

Chapter 715 Higher Education Coordinating Commission

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DIVISION 1

PROCEDURAL RULES

715-001-0030

Notice of Proposed Rulemaking

Effective August 19, 2014:

(1) Before permanently adopting, amending, or repealing any permanent rule, the Higher Education Coordinating Commission shall give notice of the proposed adoption, amendment, or repeal:

(a) In the Secretary of State's Bulletin, referred to in ORS 183.360, at least 21 days prior to the effective date of the rule;

(b) By mailing or e-mailing, at least 28 days before the effective date of the rule, a copy of the notice to persons on the Commission's mailing and e-mailing lists established pursuant to ORS 183.335(8);

(c) By mailing or e-mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and,

(d) By mailing or e-mailing a copy of the notice to persons, organizations, and publications identified by the Commission and established educational, student, and parent organizations that have submitted mailing or e-mailing addresses to the Commission.

(2) Persons who wish to receive written or e-mailed copies of notices of proposed rulemaking from the Commission may write or e-mail the Commission and request that they be placed on the Commission's mailing or e-mailing lists.

(3) The Commission may update the mailing and e-mailing lists described in this rule annually by requesting persons to confirm that they wish to remain on the lists. If a person does not respond to a request for confirmation within 28 days of the date the Commission sends the request, the Commission will remove the person from the Commission's mailing and e-mailing lists. Any person removed from the mailing or e-mailing lists will be returned to the mailing or e-mailing list upon request, provided that the person provides a mailing address or e-mailing address to which notice may be sent.

Stat. Auth.: ORS 183.335, 183.341(4), & 351.728

Stats. Implemented: ORS 183.335

Hist.: HECC 1-2015, f. & cert. ef. 1-20-15

715-001-0035

Model Rules of Procedure

Effective August 19, 2014: Pursuant to the provisions of ORS 183.341, the Higher Education Coordinating Commission adopts the Attorney General's Model and Uniform Rules of Procedure under the Administrative Procedure Act in effect on January 1, 2012.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Higher Education Coordinating Commission.]

Stat. Auth.: ORS 183.341 & 351.728

Stats. Implemented: ORS 183.341

Hist.: HECC 1-2015, f. & cert. ef. 1-20-15

DIVISION 10

DELEGATING DUTIES

715-010-0000

Implementing ORS 348.594 to 348.615 and 348.992

This rule implements Oregon Revised Statutes (ORS) 348.594 to 348.615 and 348.992 for the purpose of providing for the protection of the citizens of Oregon and their post-secondary schools by ensuring the quality of higher education offered to Oregon students and preserving the integrity of an academic degree as a public credential. The term “manager” as used in this rule means the employee in the position of responsibility for managing the programs and activities implemented by the aforementioned laws and these rules.

Stat. Auth.: 2012 SB 242

Stats. Implemented: 2012 SB 242

Hist.: HECC 1-2013, f. & cert. ef. 8-21-13

715-010-0015

Delegating the Duties

This rule is for the purpose of delegating the duties, functions, and powers of the Higher Education Coordinating Commission with respect to degree authorization, degree validation, administer interstate agreements and review of new academic programs under ORS 348.594 to 348.615 and 348.992 to the manager of these programs and activities.

(1) Degree authorization shall be the responsibility of the manager, who shall have final authority with regard to:

(a) Authorization of post-secondary schools to offer academic degree programs (under Oregon Administrative Rules 583-030);

(b) Authorization of approved degree-granting schools to offer academic programs leading to a certificate or diploma;

(c) Termination of any activities related to higher education by an education entity not authorized to offer degrees and post-secondary academic programs in Oregon and ineligible for exemption from authorization under Oregon statutes.

(2) Degree validation under OAR 583-050 shall be the responsibility of the manager, who shall have final authority with regard to:

(a) Validation of claims of degree possession and determination of appropriate degree use under Oregon law;

(b) Termination of substandard or fraudulent degree activities;

(c) Termination of activities of diploma mills operating in or from Oregon;

(d) Termination of any operation in or from Oregon of post-secondary accrediting bodies that are not recognized by the United States Department of Education.

(3) Administration of any interstate agreements, such as the State Authorization Reciprocity Agreement (SARA) shall be the responsibility of the executive director, which includes but is not limited to:

(a) Reviewing applications of and entering into agreements with educational institutions for authorization to participate in SARA;

(b) Administering agreements for participation in SARA between the commission and an educational institution; and

(c) Establishing application fees. The commission imposes a biennial fee on any educational institution applying to operate under or participate in SARA. The fee is based on an educational institution's total enrolled full-time equivalent (FTE) as shown in the Integrated Postsecondary Education Data System and is as follows:

(A) Under 2,500 Enrolled FTE: \$3,000.

(B) 2,500 to 9,999 Enrolled FTE: \$5,000.

(C) 10,000 or more Enrolled FTE: \$7,000.

Stat. Auth.: 2012 SB 242, 2014 SB 1525 & 2014 HB 4018

Stats. Implemented: 2012 SB 242

Hist.: HECC 1-2013, f. & cert. ef. 8-21-13; HECC 5-2014(Temp), f. & cert. ef. 10-15-14 thru 4-13-15; HECC 11-2014, f. & cert. ef. 12-18-14

715-010-0025

Establishing Fees for Public Record

A fee may be imposed on any school or person requesting services or information from the commission pertaining to the administration of its functions under ORS 348.594 to 348.615. The amount of the fee shall be established by the manager to recover designated expenses incurred by the commission in carrying out the administration of ORS 348.594 to 348.615. Any fees collected by the commission, for services that are the responsibility of the manager shall be deposited in the Degree Authorization Account established under ORS 348.601 and used exclusively for purposes directly related to the duties and functions of the commission under the authority of the manager as delegated by the commission.

Stat. Auth.: 2012 SB 242

Stats. Implemented: 2012 SB 242

Hist.: HECC 1-2013, f. & cert. ef. 8-21-13

DIVISION 13

UNIVERSITY PROGRAMS AND FINANCE

715-013-0005

Allotment Authority

(1) Effective December 23, 2014, the Higher Education Coordinating Commission delegates to the Executive Director, or designee, authority in all areas of fiscal and administrative responsibility necessary for the execution of Commission policy relating to the allotment of funds to public universities and Oregon Health Sciences University.

(2) The Executive Director, or designee, shall have the authority to distribute funds to public universities and to Oregon Health Sciences University in the amounts appropriated to the HECC for public universities and Oregon Health Sciences University by the Oregon Legislature.

(a) Funds shall only be distributed to public universities and Oregon Health Sciences University for the specific purposes outlined in statute or by the Oregon Legislature.

(b) This section shall be construed to apply to all distributions of funds by the HECC to public universities and Oregon Health Sciences University, including but not limited to:

(A) Funds distributed through the Student Success and Completion Model as outlined in OAR 715-013-0025 and OAR 715-013-0040.

(B) Funds distributed to Oregon Health Sciences University for support of its Schools of Medicine, Nursing and Dentistry as well as to provide funds to its education, public health and rural health programs.

(C) Funds distributed to state programs as authorized by law or legislative action.

(D) Statewide Public Service programs as authorized by law or legislative action.

(E) Funds allocated to the Sports Lottery Account as authorized by ORS 461.543.

(F) Any other funds authorized by the Oregon Legislature to the HECC for distribution to public universities or Oregon Health Sciences University.

Stat. Auth.: ORS 351.738

Stats. Implemented: ORS 351.735(3)(f), ORS 351.054(2)

Hist.: HECC 2-2015, f. & cert. ef. 3-16-15; HECC 15-2015(Temp), f. & cert. ef. 12-14-15 thru 6-10-16; HECC 1-2016, f. & cert. ef. 2-19-16

715-013-0020

General Public University Program Approval Requirements

Effective December 23, 2014:

(1) Definition: “Significant change” to a university’s academic program includes, but is not limited to, any new undergraduate or graduate degree program, or any existing undergraduate or graduate degree program that will be offered more than 40 miles from the site at which it is currently offered. “Significant change” to a university’s academic program does not mean a new undergraduate or graduate certificate program, new minor, or a new name for an existing degree program.

(2) The Higher Education Coordinating Commission has responsibility for approval of significant changes to public university programs.

(3) The Higher Education Coordinating Commission shall provide the governing boards of public universities with the standards, criteria and procedures the Commission will utilize to approve significant changes to a university's academic programs. These criteria will include consideration of the recommendation of the public university seeking to make the change and will ensure that approved programs:

(a) Are consistent with the mission statement of the public university;

(b) Do not unnecessarily duplicate academic programs offered by Oregon's other community colleges or public universities;

(c) Are not located in a geographic area that will cause undue hardship to Oregon's other community colleges or public universities; and

(d) Are allocated among Oregon's community colleges and public universities to maximize the achievement of statewide needs and requirements.

(4) Requests for approval of significant changes to a university's academic program must be submitted by the governing board of the university to the Higher Education Coordinating Commission prior to commencement of the program.

Stat. Auth.: ORS 351.728

Stats. Implemented: ORS 352.089, ORS 351.735(3)(g)

Hist.: HECC 2-2015, f. & cert. ef. 3-16-15

715-013-0025

Public University Support Fund Distribution

(1) Definitions:

(a) "Baccalaureate Degree" or "Bachelor's Degree" is a degree that generally represents four years of college study, or its equivalent in depth and quality of learning experience, or as promulgated by the Northwest Commission on Colleges and Universities.

(b) "Classification of Instructional Programs" or "CIP" code is a numerical identifier assigned by the National Center for Education Statistics to an academic discipline to support tracking and reporting data at the field-of-study level.

(c) "Cost Weighting" is a means by which the value of any Student Credit Hour or degree completion based allocation is adjusted to account for the relative cost to an institution of providing a degree or course. Cost weighting is the same at all institutions and is determined by CIP and by the type of course or degree taught or awarded.

(d) "Current Service Level (CSL) Budget" is the calculated cost of continuing only current legislatively-approved programs into future biennia while subtracting one-time allocations as determined by the Department of Administrative Services.

(e) "Doctoral Course" is a course completed by Ph.D. level students.

(f) "Doctoral Degree" or "Ph.D." is a degree that generally indicates the recipient has done, and is prepared to do, original research in a major discipline. Doctoral degrees usually require three years or more of graduate-level coursework and an original research thesis or project, or as promulgated by the Northwest Commission on Colleges and Universities.

(g) "Dual Credit" course is that which awards secondary and postsecondary credit as determined by both the granting secondary institution and granting public university.

(h) "Graduate Certificate" is an official recognition of less than one year of post-baccalaureate study, or its equivalent in depth and quality, or as promulgated by the Northwest Commission on Colleges and Universities.

(i) "Higher Education Coordinating Commission," "HECC" or "Commission" is the body established by ORS 351.715 and appointed by the Governor.

(j) "Inflation" is defined as the previous full year CPI-U for the Portland, Oregon area as determined and defined by the US Bureau of Labor Statistics.

(k) "Low Income Student" is defined as resident undergraduate students who have received the Pell Grant at any point during their time enrolled within a public university in Oregon

(l) "Lower Division Undergraduate Course" is a course completed by freshman, sophomore, or nonadmitted undergraduate level students.

(m) "Master's Course" is a course completed by master's degree, other graduate, or nonadmitted graduate level students.

(n) "Master's Degree" is a degree that generally represents a first graduate degree, including one year or more of post-baccalaureate study, or its equivalent in depth and quality. Professional masters degrees generally require up to two years or equivalent of coursework beyond the baccalaureate level, or as promulgated by the Northwest Commission on Colleges and Universities.

(o) "Outcomes" is an indicator of student achievement or educational attainment for state funding purposes, as determined by the HECC.

(p) "Professional course" is a course completed by first professional degree students.

(q) "Professional degree" is a degree that emphasizes application of knowledge in the field, including three or more years of carefully prescribed graduate level coursework, or as promulgated by the Northwest Commission on Colleges and Universities.

(r) "Public university" or "University" is any institution of higher learning as defined in ORS 352.002, including; the University of Oregon (UO), Oregon State University (OSU), which includes Oregon State University's Cascades Campus (OSU-CC), Portland State University (PSU), Oregon Institute of Technology (OIT), Western Oregon University (WOU), Southern Oregon University (SOU), and Eastern Oregon University (EOU).

(s) "Public University Support Fund" or "PUSF" is the general fund appropriation to the HECC intended for distribution by HECC to public universities as defined in ORS 352.002.

(t) "Resident" student is a student classified as such by a public university's Residency Classification Officer, reviewed by the Inter-institutional Residency Committee, or students granted resident tuition under ORS 351.641 and all doctoral students.

(u) "Rural Student" are first time-freshmen resident undergraduate students who are graduates of an Oregon high school classified by the National Education Statistics Locale Codes as follows: (31) Town Fringe, (32) Town Distant, (33) Town Remote, (41) Rural Distant, (42) Rural Fringe, and (43) Rural Remote.

(v) "Settle-Up" is the process by which allocations determined and allotted using estimated completion data are reconciled with finalized allocations created using actual finalized end data.

(w) "Stop Gain" is designed to prevent an institution from receiving an increase in allocation in excess of a pre-determined threshold percentage. If the Stop Gain is triggered, the excess allocation from the triggering institution is distributed proportionally to all non-triggering institutions. Only the amount necessary to bring all institutions within the Stop Gain threshold is re-distributed.

(x) "Stop Loss" can be either a negative or positive percentage and is designed to prevent an institution from receiving a decrease in allocation beyond a pre-determined threshold. If Stop Loss is triggered, all institutions that receive an allocation that exceeds the Stop Loss threshold contribute a proportional amount of allocation to those institutions whose allocation fell below the Stop Loss threshold. Only the amount necessary to bring all institutions at or above the Stop Loss threshold is re-distributed.

(y) "Student Credit Hour" or "SCH" is a unit of course completion as determined by a public university in accordance with standards promulgated by Northwest Commission on Colleges and Universities.

(z) "Student Success and Completion Model" or "SSCM" is a calculation-driven mechanism for determining the proportion of PUSF allocated to each public university.

(aa) "Targeted Student Populations" consist of undergraduate resident students which meet the criteria to be included in one or more of the following non-exclusive populations: (1) Underrepre-

sented Minority students, (2) Low Income students, (3) Rural students and (4) Veteran students.

(bb) "Transfer student" is defined by the SCARF data dictionary as a resident student who has an associate's degree or as defined by a public university and accepted by HECC policy or Administrative Rule. Transfer students shall also include any student admitted with college credits and completion of an accepted English as a foreign language test, where appropriate, as well as some special or probationary admissions. Transfer students do not include any student who graduated from high school less than 5 2/3 months before the start of the Fall Term in which they first enroll or less than three months before the start of the Winter, Spring or Summer Term in which they first enroll regardless of how many college credits they have earned.

(cc) "Underrepresented Minority students" are those resident undergraduate students identified in as American Indian/Alaskan Native, Hispanic, Pacific Islander, Black, African American or two or more races if one of those two or more races is one of those established in this definition.

(dd) "Upper Division Undergraduate Course" is a course completed by junior, senior, or post baccalaureate undergraduate level students.

(ee) "Veteran students" are those resident undergraduate demarcated in the SCARF system as a veteran of the U.S. Armed Forces as determined by the University in accordance with HECC policy and administrative rules.

(2) Effective beginning July 1, 2015, the Student Success and Completion Model (SSCM) shall be the method for determining a public university's allocation of the PUSF.

(3) The SSCM will incorporate a public university's degree and SCH completion information for the three most recently completed fiscal years, or projections thereof, in determining allocation amounts.

(4) Whenever possible, projections will be completed on or about the third quarter of the prior fiscal year for the subsequent fiscal year that begins July 1st of the same calendar year. Projections may be used for determining the first quarterly allotment of a fiscal year.

(5) When projections are used to determine a public university's allocation, a Settle-Up procedure shall be used to prorate unallotted payments to adjust for finalized data. The Settle-Up procedure may alter the funding allocation of a public university from that which was originally allocated by the HECC. A Settle-Up procedure, if used will be executed in the second quarter, or as soon as practicable in every fiscal year, and as approved by vote of the HECC. If necessary, a Settle-Up may take place in subsequent fiscal years but will, in general, be avoided.

(6) The Student Success and Completion Model consists of three components, Mission Differentiation Funding Allocation, Activity-Based Allocation and Outcomes-Based Allocation. The methods and amounts of funds to be allocated to these three categories are established in OAR 715-013-0040 Section 2.

