

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1397

By: Floyd

AS INTRODUCED

An Act relating to the Oklahoma Board of Private Vocational Schools; amending 70 O.S. 2021, Section 21-101, which relates to definitions related to the Board; updating statutory reference; modifying and adding definitions; amending 70 O.S. 2021, Section 21-101.1, which relates to entities exempt from Oklahoma Board of Private Vocational Schools licensure; exempting certain programs when a federal agency maintains authority or jurisdiction; adding certain entities to exemption; amending 70 O.S. 2021, Section 21-102.1, which relates to powers and duties of the Board; adding 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 reporting of certain correspondence; allowing the Board to require suspension of certain enrollments if certain plan is not adhered to; amending 70 O.S. 2021, 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. 2021, Section 21-101, is amended to read as follows:

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

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

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

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

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

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

- 21 a. for a postsecondary institution to offer one or more
22 associate, bachelor, master, or doctoral degrees in a
23 specific degree program,

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

9 ~~5.~~ 6. "Branch" means an additional location, separate facility,
10 or satellite to a main school that is defined by the organizational,
11 geographic, or legal characteristics of the entities;

12 ~~6.~~ 7. "Business" means skills including but not limited to
13 administration, customer relations, finance, human resources,
14 leadership, management, marketing or strategic planning used to run
15 a for-profit or not-for-profit entity;

16 ~~7.~~ 8. "Combines" means offering within the same catalog,
17 website or other form of publication or advertisement in such a way
18 to convey that the entity makes available more than one type or
19 level of training or education;

20 ~~8.~~ 9. "Contact hour" means a period of time defined by a
21 school, seminar or workshop such as fifty (50) minutes which may
22 differ from a clock hour that will always be sixty (60) minutes in
23 length;

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

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

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

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

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

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

~~15.~~ 16. "Postsecondary education" means a program that requires a student to have a high school diploma, high school equivalency certificate or requires that the person be beyond the age of compulsory education;

1 ~~16.~~ 17. "Primarily in the business of" means that an entity
2 earns twenty percent (20%) or more of its gross revenue from
3 providing a program(s) of instruction, as documented by certified
4 public-accountant-prepared financial statements that are attested to
5 as a true and correct statement of financial condition by an entity
6 owner(s);

7 ~~17.~~ 18. "Profession" or "professional" means those occupations
8 or vocations relating to such fields of employment that generally
9 require an advanced degree or for which an individual must pass
10 extensive prelicensing testing. Examples include but are not
11 limited to attorneys and certified professional accountants.
12 Professions may or may not require ongoing continuing education that
13 may be subject to the authority or jurisdiction of an alternate
14 state agency;

15 ~~18.~~ 19. "Program", "program of study" or "program of
16 instruction" means a body of organized instruction that leads to a
17 degree, certificate, diploma or other recognized educational
18 credential, or provides transferable skills applicable to a
19 business, professional, trade or vocational-technical or industrial
20 occupation or vocation;

21 ~~19.~~ 20. "Public" means an entity that is established as a
22 governmental entity;

23 ~~20.~~ 21. "Seminar" or "workshop" means a program of instruction
24 including but not limited to topics of continuing education that

1 results in business, professional, or vocational-technical knowledge
2 that applies to one or more occupations or vocations but will not
3 provide degree credit hours, a certificate or a diploma;

4 ~~21.~~ 22. "Solicitor" means a representative of a private school
5 that leaves the physical facility of the school to attend job fairs,
6 career days or other activities to market to new students or to
7 attempt to secure new student enrollments;

8 ~~22.~~ 23. "Technical" means those skills that are unique to
9 certain occupations or vocations;

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

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

19 ~~23.~~ 26. "Trade" means a skilled trade including but not limited
20 to electrical, plumbing, and heating and air conditioning (HVAC),
21 that requires an individual to maintain a state or municipal
22 license; and
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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 70 O.S. 2021, Section 21-101.1, is
5 amended to read as follows:

6 Section 21-101.1. The term "private school" shall not include
7 the following which are exempt from licensing by the Oklahoma Board
8 of Private Vocational Schools:

9 1. Barber schools, beauty schools, or other schools which are
10 exclusively regulated or licensed pursuant to the provisions of any
11 school-licensing law of this state, although such school may choose
12 to apply to secure a license for state authorization from the Board;

13 2. Any form of flight instruction subject to regulations
14 promulgated by the Federal Aviation Administration;

15 3. Parochial, private, or other nonpublic schools offering
16 programs of general education accredited or approved by the State
17 Board of Education, the State Board of Career and Technology
18 Education, or the Oklahoma State Regents for Higher Education;

19 4. Education or training, as approved by the Board, provided
20 and paid for by:

21 a. an employer for its own employees,

22 b. a professional organization, as approved by the Board,
23 for its members,

- 1 c. a parochial, denominational, or eleemosynary school or
2 institution, which is sectarian in nature and uniquely
3 useful for and intrinsic to the propagation of a faith
4 or the pursuit of the mission of the school or
5 institution as approved by the Board, or
6 d. an entity supported by taxation of a local or state
7 source;

8 5. Education or training, as approved by the Board, which
9 offers instruction solely in the field of an avocation, hobby,
10 recreation, or entertainment, as approved by the Board;

11 6. Professional prelicensing programs or continuing education
12 programs when an alternate state or federal agency maintains
13 complete authority or jurisdiction over the right to offer or
14 certify such a program, regardless if the other agency mandates the
15 subject matter of the program;

16 7. Postgraduate certificates offered or provided by a school
17 that has approval for that specific program issued by another state
18 agency or an accrediting agency approved by the Board;

19 8. If a private school combines training or education that is
20 both licensed and not licensed by another state agency or a federal
21 agency, licensing by the Board ~~will~~ shall be required for the
22 entity's combined programs. However, the Board ~~will~~ shall defer to
23 the other state agency on matters contained in the other agency's
24 regulations and will refrain from establishing conflicting

1 requirements. Matters to be governed by the other state agency may
2 include but are not limited to curriculum, testing, or certification
3 completion. The Board may require a private school to document its
4 approval by any other state agency or an accrediting organization;
5 ~~and~~

6 9. Seminars or workshops offered by an entity that:

- 7 a. is not primarily in the business of providing programs
8 of instruction,
9 b. provides instruction to advance the personal
10 development or general, transferable skills of a
11 participant, and
12 c. offers aggregate clock or contact hours of no more
13 than twenty-four (24) clock or defined contact hours
14 per calendar quarter of the calendar year;

15 10. An entity that offers only degrees and has and maintains
16 proper approval by the Oklahoma State Regents for Higher Education;
17 and

18 11. An entity that is based outside of Oklahoma, maintains
19 regional or national accreditation by an accrediting organization
20 approved by the U.S. Department of Education, does not offer
21 degrees, and provides all of its training by way of distance
22 education.

23 SECTION 3. AMENDATORY 70 O.S. 2021, Section 21-102.1, is
24 amended to read as follows:

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

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

4 a. shall employ and fix the duties and compensation of
5 such clerical or other assistants as are reasonably
6 necessary to effectuate the provisions of Section 21-
7 101 et seq. of this title, and

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

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

13 3. Approve or disapprove:

14 a. applications for state authorization,

15 b. other applications for licensing including

16 applications for sustained licenses,

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

18 d. requests for a definition exception, and

19 e. corrective action plans with implementation schedules;

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

23 5. Prescribe, except as is otherwise provided by law and
24 subject to the provisions of the Administrative Procedures Act, such

1 penalties as it may deem proper for the enforcement of Section 21-
2 101 et seq. of this title, not to exceed One Thousand Dollars
3 (\$1,000.00);

4 6. Fix minimum standards through promulgation of rules for
5 private schools, which shall include standards for:

- 6 a. courses of instruction and training,
- 7 b. qualifications of instructors,
- 8 c. financial stability,
- 9 d. advertising practices, ~~and~~
- 10 e. refund of tuition and fees paid by students for
- 11 courses of instruction or training not completed, and
- 12 f. increasing the required amount of surety bond or
- 13 certificate of deposit;

