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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

HECC 4-2022
CHAPTER 715
HIGHER EDUCATION COORDINATING COMMISSION

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Providing alternative requirements for liability insurance, instructor qualifications, and tuition protection fund payments.

EFFECTIVE DATE: 08/12/2022 THROUGH 02/07/2023

AGENCY APPROVED DATE: 08/11/2022

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NEED FOR THE RULE(S):

Ballot measure 109 and subsequent rules promulgated by the Oregon Health Authority create a new private career school sector that, owing to several regulatory restrictions, may not be able to meet all existing licensure requirements as private career schools in Oregon.

JUSTIFICATION OF TEMPORARY FILING:

Failure to adopt temporary rules would lead to a direct financial harm to aspiring psilocybin facilitator training providers that would be unable to offer instruction to students.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None.

RULES:
715-045-0012, 715-045-0029, 715-045-0032

AMEND: 715-045-0012

RULE TITLE: Personnel

RULE SUMMARY: The rule establishes requirements for staff and instructors at private career schools.

RULE TEXT:
(1) A career school shall establish, publish, and enforce specific written policies that set standards for the staff's:
(a) Professional performance and conduct;
(b) Evaluation; and
(c) Continuing education.
(2) Career schools shall employ as teachers only those individuals who are registered with the Commission and who meet the applicable requirements of this rule. All applications for teacher registration shall:
(a) Be recorded on forms provided by the Commission;

(b) Indicate the specific subjects the prospective teacher will teach;
(c) Be signed by the prospective teacher and a director at the school; and
(d) Be accompanied by relevant official transcripts, letters, and documents that confirm that the teacher meets the minimum requirements listed in subsections (3) and (4) of this rule.
(3) Individuals applying for registration as career school teachers must:
(a) Be at least 18 years of age
(b) Hold all Oregon licenses, permits, certificates, or other credentials, as well as successfully pass any examinations, legally required for employment in the field in which they teach.. In limited circumstances, the Executive Director may grant a waiver from this requirement upon receipt of a written request from the school showing that a credential issued by another state would be accepted as an equivalent by the state in which the school is located.
(c) Have graduated from high school as evidenced by a photocopy of the applicant's high school diploma, a high school transcript indicating graduation, or a foreign equivalent. As an alternative, the applicant may show evidence of a General Education Development (GED) certificate or a transcript indicating graduation, from a postsecondary program which would typically require completion of high school, or an equivalent course of study, as a condition of admission. The Executive Director may grant a waiver to this requirement upon written request from the school.
(d) Have met the following experience requirements.
(A) Have at least two years of work experience or two years of education, or any combination of both, in the subject that they instruct. One year of experience is defined as 1,875 hours of work, education or training per year (37.5 hours per week times 50 weeks). Part-time experience will be allowed if the total hours equal the equivalent of two years of full-time experience (3750 hours).
(B) For new teachers the work experience must have been within the last five years. The Executive Director may grant a waiver upon written request from the school.
(C) If a credential or qualifying examination is required for employment in the field by the state in which the school is located, the two years of experience must include at least one year of work experience as a certified practitioner in the subject in which they instruct, following certification or licensure. The Executive Director may grant a waiver upon written request from the school.
(D) In limited circumstances, the Executive Director may grant a waiver from the requirements written above upon receipt of a written request from the school.
(e) Pay the applicable registration fee specified in OAR 715-045-0007.
(f) Notwithstanding the work experience, education and training requirement specified in paragraph (d) of this subsection, the Commission may outline specific, industry/field requirements, in collaboration with state licensing agencies for non-cosmetology fields of practice.
(g) Notwithstanding the work experience, education and training requirement specified in paragraph (d) of this subsection, an applicant applying for registration to teach hair design, barbering, esthetics, nail technology, or some other cosmetology field or area of practice at a career school offering cosmetology programs may qualify to teach by completing a Commission-approved:
(A) 1,000 hour cosmetology teacher training program offered by a licensed career school, if the applicant possesses a valid credential from the Health Licensing Office; or
(B) 200 hour cosmetology teacher training program, if the applicant taught hair design, barbering, esthetics, nail technology, or some other cosmetology field or area of practice in another state whose licensing requirements are less than those established by the State of Oregon, or if the applicant's Commission-issued teacher registration expired three or more years ago.
(h) In lieu of meeting the requirements in OAR 715-045-0012(3)(b) through (d), an applicant for registration as a teacher of an Oregon Health Authority-approved psilocybin facilitator training program must submit proof that the instructor is identified with a program approved by the Authority, and the instructor's qualifications have been submitted to the Authority under OAR 333-333-3020(4) or under OAR 333-333-3030.
(4) Career schools offering programs in hair design, barbering, esthetics, nail technology, or some other cosmetology