(a) Mission Differentiation Funding is determined by the HECC. Mission Differentiation Funding supports a public university's activities consistent with, but not limited to, any of three categories:

(A) Regional Support — Provides an allocation that contributes to the financial stability of public universities and ensures geographic access to public higher education for Oregonians. Regional Support values are established in OAR 715-013-0040 Section 3, Table 2.

(B) Mission Support — Provides an allocation to support public university programming consistent with the mission of public higher education as articulated in ORS 351.001. This Section will support efforts consistent with, but not limited to public services, cross-sector or cross-institutional programs, undergirding of university operations support, specific academic programs or other efforts by public universities. Mission Support values are established in OAR 715-013-0040 Section 3 Table 2.

(C) Research Support — Provides an allocation to support research activities conducted by the public universities. Research

Support values are established in OAR 715-013-0040 Section 3 Table 2.

(D) Dual Credit-Dual credit provides an allocation to support those students who are enrolled in Dual Credit programs. The value of SCH awarded in Dual Credit programs are established in OAR 715-013-0040 Section 4 Table 3.

(E) Mission Differential Funding will change from fiscal year to fiscal year by the lesser of Inflation or the change in PUSF funding.

(b) Activity-Based Allocation is determined by the total, cost weighted, completed, resident SCH at a public university consistent with the following methodology.

(A) The most recent three-year average of resident SCH completions by CIP produced by each public university will be used to determine the Activity-Based Allocation.

(B) Relative cost weights, by CIP and SCH level, will be utilized to differentiate the weighted value of completed SCH. Relative values will be determined by the HECC for programs by CIP identified discipline and by level, including lower division undergraduate, upper division undergraduate, Master's, and Doctoral levels. Relative cost weights are established in OAR 715-013-0040 Section 5 Table 4.

(C) The combined value of completed SCH at a public university, relative to total completed SCH at all public universities, as adjusted by cost weighting will determine the proportional share of Activity-Based Allocation allocated to each institution.

(c) Outcomes-Based Allocation is determined by the total cost weighted degrees produced, student type and priority area consistent with the following methodology.

(A) The most recent three-year average of degrees conferred by public universities to resident students will be used to determine the Outcomes-Based Allocation. Degrees are categorized by level, including Baccalaureate, Masters, Doctoral, Professional, and Graduate Certificates. The HECC will determine the relative weighting of degrees level as established in OAR 715-013-0040 Section 6 Table 5.

(B) The HECC will adjust the relative value of degrees due to the cost of delivering these degrees. These cost weighting factors of degrees are established in OAR 715-013-0040 Section 7 Table 6.

(C) The HECC will set the relative value of priority degrees which are of particular interest to the state of Oregon. This includes an emphasis on those that lead to employment in underserved high-demand and high-reward fields or those that fill a unique need. The HECC will solicit input from applicable state agencies, public universities and stakeholders to evaluate the expected labor force needs and identify what priority degree types, if any, exist. This will be reexamined by the HECC no less than once every five years. Degree areas of particular priority to the state and their relative value are established in OAR 715-013-0040 Section 8 Table 7.

(D) Degrees awarded to resident students receiving Bachelor's Degrees who represented one or more targeted student population characteristics identified as having lower completion rates, lower participation rates or other unique needs or qualifications may be prioritized by the HECC. The HECC will solicit input from applicable state agencies, public universities and stakeholders to identify what priority student populations, if any, exist. These weights are established in OAR 715-013-0040 Section 9 Table 8.

(E) The HECC shall discount the value of Bachelor's Degrees awarded to transfer students at a rate established in OAR 715-013-0040 Section 10 Table 9.

(F) A degree awarded with multiple majors to one student is treated as a single degree in the discipline with the greatest relative value as established in OAR 715-013-0040 Section 7 Table 6.

(G) The combined relative values of degree type and level, priority degrees, and degrees to targeted populations at a public university relatively to the total at all public universities will determine the proportional share of Outcomes-Based Allocation allocated to each public university.

(7) The cumulative results of the Mission Differentiation Funding, Activity-Based Allocation and Outcomes-Based Allocation

shall be adjusted by the HECC during a four year phase-in period beginning in Fiscal Year 2016 and concluding in Fiscal Year 2020. This transition period is designed to maintain relative stability and predictability throughout the transition period. Two operations may be performed in determining any such adjustment: Stop Loss and Stop Gain. The Stop Loss and Stop Gain calculations function as defined in Section 1. Fiscal Year 2016 baseline figures shall be Fiscal Year 2015 allocations by program. Thereafter the prior year allocation will serve as the basis for the Stop Loss and Stop Gain calculation. The HECC will establish a threshold of change that trigger the Stop Loss redistribution of Activity-Based and Outcomes-Based allocation. The HECC will establish a threshold of change that trigger the Stop Gain redistribution of Activity-Based and Outcomes-Based allocation. The values for Stop Loss and Stop Gain thresholds are established in OAR 715-013-0040 Section 11 Table 10.

(8) Allotments are made quarterly with timing and amounts determined by agreement between the HECC and the Department of Administrative Services.

(9) Deference to legislative designation of specific resources as part of the PUSF will be computed outside of the SSCM until such allocations expire, are made a part of PUSF CSL budget or are adopted by OAR into the SSCM.

(10) Non-PUSF income to a public university such as tuition, auxiliary revenue or private philanthropy will not be included in the SSCM.

(11) Weighting factors and data definitions within the SSCM will be examined by HECC staff and stakeholders as appropriate. This reexamination will occur no less than once every biennium. During the even numbered year of every third biennium the Executive Director of the HECC will convene a workgroup of stakeholders and HECC staff to recommend changes to the SSCM to match the strategic priorities of the state of Oregon and the HECC as appropriate.

(12) The HECC delegates administrative authority to the Executive Director or designee to operationalize the Student Success and Completion Model and the procedures outlined in this Administrative Rule

(13) This rule shall become effective on July 1, 2015.

Stat. Auth.: ORS 351.735(3)(d) & 351.735(6)

Stats. Implemented: 2013 SB 270, 2013 HB 3120, 2014 HB 4018 2014 SB 1525
Hist.: HECC 3-2015, f. 4-15-15, cert. ef. 7-1-15; HECC 5-2015, f. 5-28-15, cert. ef. 7-1-15

715-013-0040

Public University Support Fund Distribution Factors

(1) The purpose of this rule is to list the relative weights and values of factors to be used in the Students Success and Completion Model calculation as defined in OAR 715-013-0025. All terms are defined as they are in Section 1 of OAR 715-013-0025.

(2) Mission Differentiation Allocation shall be allocated to institutions before Outcomes-Based and Activity-Based Allocations. Funds remaining within the PUSF, excepting those funds otherwise demarcated, after Mission Differential Funding is allocated shall then be allocation between Outcomes-Based Allocation and Activity-Based Allocation according to the proportion outlined below: [Table not included. See ED. NOTE.] The proportional funding split between Outcomes-Based Allocation and Activity-Based Allocation after Fiscal Year 2020 shall continue at same proportion as in Fiscal Year 2020.

(3) The Mission Differentiation Funding allocation for Fiscal Year 15 is as follows. This Mission Differential Funding allocation shall serve as the basis for subsequent Mission Differentiation Allocations of the PUSF. Following Fiscal Year 2015, the Mission Differential Funding Allocation will change by the lesser of Inflation or the overall change in the PUSF except where indicated below: [Table not included. See ED. NOTE.]

(4) Dual Credit Student Credit Hours (SCH) will be rewarded as follows: [Table not included. See ED. NOTE.]

(5) The relative cost weights for SCH completions shall be as follows: [Table not included. See ED. NOTE.]

(6) The relative weighting for degree completions by resident students, by degree level, shall be as follows: [Table not included. See ED. NOTE.]

(7) The Cost Weighting factors for degree completion are determined by CIP and degree level and shall be as follows: [Table not included. See ED. NOTE.]

(8) Priority degrees weighting factors, by CIP and category, are established as follows: [Table not included. See ED. NOTE.]

(9) The additional weights to Bachelor's degree completions by resident students who are members of one or more Targeted Student Populations shall be as follows: [Table not included. See ED. NOTE.]

(10) Weights for Bachelor's Degrees awarded to transfer students shall be discounted as follows: [Table not included. See ED. NOTE.]

(11) During the phase-in period, the HECC shall incorporate a Stop Loss and Stop Gain threshold as established in this section.

(a) Stop Loss and Stop Gain thresholds are established as follows: [Table not included. See ED. NOTE.] Where "PUSF" is equal to Fiscal Year 2016 PUSF allocation less legislative designated funds and TRU Shared Services as a proportion of total Fiscal Year 2015 PUSF allocation.

(b) If, during Fiscal Year 2016 through Fiscal Year 2020 the year-over-year change in the PUSF is less than the Stop Loss threshold for that fiscal year the designated Stop Loss is reset to the year-over-year change in the PUSF, such that the change in funding level for all public universities is pro rata.

(12) This rule shall become effective on July 1, 2015.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 351.735(3)(d) & 351.735(6)

Stat. Implemented: 2013 SB 270, 2013 HB 3120, 2014 HB 4018 2014 SB 1525
Hist.: HECC 4-2015, f. 4-15-15, cert. ef. 7-1-15; HECC 6-2015, f. 5-28-15, cert. ef. 7-1-15

715-013-0060

Clinical Legal Education Funds

(1) Definitions

(a) "ABA-Approved Law School" is a law school approved by the American Bar Association (ABA) to confer Juris Doctor (JD) Degrees.

(b) "Accredited Institution of Higher Education" is an institution of higher education that is accredited by an accrediting institution authorized by the US Department of Education.

(c) "Civil Legal Services" are services provided to individuals for non-criminal civil matters and operated in concert with regulations adopted by the Oregon State Bar pursuant to ORS 9.572.

(d) "Clinical Legal Education Program" is the program authorized by ORS 21.007 and provided by an ABA-Approved Law School at and Accredited Institution of Higher Education granting law students an opportunity to practice law in a particular area during their legal education. Clinical Legal Education Program funds are designated by the legislature on a biennial basis.

(e) "Eligible Accredited Institution of Higher Education" is an Accredited Institution of Higher Education for which the HECC has certified its compliance with Section 5 of this OAR to receive Civil Legal Education Program funds.

(f) The "Higher Education Coordinating Commission" or "HECC" is the body established by ORS 351.715 and appointed by the Governor.

(g) "Oregon State Bar" is a public corporation established by ORS 9.010 to license and discipline lawyers, regulate the practice of law, and provide a variety of services to bar members and the public.

(2) This rule allocates Civil Legal Education Program funds to Eligible Accredited Institutions of Higher Education.

(3) Allocations in the first year of any biennium shall be 49% of the total appropriated to the Domestic Violence Clinical Legal Education Account. The remainder shall be allocated in the second year of the biennium.

(4) Civil Legal Education Program funds are distributed in order to provide civil legal services to victims of stalking, domestic violence and assault.

(5) In order to be eligible for funding under this program, institutions must meet the following conditions;

(a) Be an accredited institution of higher education and have an ABA-approved law school.

(b) Certify that the institution has a clinical legal education program that includes Civil Legal Services.

(c) Certify that the Clinical Legal Education Program represents clients of domestic violence, stalking or sexual assault.

(d) Certify that the Clinical Legal Education Program operates in concert with at least one nonprofit service provider that provides advocacy services such as counseling, safety-planning and/or shelter to victims of domestic violence, stalking or sexual assault and that this provider performs victims counseling services and provides student training.

(6) Once an institution certifies to the HECC their compliance with Section 5 they need not apply every year but must recertify their eligibility on an annual basis.

(7) All institutions certified as eligible and seeking funds shall submit an annual report including the following:

(a) Number of clients that are victims of domestic violence, stalking or sexual assault.

(b) Nature of legal issues involved.

(c) Outcomes of the legal issues.

(d) Categorization of victim service between, sexual assault, stalking and domestic violence.

(e) Relationship of the client to the offender.

(f) Whether advocacy services were provided.

(8) The HECC shall award funds to institutions on a proportional basis in relation to the number of victims served.

(a) Proportions shall be calculated on an annual basis.

(b) If only one institution is eligible to receive funds in a given fiscal year, it shall receive all available funds in a given fiscal year.

(9) The HECC will give deference to any legislative designation of specific resources or policy decisions when making determinations on allocation of funds.

Statutory Authority: ORS 351.735(5),

Statutes Implemented: ORS 351.735(3)(iii)(f), 21.007

Hist.: HECC 11-2015(Temp), f. & cert. ef. 9-8-15 thru 3-5-16; HECC 14-2015, f. & cert. ef. 11-13-15

715-013-0062

Engineering Technology Sustaining Funds

(1) Definitions

(a) "Engineering and Technology Industry Council" or "ETIC" was the body established by ORS 351.663 and abolished by Section 5, Chapter 682 Oregon Laws 2015, for the purposes of improving engineering education in the state of Oregon.

(b) The "Higher Education Coordinating Commission" or "HECC" is the body established by ORS 351.715 and appointed by the Governor.

(c) "Historical Funding" is funding based upon a university's historical allocation of ETIC Sustaining Funds in fiscal year 2015 as approved by the Oregon Education Investment Board (OEIB).

(d) "Oregon Education Investment Board (OEIB)" was the body established by section 1, chapter 519, Oregon Laws 2011 and appointed by the Governor.

(e) "Oregon Health and Science University (OHSU)" is an independent public corporation established by ORS 353.020.

(f) "Oregon Students, Oregon Jobs Model" is defined as the model that had been developed by ETIC and submitted to the HECC to award funds based on placement of Oregon resident graduates in Oregon jobs.

(g) A "Public University" is any institution as defined in ORS 352.002, including; Eastern Oregon University (EOU), Oregon Institute of Technology (OIT), Oregon State University (OSU), Portland State University (PSU), Southern Oregon University (SOU), University of Oregon (UO) and Western Oregon University (WOU).

(h) "Sustaining Funds" are funds designated by the Legislature as legacy ETIC Sustaining Funds.

(2) This rule allocates Sustaining Funds to Public Universities and OHSU for the 2015-17 biennium.

(3) Allocations in the first year of any biennium shall be 49% of total appropriated for the biennium. The remainder shall be allocated in the second year of the biennium.

(4) Sustaining Funds are to be spent in support of engineering and technology related programs in support of Oregon industry.

(5) Allocations shall be made by the HECC to Public Universities and OHSU for the fiscal year beginning on July 1, 2015 as follows;

(a) 80% of available funds shall be allocated on the basis of Historical Funding. Of these funds, the allocations shall be as follows;

(A) Eastern Oregon University shall receive \$144,601.

(B) Oregon Health Sciences University shall receive no historical funding.

(C) Oregon Institute of Technology shall receive \$444,592.

(D) Oregon State University shall \$6,179,323.

(E) Portland State University shall receive \$2,410,166.

(F) Southern Oregon University shall receive \$168,447.

(G) The University of Oregon shall receive no historical funding.

(H) Western Oregon University shall receive \$237,770.

(b) 20% of available funds shall be allocated in the proportions indicated by the Oregon Students, Oregon Jobs Model. Of these funds, the allocations shall be as follows;

(A) Eastern Oregon University shall receive \$10,814.

(B) Oregon Health Sciences University shall receive no funds.

(C) Oregon Institute of Technology shall receive \$513,415.

(D) Oregon State University shall receive \$862,072.

(E) Portland State University shall receive \$771,841.

(F) Southern Oregon University shall receive \$67,688.

(G) The University of Oregon shall receive \$107,892.

(H) Western Oregon University shall receive \$62,503.

(6) Allocations shall be made by the HECC to public universities and OHSU for the fiscal year beginning July 1, 2016 as follows;

(a) Funding to each public university shall continue in amounts equal to those in section 5.

(b) The additional funds available shall be allocated to institutions which have not reached funding indicated in the Oregon Student, Oregon Jobs Model. Of these funds, the allocations shall be as follows:

(A) Eastern Oregon University shall receive no funds.

(B) Oregon Health Sciences University shall receive no funds.

(C) Oregon Institute of Technology shall receive \$287,431.

(D) Oregon State University shall receive no funds.

(E) Portland State University shall receive \$105,785.

(F) Southern Oregon University shall receive \$17,318.

(G) The University of Oregon shall receive \$77,906.

(H) Western Oregon University shall receive \$586.

(7) The continued allocation of Historical Funding is contingent upon institutions maintaining performance consistent with past efforts.

(8) The HECC will give deference to any legislative designation of specific resources or policy decisions when making determinations on allocation of funds.

Stat. Auth.: ORS 351.735(5)

Stats. Implemented: ORS 351.735(3)(ii)(f), 2015 OL Ch 682

Hist.: HECC 8-2015(Temp), f. & cert. ef. 9-8-15 thru 3-5-16; HECC 14-2015, f. & cert. ef. 11-13-15

715-013-0064

Signature Research Center Funds

(1) Definitions

(a) The "Higher Education Coordinating Commission" or "HECC" is the body established by ORS 351.715 and appointed by the Governor.

