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February 11, 2020

SENATE BILL NO. 1169

By Newhouse of the Senate

and

Caldwell (Chad) of the
House

An Act relating to the Oklahoma Board of Private Vocational Schools; amending 70 O.S. 2011, Section 21-101, as amended by Section 1, Chapter 276, O.S.L. 2014 (70 O.S. Supp. 2019, Section 21-101), which relates to definitions related to the Board; modifying and adding definitions; amending Section 4, Chapter 276, O.S.L. 2014 (70 O.S. Supp. 2019, Section 21-102.1), which relates to powers and duties of the Board; adding the power to approve or disapprove certain corrective action plans; allowing the Board to fix certain minimum standards for certain surety bond or certificate of deposit; allowing the Board to require certain applicant or school to report certain correspondence; allowing the Board to require suspension of certain enrollments if certain plan is not adhered to; directing the Board to develop and present certain optional training; allowing the Board to conduct certain site visits and to invoice certain fee for site visits; directing the Board to collect certain data required by certain agencies or organizations; amending 70 O.S. 2011, Section 21-108, which relates to revocation of a license; authorizing the Board to require a school to take certain actions if certain corrective action plan fails; updating statutory references; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2011, Section 21-101, as amended by Section 1, Chapter 276, O.S.L. 2014 (70 O.S. Supp. 2019, Section 21-101), is amended to read as follows:

Section 21-101. As used in Sections 21-101 through 21-203 of this title:

1. "Act" means Sections ~~21-201~~ 21-101 through 21-203 of this title that enables the Oklahoma Board of Private Vocational Schools to approve licenses for state authorization of postsecondary education or certain other forms of vocational-technical training and education;

2. "Private school" means any privately owned, nonpublic entity that receives remuneration that is approved for a state authorization license and provides postsecondary education, or provides vocational-technical education prior to the person obtaining a high school diploma or its equivalency;

3. "Board" or "OBPVS" means the Oklahoma Board of Private Vocational Schools;

4. "Accreditation" or "accrediting organization" means an independent third-party organization approved by the U.S. Department of Education or the Board with standards that meet or exceed the minimum standards of the OBPVS;

5. "Approval by the State Regents for Higher Education" means approval:

- 1 a. for a postsecondary institution to offer one or more
2 associate, bachelor, master, or doctoral degrees in a
3 specific degree program,
4 b. of an entity to offer distance education for a
5 degree(s) that is granted by means of applying an
6 interstate reciprocity agreement to which the State
7 Regents for Higher Education is a party, or
8 c. of an entity by way of the provision of documentation
9 of independent accreditation by one or more regional
10 or national accrediting organizations which are
11 recognized by the U.S. Department of Education;

12 ~~5.~~ 6. "Branch" means an additional location, separate facility,
13 or satellite to a main school that is defined by the organizational,
14 geographic, or legal characteristics of the entities;

15 ~~6.~~ 7. "Business" means skills including but not limited to
16 administration, customer relations, finance, human resources,
17 leadership, management, marketing or strategic planning used to run
18 a for-profit or not-for-profit entity;

19 ~~7.~~ 8. "Combines" means offering within the same catalog,
20 website or other form of publication or advertisement in such a way
21 to convey that the entity makes available more than one type or
22 level of training or education;

23 ~~8.~~ 9. "Contact hour" means a period of time defined by a
24 school, seminar or workshop such as fifty (50) minutes which may

1 differ from a clock hour that will always be sixty (60) minutes in
2 length;

3 ~~9.~~ 10. "Correspondence course" means a form of instruction for
4 which a student receives lessons or assignments from a private
5 school by means of postal or other couriers;

6 ~~10.~~ 11. "Distance education" means education or training
7 provided outside the traditional classroom by use of electronic
8 mediums, including but not limited to online or virtual education,
9 e-learning or computer-based, -aided or -assisted instruction;

10 ~~11.~~ 12. "General education" means education to complete a
11 student's secondary education recognition providing instruction not
12 specific to any single occupation or vocation;

13 ~~12.~~ 13. "Industrial" means related to manufacturing or other
14 labor which may or may not require skilled trade licensing;

15 ~~13.~~ 14. "Occupation" or "vocation" means employment, either
16 full-time, part-time, by contract or on a consulting basis, for
17 which a person earns remuneration;

18 ~~14.~~ 15. "Postgraduate certificate" means an advanced
19 certification earned following a student's receipt of an associate,
20 bachelor, master or doctorate degree that qualifies the individual
21 for specialized career advancement or job assignments;

22 ~~15.~~ 16. "Postsecondary education" means a program that requires
23 a student to have a high school diploma, high school equivalency
24

1 certificate or requires that the person be beyond the age of
2 compulsory education;