field or area of practice may use individuals who are not registered teachers for the purpose of providing specialized training that enhances the students program of instruction. Such specialty trainers, also known as resource persons, may not provide more than a total of:
(a) 340 hours of instruction in a hair design program;
(b) 270 hours of instruction in a barbering program;
(c) 100 hours of instruction in an esthetics program; or
(d) 100 hours of instruction in a nail technology program.
(5)(a) In emergency situations, not to exceed three months, schools may hire substitute teachers who are the best-qualified persons available. Under no circumstances shall students be allowed to substitute as approved teachers.
(b) Within 14 days of hiring a substitute teacher, a career school must provide written notice to the Commission. The notice must include, at a minimum, the substitute teacher's name, telephone number, mailing address, and e-mail address, the start date and estimated end date for the substitute teaching, as well as a list of the programs and courses the substitute teacher will teach and, if applicable, copies of the substitute teacher's credentials.
(6) If a school utilizes any form of teacher assistants, aides, or trainees, it shall establish and maintain policies that set forth qualifications, duties, procedures for use of these personnel, and maintain a copy of these policies for review by the Commission. Teacher assistants, aides, or trainees:
(a) May not be used as substitutes or replacements for regular teachers;
(b) Must work under the direct supervision of a registered teacher; and
(c) May evaluate students only under direct supervision of a registered teacher.
(7)(a) The school shall have and implement written policies to promote improvement of teacher competency in their fields and in levels of performance in their teaching assignments. A recommended minimum for continuing education is 30 hours during each three-year period.
(b) If a credential or qualifying examination is required for employment in a field by the state in which the school is located, then a registered teacher preparing students to enter that field must comply with any applicable continuing education requirements.
(c) Notwithstanding paragraph (b) of this subsection, registered teachers who teach hair design, barbering, esthetics, nail technology, or some other cosmetology field or area of practice at a career school offering cosmetology programs must complete a minimum of 30 hours of continuing education three years after the date their registration was issued or reissued.
(8) Teacher registrations shall expire three years after the date the registration was issued. To renew a teacher registration, a registered teacher must submit a completed teacher registration form to the Commission accompanied by:
(a) The applicable registration fee specified in OAR 715-045-0007;
(b) Evidence that the teacher has satisfied any applicable continuing education requirements;
(c) If applicable, evidence that the teacher possesses a valid credential required by the state in which the school is located for employment in the field the teacher is preparing students to enter; and
(d) A listing of the career schools where the registered teacher has taught during the previous three years, as well as the programs and courses taught by the teacher.
(9) School directors must have at least two years of experience in school or business administration, teaching, or other experience directly related to their duties within the school's organization. The experience must have been obtained within the last five years. Part-time experience will be allowed if the total hours equal the equivalent of two years of full-time experience. Full-time work experience is a minimum of 1,875 hours per year (37.5 hours per week times 50 weeks). Qualified persons who do not meet the criteria in section (11) of this rule may be appointed as directors with prior approval by the Executive Director and with a letter as required in subsection (12)(c) of this rule.
(10) Owners and directors, administrators, agents, supervisors, and instructors (hereinafter collectively "employees") subject to registration, licensure, or approval pursuant to ORS 345.010 to 345.450 are subject to suspension, revocation, or other discipline if the employee:

(a) Is charged with knowingly making any false statements in the application for a license, registration, or approval;
(b) Is charged with gross neglect of duty; or
(c) Is charged with gross unfitness.
(11) Gross neglect of duty is any serious and material inattention to or breach of professional responsibilities. The following acts constitute gross neglect of duty:
(a) Knowing falsification of any document or knowing misrepresentation directly related to licensure, employment, or professional duties;
(b) Substantial deviation from professional standards of competency;
(c) Violation of any ethical standard contained in OAR 715-045-0012(12);
(d) Engaging in acts in violation of laws or rules applicable to the profession;
(e) Failure or refusal to respond to questions, to provide information, or to furnish documents to a Commission representative pursuant to review, assessment, or investigation; or
(f) Any other statement or act or omission not consistent with personal integrity, ethics, or honesty.
(12) Gross unfitness is any conduct that renders an owner or employee unqualified to perform duties. The following acts constitute gross unfitness:
(a) Convictions of a crime or offense specified in subsection (12) of this rule or engaging in such wrongful acts even in the absence of a conviction;
(b) Commission of fraud, misrepresentation, or deceit;
(c) Commission of unfair, deceptive, or unlawful trade practices as defined in the Oregon Unlawful Trade Practices Act.
(13) No licensed school shall be owned by or employ an individual who is not of good moral character and reputation.
(a) Upon review by the Commission the Executive Director may find a person not to be of good moral character and reputation when the person:
(A) Has been convicted of a felony or a misdemeanor that involves the illegal use, sale or possession of a controlled substance, or that involves any sexual offense, or any violent offense;
(B) Has been convicted of an offense involving fraud or misrepresentation, or has committed fraud, misrepresentation, or deceit or has committed unfair, deceptive, or unlawful trade practices regulated by the Oregon Unlawful Trade Practices Act (ORS 646.605–646.652), or
(C) Is currently subject to suspension or revocation of a Commission-issued license or registration.
(b) The Executive Director shall not make a finding that a person is not of good moral character and reputation solely for the reason that the person has been convicted of a crime, but shall consider the relationship of the facts that support the conviction and all intervening circumstances as they relate to the specific occupational standards and requirements; and
(c) If the prospective employee has been convicted of a crime listed in subsection (13) of this rule, the Executive Director shall request a letter of recommendation from the employing school and the individual's most recent employer, parole officer, or other appropriate professional source. The Executive Director shall fully consider such recommendation along with all other supporting materials submitted by the prospective employee. The Executive Director, after reviewing submitted materials, may approve an employee registration on a probationary basis for a period not to exceed one year. Upon completion of the probationary period, if no further violation of subsection (12) has occurred, the probationary status will be removed.
(14) The school shall set minimum expectations and provide training for all instructional personnel and supervisors of instructional personnel in:
(a) Curriculum and Instruction — including the educator's competent application of:
(A) The school approved curriculum; and
(B) Effective teaching strategies; and
(b) Supervision and Evaluation of Students — including the educator's responsibility to:
(A) Record progress of individual students;
(B) Evaluate student performance; and

(C) Use effective classroom management;

(c) Ethics — including the educator's responsibility to:

(A) Know, respect, and obey all policies of the school;

(B) Exemplify personal integrity, ethics, and honesty;

(C) Keep student information confidential; and

(D) Avoid exploiting students for personal profit or advantage.

STATUTORY/OTHER AUTHORITY: ORS 345.080, 345.325, 345.400

STATUTES/OTHER IMPLEMENTED: ORS 345.325, 345.400

AMEND: 715-045-0029

RULE TITLE: Tuition Protection Fund

RULE SUMMARY: This rule establishes requirements for the payment into, an handling of claims against, the tuition protection fund for private career schools.

RULE TEXT:

(1) There shall be a fund known as the Private Career School Tuition Protection Fund (as described in ORS 345.110). The Tuition Protection Fund is hereby established in the custody of the State Treasurer. The Executive Director of the Higher Education Coordinating Commission shall deposit in the fund all monies received under this rule. Monies from the fund shall be spent only for the purposes under this rule. Disbursements from the fund shall be on authorization from the commission and no appropriation is required for such disbursements. All earnings on investments of the fund shall be credited to the fund. To be and remain licensed, each private career school authorized in accordance with the provisions of ORS Chapter 345 shall pay to the state an initial capitalization deposit and 14 semiannual payments. The fund shall be initially capitalized at a minimum of $200,000 and shall achieve and maintain an operating balance of at least $1 million. Said fund is intended to be a fund of last resort.