(b) "Oregon Growth Business" is defined in ORS 284.701(3) as an individual, group of individuals or private sector business entity, including but not limited to a partnership, limited liability company, corporation, firm, association or other business entity, that engages in business that furthers innovation-based economic development, that has the capacity, upon obtaining appropriate

capital, to generate significant high-skill, high-wage employment in Oregon and that conducts business in Oregon or an emerging growth business consisting of an individual or group of individuals or a new or small company, including but not limited to any new or small partnership, limited liability company, corporation, firm, association or other business entity, that has the capacity, upon obtaining appropriate capital, to generate significant high-skill, high-wage employment.

(c) “Public Entity” is defined in ORS 284.701(4) as any agency of the federal or state government, county, city, town, public corporation or political subdivision in this state.

(d) A “Public University” is any institution as defined in ORS 352.002, including: Eastern Oregon University (EOU), Oregon Institute of Technology (OIT), Oregon State University (OSU), Portland State University (PSU), Southern Oregon University (SOU), University of Oregon (UO) and Western Oregon University (WOU).

(e) “Research Institution” is defined in ORS 284.701(5) to include Community Colleges, Public Universities, Oregon Health and Science University, Oregon-based generally accredited non-for-profit private institutions of higher education, federal research laboratories conducting research in Oregon, private not-profit research institutions located in Oregon, institutions for higher education as defined in ORS 289.005 or private institutions of higher education located in Oregon.

(f) “Signature Research Centers” are those authorized under ORS 284.740 to maximize collaborative ventures between Research Institutions, Public Entities and Oregon Growth Industries. Signature Research Center funds are designated by the Legislature.

(2) This rule allocates Signature Research Center funds to Public Universities.

(3) Allocations in the first year of any biennium shall be 49% of the total appropriated. The remainder shall be allocated in the second year of the biennium.

(4) Signature Research Center funds are to be spent on expenses related to collaborative ventures among Research Institutions, Public Entities and Oregon Growth Businesses that seek to capitalize on opportunities to obtain private and federal funding for the research and development of innovation-based economic development.

(5) The University of Oregon and Oregon State University shall each receive 47.5% of all appropriated funds each biennium and Portland State University shall receive 5% of all appropriated funds.

(6) The HECC will give deference to any legislative designation of specific resources or policy decisions when making determinations on allocation of funds.

Stat. Auth.: ORS 351.735(5),

Stats. Implemented: ORS 351.735(3)(iii)(f), 284.720, 284.701

Hist.: HECC 10-2015(Temp), f. & cert. ef. 9-8-15 thru 3-5-16; HECC 14-2015, f. & cert. ef. 11-13-15

715-013-0066

Dispute Resolution Center Funds

(1) Definitions

(a) “Dispute Resolution Account” is an account established in the state treasury by ORS 36.145 to appropriate funds for the purposes outlined in ORS 36.135, 36.175 and 36.179 to the University of Oregon and Portland State University.

(b) “Dispute Resolution Programs” are programs authorized by ORS 36.100, 36.135, 36.155 and 36.179 for the purposes indicated in 36.105. Dispute Resolution Program funds are designated by the legislature.

(c) “Dispute Resolution Services in Counties” are established under standards adopted by the Board of Trustees of the University of Oregon pursuant to ORS 36.155.

(d) The “Higher Education Coordinating Commission” or “HECC” is the body established by ORS 351.715 and appointed by the Governor.

(e) “Mediation and Alternative Means of Dispute Resolution” is the program authorized by ORS 36.179 providing mediation and other alternative dispute resolution services to public bodies at the

Mark O Hatfield School of Government at Portland State University.

(f) A “Public University” is any institution as defined in ORS 352.002, including: Eastern Oregon University (EOU), Oregon Institute of Technology (OIT), Oregon State University (OSU), Portland State University (PSU), Southern Oregon University (SOU), University of Oregon (UO) and Western Oregon University (WOU).

(2) This rule allocates Dispute Resolution Program funds to Public Universities.

(3) Allocations in the first year of any biennium shall be 49% of the total appropriated to Dispute Resolution Programs. The remainder shall be allocated in the second year of the biennium.

(4) Dispute Resolution Program funds for the University of Oregon are to be spent in compliance with standards adopted pursuant to ORS 36.155 and in compliance with state policy pursuant to 36.100 and 36.105.

(5) Dispute Resolution Program funds for Portland State University are to operate the program authorized in ORS 36.179 and in compliance with state policy pursuant to ORS 36.100 and 36.105.

(6) The University of Oregon shall receive 65% of Dispute Resolution Program funds each biennium and Portland State University shall receive 35% of Dispute Resolution Program funds.

(7) The HECC will give deference to any legislative designation of specific resources or policy decisions when making determinations on allocation of funds.

Stat. Auth.: ORS 351.735(5), 36.100, 36.135, 36.145, 36.155, 36.179

Stats. Implemented: ORS 351.735(3)(iii)(f), 36.105, 36.145

Hist.: HECC 9-2015(Temp), f. & cert. ef. 9-8-15 thru 3-5-16; HECC 14-2015, f. & cert. ef. 11-13-15

DIVISION 15

SEXUAL ORIENTATION DATA

715-015-0005

Collection and Reporting of Sexual Orientation Data

Public universities listed in ORS 352.002 shall collect, report, and retain voluntarily submitted information on the sexual orientation, gender and gender identity, and legal sex of students and employees in a manner established by the Commission. Universities shall report this data to the Higher Education Coordinating Commission, Office of Research and Data by June of every year.

Stat. Auth.: ORS 352.274

Stats. Implemented: 2015 SB 473

Hist.: HECC 4-2016, f. & cert. ef. 6-14-16

DIVISION 45

PRIVATE CAREER SCHOOLS

715-045-0001

Definitions

The following definitions apply to OAR 715-045-0001 through 715-045-0210, unless otherwise indicated by the context:

(1) “Ability to benefit” is a term used in reference to federal Title IV federal student aid regulations and the methods of determining whether a student has the requisite academic skills necessary to successfully complete a program of study, to be used only for the purposes of establishing eligibility for Title IV funding.

(2) “Addendum” used in reference to a school’s catalog means a separate document that contains revisions of policies or other information appearing in the school catalog. Information listed in an addendum to a catalog should be incorporated into the catalog at the next printing of the catalog. An addendum does not include errata, but errata can appear on the same page as addendum information, if properly labeled.

(3) “Advertising” means any form of public notice used in recruiting and promoting activities, however disseminated, including but not limited to print media, catalogs, and other school publications, signs, mailing pieces, radio or television ads, audiovisual material, and the internet on behalf of a licensed school.

(4) “Agent” has the meaning given in ORS 345.010(1).

(5) “Application for admission” or “admission application” means a form, separate from the enrollment agreement, which is submitted by an applicant prior to the signing of the enrollment agreement and evaluated by the school for admission purposes. Schools may charge a non-refundable application fee; however, the fee must be clearly identified on the application.

(6) “Application fee,” when used in reference to a school’s admissions process, or “admission fee” means the initial fee charged by a school to cover those expenses incurred by the school in establishing an admissions file for a prospective student. The application or admission fee is not inclusive of and does not preclude other fees necessary to assess the suitability of a student for the intended program, or that student’s appropriate level of placement in the program based on prior training, education, or experience. At the school’s option, the application fee may be non-refundable. The school shall not charge an application fee of more than \$50.00.

(7) “Approved” means accepted by the Higher Education Coordinating Commission or by the commission’s executive director in matters relating to school licensing requirements.

(8) “Assessment” or “Performance Assessment” when used in reference to the instructional program, as outlined in OAR 715-045-0009, means a performance-based evaluation of an applicant’s progress towards mastery of the stated competencies of the instructional program.

(9) “At-risk” means the school demonstrates a pattern or history of one or more of the following conditions that the Executive Director of the Higher Education Coordinating Commission determines, may cause potential serious problems for the continued successful and profitable operation of the organization:

(a) Failure to meet the standards of financial responsibility or reporting;

(b) Misrepresentation;

(c) Frequent substantiated complaints filed with the Higher Education Coordinating Commission;

(d) A decrease in enrollment from the previous reporting period of 50 percent or more or 25 students, whichever is greater;

(e) Staff turnover from the previous reporting period of 50 percent or more or three staff, whichever is greater; and

(f) If conditions listed in paragraphs (d) and (e) of this subsection can be shown to be caused by unusual circumstance or reason the school may request an exemption from an “at risk” designation. Exemption request will be evaluated by the Executive Director of the Higher Education Coordinating Commission.

(10) “Auxiliary facility” means a facility that does not use or list its address as a school location and:

(a) Absorbs a temporary overload that the principal facility cannot accommodate; or

(b) Provides a specialized training facility away from the principal school location; or

(c) Provides training under contract that is not open to general enrollment; or

(d) Is a site approved by the Higher Education Coordinating Commission for teaching a short-term course that is taught by registered teachers from the principal facility.

(11) “Barbering” has the meaning given in ORS 690.005.

(12) “Bona fide organization or group” means any body or entity that is nationally chartered or recognized by a national or state educational/occupational policy board that has operated or functioned in good faith without fraud or deceit for at least 25 years.

(13) “Capacity to complete” means that a student has the cognitive or physical capacity to complete a program of study, with or without reasonable accommodations, and become employment eligible in the specific field of training for which they are enrolling. A school has an obligation to determine whether applicants have capacity to complete during the admissions process, and to assess this capacity when information is obtained or received by the school through any means which suggests the student may not have capacity to complete the program. Any information obtained shall

be treated as confidential and kept in a secure manner. Capacity to complete must be assessed before enrollment is completed; however, if information is received by the school after instruction has commenced that cognitive or physical circumstances exist that may impede a student’s satisfactory progress through their program of study, capacity to complete must be assessed immediately after receipt of such information, and appropriate adjustments, accommodations, or tuition refunds made.

(14) “Chairperson” means the person who is responsible for overseeing the business of the advisory committee.

(15) “Class” means a scheduled meeting of persons for instructional purposes.

(16) “Clinic lab” or “clinic floor” means a place where students perform assigned instructional tasks identified in the approved curriculum on models or the general public.

(17) “Completion” means the student has satisfactorily finished all the requirements of the program in which he or she is enrolled, has fulfilled the terms of the enrollment agreement, and has been awarded an appropriate certificate, diploma, or completion document.

(18) “Continuing education” means the enrollment in and completion of ongoing instruction outside the normal teaching schedule, which upgrades a teacher’s skills and knowledge with the intent of making the teacher more proficient and current in subject matter taught, instructional methodology, or other skills and knowledge relevant to the teaching of adult learners.

(19) “Course” means an aggregation of classes to achieve a completed set of competencies.

(20) “Discount” means a specified amount of money to be deducted at the time of enrollment from the costs associated with an instructional program, according to a specified set of criteria. The criteria and details of any discounts offered by a school will be given to all persons eligible to receive the discount, and documented and maintained as part of a school’s approved advertising. A discount that is granted must be listed as a discount on the enrollment agreement, and is not revocable.

(21) “Discrimination” means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on age, disability, national origin, race, color, marital status, religion, sex or sexual orientation, or any other protected class.

(22) “Distance learning instruction” means education provided by written correspondence or any electronic medium for students enrolled in a private career school in pursuit of an identified occupational objective, but not attending classes at an approved school site or training establishment.

(23) “Enrollment” means a student has agreed to the purchase of a course or program of instruction offered by a school and has signed an enrollment agreement, however named, that commits both the student and the school to a legal and binding obligation. Instruction in a program or course may not begin without a signed enrollment agreement in place.

(24) “Enrollment fee” means the fee a school charges that covers those expenses incurred by a school in processing the student enrollment agreement and establishing a student records system. The enrollment fee is limited to 15% of the total tuition cost, or \$150, whichever is less, and is identified as an enrollment fee on the student enrollment agreement.

(25) “Errata” in reference to a school’s catalog means a listing of errors appearing in a school’s published catalog and the corrections of those errors. Errors do not include revisions to policies or other information in the catalog. Errata may be published only via electronic means, at the discretion of the school, in which case a reference in the school catalog must be included that specifies the URL or website where errata may be found. Errors included on the errata list should be corrected in the next printing of the school’s catalog.

(26) “Esthetics” has the meaning given in ORS 690.005.

(27) “Evaluation fee” means any fee, however named, covering those expenses incurred by a school in evaluating a prospective student’s prior training, education, experience, or other indicators

of beginning level of mastery in technical program competencies before enrolling in a program of instruction at the school, or for other uses of an assessment for competency evaluation (e.g., licensing reciprocity) approved by the Executive Director of the Higher Education Coordinating Commission. The evaluation fee shall not exceed the reasonable costs incurred by the school in administering and scoring the assessment, preparing official documentation, providing appropriate feedback to the applicant, and designing a program of study based on the assessment results (if applicable).

(28) “Executive Director” means the Executive Director of the Higher Education Coordinating Commission, or the executive director’s designee.

(29) “Fiscal reporting period” means the period of time for which the school provides financial information required by the Higher Education Coordinating Commission. The fiscal reporting period is identified by the school owner in the initial license application and must remain consistent unless a written request for a change is approved by the Superintendent. The fiscal reporting period may be the calendar year or another 12-month time period.

(30) “Fund” means the private career school Tuition Protection Fund (TPF).

(31) “Grant,” as used in reference to tuition assistance, means actual funds made available through any source to prospective or enrolled students through an application process whereby applicants must meet predetermined criteria and may or may not be required to maintain a certain status or performance criteria in order to retain the award. For in-house grants, funds in the amount of the full amount of the award for grants awarded on an annual basis will be deposited by the school in an account separate from the school’s operating funds at the time of the award, or at the beginning of each new year of an on-going award, and drawn out by the school as the tuition is earned. For third party grants, all monies received by the school on behalf of the student will be deposited into an account separate from the school’s operating funds and drawn out as the tuition is earned. In-house grants are revocable only in the amount that has not been earned by the student, according to the terms of the grant award, which are to be articulated to the recipient of the award and agreed upon by signature through an official award letter. The signed award letter will be kept in the student’s file, and a copy given to the student. Any grant awarded a student from any source will be documented on the enrollment agreement as a grant at the time of the award. If the award is made after the initial enrollment agreement has been signed, a rider to that agreement must be executed and attached.

(32) “Gross tuition income” means all direct tuition charges from programs for which the school is licensed under OAR chapter 715, division 45, including any laboratory fee. Total gross tuition income does not include:

- (a) Tuition refund;
- (b) Enrollment and application fees; or
- (c) Costs for books, supplies, tools, and equipment purchased by students.

(33) “Hair design” has the meaning given in ORS 690.005.

(34) “In default” is defined in ORS 345.115(5) as “when a course or program is discontinued or canceled or the school closes prior to completion of contracted services.”

(35) “Incentive,” as used in reference to tuition assistance, means a monetary reward or inducement offered by a school for the purpose of encouraging or motivating a student to perform a specific action, such as completing or course or instructional program within a certain period of time. Any terms or conditions that apply to an incentive must be published by the school, and maintained as part of the school’s approved advertising. Students who are working towards an incentive award will have in their file a copy of the terms and conditions of the incentive along with a record of the date each condition is satisfied. Once all conditions have been satisfied the incentive is considered earned and cannot be cancelled or revoked. A rider to the enrollment agreement must be prepared at the time of award detailing the application of the incentive to the student’s outstanding financial obligation.

(36) “License” means a license to operate a private career school.

(37) “Nail technology” has the meaning given in ORS 690.005.

(38) “On-site review” means a visit to the school by authorized staff from the Higher Education Coordinating Commission who may review the facilities, classrooms, and school records; talk with students, staff, and administrators; and determine whether the school is in compliance with Oregon law.

(39) “Operating” or “operation” means any form of marketing, advertising, instruction, recruitment, or any other activity regulated under ORS Chapter 345 and OAR chapter 715, division 45.

(40) “Placement” means the student has been employed in the occupation for which trained.

(41) “Post-secondary” for the purposes of recognizing private career schools in Oregon as institutions of post-secondary study means any school licensed under ORS Chapter 345 that:

(a) Admits as regular students, or maintains as a majority of its enrollment, those students who have earned a recognized high school diploma, the equivalent of a recognized high school diploma, or a GED certificate, or who are beyond the age of compulsory education in the State of Oregon, and

(b) Is authorized by the Higher Education Coordinating Commission to offer one or more educational programs beyond secondary education.