3 ~~16.~~ 17. "Primarily in the business of" means that an entity
4 earns twenty percent (20%) or more of its gross revenue from
5 providing a program(s) of instruction, as documented by certified
6 public-accountant-prepared financial statements that are attested to
7 as a true and correct statement of financial condition by an entity
8 owner(s);

9 ~~17.~~ 18. "Profession" or "professional" means those occupations
10 or vocations relating to such fields of employment that generally
11 require an advanced degree or for which an individual must pass
12 extensive prelicensing testing. Examples include but are not
13 limited to attorneys and certified professional accountants.
14 Professions may or may not require ongoing continuing education that
15 may be subject to the authority or jurisdiction of an alternate
16 state agency;

17 ~~18.~~ 19. "Program", "program of study" or "program of
18 instruction" means a body of organized instruction that leads to a
19 degree, certificate, diploma or other recognized educational
20 credential, or provides transferable skills applicable to a
21 business, professional, trade or vocational-technical or industrial
22 occupation or vocation;

23 ~~19.~~ 20. "Public" means an entity that is established as a
24 governmental entity;

1 ~~20.~~ 21. "Seminar" or "workshop" means a program of instruction
2 including but not limited to topics of continuing education that
3 results in business, professional, or vocational-technical knowledge
4 that applies to one or more occupations or vocations but will not
5 provide degree credit hours, a certificate or a diploma;

6 ~~21.~~ 22. "Solicitor" means a representative of a private school
7 that leaves the physical facility of the school to attend job fairs,
8 career days or other activities to market to new students or to
9 attempt to secure new student enrollments;

10 ~~22.~~ 23. "Technical" means those skills that are unique to
11 certain occupations or vocations;

12 24. "Teach-out plan" means a document specifying if a private
13 school plans to close a program and cease adding new or additional
14 students to the program. A teach-out plan may be internal, meaning
15 it is managed by the affected private school, or external, meaning
16 another private school is involved in closing a program;

17 25. "Teach-out agreement" means a formal contract that
18 specifies the details of a successor private school(s) to offer
19 enrollment to the students of another private school that is closing
20 or ending a program;

21 ~~23.~~ 26. "Trade" means a skilled trade including but not limited
22 to electrical, plumbing, and heating and air conditioning (HVAC),
23 that requires an individual to maintain a state or municipal
24 license; and

1 ~~24.~~ 27. "Tuition" means a financial charge made for the
2 provision of education or training, regardless of the term assigned
3 to the monetary or other exchange.

4 SECTION 2. AMENDATORY Section 4, Chapter 276, O.S.L.
5 2014 (70 O.S. Supp. 2019, Section 21-102.1), is amended to read as
6 follows:

7 Section 21-102.1. The Oklahoma Board of Private Vocational
8 Schools is authorized to:

9 1. Appoint and fix the compensation of a director who:

10 a. shall employ and fix the duties and compensation of
11 such clerical or other assistants as are reasonably
12 necessary to effectuate the provisions of ~~this act~~
13 Section 21-201 et seq. of this title, and

14 b. may execute contracts on behalf of the Board;

15 2. Promulgate rules to include but not be limited to the
16 implementation of minimum standards for the operation of private
17 schools and the requirements for application of a school, seminar or
18 workshop for a license of state authorization;

19 3. Approve or disapprove:

20 a. applications for state authorization,

21 b. other applications for licensing including sustained
22 licenses,

23 c. requests for exemption, ~~and~~

24 d. requests for a definition exception, and

1 e. corrective action plans for plan implementation
2 schedules;

3 4. Issue a private school license to document state
4 authorization or other licensing upon determination that such school
5 meets the standards fixed by the Board;

6 5. Prescribe, except as is otherwise provided by law and
7 subject to the provisions of the Administrative Procedures Act, such
8 penalties as it may deem proper for the enforcement of ~~this act~~
9 Section 21-201 et seq. of this title, not to exceed One Thousand
10 Dollars (\$1,000.00);

11 6. Fix minimum standards through promulgation and adoption of
12 rules and regulations for the operation of private schools, which
13 shall include standards for:

14 a. courses of instruction and training,

15 b. qualifications of instructors,

16 c. financial stability,

17 d. advertising practices, ~~and~~

18 e. refund of tuition and fees paid by students for
19 courses of instruction or training not completed, and

20 ~~shall promulgate and adopt reasonable rules and~~
21 ~~regulations for the implementation of such minimum~~
22 ~~standards for the operation of private schools~~

23 f. increasing the required amount of surety bond or
24 certificate of deposit;

1 7. Require a school to submit and implement a Board-approved
2 corrective action plan to resolve compliance or operational issues
3 identified by OBPVS staff;