(2) Purpose of the fund:

(a) Students attending schools licensed by the State of Oregon, other than students covered by another state's tuition protection, may apply to the commission, when a school ceases to provide educational services, for a refund of tuition from the fund established pursuant to this rule to the extent that such fund exists or has reached the level necessary to pay outstanding approved claims. The liability of the fund for claims against the school shall not exceed the total amount of the liability limit assigned to the school under subsection (3)(a) of this rule. Such limitation on each school's liability remains unchanged by single or cumulative disbursements made on behalf of the school. If the commission’s executive director finds that a student is entitled to a refund of tuition, the executive director shall determine the amount of refund based on criteria established by the commission;

(b) The commission shall direct the State Treasurer to pay the refund on behalf of the student to the student and/or the student's financial sponsor(s). If the student is a minor, payment shall be made to the student's financial sponsor(s). Each recipient of a tuition refund shall, as a condition for receiving the claim, assign all rights to the commission of any action against the school or its owner(s) for tuition amounts reimbursed pursuant to this section;

(c) Upon such assignment, the executive director shall take appropriate action against the school or its owner(s) in order to reimburse the Tuition Protection Fund for any expenses or claims that are paid from the fund and to reimburse the commission for the reasonable and necessary expenses in undertaking such action;

(d) The executive director shall attempt to recover from the school all funds disbursed from the Tuition Protection Fund and other costs of recovery;

(e) The Tuition Protection Fund shall not be used to reimburse private party attorney fees;

(f) Under no circumstances will any party, person or entity, other than the commission, be allowed to access funds from the Tuition Protection Fund; and

(g) No liability accrues to the State of Oregon from claims made against the fund.

(3) Establishment of fund liability limits:

(a) The amount of liability that can be satisfied by this fund, on behalf of each individual school licensed under this rule, shall be based on the gross tuition income reported on the last license renewal application: [Table not included. See ED. NOTE]

(b) The calculation of gross annual tuition for a school located outside the State of Oregon shall include only that income derived from residents of this state during the school's preceding year of operation, as evidenced in the financial statement required by OAR 715-045-0032;

(c) Institutions not yet in operation or otherwise lacking a full year's financial data prior to initial licensing, shall have a liability limit calculated on the basis of an estimation of gross annual tuition;

(d) Each school subject to this rule shall submit to the commission in cash, check, money order, or electronic payment as

allowed by law, the following nonrefundable* amounts for its initial capitalization deposit into the Tuition Protection Fund: [Table not included. See ED. NOTE]

(e) Notwithstanding subsection (d) of this section, each school subject to the exception listed in Section 1(b) of OAR 715-045-0032 shall submit to the commission in cash, check, money order, or electronic payment as allowed by law, the following nonrefundable amounts as a substitute for the general liability insurance requirement listed in OAR 715-045-0032: [Table not included. See ED. NOTE]

(f) After the date of its nonrefundable initial capitalization deposit, as a condition to remaining licensed, each school shall remit to the commission for deposit into the Tuition Protection Fund semiannual payments (on January 31 and July 31) in cash, check, money order, or electronic payment as allowed by law, in accordance with the schedule in subsection (3)(d), or subsection 3(e) of this rule, if applicable. If the semiannual payment is not postmarked (or date stamped if hand delivered to the Department) before or on the due date, the commission may impose a civil penalty as allowed under ORS 345.995 and OAR 715-045-0190. Failure of a school to make payment within 30 days of due date shall be grounds for suspension or revocation of the school's license; and

(g) The executive director shall prepare and mail to each licensee semiannual notices of the due dates and amounts of deposits required under subsection (3) of this rule. Each notice shall include therein at least once each year:

(A) A notation showing the licensee's aggregate prior deposits into the fund;

(B) A notation showing the licensee's balance of remaining payments based on the most recent deposit received;

(C) A notation showing the cumulated balance existing in the fund at the most recent half-year accounting; and

(D) A summary showing all disbursements made from the fund to satisfy claims in the period since the last such similar summary was disseminated.