(42) “Probation” means that a school has been officially notified by the Executive Director of the Higher Education Coordinating Commission that it has deficiencies that must be corrected within a specified time.

(43) “Program” means an aggregation of courses to meet an identified occupational objective.

(44) “Program advisory committee” means a representative group appointed by the school, which advises the school ownership and administration.

(45) “Program improvement plan” or “school improvement plan” means a written plan that describes how the school will resolve or comply with violations of state rule or regulation assessed, or correct any deficiencies identified, by the Executive Director of the Higher Education Coordinating Commission, and usually includes interim outcome measures to track progress towards the overall improvement goals.

(46) “Pro rata” means in accordance with a fixed proportion.

(47) “Published Class Schedule” (for the purpose of calculating tuition charges) means the period of time between the commencement of classes and the student’s last date of attendance as offered by the school and scheduled by the student.

(48) “Recruiting” means personally soliciting or attracting a person or persons by a school or its agent(s) with the intention of actively pursuing enrollment in the school. Recruiting does not include leaving materials at or near an office or other site for a person to pick up of his or her own accord or handing a brochure or other materials to a person.

(49) “Registration” means the process by which directors, agents, or teachers either request registration by the Superintendent to teach at the school or notify the Superintendent of their appointment of an agent to represent the school.

(50) “Reporting period” means the period of time that corresponds with the school’s fiscal year on which the school bases all individual program student completion and placement reporting that must be submitted to the Higher Education Coordinating Commission. The school’s fiscal year may be the calendar year or another 12-month time period.

(51) “Resident instruction” means education provided at an approved school site or training establishment for students enrolled in and attending classes at the school facility in pursuit of an identified occupational objective.

(52) “Revocation” as referenced in OAR 715-045-0012 means that the Executive Director of the Higher Education Coordinating Commission has notified an employee of a licensed private career school that because of violations of 715-045-0012(9)(a)–(c) the commission’s approval of the employee’s registration is permanently

withdrawn. When notice of revocation is issued, the employee shall be notified and upon written request, shall be granted a contested case hearing under the Administrative Procedures Act, ORS Chapter 183.

(53) “Revoke” means the Higher Education Coordinating Commission terminates the school license. When the license is revoked, the school is not authorized to continue operating. Probation or suspension may, but is not required to, precede revocation.

(54) “Rider” means an attachment, schedule, amendment, or other writing that is added to the enrollment agreement that alters the terms, conditions, or financial obligation of the original instrument without altering the instrument in its entirety. The contents of a rider to the enrollment agreement are understood to be incorporated into the enrollment agreement.

(55) “Scholarship” means actual funds, from any source, made available to prospective or enrolled students through an application process whereby applicants must meet predetermined criteria and may or may not be required to maintain a certain status in order to retain the award. For in-house scholarships, funds in the amount of the full amount of the award for scholarships awarded on an annual basis will be deposited by the school in an account separate from the school’s operating funds at the time of the award, or at the beginning of each new year of an on-going award, and drawn out by the school as the tuition is earned. For third party scholarships, all monies received by the school on behalf of the student will be deposited into an account separate from the school’s operating funds and drawn out as the tuition is earned. In-house scholarships are revocable according to the terms of the scholarship award, which are to be articulated to the recipient of the award and agreed upon by signature through an official award letter. The signed award letter will be kept in the student’s file, and a copy given to the student. Any scholarship awarded a student from any source will be documented on the enrollment agreement as a scholarship at the time of the award. If the award is made after the initial enrollment agreement has been signed, a rider to that agreement must be executed and attached.

(56) “Self-directed instruction” means a course of instruction or an instructional program in which the instructional materials and curriculum are sufficient in design and scope to prepare a student for the program’s occupational objectives without the provision of direct instruction. These objectives can be achieved without regular or scheduled interaction either by mail, telephone, or in person between the student and faculty employed by the school and do not require the school to measure attendance or lesson completion for satisfactory progress.

(57) “School” or “career school” or “private career school” has the meaning given in ORS 345.010(4).

(58) “Short term course” means a course no longer than 16 clock hours in duration.

(59) “State advisory committee” means a representative, statutory advisory committee appointed by the Superintendent of Public Instruction, consisting of members who shall serve for terms of three years ending June 30.

(60) “Structured work experience” or “externship” means a worksite educational activity that correlates the value of classroom training and on-site job performance, is an integral part of the student’s training plan, and is supervised/evaluated by appropriate school personnel.

(61) “Supplement” in reference to a school’s catalog means a document that is separate from the catalog and which contains new information not appearing in the catalog, or information that is related, but in addition, to information already appearing in the catalog. Information contained in a catalog supplement may or may not need to be incorporated into the catalog at the next regular revision and printing of the catalog.

(62) “Suspension” as referenced in OAR 715-045-0012 means that the Executive Director of the Higher Education Coordinating Commission has notified an employee of a licensed private career school that because of violations of 715-045-0012(9)(a)–(c) the commission’s approval of the employee’s registration is temporarily

withdrawn. When notice of suspension is issued, the employee shall be notified and upon written request, shall be granted a contested case hearing under the Administrative Procedures Act, ORS Chapter 183.

(63) “Suspend” means the Executive Director of the Higher Education Coordinating Commission has notified a school that because of deficiencies, it may not advertise, recruit, enroll students, or begin instruction of new students, but may remain open to complete training of currently enrolled students. Probation may, but is not required to precede suspension.

(64) “Teachout” means a defaulting school or the Higher Education Coordinating Commission makes provisions for students enrolled at the time of the default to complete a comparable program at no additional cost beyond the original enrollment agreement with the defaulting school. Teachout arrangements, if made by the defaulting school, shall be approved in advance by the commission’s executive director and, if ongoing, approved annually by the executive director.

(65) “Transcript” means a written record that shall include, but is not limited to, name and address of student, first and last date of attendance, all programs or courses undertaken, grades achieved, whether the courses or programs were successfully completed, and signature of a school official.

(66) “Tuition” means money or other compensation paid or credited to a school by a student or on behalf of a student that is applied to the costs of instruction and training actually received or to be received by the student.

(67) “Tuition aid” or “Tuition assistance” means any award of monetary value, including, but not limited, to scholarships, grants, discounts, or incentives offered by a career school or by a third party, that is received by a student who will enroll in, or is enrolled in, a specific program of instruction, and is:

(a) Provided directly to the student for the purposes of covering, in full or in part, the costs of tuition or other allowed educational expenses incurred by the student, or

(b) Paid or credited to a career school on behalf of the student by the school or a third party for the purpose of covering, in full or in part, the costs of tuition or other allowed educational expenses incurred by the student.

(68) “Withdrawal fee” means any fee, however named, covering those expenses incurred by a school in processing student paperwork relating to program changes (i.e., course additions/drops or transfers) or withdrawal from school and so identified on the student enrollment agreement.

Stat. Auth.: ORS 345.020

Stats. Implemented: ORS 345.030 & 345.325

Hist.: 1 EB 31-1986, f. & ef. 7-23-86; EB 11-1990, f. & cert. ef. 2-1-90; EB 13-1996, f. & cert. ef. 7-26-96; ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; ODE 17-2003, f. 12-30-03, cert. ef. 1-1-04; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; ODE 13-2008, f. & cert. ef. 5-23-08; ODE 13-2008, f. & cert. ef. 5-23-08; ODE 3-2010, f. & cert. ef. 2-8-10; ODE 27-2012, f. 9-13-12, cert. ef. 9-17-12; Renumbered from 581-045-0001 by HECC 2-2014, f. & cert. ef. 4-23-14; HECC 3-2016, f. & cert. ef. 3-9-16

715-045-0003

Fingerprinting of Subject Individuals in Schools Accepting Enrollment of Minors

(1) Pursuant to ORS 345.030(6), subject individuals include:

(a) Faculty, and agents of a career school, and individuals who hold positions of authority and control in any career school accepting enrollment of persons under the age of 18; and

(b) Any agents of career schools who will have contact with persons under the age of 18 on behalf of the career school.

(2) Each application for a new school license or renewal of an existing school license shall be accompanied by, for each subject individual:

(a) One properly completed FBI fingerprint card #USGPO 1990-262-201-2000;

(b) A properly completed Department of Education criminal history information form; and

(c) A fee in an amount equal to the actual charges of conducting the criminal background check as allowed under ORS 181.534. The fee amount and distribution shall be as follows:

- (A) Oregon State Police (OSP) — \$28.00;
- (B) Federal Bureau of Investigation (FBI) — \$16.50;
- (C) Oregon Department of Education (ODE) — \$14.50;
- (D) TOTAL — \$59.00

(3) An applicant school is not required to submit fingerprints for subject individuals if the Higher Education Coordinating Commission has conducted a criminal records check of the subject individual within the three years preceding the date of application.

(4) For the purposes of criminal background checks pursuant to ORS 345.030, conducted in relation to individuals subject to such criminal background verification, the following definitions of a crime applies:

(a) Any adjudication in any criminal court of law, in this state or in any other jurisdiction, finding the individual committed a crime. A crime is an offense for which a sentence of imprisonment is authorized.

(b) Any adjudication in a juvenile proceeding, in this state or in any other jurisdiction, determining the individual committed a crime, which if done by an adult, would constitute a crime listed in ORS 342.143.

(c) Any conduct which resulted in either mandatory registration or reporting, or both, as a sex offender in this state or any other jurisdiction. A later court order or other action relieving the individual of either the sex offender registration or reporting requirement, or both, does not affect the status of the conduct as a conviction for purposes of this rule.

(d) Any plea of guilty, no contest or nolo contendere in connection with a crime, in this state or in any other jurisdiction.

(e) A conviction exists for the purposes of this rule, regardless of whether a dismissal was later entered into the record in connection with diversion or on any sort of deferred adjudication or delayed entry of judgment.

(f) A conviction exists for purposes of this rule even if a crime was expunged or removed from the record of the individual under the laws of another jurisdiction if the crime would be ineligible under ORS 137.225 for expunction or removal from the record if the conviction had occurred in Oregon. A conviction does not exist where an Oregon court has expunged or otherwise removed a conviction from the record of an individual.

(g) A conviction does not exist, except as noted above, only where there was a judicial adjudication that the individual did not commit the offense in question, or when a conviction, adjudication or plea is overturned by an appellate court of record and no later conviction, adjudication or plea indicating the individual committed the offense in question is on the record.

(5) Fingerprints may be collected by a local or state law enforcement agency.

(6) The Higher Education Coordinating Commission shall:

(a) Request criminal information from the Department of State Police in the manner prescribed by law;

(b) Review the criminal records of the subject individual upon the submission of the required FBI and state forms and the Superintendent or designee shall issue a statement of criminal history status and related impact on employment or contract qualification.

(c) Not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision of properly certified LEDS (Law Enforcement Data Systems) personnel at the Oregon Department of Education.

(7) Subject individuals who refuse to consent to the criminal records check or refuse to be fingerprinted shall be terminated from employment by the applicant school.

(8) Subject individuals who have been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, shall be refused employment or continued employment, or have their employment terminated, by the career school upon notification from the Superintendent.

(9) Subject individuals who have been convicted of any of the crimes listed in ORS 161.405 or an attempt to commit any of the

crimes listed in 324.143 shall be refused employment, continued employment, or have their employment terminated by the applicant school upon notification from the Superintendent.

(10) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(11) Prior to making a determination that results in a notice and opportunity for hearing, as allowed under ORS 181.534, the Superintendent may cause an investigation to be undertaken. Subject individuals and applicant schools shall cooperate with the investigation and may be required to furnish oral or written statements by affidavit or under oath. If the Superintendent determines through investigation that a violation of this rule has not occurred, a written decision explaining the basis for the decision will be provided to the subject individual.

(12) Subject individuals may appeal a determination that prevents their employment or eligibility to contract with an applicant school as a contested case under ORS 183.413 to 183.470 to the Superintendent.

(13) Only cards and forms approved by the Oregon Department of Education will be accepted. The Higher Education Coordinating Commission and the department will return any incomplete or incorrectly completed fingerprint cards and associated forms without taking any other action.

(14) The Oregon Department of Education shall maintain a record of all properly submitted fingerprint cards. The record shall include at least the following:

- (a) Card sequence number;
- (b) Name of applicant school submitting the cards;
- (c) Date cards and Department forms were received;
- (d) Date incomplete cards returned to applicant school, if applicable;
- (e) Date completed cards sent to Oregon State Police;
- (f) Date denial or probationary approval sent to applicant schools;
- (g) Date FBI card returned to Department; and
- (h) Date denial or final approval sent to applicant school.

Stat. Auth.: ORS 345.020

Stats. Implemented: ORS 345.030

Hist.: ODE 3-2010, f. & cert. ef. 2-8-10; ODE 31-2012(Temp), f. 11-7-12, cert. ef. 11-9-12 thru 5-7-13; ODE 3-2013, f. & cert. ef. 1-15-13; Renumbered from 581-045-0003 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0006

Application for Private Career School License

(1) Any person, partnership, association, corporation, or Limited Liability Company desiring to function as a private career school as defined in ORS 345.010 shall submit an application for its first approval year on forms provided by the Higher Education Coordinating Commission. No person, partnership, association, corporation, or Limited Liability Company shall hold itself out to be a school, solicit students, or collect fees prior to the date of the license. A school requesting exemption from licensure must request such exemption from the Executive Director of the Higher Education Coordinating Commission under the provision of 345.015.

(2) An initial site inspection may be required prior to approval of the application. Any deficiencies must be corrected prior to issuance of a license.

(3) A license may be denied by the executive director, 60-days after the school has been notified of the application deficiencies, for failure to submit accurate and complete materials required by the application, or for other substantiated just cause.

(4) A separate license shall be required for each location of a school except those approved by the executive director as auxiliary sites. A license for the specific location must be issued prior to operating at that location.

(5) An initial license shall be granted after:

- (a) Receipt of a complete application by the commission;
- (b) Completion of an interview with and approval by the executive director; and

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(c) Correction of all deficiencies in the application, as communicated by the executive director to the applicant school in writing or by verbal means during phone or in-person interviews. Alternatively, if circumstances warrant, the executive director may choose to issue a conditional license, pursuant to the provisions of ORS 345.030(8). The conditional license issued by the commission shall include the period and dates of effectiveness of the license.

(6) Except as provided in paragraph (b) of this subsection, each license shall be issued to the owner of an applicant school and shall be nontransferable.

(a) In the event of a change of ownership of a school due to sale or transfer of a majority interest in the school, and when continuous operation is desired, the buyer or majority interest holder must apply for and obtain approval of a new license prior to the completion of the sale. The buyer or majority interest holder must provide notice to the commission of the transfer of ownership at least 30 days prior to the transfer of notice.

(b) The commission may transfer a license or allow ownership of a school to transfer with less than 30 days' notice if:

(A) The owner of the school dies, is incapacitated or is incarcerated; or

(B) The executive director determines that a successful and timely completion of the sale is critical to protect the financial viability of the school, or to mitigate disruption of the instruction of currently enrolled students, or for other reasons deemed appropriate by the executive director.

(c) In the event of a transfer of ownership, the executive director may choose to issue a conditional license, pursuant to the provisions of ORS 345.030(8). The conditional license issued by the commission shall include the period and dates of effectiveness of the license.

(7) Prior to the completion of the sale, unless the owner dies or is incapacitated, the current owner of the school (seller) must submit to the commission a statement signed by both the seller and the buyer indicating who:

(a) Will acquire the school's assets, which are directly related to the school's educational activities;

(b) Will assume liability on the date the school is sold for the outstanding debts incurred as a direct result of the school's educational activities under previous ownership;

(c) Has authority to make all refunds that on the date the school is sold may be due to eligible persons;

(d) Has agreed to honor all student contracts that were signed or approved by the school's authorities before the effective date of the change of ownership; and

(e) Has responsibility to transfer all educational transcripts of former and current students to the possession of the new school owner.

(8) Failure of the seller to notify the commission prior to completion of the sale may result in the imposition of civil penalties established in OAR 715-045-0190.

(9) Before an individually-owned (commonly referred to as a sole proprietorship), Limited Liability Company, or partnership-owned school elects to incorporate or when there are changes in existing ownership that affect financial control of the school, the Superintendent shall be notified in writing, and a new license shall be required. Such notice shall occur prior to the ownership change. Control is affected when a new party or entity assumes ownership of more than 50 percent of the school's net worth. Instances in which control is affected and a new license is required include but are not limited to the following examples:

(a) Owner(s) sells more than 50 percent to another party;

(b) Partner(s) owning less than 50 percent buy out the other partner(s) interest; or

(c) The type of ownership is changing (i.e., individual, partnership, company, or corporation).

