condition of enrollment, to enter into agreements limiting their legal recourse in claims against the school

Beginning January 1, 2023, the bill prohibits any private occupational school from imposing disclosure requirements on students that require them, as a condition of enrollment, to enter into agreements limiting their legal recourse in claims against the school.

Under current law, OHE requires private occupational schools, when applying for initial or renewed licensure, accreditation, or certificates of authorization, to make certain disclosures if they require students to enter into an enrollment agreement that contains any provision (1) limiting participation in a class action against the institution, (2) limiting any claim students may have against the institution or the damages associated with the claim, or (3) requiring students to bring claims against the institution in a forum that is less convenient, more costly, or slower-moving than an in-state judicial forum. The bill requires all private career schools to make these disclosures, which include:

1. the number of claims made against the school including claims made against a parent organization or subsidiary, by a current or former student;
2. a description of the rights asserted; and
3. an update on the status of these claims.

§ 24 — 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 where there are available funds to award

The bill 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.

§ 40 — REPEALER

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

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

COMMITTEE ACTION

Higher Education and Employment Advancement Committee

Joint Favorable

Yea 20 Nay 3 (03/17/2022)