(4) After disbursements made to settle claims reduce the operating balance below $500,000, and recovery of such funds has not been ensured by the affected school within 30 days, the commission shall assess each licensee a pro rata share of the amount required to restore the balance in the fund to $500,000. When calculating each share, the commission shall employ a pro rata percentage of liability. If the amount of any single such assessment equals or is less than the semiannual amount of deposit established for the licensee, the assessment shall be paid within 30 days of notice. If any single assessment exceeds the amount of its semiannual deposit, the school may apply to the commission for a schedule of deferred payments. The commission shall grant such deferrals on application, but in no case shall the time extended exceed one year beyond the date of an assessment.

(5) The executive director shall determine, based on annual financial data supplied by the school, whether the semiannual deposit assigned to the school on the matrix established under subsection (3) has changed. If an increase or decrease has occurred, a corresponding change in the semiannual deposit shall be made before the date of its next scheduled deposit into the fund.

(6) When any ownership interest in a school is conveyed through sale or other means that results in the transferee (buyer) owning more than 50 percent of the school, the contribution schedule of the prior owner is canceled. All contributions made up to the date of the transfer accrue to the fund. The new owner commences contributions under provisions applying to a new applicant. Exception shall be granted to any transferee (buyer) who held more than 50 percent of the ownership interest prior to the transfer and to any transferee who owned any interest in the school for more than four years prior to the transfer. In such instances the transferee (buyer) shall provide the executive director with legal evidence to validate the percent and time period of ownership.

(7) When deposits in the Tuition Protection Fund equal or exceed $1,000,000, the Commission may transfer the amount in excess of $1,000,000 as necessary to support the critical operational needs as determined by the Commission, of the unit of the Commission responsible for licensing and regulating private career schools.

(a) Transfers for this purpose shall not exceed $200,000 in a single biennium.

(b) The Executive Director shall authorize any transfers made under this provision.

(c) The Commission shall notify any preexisting committees convened to advise the Director of Private Postsecondary Education on private career school matters that a transfer has been made no later than the first meeting of such committee after the transfer has been authorized.

(8) When deposits in the Tuition Protection Fund equal or exceed $3,000,000, and the history of disbursements so warrants, the commission may reduce the schedule of deposits whether as to time, amount, or both. When such level is achieved, the commission may return any excess funds to currently licensed schools that have completed their required contributions to the fund.
(9) Additional procedures established to deal with a school that ceases to provide educational services:
(a) A school ceases to provide educational services when the school or a division of the school ceases to provide classes or instruction;
(b) The executive director shall attempt to notify all potential claimants within 60 days of the date the executive director determines a school has ceased to provide educational services. The absence of records and other circumstances may make it impossible or unreasonable for the executive director to ascertain the name and address of each potential claimant, but the executive director shall make reasonable inquiries to secure that information from all likely sources including but not limited to public notification. The notification to students shall inform them of the opportunity and the deadline for submitting claims against the Tuition Protection Fund;
(c) Claims against the Tuition Protection Fund may be made only by students who were enrolled at the time a school ceases to provide educational services;
(d) All claims must be filed with the commission by the deadline established in the executive director's notification. Each student filing a claim must specify and verify any and all sources and amounts of tuition that were paid on the student's behalf. The commission may refuse to pay any claim that does not contain sufficient verification or other information required by the executive director;
(e) The executive director shall not consider any claims filed after the deadline established in the executive director's notification. Failure of a student to receive notification shall not be a basis for the commission to consider any claims filed after the deadline;
(f) The executive director shall seek to recover such disbursed funds from the assets of the defaulted school, including but not limited to asserting claims as a creditor in bankruptcy proceedings; and
(g) A school shall have no vested right, claim or interest in any deposit to the Tuition Protection Fund and all payments shall accrue to the fund.
(10) In the event of a potential and actual school closure a school shall inform its students in writing of their rights under the provisions governing the Tuition Protection Fund.
(11) If a school closure is in violation of OAR 715-045-0067, the commission may allocate monies from the Tuition Protection Fund, as a fund of last resort, to teach-out arrangements for displaced students. The liability level for teach-out costs shall be the same as that established in subsection (3) of this rule. Students signing a written agreement as a result of this option would not be entitled to a refund from the school or the Tuition Protection Fund.
(12) (a) In the event the Governor issues a declaration of emergency or executive orders that order or directly lead to the temporary cessation of educational activity by a school required to make payments for the Tuition Protection Fund, the Commission, at its discretion, may provide for such payments to be deferred without interest or penalty. Payments may be deferred under this provision for three months, renewable for a period not to exceed one year.
(b) Should the Governor, through repeal or further executive action, cancel any applicable declaration of emergency or executive orders, any deferrals issued under this subsection shall be extended or reduced as required to expire 90 days from such cancellation.