(10) Request for confidentiality regarding the purchase/sale of a school will be honored by the commission in accordance with the public records law.

(11) The initial application for licensure shall include:

(a) The name and address of the school, the names and addresses of its owners, governing body, officials, and faculty with attendant qualification forms;

(b) Course syllabi as required by OAR 715-045-0009(1);

(c) School facility description as required by OAR 715-045-0022;

(d) Application for admissions form if used by the school;

(e) Enrollment agreement (contract) information and procedures, including a copy of the contract or enrollment agreement for only those courses offered by the schools that are licensed by the commission;

(f) A copy of school policies and procedures relating to:

(A) Admissions standards;

(B) Ability to benefit examination. If an ability to benefit examination is used, it must be:

(i) Approved by the commission's executive director; and

(ii) Proctored in a manner approved by the executive director.

(C) Enrollment and entrance dates;

(D) Credit for previous training;

(E) Attendance;

(i) Policy on attendance; and

(ii) A statement of how the school will monitor and report enrollment and attendance information as required by federal and/or state statutes.

(F) Grading policies;

(G) Make-up work;

(H) Tardiness;

(I) Satisfactory progress standard;

(J) Methods and frequency of reporting progress;

(K) Student conduct;

(L) Suspensions, terminations, re-entry;

(M) Leaves of absence;

(N) Students filing a grievance or complaint about the school or program;

(O) Safe, healthy environment; and

(P) Discriminatory behaviors.

(g) A statement explaining how the policies and the procedures in subsection (11)(f) of this rule are disseminated to all students and how they are monitored by the school;

(h) Information relating to tuition charges and all other fees or costs;

(i) Policy of the school relating to cancellations and refunds of unused tuition, fees, and other charges. The policy must be consistent with the schedules established by OAR 581-045-0036, 581-045-0037, and 581-045-0038;

(j) A copy of the buy/sell agreement if the submission of the initial application is a result of the purchase of a currently licensed private career school. The buy/sell agreement shall be kept confidential within the limits permitted by the Oregon Public Records law;

(k) A written plan designed to protect the contractual rights of students in the event the school closes or undergoes a change of status as described in OAR 715-045-0067;

(l) Labor market information showing current employment, replacement, and expansion data for regional, state, and national labor markets for the occupational area being served;

(m) A description of placement information provided to students;

(n) The school calendar;

(o) The signature of authorized officials of the school including each owner, partner, or member of the board. If the institution is incorporated, each owner of ten percent or more of stock must sign. If the institution is incorporated and the stock is publicly traded through a stock exchange, the president or chief executive officer of the corporation must sign. If the applicant is a nonprofit corporation, each member of the governing body must sign;

(p) Full disclosure by owners, directors, and teachers of any conviction or crime referenced under OAR 715-045-0012(12), accompanied by the required form and fingerprint card to conduct a criminal background check as specified, and if applicable, under 715-045-0003; and

(q) If information required by paragraphs (a) through (n) of this subsection is provided in the school catalog, references to catalog and page number will be acceptable.

(12) The application shall be accompanied by:

(a) The nonrefundable license fee required by ORS 345.080 (see OAR 715-045-0007);

(b) The initial capitalization payment for the student tuition protection plan required by ORS 345.110;

(c) A complete résumé of education and work experience for the school owner(s), corporate officer(s), directors, and teachers, including social security number, date of birth, home address, and telephone numbers;

(d) A draft of the proposed school catalog or brochure required by OAR 715-045-0019;

(e) A copy of proposed advertising and promotional information to be used by the school;

(f) Copies of program materials prescribed by OAR 715-045-0009(b), or relating to schools also regulated by another state agency as described in OAR 715-045-0014;

(g) All inspection documents required by OAR 715-045-0022(2);

(h) Copies of incorporation certificates, if applicable;

(i) A financial statement, which provides information required by OAR 715-045-0032. The financial statement shall be kept confidential within the limits permitted by the public records law;

(j) An enrollment agreement that is legally binding on both the school and the student, which shall include, but is not limited to:

(A) A description of the instructional program in which the student is enrolled;

(B) Beginning and ending dates;

(C) Length of program;

(D) Registration fee;

(E) Tuition cost (excluding the registration and other identified program fees or costs);

(F) All other program costs listed separately;

(G) Total program cost (registration, tuition cost, and all other identified program fees or costs);

(H) Installment payment plan, if available;

(I) The state-specified refund schedule or one approved by the Superintendent as being more favorable to the students;

(J) A clear and conspicuous disclosure of the student's cancellation rights; and

(K) A statement informing students who have questions regarding the enrollment agreement that they may contact the Higher Education Coordinating Commission (use current address) Salem, Oregon.

(k) Schools implementing program changes cannot require students who are currently enrolled to complete the requirements of the revised program. Enrolled students are to be taught out under the program identified in their most current signed enrollment agreement and identified in the catalog in effect at the time of their enrollment. Exceptions may be allowed when and if the school and student mutually agree to the program change(s) and a new or amended enrollment agreement is negotiated, accepted, and signed by the student and school. Examples of program changes as used in this rule include, but are not limited to, increase or decrease of hours required, changes in the schedule of hours of instruction, adding or dropping required courses, increasing program costs or fees, changes in the payment plan.

(l) The school must maintain documentation signed by each student to substantiate that the student has received and read all information contained in paragraph (j) of this subsection. The school must also indicate any special rules or publications that the student signature acknowledges. Additional information not listed in the enrollment agreement may be published in the current school catalog or catalog addendum.

(13) Out-of-state schools:

(a) Any private career school whose principal place of business is outside of Oregon shall obtain an Oregon private career school license whenever it maintains a physical presence in Oregon

or when the Oregon occupational licensure board requires the school to be licensed;

(b) The executive director may consider the following factors to determine whether a school has established a physical presence in Oregon:

(A) Maintains an office in the state;

(B) Conducts any part of the instructional program from or in the state,

(C) Employs sales representatives, who reside or solicit students within the state;

(D) Canvasses for prospective students within the state;

(E) Operates career or information booths at fairs or other such public gatherings within the state;

(F) Presents school information at high school career days within the state; or

(G) Advertises in local media that originate in Oregon.

(c) Out-of-state schools shall submit upon initial application and annually thereafter:

(A) Out-of-state application form;

(B) Copy of the most recent licensure application for the state in which the school is located;

(C) Copy of current resident state license certificate;

(D) If accredited, copy of the report for the most recent school accreditation review;

(E) List of approved programs; and

(F) Copy of the school's most recent catalog to include the items listed below. If any of the following items do not appear in the body of the catalog but appear in other specific documents they must also be submitted.

(i) Name and address of the school;

(ii) Date of publication or other reference identifier such as years(s), volume, or edition or version numbers;

(iii) The educational or vocational objective of each course or program including the name and the level of occupations for which the course or programs purport to train;

(iv) The number of clock or credit hours of instruction in each course and the length of time in weeks or months normally required for completion;

(v) A complete listing and description of courses or programs offered specifying subjects included in each course or program that clearly identifies coverage of the training;

(vi) A description of the school's physical facilities, equipment available for student use, and the maximum or usual class size;

(vii) Policies relating to tardiness, absences, make-up work, conduct, termination, reentry, and other rules and regulations of the school, including the student appeals process;

(viii) The grading system, including definition of ratings and credit units, if any;

(ix) Refund policy;

(x) The requirements for graduation;

(xi) Statement describing certificates, diplomas, or degrees awarded upon graduation;

(xii) Information regarding any limitations on transfer of credits, and

(G) Teachers' education and experience requirements for employment at the school, including teacher registration forms and supporting documentation for any teachers providing training for any portion of the licensed programs within the State of Oregon. Information about individual teachers does not need to be submitted if:

(i) The teachers are licensed or approved in the state in which the school is located; and

(ii) Those teachers will not be providing training for any portion of the licensed programs of instruction within the State of Oregon.

(H) If the applicant school accepts enrollment of minors, and proposes to employ agents who will interact with persons under the age of 18 within the State of Oregon, employ persons in positions of authority or control who will carry out their function within the State of Oregon, or employ faculty or teachers who will provide training within the State or Oregon for any portion of the licensed

programs of instruction, those agents and teachers will be subject to the provisions of OAR 715-045-0003, regardless of the individuals' states of residence.

Stat. Auth.: ORS 345.030

Stats. Implemented: ORS 345.030

Hist.: 1EB 257, f. 1-3-77, ef. 7-1-77; 1EB 23-1978, f. 6-30-78, ef. 7-1-78; 1EB 30-1986, f. & ef. 7-23-86; EB 11-1990, f. & cert. ef. 2-1-90; EB 32-1991, f. & cert. ef. 12-18-91; EB 13-1996, f. & cert. ef. 7-26-96; ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; ODE 3-2010, f. & cert. ef. 2-8-10; Renumbered from 581-045-0006 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0007

License Fees

(1)(a) Before issuing a career school license under ORS 345.010 to 345.450, the Executive Director shall collect a nonrefundable, annual license fee based on the fee schedule below in OAR 715-045-0007(1)(c) for In-State Schools and OAR 715-045-0007(1)(d) for Out-of-State Schools.

(b) For purposes of ORS 345.080, "tuition income" means "gross tuition income," as that term is defined at OAR 715-045-0001 and 715-045-0007.

(c) In-State Schools: Tuition Income Range — Fee:

- (A) \$0–15,000 — \$600;
- (B) 15,001–50,000 — 800;
- (C) 50,001–125,000 — 1,000;
- (D) 125,001–250,000 — 1,425;
- (E) 250,001–500,000 — 1,850;
- (F) 500,001–750,000 — 2,275;
- (G) 750,001–1,000,000 — 2,700;
- (H) Over 1,000,000 — 3,125.

(d) Out-of-state Schools: Tuition Income Range — Fee:

- (A) \$0–50,000 — \$1,850;
- (B) 50,001–250,000 — 2,275;
- (C) 250,001–500,000 — 2,700;
- (D) 500,001–750,000 — 3,125;
- (E) 750,001–1,000,000 — 3,550;
- (F) Over 1,000,000 — 3,975.

(2) Applications for a new license must be accompanied by a nonrefundable application fee, based on the fourth step of the fee schedule above in OAR 715-045-0007(1).

(3) The Commission shall collect a nonrefundable fee of \$12 to conduct a search of a closed career school's transcripts and, if any are found, provide four copies of a former student's transcript. If more than four copies are requested, the requestor shall pay a nonrefundable fee of \$2 for each additional copy.

(4) Teacher registration applications shall be accompanied by a nonrefundable application fee of \$75.

(5) Requests to verify a teacher's registration, training, or experience shall be accompanied by a nonrefundable verification fee of \$25.

(6) Applications for teacher trainee registrations must be accompanied by a nonrefundable registration fee of \$7.

(7) Requests to determine whether an out-of-state applicant for a cosmetology license is qualified to take a test of the Board of Cosmetology shall be accompanied by a nonrefundable review fee of \$25.

(8) The Commission shall collect a nonrefundable fee of \$100 for processing:

(a) Career school license renewal applications submitted after the applicable due date established in OAR 715-045-0062. This fee shall be in addition to any civil penalties that may be assessed for renewal applications that are not submitted in compliance with the requirements of OAR 715-045-0062 and any other applicable rules.

(b) Payments to the Tuition Protection Fund established under ORS 345.110 after the due dates established in OAR 715-045-0029. This fee shall be in addition to any civil penalties that may be assessed for payments to the Fund that are not submitted in compliance with the requirements of OAR 715-045-0029 and any other applicable rules.

(9) The Commission shall collect the annual, nonrefundable cosmetology school inspection fee of \$100 established in ORS

345.450 from schools teaching hair design, barbering, esthetics, or nail technology. This inspection fee shall be transferred to the Health Licensing Office.

(10)(a) The Commission shall assess a nonrefundable fee of \$200 for investigations of career schools when the commission determines that a career school has violated any provision of ORS 345.010 to 345.450, or any rule adopted pursuant to ORS 345.010 to 345.450.

(b) If the Commission must engage an individual or business, such as a forensic accountant or an attorney, for assistance in conducting an investigation, then the commission shall assess a nonrefundable fee in an amount equal to the investigative costs incurred by the commission; however, the amount of the fee may not exceed \$5,000.

(11) Applications for a new program must be accompanied by a nonrefundable application fee of \$1,000 for each new program submitted for review and approval which was not offered at the time of the career school's initial application to the Commission.

Stat. Auth.: ORS 345.080

Stats. Implemented: ORS 345.080

Hist.: EB 13-1996, f. & cert. ef. 7-26-96; Renumbered from 581-045-0002, ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; Renumbered from 581-045-0007 by HECC 2-2014, f. & cert. ef. 4-23-14; HECC 9-2014, f. & cert. ef. 12-18-14; HECC 7-2015(Temp), f. & cert. ef. 6-25-15 thru 12-21-15; HECC 12-2015, f. & cert. ef. 9-21-15; HECC 13-2015(Temp), f. & cert. ef. 9-23-15 thru 3-20-16; HECC 2-2016, f. & cert. ef. 3-9-16

715-045-0008

Advanced Deposits

Prior to the beginning of classes, no private career school shall require from an enrollee an advance deposit in excess of twenty (20) percent of the total tuition and fees:

(1) Schools that offer short term programs designed to be completed in one (1) term or four (4) months, whichever is less, can require payment of all tuition and fees on the first day instruction begins;

(2) For those programs designed to be four (4) months or longer, a school cannot require more than one (1) term or four (4) months of advanced payment of tuition at a time. When fifty (50) percent of the program has been offered, the school can require payment of all tuition;

(3) This limitation shall not apply to federal and state financial aid payments received by the school;

(4) At the student's option, a school may accept payment in full for tuition and fees after the student has been accepted and enrolled and the date for commencement of classes is specifically disclosed on the enrollment agreement; and

(5) The Executive Director of the Higher Education Coordinating Commission may grant a waiver to this limitation if sufficient evidence is submitted indicating that a larger advance deposit would be more appropriate and not compromise the intent of ORS 345.115(4).

Stat. Auth.: ORS 345.010

Stats. Implemented: ORS 345.115

Hist.: ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; Renumbered from 581-045-0008 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0009

Instructional Programs

(1) All schools shall:

(a) Offer programs of quality, content and duration, that are based on specific industry standards or an occupational task analysis, and with appropriate entrance criteria, instructional materials, staff, equipment and facilities to prepare students for the programs' occupational objectives; and

(b) Operate programs evaluated by appropriate program advisory committees as defined in OAR 715-045-0013, unless a program is exempt from the advisory committee requirement under 715-045-0014. Materials for exempt programs will be reviewed by the executive director to determine the adequacy and appropriateness of the instructional methodology. The school shall prepare instructional design documentation for review, evaluation and analysis that includes:

(A) A program outcome summary for each program offered that clearly states the program title, duration, educational or professional technical objective(s) of the program, and the job(s) title and level for which the training prepares the student. In addition the program outcome summary must include the following information:

- (i) A description of the target population for enrollment;
- (ii) The entrance requirements and prerequisite knowledge or skills needed to enroll;
- (iii) Any state license exams or other certifications the student will be prepared to take upon successful completion of the program;

(B) A list of the industry standards or the occupational task analysis used to formulate the instructional design;

(C) The associated competencies taught in the program for each standard or occupational task;

(D) A list of core abilities incorporated throughout the program;

(E) Learning plans, which shall include:

- (i) Core abilities and competencies taught in the lesson;
- (ii) Learning objectives for each competency;
- (iii) Learning activities that achieve the learning objectives;
- (iv) Sequence of learning activities;
- (v) Performance assessment statement(s);

(F) The performance assessment(s) plan(s) for each competency, which shall include directions for the student and the evaluator, the performance conditions and criteria, and checklists, rubrics, or scoring guides used;

(G) A program map. For programs comprised of multiple courses, the program map shall indicate the number of clock hours allowed for each course and the topics within each course. For programs not comprised of specific courses, the program map shall indicate each unit or major topic within the program, the number of clock hours for each unit or major topic and the specific subjects within each unit or major topic.

(i) If the school is approved to use a credit hour measurement, an explanation of how credit hours convert to clock hours must also be submitted;

(ii) If the instructional program is self-directed or measured in lessons, the total number of clock hours for the program and how that number is derived, the total number of lessons, and the maximum time allowed for completion of the program must be submitted.