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

17 8. Require a licensing applicant or a licensed school to report
18 and provide copies to the OBPVS within five (5) business days after
19 receipt of or sending correspondence to the U.S. Department of
20 Education, a federal or state agency, or an accrediting organization
21 approved by the U.S. Department of Education or the Board. The
22 correspondence to be copied to the OBPVS shall include but not be
23 limited to mass communication master documents mandated to be issued
24 by an applicant or a school, correspondence related to potential

1 adverse actions or correspondence in which financial, leadership, or
2 other conditions may result in loss of accreditation, loss of
3 funding, or school closure;

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

11 10. Where possible, to regulate degrees offered by distance
12 education, make use of the Oklahoma State Regents for Higher
13 Education's interstate reciprocity agreements to create a more
14 efficient and cost-effective means of the regulation of private
15 schools;

16 ~~8.~~ 11. Make use of interstate reciprocity agreements that
17 reasonably satisfy the Board's minimum standards to approve state
18 authorization or other license application, if such agreements
19 become available for other programs the Board approves for state
20 authorization or other license;

21 ~~9.~~ 12. Require an entity to repay any fees charged to the Board
22 by a financial institution or the State Treasurer for a returned
23 check or other failed form of payment;

1 ~~10.~~ 13. Develop and present mandatory annual compliance
2 training to emphasize standards relating to the operation of a
3 school and relicensing processes, and require attendance by a
4 representative of each school, seminar, or workshop;

5 ~~11.~~ 14. Develop and present or arrange for the presentation of
6 optional training for schools to emphasize continuing development of
7 school personnel and processes and to address emerging issues;

8 ~~12.~~ 15. Provide all licensing forms free of charge via one or
9 more electronic means, but shall charge for the ~~pick-up~~ pickup or
10 mailing of a hard-copy licensing application packet to a person
11 requesting information about private school licensing requirements;

12 ~~13.~~ 16. Certify an electronic record or the printing of an
13 electronically stored record as an original, subject to approval by
14 the ~~Oklahoma~~ Archives and Records Commission and when in accordance
15 with the record retention and destruction policy of the Board;

16 ~~14.~~ 17. Conduct announced or unannounced site visits to an
17 applicant or licensed school or seminar including joint visits with
18 an accrediting organization or federal or state agency;

19 ~~15.~~ 18. Invoice a travel fee to conduct site visits to an
20 applicant, school, seminar, or workshop;

21 ~~16.~~ 19. Collect or require the submission of data, including
22 but not limited to:

23 a. admissions,

24 b. certification scores or passage rates,

- c. complaints or grievances,
- d. enrollment,
- e. funding,
- f. graduation,
- g. job longevity or retention,
- h. job placement,
- i. data required to be reported to the U.S. Department of Education, any state or federal agency, or an accrediting organization, and
- j. other data, as necessary, to carry on the mission or duties of the Board, or to assist in the state's workforce development initiatives; and

~~17. 20.~~ Carry out such other duties as necessary to provide state authorization for private vocational schools, seminars, and workshops and such other schools that make offerings of courses or programs as permitted by Section 21-101 et seq. of this title.

SECTION 4. AMENDATORY 70 O.S. 2021, Section 21-108, is amended to read as follows:

Section 21-108. A. A license ~~or permit issued or renewed under the provisions of this act~~ may, after reasonable notice to the private school and an opportunity to be heard, be revoked by the ~~Board~~ Oklahoma Board of Private Vocational Schools for a failure of the private school to maintain the ~~accreditation or the~~ minimum standards fixed by the Board by which such private school obtained

1 its license, or to maintain the bond required by ~~Section 6 of this~~
2 ~~act~~ Section 21-106 of this title, or for a violation of any of the
3 rules and regulations pertaining to minimum standards of the Board.

4 B. No license or permit issued under ~~this act~~ Section 21-101 et
5 seq. of this title shall be transferable.

6 C. When a Board-approved corrective action plan fails as
7 determined by OBPVS staff, the Board shall have the authority,
8 following a public hearing, to require the school to suspend new
9 enrollments in one or more programs, submit to the OBPVS and
10 implement a teach-out plan or teach-out agreement, increase surety
11 bond or certificate of deposit requirements, present a letter of
12 credit payable to the Board, or take other action against the
13 licensee.

14 SECTION 5. This act shall become effective July 1, 2022.

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

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