STATUTORY/OTHER AUTHORITY: ORS 345.110, 345.995

STATUTES/OTHER IMPLEMENTED: ORS 345.110

AMEND: 715-045-0032

RULE TITLE: Standards for Financial Reporting

RULE SUMMARY: The rule establishes financial reporting requirements and general liability insurance notification requirements for regulated private career schools.

RULE TEXT:

(1) All private career schools shall submit at initial licensing, and annually thereafter in conjunction with the license renewal, financial information reflecting the fiscal condition of the school at its start-up or at the close of its most recent fiscal or calendar year, whichever is applicable. For such purposes the information submitted shall conform to the following:

(a) At initial application for licensing, the school must submit a business plan based on the major goals of the school for the first two years of operation along with the methods and procedures for achieving the goals. Included as part of the plan will be an opening balance sheet, along with worksheets documenting the source and method of calculation for amounts listed on the balance sheet. The school shall have sufficient capital to provide all the appropriate instruction, support and administrative services (including appropriate comprehensive general liability insurance), staffing, equipment, and facilities. The Executive Director of the Higher Education Coordinating Commission will use financial ratios relevant to the private career school industry, such as those suggested by national professional organizations, accrediting organizations, and other appropriate financial statistics to determine the sufficiency of the planned capital. The plan also shall include a projected income statement showing the projected income and expenses for each of the first two years of operation, with the first year's projections calculated on a monthly basis, and the second year's projections calculated on a quarterly basis.

(b) If the executive director finds sufficient evidence that a particular type or group of career schools faces serious challenges in the procurement of comprehensive general liability insurance that make them unable to obtain this insurance from admitted or non-admitted insurance dealers, the executive director may allow a school to substitute the requirement for comprehensive general liability insurance described in paragraph (a) of this subsection with the requirements listed in subsection (3)(e) of OAR 715-045-0029. The Commission shall post on its website a list of types or groups of career schools subject to the substituted requirements.

(c) If a career school is found to be subject to the substitution regime described in paragraph (b) of this subsection, the career school in question will be required to provide a clear, legible, written notice, in no less than 12 point font, to potential students before they sign an enrollment agreement with the college that the school has no comprehensive liability insurance and may have difficulties reimbursing student's tuition costs in the case where the school becomes financially insolvent. The notice shall state the following:

"PLEASE NOTE: This school does not have general liability insurance and as a result, this school MAY BE AT RISK OF FINANCIAL HARM THAT COULD LEAD TO SCHOOL CLOSURE. By signing the school's enrollment agreement, YOU ARE ACKNOWLEDGING THIS RISK, which may make it more likely that you will be unable to obtain a refund of tuition or other fees paid to this school if the school is forced to shut down due to expenses incurred due to a LACK OF GENERAL LIABILITY INSURANCE or for any other reason."

This notice shall be signed by such potential student as an acknowledgement of receipt.