(H) A teaching syllabus for each course in each program. If a program does not contain specific courses or the program is of short duration, then the teaching syllabus shall be for the program in its entirety. The content of the syllabus shall contain the elements in the sample provided by the commission;

(I) The grading system, standards of satisfactory progress, attendance and performance required of students in the program, as referenced in OAR 715-045-0019;

(c) Submit additional documentation that includes:

(A) A description of the instructional area or facility with space allocations and dimensions, equipment placement, and teaching stations for each program appropriately indicated;

(B) A description of the admission requirements and process for evaluating those requirements, including the criteria or tests used in the selection and placement of enrollees for the program;

(C) Labor market information, updated every two years with data no more than three years old, as described in OAR 715-045-0006(11); and

(D) A written placement assistance plan for assisting graduates in efforts to obtain employment in the field for which training was offered, or a related field, as described in OAR 715-045-0019.

(2) The program advisory committee shall submit to the school its analysis of the quality, content, duration and curriculum sequencing of the program of study, instructional materials, equipment and facilities provided to prepare the student in skills currently necessary for entry level employment in the occupation for which the program was designed:

(a) Program material prepared for the program advisory committee, as prescribed in subsection (1) (b) and (c) of this rule, will be filed with the executive director;

(b) The executive director may review:

(A) The school's program development procedures;

(B) The program advisory committee's involvement in program development; and

(C) The program advisory committee's analysis of a program as specified in subsection (2).

(c) The executive director may accept or reject the findings of the program advisory committee's analysis of the adequacy of the program.

(3) The executive director will review the program outcome summary, program map, core abilities, standards, competencies and syllabus for each program to determine the adequacy of the instructional design. The executive director's written approval of these elements is required prior to the commencement of any marketing, recruitment, enrollment or instructional activities.

(4) The executive director may request and review other instructional design materials outlined in subsections (1) and (2) of this rule, before granting approval, including learning plans, performance assessment plans, and learning activities.

(5) Licensed schools wishing to add a new program must:

(a) Prepare the instructional design elements described in subsections (1) and (2) of this rule for each new program requested and make them available to the commission upon request; and

(b) Prepare and submit for approval the elements described in subsection (3) of this rule for each new program requested.

(6) The commission will develop instructional design guidelines and timeframes to assist schools licensed prior to the implementation of this rule in bringing all approved programs into compliance.

Stat. Auth.: ORS 345.080

Stats. Implemented: ORS 345.080

Hist.: ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 19-2010, f. 12-17-10, cert. ef. 1-1-11; Renumbered from 581-045-0009 by HECC 2-2014, f. & cert. ef. 4-23-14; HECC 10-2014, f. & cert. ef. 12-18-14

715-045-0012

Personnel

(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.

(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.

Stat. Auth.: ORS 345.080, 345.325, & 345.400

Stats. Implemented: ORS 345.325 & 345.400

Hist.: ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; ODE 17-2003, f. 12-30-03, cert. ef. 1-1-04; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; Renumbered from 581-045-0012 by HECC 2-2014, f. & cert. ef. 4-23-14; HECC 6-2014, f. & cert. ef. 12-18-14; HECC 3-2016, f. & cert. ef. 3-9-16

715-045-0013

Program Advisory Committees

(1) The school shall appoint and utilize a program advisory committee for each program being offered. If the school programs are in the same or similar vocational areas, the same advisory committee can be used for all related programs.

(2) Each committee shall be composed of not less than three members, knowledgeable in the occupational area being offered by the school and who are not employees of and have no financial interest in the school and who are not related to the owner(s) or administrator(s). When a program or curriculum is regulated, approved or certified by a state agency or Oregon State licensing board other than the Higher Education Coordinating Commission as identified in OAR 715-045-0014, that program or curriculum is exempt from the advisory committee requirement.

(a) A list of the program advisory committee members and a resume of each shall be furnished to the Superintendent. The list and resumes shall include each member's name, address, telephone number, present occupation and training experience; and

(b) The membership of the program advisory committee shall include:

(A) At least three members employed in the occupation served by the program, one of whom shall be employed or working in a supervisory capacity, and

(B) Each of the three members shall have at least two years' experience in the occupation or industry. Other members having less experience may be added to the committee as desired.

(3) All program advisory committees must officially meet at least one time per year to review school policies, facilities, instructional materials, equipment, curriculum standards and technical updating:

(a) The program advisory committee shall meet to evaluate all new proposed program offerings and whenever the school proposes major revisions in existing programs. At least one such meeting per year shall be at the school. The following criteria will be used to determine what constitutes a major program revision:

(A) A change of 25% or more of the previously approved contract hours, credits, curriculum content (courses offered), or program length, or

(B) A change in academic measurement from clock-hours to credit-hours or vice versa, or a change from quarter or trimesters to semester credits or vice versa, or

(C) Any additions or deletions of courses offered that might change the overall objective of a currently approved program;

(b) Minutes of all program advisory committee meetings shall be on file in the school office. A copy of the committee findings or recommendations, if any, shall be included with the annual license renewal application; and

(c) If the school's report of enrollments, completions, retentions and placements, as prescribed in OAR 715-045-0062(3), does not provide information that the school is meeting the provisions of ORS 345.325, the commission's executive director may call for the school to convene the program advisory committee(s) for program evaluation(s) as prescribed in paragraph (a) of this subsection.

Stat. Auth.: ORS 345.080

Stats. Implemented: ORS 345.080

Hist.: ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; Renumbered from 581-045-0013 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0014

Exceptions for Schools with Programs also Regulated by Another State Agency

(1) Private career school programs with curriculum or other requirements that are established and approved by another state agency are exempt from having a program advisory committee as defined in OAR 715-045-0013.

(2) While the programs described in section (1) of this rule must meet the Higher Education Coordinating Commission's approval criteria for teacher registration, the commission's executive director may defer approval of the school's teachers to the appropriate state agency.

(3) The executive director may modify the financial reporting requirements as described in OAR 715-045-0032 or Student Completion and Placement reporting requirements as described in 715-045-0064 for any school or programs described in subsection (1) of this rule.

Stat. Auth.: ORS 345.325

Stats. Implemented: ORS 345.325

Hist.: ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; ODE 16-2010, f. 11-15-10, cert. ef. 1-1-11; Renumbered from 581-045-0014 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0018

Recordkeeping

(1) Schools must furnish each prospective student, and have evidence of receipt acknowledged by student signature at the time of enrollment, with the following items:

(a) A copy of the school's most recent catalog that complies with OAR 581-045-0019, with any supplements and correction sheets;

(b) Completion and relevant program performance measures, including but not limited to placement data, as required by accrediting agencies, or certification or state licensing examination passage rates, or placement data for students enrolled in the program for the last two years;

(c) A program outline for the program(s) in which the student may potentially enroll that details the program outcomes, broken down by course including, the core abilities and individual course competencies addressed by the program(s); and

(d) Upon request of the student, a copy of or the web address for the Oregon Revised Statutes and Oregon Administrative Rules that govern Private Career Schools.

(2)(a) At the time of enrollment, a career school shall collect the following personally identifiable information from each enrolled student:

- (A) First and last name;
- (B) Mailing address;
- (C) County of residence;
- (D) State of residence;
- (E) Telephone number;
- (F) E-mail address;
- (G) Social Security number;
- (H) Date of birth;
- (I) Gender;
- (J) Veterans status;
- (K) Disability status;
- (L) National origin; and
- (M) Ethnicity or race.

(b) Schools shall use the following categories to collect students' ethnicity or race data:

- (A) Hispanic or Latino;
- (B) Native American or Alaskan Native;
- (C) Asian;
- (D) Native Hawaiian or Pacific Islander;
- (E) African American; and
- (F) Caucasian.

(c) If a student refuses to release his or her Social Security number, the school may assign an alternative identification number.

(d) Students must provide their own personally identifiable information. Career school personnel may not enter personally identifiable information regarding a student that was derived from personal observations.

(e) Career schools must record for the name of the program in which each student has enrolled and the date on which each student graduated, withdrew, or was expelled from the school. This information must be reported to the commission at least once each year.

(3)(a) Each career school must adopt policies and procedures, and employ adequate safeguards, to protect their students' personally identifiable information from misuse, inadvertent disclosure, or theft.

(b) Career schools may not disclose students' personally identifiable information to anyone other than:

(A) The student, or the student's parent or guardian, if the student is a minor;

(B) The Higher Education Coordinating Commission; or

(C) Other local, state, or federal officials as allowed by law.

(c) Schools shall maintain students' personally identifiable information in accordance with applicable laws, including but not limited to the Oregon Consumer Identity Theft Prevention Act, ORS 646A.600 to 646A.628, and any rules adopted pursuant to ORS 646A.600 to 646A.628.

(4) Career schools shall maintain the student information specified in subsection (2) of this section in an Excel spreadsheet, or other electronic format identified by the commission. This information must be delivered to the Commission at least once a year, and may be included with the school's license renewal application, and may be delivered on a USB drive, CD or DVD, or via other means identified by the commission.

(5)(a) Upon enrollment, the student shall receive a copy of his or her enrollment agreement, signed by the student and a school official. The enrollment agreement must include a statement, located above the signature line, informing the student that the enrollment agreement is a binding contract. The actual enrollment agreement will be retained by the school;

(b) The school shall maintain the student's signed enrollment agreement as part of the student's file.

(6) Schools shall maintain a file for each student that must include:

(a) A statement signed by the student at the time of enrollment certifying receipt of all materials indicated in sections (1) and (5) of this rule (or copies of materials where indicated);

(b) The student's actual signed enrollment agreement;

(c) A copy of the student's signed statement acknowledging receipt of any books, supplies, kits, or other substantial materials required to participate in the instructional program that are issued to the student subsequent to enrollment. The statement must be itemized, indicate the fee paid by the student for the materials (if any), and identify the date the materials were received by the student. If not all materials are issued at the same time, the student must initial the date of receipt each time materials are issued; alternatively, the materials list may contain a statement to the effect that certain indicated materials will be issued at the time of instruction when they are to be used. By initialing the statement, students acknowledge that indicated materials are to be received at a date that corresponds with the sequencing of the instructional program.

(d) If an orientation is offered by the school on or before the first day of classes, an indication of attendance signed by the student on that orientation day acknowledging that school policies and procedures were explained and student questions were answered.

(e) A copy of the student's signed payment plan if separate from the enrollment agreement;

(f) A schedule of anticipated student payments due, payments made, and copies of receipts for all payments;

(g) All documentation regarding third party training contracts, e.g., NAFTA, Vocational Rehabilitation, etc.,

(h) Written progress reports that shall include at a minimum information on how the student is progressing in areas such as classroom attendance and performance (but not used as final grades) updated at appropriate intervals;

(i) Progress reports may be maintained by electronic means provided there is an electronic system in place with sufficient security protocols to allow for student access while maintaining confidentiality. A log of student access activity must be placed in the student file at intervals corresponding with the stated progress report intervals to demonstrate that the student is reviewing the progress report and receiving appropriate feedback and improvement planning;

(j) Copies of any documentation required for admission, or a written evaluation of required documentation, when appropriate, signed by a member of the school admissions staff explaining scoring of documentation and evaluation criteria;

(k) A copy of the results of any enrollment evaluation or examination or evaluation of transfer credit or competencies, and any calculations used to determine awarding of credit or hours; and

(l) Record of operations completed, if applicable, with dates and scores received;

(7) The school must maintain each student's file for a minimum of 3 years from the date the student graduated, withdrew, or was expelled.

(8) Schools shall maintain a record of each student's attendance, updated weekly. This record shall include each student's dates and hours of attendance.

(9) Upon the student's satisfactory completion of instruction, schools shall:

(a) Issue an appropriate certificate or diploma; and

(b) Issue appropriate educational transcripts that shall include, but are not limited to:

(A) School name and location;

(B) Student's name;

(C) First and last date of attendance;

(D) Specific program(s) taken;

(E) Clock and credit hours (if applicable);

(F) Grade for each course;

(G) Name of accrediting agency, if the school is accredited;

(H) Statement indicating the school maintains transcripts for a minimum of 25 years; and

(I) Signature of the appropriate school official with school seal (if any) and date of issue.

(10) Schools shall maintain and issue transcripts as follows:

(a) Store transcripts in a safe, vault, or file having a minimum one-hour fire-safe rating unless duplicate records are kept in a safe location outside the school building. The address of locations outside the school building must be on file with the Department;

(b) Keep transcripts of all former students that include the information described in subsection (5)(b)(A)-(H) of this rule for a period of no less than 25 years from date of termination of enrollment. Transcripts must be stored under the same conditions as described in paragraph (a) of this subsection;

(c) Make a student's records available to the student upon request. Availability of records shall comply with the "Family Educational Rights and Privacy Act" (Public Law 93-380 as amended by Public Law 93-568). The educational institution shall respond within a reasonable period of time, but not more than 45 days after receipt of the request;

(d) Deliver to the Superintendent all permanent student transcripts for safekeeping if the school should cease to operate. The Superintendent will maintain the transcripts of all closed schools. If available, certified copies of the transcripts will be provided, when a written request signed by the student, is received at the Department. A non-refundable search fee of \$10 must accompany the request; and

(e) A school may withhold an official transcript, certificate of completion, or diploma if the student has any outstanding debt owed to the school. Forms, letters, questionnaires, or other material printed or written for the purpose of debt collection must clearly and conspicuously state that they are used for the purpose of attempting to collect a debt or attempting to obtain information concerning a debtor.

Stat. Auth.: ORS 345.325

Stats. Implemented: ORS 345.325

Hist.: ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; ODE 17-2003, f. 12-30-03, cert. ef. 1-1-04; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; ODE 16-2010, f. 11-15-10, cert. ef. 1-1-11; Renumbered from 581-045-0018 by HECC 2-2014, f. & cert. ef. 4-23-14; HECC 8-2014, f. & cert. ef. 12-18-14

715-045-0019

School Catalogs

A school catalog shall have numbered pages and include the following elements. If any of the following elements do not appear in the body of the catalog, a reference to other specific documents where the required information appears must be in the catalog. Copies of ancillary documents referred to in the catalog must be approved by and on file with the Department:

(1) Name, address, phone number, and other relevant contact information (e.g., fax number, website address) of the school;

(2) Effective dates for the catalog, not to exceed one year, and other reference identifiers such as volume or edition, or version numbers, etc.;

(3) A Table of Contents;

(4) Name(s) of school owner(s);

(5) Names and positions of administrative and instructional staff;

(6) Names and contact information for all licensing and accrediting institutions that have governing authority over the school;

(7) School's mission statement;

(8) The educational or vocational objective of each program including the name and level of occupations for which the program purports to train;

(9) The number of clock hours and credit hours (if applicable) of instruction in each program and the length of time in weeks or months expected for completion; if a program is lesson based, the number of lessons comprising the program must also be included;

(10) Maximum time allowed for completion of each program;

(11) A complete listing and description of courses offered by program, describing subjects included in each course in sufficient detail to clearly identify the scope, sequence, and coverage of the training. If a course is for the purpose of continuing education or self-improvement, the course must be clearly identified as such;

(12) A description of the school's physical facilities, equipment, and instructional resources available for student use, including a description of any library or media resources available to the student, and the policies governing use of these resources;

(13) Admission process including:

(a) Admission requirements;

(b) Documentation requirements;

(c) Criteria for acceptance on each requirement;

(d) Schedule of all admission fees and the purpose of each listed fee;

(e) Ability to benefit (ATB) policy;

(A) If a school uses an ATB test, the school must provide:

(i) The name of ATB test used;

(ii) The name and location of proctor;

(iii) The method of test administration; and

(iv) The minimum acceptable score; or

(B) If the school does not use an ATB test, the alternative methods of determining ability to benefit and accompanying procedures and criteria used by the school;

(f) Identity verification policy (if applicable);

(g) Drug testing policy (if applicable);

(h) Policy for notification of acceptance or denial of admissions request including time lines;

(i) Reapplication policy for denied applicants;

(j) A statement of non-discrimination for admission on the basis of sex, age, race, color, religion, ethnic origin, or sexual orientation.

(14) Transfer policy, including:

(a) Documentation requirements for previous training or experience;

(b) Method for evaluating documentation of previous training or experience;

(c) Description of any skills evaluation processes or exams given by the school to determine credit to award for previous training or experience;

(d) Time line for evaluation process and notification of results;

(e) Description of how program requirements, cost and length will be adjusted;

(15) Enrollment process, including;

(a) A school calendar indicating enrollment / registration dates, start and end dates for each program, holidays, other days school is not in session, and any other important dates that are reasonably likely to affect the decision of a potential student to enroll;

(b) Schedule of enrollment fees showing cost of tuition, registration fee, other instructional fees for books, supplies, laboratory time, etc., and any other costs for which the student may be responsible. Schedule will present total costs for each program offered and provide clear disclosure of what is and is not included specifically in the individual fee for tuition. This information may be presented as an addendum or insert to the publication. A copy of the current fee schedule must be on file with the Department at all times.