4 8. Require a licensing applicant or a licensed school to report
5 and provide copies to the OBPVS within five (5) business days after
6 receipt of or sending correspondence to the U.S. Department of
7 Education, a federal or state agency or an accrediting organization
8 approved by the U.S. Department of Education or the Board. The
9 correspondence to be copied to the OBPVS shall include but not be
10 limited to mass communication master documents mandated to be issued
11 by an applicant or a school, correspondence related to potential
12 adverse actions or correspondence in which financial, leadership or
13 other conditions may result in loss of accreditation, loss of
14 funding or school closure;

15 9. Require the school to suspend new enrollments in one or more
16 programs when an approved corrective action plan is not adhered to
17 and require the school to submit an internal or external teach-out
18 plan to the OBPVS with a teach-out agreement for an external teach-
19 out plan, to increase a school's surety bond or certificate of
20 deposit amount, to present a letter of credit payable to the Board
21 or to comply with conditions approved by the Board;

22 10. Where possible, to regulate degrees offered by distance
23 education, make use of the State Regents for Higher Education's
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1 interstate reciprocity agreements to create a more efficient and
2 cost-effective means of the regulation of private schools;

3 ~~8.~~ 11. Make use of interstate reciprocity agreements that
4 reasonably satisfy the Board's minimum standards to approve state
5 authorization or other license application, if such agreements
6 become available for other programs the Board approves for state
7 authorization or other license;

8 ~~9.~~ 12. Require an entity to repay any fees charged to the Board
9 by a financial institution or the State Treasurer for a returned
10 check or other failed form of payment;

11 ~~10.~~ 13. Develop and present mandatory annual compliance
12 training to emphasize standards relating to the operation of a
13 school and relicensing processes, and require attendance by a
14 representative of each school, seminar, or workshop;

15 ~~11.~~ 14. Develop and present or arrange for the presentation of
16 optional training for schools to emphasize continuing development of
17 school personnel and processes and address emerging issues;

18 15. Provide all licensing forms free of charge via one or more
19 electronic means, but shall charge for the pick up or mailing of a
20 hard-copy licensing application packet to a person requesting
21 information about private school licensing requirements;

22 ~~12.~~ 16. Certify an electronic record or the printing of an
23 electronically stored record as an original, subject to approval by
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1 the Oklahoma Archives and Records Commission and when in accordance
2 with the record retention and destruction policy of the Board;

3 ~~13.~~ 17. Conduct announced or unannounced site visits to an
4 applicant or licensed school or seminar including joint visits with
5 an accrediting organization or federal or state agency;

6 18. Invoice a travel fee to conduct site visits to an applicant
7 or a licensed school, seminar or workshop;

8 19. Collect or require the submission of data, including but
9 not limited to:

- 10 a. admissions,
- 11 b. certification scores or passage rates,
- 12 c. complaints or grievances,
- 13 d. enrollment,
- 14 e. funding,
- 15 f. graduation,
- 16 g. job longevity or retention,
- 17 h. job placement, ~~and~~
- 18 i. data required to be reported to the U.S. Department of
19 Education, any state or federal agency or an
20 accrediting organization, and
- 21 j. other data, as necessary, to carry on the mission or
22 duties of the Board, or to assist in the state's
23 workforce development initiatives; and

1 ~~14.~~ 20. Carry out such other duties as necessary to provide
2 state authorization for private vocational schools, seminars, and
3 workshops and such other schools that make offerings of courses or
4 programs as permitted by ~~this act~~ Section 21-201 et seq. of this
5 title.

6 SECTION 3. AMENDATORY 70 O.S. 2011, Section 21-108, is
7 amended to read as follows:

8 Section 21-108. A. A license ~~or permit issued or renewed under~~
9 ~~the provisions of this act~~ may, after reasonable notice to the
10 private school and an opportunity to be heard, be revoked by the
11 Oklahoma Board of Private Vocational Schools for a failure of the
12 private school to maintain the ~~accreditation or the~~ minimum
13 standards fixed by the Board by which such private school obtained
14 its license, or to maintain the bond required by ~~Section 6 of this~~
15 ~~act~~ Section 21-106 of this title, or for a violation of any of the
16 rules and regulations pertaining to minimum standards of the Board.

17 B. No license or permit issued under ~~this act~~ Section 21-201 et
18 seq. of this title shall be transferable.

19 C. When a Board-approved corrective action plan fails as
20 determined by OBPVS staff, the Board shall have the authority,
21 following a public hearing, to require the school to suspend new
22 enrollments in one or more programs, submit to the OBPVS and
23 implement a teach-out plan or teach-out agreement, increase surety
24 bond or certificate of deposit requirements, present a letter of

1 credit payable to the Board or take other action against the
2 licensee.

3 SECTION 4. This act shall become effective July 1, 2020.

4 SECTION 5. It being immediately necessary for the preservation
5 of the public peace, health or safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

8 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
9 February 11, 2020 - DO PASS
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