(d) In addition to the licensing requirements cited in paragraph (a), (b), and (c) of this subsection, financial requirements shall be based on a school's ability to fulfill its obligations to students, meet refund obligations, meet operational expenses and other financial obligations, and make the required contributions to the existing tuition protection fund. When the sufficiency of the planned capital is questionable, the executive director may require mechanisms be put in place to ensure the availability of operating funds and funds required to satisfy student tuition refund requests, including but not limited to a letter of credit, or the escrow of unearned tuition funds.

(e)The financial report for license renewal may be prepared by the school owner or competent school personnel for schools with gross annual tuition income of less than $225,000. Such report shall cover the most recent annual accounting period completed. The balance sheet information must clearly show all assets, liabilities, and net worth,

while the income statement must clearly show the profit or loss for the fiscal year. Each school also must provide a cash flow statement showing its:
(A) Cash flow from operations;
(B) Cash flow used in investing; and
(C) Cash flow from financing activities.
(f) The information for license renewal must also show total instructional income and expense for the school for the preceding fiscal year, along with supporting worksheets and documentation as provided by the commission. If a school offers both licensed programs and programs exempt from licensure, total instructional income for licensed programs and exempt programs shall be displayed separately so that gross tuition income from which license fees and the tuition protection fund assessment will be computed is clearly identified. At the option of the school owner, expenses may or may not be displayed separately for licensed and exempt programs. The amount of the tuition protection fund assessment required for an initial license will be computed on the basis of projected first year tuition income but shall not be less than a liability limit of $6,250;
(g) At the option of the school, the financial report may be in the format provided by the commission;
(h) Each school must certify in its financial report that all refunds due students have been made and are not in default. If any refund requests are pending, the school must disclose this information along with a status report of the request(s); documentation prepared for accreditation reviews or from reviewed financial reports may be submitted to satisfy this requirement;
(i) In all instances, information supplied must be certified true and correct by the school owner or an authorized representative;
(j) Schools reporting gross tuition income between $225,000 and $1,999,999, inclusive, will submit a reviewed financial report that conforms to Generally Accepted Accounting Principles (GAAP) and is completed and signed by an independent Certified Public Accountant (CPA). In lieu of a reviewed financial report, schools may submit income tax forms if all of the following conditions are met:
(A) The income tax forms were prepared and signed by an independent Certified Public Accountant (CPA), and
(B) The income tax forms are reporting financial information solely for the career school or the organization within which the school function is embedded if the career school is not a legal entity in its own right, and
(C) The school or organization's fiscal year matches the tax year, and
(D) All sensitive information such as social security numbers have been redacted, and
(E) The income tax forms are complete with all related schedules and worksheets and include all information that would be used to prepare a reviewed financial report, and
(F) The requirements of paragraph (f) of this subsection are met. Separate forms displaying tuition costs for licensed programs versus exempt programs and other activities must be included if the career school is embedded within the operation of a larger organization and is not a legal entity in its own right.
(G) Any income tax forms received by the commission that do not meet the requirements of paragraph (h) of this subsection will be shredded upon receipt.
(k) Schools that are accredited and offer students state or federal financial aid may not submit income tax forms and must submit an audited financial report signed by an independent Certified Public Accountant, regardless of amount of gross tuition income.
(l) Schools reporting gross tuition income of $2,000,000 or more will submit an audited financial report that conforms to Generally Accepted Accounting Principles, (GAAP), Generally Accepted Audit Standards, (GAAS), and Statements for Accounting and Review Services (SAARS) currently in effect.
(2) If after analyzing a school's financial reports and records, the executive director determines the school is not financially responsible, as described in OAR 581-045-0063, or that the school's records are incomplete or inaccurate, the executive director may require the school to submit within 75 calendar days of written notice:
(a) An audited financial report signed by an independent Certified Public Accountant (CPA); and
(b) Its most recent federal and state income tax reports.

(3) The executive director may waive or modify all or part of the requirements in subsections (1) and (2) of this rule for a school that operates within the context of a larger business structure and is not a legal business entity in its own right, or has other financial considerations that are best evaluated through examination of a different set of financial data.

STATUTORY/OTHER AUTHORITY: ORS 345.325(8)

STATUTES/OTHER IMPLEMENTED: ORS 345.325