(c) Options and terms for payment of tuition and other fees, including clear disclosure of any associated discounts and deposits required, with timing of such deposits indicated;

(d) Fee waiver policy, criteria, and procedure;

(e) Criteria for any in-house scholarship programs available, the process for application, notification of award or denial, the disbursement schedule, and the credit methodology;

(f) Clear disclosure of policy for return of books, supplies, or other materials, and refund of fees paid for such items;

(g) State approved refund policy or school's refund policy if determined by the Superintendent or designee to be more favorable to the student;

(h) Clear and conspicuous disclosure of student's cancellation rights;

(16) Policies and procedures relating to:

(a) Attendance, including course minimum and program cumulative satisfactory progress standards;

(b) Excused and unexcused absence criteria and effect of such absence on satisfactory attendance progress;

(c) Tardiness;

(d) Leaves of absence, including how a leave of absence affects satisfactory attendance progress;

(e) Make-up work;

(f) Overall grading system, including rating scale, point system, or other rubric used, with definitions of performance indicated by rating levels or ranges;

(g) All institutions with which the school has an articulation agreement, if applicable;

(h) Academic satisfactory progress standards for:

(A) Minimum acceptable performance for courses and programs according to grading system;

(B) Cumulative acceptable performance for programs according to grading system; and

(C) Frequency and method of reporting student progress, including:

(i) Elements of performance reported on;

(ii) Recourse of student to challenge report information and process for doing so;

(iii) Process for performance improvement planning and other uses of progress reports;

(iv) Effect of course incompletes, repetitions, and remedial courses on satisfactory progress calculations

(17) Specific requirements for graduation or completion;

(18) Description of the certificate, diploma, or credential awarded upon graduation or completion;

(19) If the school has negotiated any articulation agreements with other institutions for transfer or awarding of credit based on course completion at the school, a description of those articulation agreements will be included in the school catalog. Description will include at a minimum:

(a) Name of all institutions with which an official articulation agreement is in place;

(b) Name of all programs or courses that are eligible for transfer to each institution identified;

(c) Description of process to initiate request for transfer of credit.

(20) Policies and procedures relating to discipline:

(a) Description of verbal and written warning systems including number and timing of warnings issued of each type and how warnings trigger further disciplinary action. When a student receives a verbal or written warning, the student will sign an acknowledgment that they have received a warning. This acknowl-

edgment does not constitute agreement by the student with the content of the warning.

(b) Student conduct standards, including:

(A) Standards regarding discriminatory behavior of students against other students, school personnel, or other related persons;

(B) Clear disclosure of types of conduct violations;

(c) Probation, including:

(A) Clear indicators for when probation is invoked, according to stated standards for conduct and satisfactory progress;

(B) Length of probation and terms for reinstatement to good standing;

(C) Number of times probation is allowed in a set period of time and the consequences if that number is exceeded;

(D) Effect of probationary status on satisfactory progress standards and student financial obligations and awards;

(d) Suspension, including:

(A) Clear indicators for when suspension is invoked, according to stated standards for conduct and satisfactory progress;

(B) Length of suspension and terms for reinstatement to good standing;

(C) Number of times suspension is allowed in a set period of time and the consequences if that number is exceeded;

(D) Effect of suspension status on satisfactory progress standards and student financial obligations and awards;

(e) Termination, including:

(A) Clear indicators for when termination is invoked, according to stated standards for conduct and satisfactory progress;

(B) Effect of termination on student's financial obligation to the school.

(f) Policies and procedures relating to reinstatement or reentry:

(A) When student's withdrawal was voluntary and the student was in compliance with all school policies, and

(B) When the student's withdrawal was not voluntary and involved noncompliance of academic, attendance, or conduct policies, or financial obligations, or any combination thereof.

(g) A discrimination policy, including:

(A) Standards for treatment of students who are members of protected classes as defined in ORS 659.850;

(B) Recourse of students who believe they have been discriminated against, including this statement: "Any person unlawfully discriminated against, as described in ORS 345.240, may file a complaint under 659A.820 with the Commissioner of the Bureau of Labor and Industries";

(C) Statement that school's policies governing employees will be enforced in situations where instructional staff or other school personnel have been found to have engaged in discriminatory behavior;

(21) A student grievance policy, which includes:

(a) The process for initiating a complaint or grievance against the school, its staff, or students;

(b) Appeal process, including point of contact for initiating appeal;

(c) School personnel, by name or by position, involved in evaluating an appeal. This staff person or group of persons shall not include the same staff that evaluated and ruled on the initial grievance;

(d) Time line for issuing a decision on an appeal; and

(e) This statement: "students aggrieved by action of the school should attempt to resolve these problems with appropriate school officials. Should this procedure fail students may contact: Higher Education Coordinating Commission, (use current address), Salem, OR (use current ZIP code)." After consultation with appropriate staff and if the complaint alleges a violation of Oregon Revised Statutes 345.010 to 345.470 or standards of the Oregon Administrative Rules 715-045-0001 through 715-045-0210, the commission's executive director will begin the complaint investigation process as defined in OAR 715-045-0023, Appeals and Complaints.

(22) Student Services, including:

(a) A description of the extent and nature of placement assistance provided to students and graduates, including but not limited to:

- (A) Job search techniques;
 - (B) Resume' writing or the industry equivalent;
 - (C) Job interview techniques or the industry equivalent;
 - (D) The assistance the school provides in establishing job contacts or interviews for graduates;
 - (E) A clear statement that the institution does not and cannot guarantee employment;
 - (b) Specifics describing the availability of and eligibility for student housing,
 - (c) Availability of career or other counseling services,
 - (d) Statement of rights of student to access their files and procedure for doing so,
 - (e) Policy regarding release of information about an individual student, including applicable requirements of the "Family Educational Rights and Privacy Act of 1974" (FERPA) (20 USC § 1232g; 34 CFR Part 99), and
 - (f) Other student services, if any.
- Stat. Auth.: ORS 345.325
 Stats. Implemented: ORS 345.325
 Hist.: ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 17-2003, f. 12-30-03, cert. ef. 1-1-04; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; ODE 16-2010, f. 11-15-10, cert. ef. 1-1-11; Renumbered from 581-045-0019 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0022

Facilities

- (1) All schools shall demonstrate that premises owned, rented, leased, occupied, maintained, used or approved by the school, are maintained in compliance with applicable city, county or state ordinances and laws relating to safety and health of persons on the premises.
 - (2) Safety and health inspection data required by OR-OSHA (ORS 654.010) and other applicable statute, ordinance or administrative rule shall be available for review by Higher Education Coordinating Commission staff. All applicants for an initial license must have a fire inspection by appropriate city or county Fire Marshall's office prior to issuance of a license and all licensees must have an annual fire inspection if annual service is provided by applicable Fire Marshall's office. Schools must be clean, well maintained and provide good lighting and ventilation. Schools must arrange classrooms, equipment and demonstration areas to enhance instruction, provide sufficient storage, use prescribed containers for hazardous materials, and provide for safe and orderly classroom management for the type of educational programs offered.
 - (3) A school shall notify the Superintendent in writing at least 30 calendar days in advance of any change of its principal location or name. In the event of change of location, Department staff may inspect the new site. Deficiencies, if any, must be corrected in a timely manner for continued approval to operate in the new location. Failure to notify the commission's executive director of name or address change may result in the imposing of civil penalties per OAR 715-045-0190. An exception may be granted if the executive director determines a legitimate emergency or a circumstance exists which would prevent the school from complying.
- Stat. Auth.: ORS 345.080
 Stats. Implemented: ORS 345.080
 Hist.: ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; Renumbered from 581-045-0022 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0023

Appeals and Complaints

- (1) Each school shall implement a process for the prompt resolution of a complaint by a student of the school. Unless specifically provided by state or federal law or administrative rule, the decision of the school shall be final.
- (2) Complaints filed on behalf of or by a student against a school must be postmarked within one year of the student's last date of attendance.
- (3) If the complaint alleges a violation of Oregon Revised Statutes, ORS 345.010 to 345.470 or standards of OAR 715-045-0006 through 715-045-0210, the complainant may direct an appeal to the Higher Education Coordinating Commission, after exhausting

the school's procedures or after 45 days from filing a written complaint with the school, whichever occurs first. The appeal shall be in writing and shall contain:

- (a) The complainant's name, address, phone number, and signature;
- (b) School name, address, and phone number;
- (c) A brief statement indicating which statute or rule the school is alleged to have violated and how the school is alleged to have violated it, e.g., failure to refund tuition, failure to provide a portion of the program described in the enrollment agreement;
- (d) Facts detailing dates of attendance, termination date, date of occurrence, names, addresses and positions of school officials contacted, financial loss, if any, and any other pertinent information;
- (e) An explanation of what efforts have been taken to resolve the problem with the school, if any; and
- (f) Copies of pertinent documents, such as the enrollment agreement, catalog and advertisements.
- (4) After receipt of a complaint or other allegation that a school has failed or is failing to comply with the provisions of any laws or rules, the commission's executive director shall investigate the facts surrounding the allegations.
- (5) The executive director shall notify the complainant and the school of the findings resulting from the investigation.
- (6) The commission may impose penalties as defined in OAR 581-045-0190 if the school is found to be in violation of any standard or rule.
- (7) Subsections (1) and (2) of this rule do not limit the statutory authority of the commission to investigate schools regardless of receiving allegations from the public.
- (8) At the request of the executive director, complaints may be resolved with the assistance of such other parties as the Oregon Student Assistance Commission, Oregon Department of Justice, U.S. Department of Education, and other appropriate organizations and/or individuals.

Stat. Auth.: ORS 345.120

Stats. Implemented: ORS 345.120

Hist.: ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 17-2003, f. 12-30-03, cert. ef. 1-1-04; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; Renumbered from 581-045-0023 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0029

Tuition Protection Fund

(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 581-045-0032;

(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 or by check or money order, the following nonre-

fundable* amounts for its initial capitalization deposit into the Tuition Protection Fund: [Table not included. See ED. NOTE]

(e) 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 or by check or money order, in accordance with the schedule in subsection (3)(d) of this rule. If the semiannual payment is not post-marked (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

(f) 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 total \$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.

(8) 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.

(9) 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.

(10) 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.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 345.110 & 345.995

Stats. Implemented: ORS 345.110

Hist.: EB 32-1991, f. & cert. ef. 12-18-91; EB 18-1992 (Temp), f. & cert. ef. 5-13-92; EB 34-1992, f. & cert. ef. 11-3-92; EB 13-1996, f. & cert. ef. 7-26-96; ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; Renumbered from 581-045-0029 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0032

Standards for Financial Reporting

(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) In addition to the licensing requirements cited in paragraph (a) 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.

(c) 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.

(d) 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;

(e) At the option of the school, the financial report may be in the format provided by the commission;

(f) 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;

(g) In all instances, information supplied must be certified true and correct by the school owner or an authorized representative;

(h) 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 (d) 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.

(i) 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.

(j) 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.

Stat. Auth.: ORS 345.325(8)

Stats. Implemented: ORS 345.325

Hist.: 1EB 34-1978, f. & ef. 10-5-78; 1EB 30-1986, f. & ef. 7-23-86; EB 11-1990, f. & cert. ef. 2-1-90; EB 13-1996, f. & cert. ef. 7-26-96; Renumbered from 581-045-0016, ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 17-2003, f. 12-30-03, cert. ef. 1-1-04; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; ODE 16-2010, f. 11-15-10, cert. ef. 1-1-11; Renumbered from 581-045-0032 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0033

Standards for Advertising

(1) Printed school publications, brochures, or pamphlets shall be on file at the school and available upon request to any prospective student, enrolled student, and the Department.

(2) A school catalog shall meet the requirements of OAR 715-045-0019.

(3) Upon request of the student, the school must provide the following information no later than at the time the student signs an enrollment agreement:

(a) Number of students enrolled in the program at the beginning of the current reporting period;

(b) Number of students who enrolled in the program during the last reporting period;

(c) Number of students who left the program without completing it during the last reporting period;

(d) Number of students who graduated from the program during the last reporting period; and

(e) Number of those who graduated and were placed or working full time in directly related occupations during the last reporting period.

(4) Subsections (3)(b) through (e) of this rule do not apply to prelicense schools as in OAR 715-045-0014.

(5) A school shall have records available to document any statements made by the school through its advertising including salary and placement claims.

(6) A school shall not advertise that it is endorsed, recommended, or approved by the Higher Education Coordinating commission or the commission's executive director. The school may use the phrase "licensed by the Oregon Higher Education Coordinating Commission" in its advertising material.

(7) If a school offers programs licensed by the commission and also offers programs that do not require licensure, the school shall clearly identify each type of program in any publication.

(8) Any school that performs services for the public shall conspicuously display in the reception area a sign indicating that exclusively either students or employees, or both perform its services.

Stat. Auth.: ORS 345.325 & SB 326.051

Stats. Implemented: ORS 345.325

Hist.: 1EB 257, f. 1-3-77, ef. 7-1-77; 1EB 30-1986, f. & ef. 7-23-86; EB 11-1990, f. & cert. ef. 2-1-90; EB 13-1996, f. & cert. ef. 7-26-96; ODE 23-2000(Temp), f. 7-27-00, cert. ef. 7-27-00 thru 1-22-01; Renumbered from 581-045-0021, ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; Renumbered from 581-045-0033 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0034

False, Deceptive, Inaccurate or Misleading Representations

No private career school or its agents may intentionally or knowingly make false, deceptive, inaccurate or misleading representations of fact in any oral, written, visual or electronic presentation in connection with the offering or publicizing of a subject or course of instruction.

Stat. Auth.: ORS 345.325 & 326.051

Stats. Implemented: ORS 345.325

Hist.: ODE 23-2000(Temp), f. 7-27-00, cert. ef. 7-27-00 thru 1-22-01; ODE 31-2000, f. 12-11-00, cert. ef. 1-1-01; ODE 9-2001(Temp), f. & cert. ef. 2-27-01 thru 8-17-01, Renumbered from 581-045-0585; Renumbered from 581-045-0585, ODE 12-2001, f. & cert. ef. 5-15-01; Renumbered from 581-045-0034 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0036

Cancellation and Refund Policy: Resident Instruction

(1) A student may cancel enrollment by giving written notice to the school. Unless the school has discontinued the program of instruction, the student is financially obligated to the school according to the following:

(a) If cancellation occurs within five business days of the date of enrollment, and before the commencement of classes, all monies specific to the enrollment agreement shall be refunded;

(b) If cancellation occurs after five business days of the date of enrollment, and before the commencement of classes, the school may retain only the published registration fee. Such fee shall not exceed 15 percent of the tuition cost, or \$150, whichever is less;

(c) If withdrawal or termination occurs after the commencement of classes and before completion of 50 percent of the contracted instruction program, the student shall be charged according to the published class schedule. The student shall be entitled to a pro rata refund of the tuition when the amount paid exceeds the charges owed to the school. In addition to the pro rated tuition, the school may retain the registration fee, book and supply fees, and other legitimate charges owed by the student;

(d) If withdrawal or termination occurs after completion of 50 percent or more of the program, the student shall be obligated for the tuition charged for the entire program and shall not be entitled to any refund;

(e) The enrollment agreement shall be signed and dated by both the student and the authorized school official. For cancellation of the enrollment agreement referenced in subsections (1)(a) and (b) of this rule, the "date of enrollment" will be the date that the enrollment agreement is signed by both the student and the school official, whichever is later.

(2) Published Class Schedule (for the purpose of calculating tuition charges) means the period of time between the commencement of classes and the student's last date of attendance as offered by the school and scheduled by the student.

(3) The term "Pro rata Refund" means a refund of tuition that has been paid for a portion of the program beyond the last recorded date of attendance.

(4) When a program is measured in clock hours, the portion of the program for which the student will be charged is determined by dividing the total clock hours into the number of clock hours accrued according to the published class schedule as of the last date of attendance.

(5) When a program is measured in credit hours, the portion of the program for which the student will be charged is determined by dividing the total number of weeks into the number of weeks accrued according to the published class schedule as of the last date of attendance.

(6) For other measurements of time such as days or weeks, the portion of the enrollment period for which the student will be charged is determined by dividing the total number of days or weeks into the number of days or weeks, accrued according to the published class schedule as of the last date of attendance.

(7) The term "tuition cost" means the charges for instruction including any lab fees. "Tuition cost" does not include application fees, registration fees, or other identified program fees and costs. The school shall adopt and publish policies regarding the return of resalable books and supplies and/or the prorating of user fees, other than lab fees.

