
OLR Bill Analysis

SB 105 (File 254, as amended by Senate "A")*

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.

**Senate Amendment "A" (1) changes the effective dates of most provisions from October 1, 2022, to July 1, 2022; (2) requires OHE to disseminate information on postsecondary education throughout the state; (3) eliminates various provisions in the underlying bill, including (a) allowing OHE to establish an advisory council on authorizing higher education institutions, (b) requiring higher education institutions to report annually on financial information, and (c) allowing OHE to establish penalties in regulations for underpayment to the Private Occupational School Student Protection Account; (4) allows OHE to conduct a focused or on-site review of any higher education institution deemed at risk of imminent closure; (5) requires OHE to enter into a memorandum of understanding with an accrediting agency to conduct financial screenings; (6) requires OHE to only conduct financial screenings for schools that are not being screened by an accrediting agency; and (7) requires the Legislative Commissioners' Office to make technical, grammatical, and punctuation changes as necessary in codifying provisions changing "private occupational school" to "private career school."*

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 bill 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 disseminate information on postsecondary education opportunities throughout the state

The bill requires OHE to disseminate information throughout the state 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. The bill eliminates a provision allowing the Board of Regents to prescribe additional responsibilities for OHE's executive director.

§§ 3-10 — 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," "approval," 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.

Appeal of Application Denial (§ 3)

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 instead requires OHE to conduct a hearing on the appeal in accordance with the Uniform Administrative

Procedure Act.

Focused and On-Site Reviews (§ 3)

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, 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 the institution is at risk of imminent closure as determined through the financial screening required under the bill. 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 (§ 3)

Current law requires OHE to accept, unless it finds cause not to, (1) regional accreditations that satisfy its requirements and (2) national accreditation for Connecticut institutions accredited before July 1, 2013. The bill 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 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 at risk of imminent closure, as determined through a financial screening conducted under the bill (§ 4).

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

The bill requires OHE to enter into a memorandum of understanding with one 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, the screening must be conducted by OHE, in a form and manner OHE's executive director prescribes.

Under the bill, 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 financial status of a higher education institution puts it at risk of imminent closure); or
2. acceptance by OHE of the determination made by an accrediting agency.

Under the bill, an independent higher education institution that is "at risk of imminent closure" means one that OHE has determined 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 bill 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 a 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 necessary 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 bill, if any independent higher education institution fails to comply with the above requirements, the OHE executive director

may request to suspend state funding designated for the institution, establish a date to suspend or revoke the institution's degree-granting authority, or impose other penalties he deems appropriate.

Under the bill, financial information and records submitted to OHE for this purpose are exempt from 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 bill requires the institution's governing board to update the institution's closure plan to include plans for:

1. providing notice of impending closure to relevant stakeholders of the institution (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 the provision of a bond with surety or a letter of credit in an amount to meet these costs.

EFFECTIVE DATE: July 1, 2022, except provisions on OHE's memo of understanding for financial screenings, related notice requirements, and suspension requests 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"

Under current law, a "private occupational school" is a postsecondary career school 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. 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.

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

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

§§ 12-14 — APPLICATION PROCESS

Modifies the private occupational school authorization certificate 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 (§ 12)

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 nonrefundable initial application fee amount and requires 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, 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 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. The evaluation team must be appointed pursuant to regulations once they become effective. The bill requires OHE to appoint evaluation teams in accordance with current law until the regulations become effective.

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 (§ 13)

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 Occupational 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 Occupational 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 (§ 14)

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.

§§ 14, 15 & 19-22 — 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, and 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; and
5. failure to comply with school closure requirements: \$500 per day.

Existing law requires OHE to make regulations to carry out its duties. The bill specifies that the regulations may prescribe fines, fees, or penalties instead of the amounts established under current law. Under the bill, 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 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. 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).

§ 26 — PRIVATE CAREER OCCUPATIONAL SCHOOL STUDENT BENEFIT ACCOUNT

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

The bill requires the advisory committee tasked with assisting the OHE executive director in administering the Private Occupational 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.

§ 43 — 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)