(8) The school shall not charge a withdrawal fee of more than \$25.

(9) The school may adopt and apply refund calculations more favorable to the student than those described under this policy.

(10) When a cancellation, withdrawal, termination, or completion occurs, a calculation of all allowable charges under this rule shall be made. If such calculations evidence that the school received total payments greater than its allowable charges:

(a) Within 40 days after notification of such cancellation, withdrawal, termination, or completion, a written statement showing allowable charges and total payments received shall be delivered to the student by the school, together with a refund equal in amount to monies paid to the school in excess of those allowable charges;

(b) In the event payments to a student account are derived from federal and/or state tuition assistance program(s), including student loan programs, regulations governing refund notification and awarding within respective program(s) shall prevail in lieu of paragraph (a) of this subsection, but only with respect to the covered portions thereof; and

(c) In the event payments to a student account are derived from a sponsoring public agency, private agency, or any source other than the student, the statement of charges and payments received together with an appropriate refund described under paragraph (a) of this subsection may be delivered instead to such party(ies) in interest, but only with respect to the covered portions thereof.

(11) In case of disabling illness or accident, death in the immediate family, or other circumstances beyond the control of the student that causes the student to leave school, the school shall arrange a prorated tuition settlement that is reasonable and fair to both parties.

(12) A school shall be considered in default of the enrollment agreement when a course or program is discontinued or canceled or the school closes prior to completion of contracted services. When a school is in default, student tuition may be refunded by the school on a pro rata basis. The pro rata refund shall be allowed only if the Superintendent determines that the school has made provision for students enrolled at the time of default to complete a comparable program at another institution. The provision for program completion shall be at no additional cost to the student in excess of the original contract with the defaulting school. If the school does not make such provision, a refund of all tuition and fees shall be made by the school to the students.

Stat. Auth.: ORS 345.115

Stats. Implemented: ORS 345.115

Hist.: 1EB 24-1978, f. 6-30-78, ef. 7-1-78; 1EB 30-1986, f. & ef. 7-23-86; EB 11-1990, f. & cert. ef. 2-1-90; EB 41-1990, f. & cert. ef. 7-10-90; EB 13-1996, f. & cert. ef. 7-26-96; ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; ODE 17-2003, f. 12-30-03, cert. ef. 1-1-04; Renumbered from 581-045-0026, ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; Renumbered from 581-045-0036 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0037

Cancellation and Refund Policies: Distance Learning Instruction

(1) A student may cancel enrollment by giving written notice to the school. Unless the school has discontinued the program of

instruction, the student is financially obligated to the school according to the following:

(a) If cancellation occurs within 5 business days of the date of enrollment and lesson materials have not been delivered, all monies related to the enrollment agreement shall be refunded;

(b) If cancellation occurs within 5 business days of the date of enrollment and lesson materials have been delivered, all monies related to the enrollment agreement shall be refunded with the exception of the cost of unreturned lesson materials or the cost of replacement for returned materials that are damaged or marked;

(c) If cancellation occurs after five business days of the date of enrollment and the lesson materials have been shipped but not delivered to the student:

(A) The school may charge an amount equal to 15 percent of the tuition cost, or \$150, whichever is less; that being established as its registration fee;

(B) If the student returns the unopened books and supplies to the school within five days of receipt, the school will refund the total cost of lesson materials.

(d) If cancellation occurs after five business days of the date of enrollment and the lesson materials have been delivered to the student but not returned within five days of receipt, and before the completion of the first lesson assignment, the school may charge:

(A) An amount equal to 15 percent of the tuition cost, or \$150, whichever is less; that being established as its registration fee; and

(B) The total cost of books and supplies.

(e) If withdrawal or termination occurs after the completion of the first lesson assignment and before 50 percent of the total lesson assignments are completed, the student shall be entitled to a pro rata refund of the tuition when the amount paid for the instructional program exceeds the charges owed to the school. In addition to the pro rated tuition charge, the school may retain the registration fee, book and supply fees, and any other legitimate charges owed by the student;

(f) If withdrawal or termination occurs after completion of 50 percent or more of the total lesson assignments, the student shall be obligated for the tuition charged for the entire instructional program and shall not be entitled to any refund;

(2) For cancellation under subsection (1) of this rule, the "date of enrollment" will be determined:

(a) When enrollment occurs by a document exchange through a mail delivery service, the enrollment date shall be the date the enrollment agreement is signed by both the student and the authorized school official, whichever is later;

(b) When the enrollment occurs online, the date of enrollment will be the date the school receives:

(A) A copy of the enrollment agreement signed by the student and the student is granted access to the program; or

(B) Submission of student enrollment information through a secured website. The website must have a registration process that includes, but is not limited to, statements detailing the legal and financial obligations related to enrollment in a school. The student must verify that he/she has read and understands the enrollment agreement. A copy of the student enrollment agreement information that includes "a declaration by the student acknowledging the reading, understanding and acceptance of the enrollment obligations" shall be placed in the student file in lieu of a signed enrollment agreement.

(3) When a program is measured in lesson assignments, the portion of tuition cost for which the student will be charged is determined by dividing the number of lesson assignments completed by the total number of lesson assignments for the program.

(4) A program that includes both distance learning and resident instruction must state separately on the enrollment agreement the costs for the distance learning portion of the program and the costs for the resident portion. The appropriate refund policies for distance learning and resident instruction will apply for each portion of the program.

(5) Resident instruction dates must be scheduled by the time the student completes 50 percent of the distance learning portion of the program.

(a) For the resident portion, charges can be assessed only after a student attends the first resident class session;

(b) Maximum charges shall be calculated by applying the pro rata refund requirements established under subsection (1) of this rule; and

(c) In the event that a school denies a student entrance in the residence portion of the program because of scheduling delays exceeding 30 days between completion of the distance learning portion and commencement of the residence portion, or other changes in contract conditions, all tuition paid for both the distance learning and scheduled residence portions must be refunded.

(6) “Withdrawal or Termination” is acknowledged to have occurred when:

(a) Written notice of same is provided to the school by the student; or

(b) The student has failed to submit completed lesson assignments and/or to otherwise maintain the school’s published standards of satisfactory progress; or

(c) In the instance of a resident portion of a program, the student has failed to attend classes and/or to otherwise maintain the school’s published standards for satisfactory progress.

(7) The term “tuition cost” means the charges for instruction including any lab fees. Tuition cost does not include application fees, registration fees, or other identified program fees and costs. The school shall adopt and publish policies regarding the return of resalable books and supplies and/or the prorating of user fees, other than lab fees.

(8) The term “Pro rata refund” means a refund of tuition paid for that portion of the program not completed by the student.

(9) The school shall not charge a withdrawal fee of more than \$25.

(10) The school may adopt and apply refund calculations more favorable to the student than those described under this policy.

(11) When a cancellation, withdrawal, termination, or completion occurs, a calculation of all allowable charges under this rule shall be made. If such calculations evidence that the school received total payments greater than its allowable charges:

(a) Within 40 days after notification of such cancellation, withdrawal, termination, or completion, a written statement showing allowable charges and total payments received shall be delivered to the student by the school, together with a refund equal in amount to monies paid to the school in excess of those allowable charges;

(b) In the event payments to a student account are derived from federal and/or state tuition assistance program(s), a sponsoring public agency, private agency, or any source other than the student, the statement of charges and payments received together with an appropriate refund described under paragraph (a) of this subsection may be delivered instead to such party(ies) in interest, but only with respect to the covered portions thereof.

(12) In case of disabling illness or accident, death in the immediate family, or other circumstances beyond the control of the student that causes the student to leave school, the school shall arrange a prorated tuition settlement that is reasonable and fair to both parties.

(13) A school shall be considered in default of the enrollment agreement when a functioning course or program is discontinued or canceled or the school closes prior to completion of contracted services. When a school is in default, student tuition may be refunded by the school on a pro rata basis. The pro rata refund shall be allowed only if the Superintendent determines that the school has made provision for students enrolled at the time of default to complete a comparable program at another institution. The provision for program completion shall be at no additional cost to the student in excess of the original contract with the defaulting school. If the school does not make such provision, a refund of all tuition and fees shall be made by the school to the students.

Stat. Auth.: ORS 345.115

Stats. Implemented: ORS 345.115

Hist.: 1EB 31-1986, f. & ef. 7-23-86; EB 11-1990, f. & cert. ef. 2-1-90; EB 41-1990, f. & cert. ef. 7-10-90; EB 13-1996, f. & cert. ef. 7-26-96; ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; Renumbered from 581-045-0027, ODE 15-2006, f.

12-11-06, cert. ef. 1-1-07; Renumbered from 581-045-0037 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0038

Cancellation and Refund Policy: Self-Directed Instruction (Clock Hour Program/Lesson Based)

(1) A student may cancel enrollment by giving written notice to the school. Unless the school has discontinued the program of instruction, the student is financially obligated to the school according to the following:

(a) If cancellation occurs within five business days of the date of enrollment, and lesson materials have not been delivered, all monies specific to the enrollment agreement shall be refunded;

(b) If cancellation occurs within 5 business days of the date of enrollment and lesson materials have been delivered, all monies related to the enrollment agreement shall be refunded with the exception of the cost of unreturned lesson materials or the cost of replacement for returned materials that are damaged or marked;

(c) If cancellation occurs after five business days of the date of enrollment and the lesson materials have been shipped but not delivered to the student:

(A) The school may charge an amount equal to 15 percent of the tuition cost, or \$150, whichever is less; that being established as its registration fee;

(B) If the student returns the unopened books and supplies to the school within five days of receipt, the school will refund the total cost of lesson materials.

(d) If cancellation occurs after five business days of the date of enrollment and lesson materials have been delivered to the student but not returned within five days of receipt, and before the commencement of the accrual of clock-hours or the completion of the first lesson, the school may charge:

(A) An amount equal to 15 percent of the tuition cost, or \$150, whichever is less; that being established as its registration fee; and

(B) The total cost of books and supplies.

(e) If withdrawal or termination occurs after the commencement of the accrual of clock-hours or the completion of the first lesson assignment and before either 50 percent of the program has been offered, or before 50 percent of the program clock-hours or lesson assignments are completed, the student shall be entitled to a pro rata refund of the tuition when the amount paid exceeds the charges owed to the school. In addition to the pro rated tuition charge, the school may retain the registration fee, book and supply fees, and any other legitimate charges owed by the student;

(f) If withdrawal or termination occurs after completion of 50 percent or more of the program has been offered or after completion of 50 percent or more of the program clock-hours or lesson assignments, whichever occurs first, the student shall be obligated for the tuition charged for the entire instructional program and shall not be entitled to any refund.

(2) For cancellation under subsections (1) of this rule, the “date of enrollment” will be determined:

(a) When enrollment occurs in the school setting, the enrollment date shall be the date the enrollment agreement is signed by both the student and the authorized school official, whichever is later;

(b) When enrollment occurs online, the date of enrollment will be the date the school receives:

(A) A copy of the enrollment agreement signed by the student, and the student is granted access to the program, or

(B) Submission of student enrollment information through a secured website. The website must have a registration process that includes, but is not limited to, statements detailing the legal and financial obligations related to enrollment in a school. The student must verify that he/she has read and understands the enrollment agreement. A copy of the student enrollment agreement information that includes “a declaration by the student acknowledging the reading, understanding and acceptance of the enrollment obligations” shall be placed in the student file in lieu of a signed enrollment agreement.

(3) Under subsection (1) of this rule, the term “offered” means the period of time between the beginning date and ending date of the program as identified on the enrollment agreement.

(4) Under subsection (1) of this rule, the portion of tuition cost for which the student shall be charged is determined by dividing the total clock hours into the number of clock hours accrued by the student, or the total number of lessons into the number of lessons completed by the student.

(5) The term “tuition cost” means the charges for instruction including any lab fees. Tuition cost does not include application fees, registration fees, or other identified program fees and costs. The school shall adopt and publish policies regarding the return of resalable books and supplies and/or the prorating of user fees, other than lab fees.

(6) The term “Pro rata refund” means a refund of tuition paid for that portion of the program not completed by the student.

(7) The school shall not charge a withdrawal fee of more than \$25;

(8) The school may adopt and apply refund calculations more favorable to the student than those described under this policy.

(9) When a cancellation, withdrawal, termination, or completion occurs, a calculation of all allowable charges under this rule shall be made. If such calculations evidence that the school received total payments greater than its allowable charges:

(a) Within 40 days after notification of such cancellation, withdrawal, termination, or completion, a written statement showing allowable charges and total payments received shall be delivered to the student by the school, together with a refund equal in amount to monies paid to the school in excess of those allowable charges;

(b) In the event payments to a student account are derived from federal and/or state tuition assistance program(s), including student loan programs, regulations governing refund notification and awarding within respective program(s) shall prevail in lieu of paragraph (a) of this subsection, but only with respect to the covered portions thereof; and

(c) In the event payments to a student account are derived from a sponsoring public agency, private agency, or any source other than the student, the statement of charges and payments received together with an appropriate refund described under section (9)(a) of this rule may be delivered instead to such party(ies) in interest, but only with respect to the covered portions thereof.

(10) In case of disabling illness or accident, death in the immediate family, or other circumstances beyond the control of the student that causes the student to leave school, the school shall arrange a prorated tuition settlement that is reasonable and fair to both parties.

(11) A school shall be considered in default of the enrollment agreement when a course or program is discontinued or canceled or the school closes prior to completion of contracted services. When a school is in default, student tuition may be refunded by the school on a pro rata basis. The pro rata refund shall be allowed only if the Superintendent determines that the school has made provision for students enrolled at the time of default to complete a comparable program at another institution. The provision for program completion shall be at no additional cost to the student in excess of the original contract with the defaulting school. If the school does not make such provision, a refund of all tuition and fees shall be made by the school to the students.

Stat. Auth.: ORS 345.115

Stats. Implemented: ORS 345.115

Hist.: ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; Renumbered from 581-045-0038 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0039

Cancellations, Tuition and Refund Policies: Exceptions

(1) A school may adopt a refund or cancellation policy different from the policies described under OAR 715-045-0036, 715-045-0037, and 715-045-0038 only if:

(a) The policy is more favorable to the student than what those respective rules require; or

(b) The school enters into contractual arrangements for training services where the costs are paid by a contract with another agency, and no refund liability is created between those students and the school.

(2) The Executive Director of the Higher Education Coordinating Commission may, upon request, establish an alternative refund policy for a school that offers courses or programs with such an organizational structure that application of the refund policies prescribed, if applied, would cause unfair results to either the school or enrollees.

Stat. Auth.: ORS 345.115

Stats. Implemented: ORS 345.115

Hist.: IEB 31-1986, f. & ef. 7-23-86; EB 11-1990, f. & cert. ef. 2-1-90; EB 13-1996, f. & cert. ef. 7-26-96; ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; Renumbered from 581-045-0028, ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; Renumbered from 581-045-0039 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0060

Standards Governing Recruitment for Private Career Schools and their Agents

All agents and schools will be subject to the following conditions of this rule:

(1) A school shall provide training to admissions staff that includes:

(a) Knowledge of the Oregon Private Career School laws, and rules; and

(b) Detailed understanding of the school’s catalog, admission standards, application fee if charged, enrollment agreement/contract, refund policy, other written school policies, and code of ethical conduct when dealing with prospective students and parent(s) or guardian(s).

(2) As the recruitment of prospective students relates to admissions policies and practices:

(a) The school or agent shall clearly explain to each applicant for enrollment the nature of the course under consideration and what the training can reasonably be expected to do for the student in preparation for or furtherance of a trade or occupation;

(b) The school shall not enroll, and no agent or any person involved in recruitment or admission shall recommend for enrollment, any person without having reason to believe that the person is likely to succeed in and benefit from the proposed training or course of instruction;

(c) Where a school or agent enrolls a person who does not meet regular basic admission qualifications of the school, the school must have a written record of the reasons why the enrollee was permitted to enroll, and be prepared to justify its action in accepting the enrollment;

(d) No school or agent may accept an enrollment from a person of compulsory school age, nor one attending a school of elementary or secondary level, until the agent has written assurance from the enrollee’s parent, guardian, or principal of the elementary or secondary school attended, that pursuit of the course would not be detrimental to enrollee’s regular school work; and

(e) The school must produce, upon demand of the Higher Education Coordinating Commission, documents attesting to completion of subsection (1)(a) and (b) of this rule and, when applicable, subsection (1)(c) and (d) of this rule.

(3) As recruitment of prospective students relates to enrollment agreements or contracts:

(a) The enrollment agreement or contract must clearly outline obligations of both school and student, and a copy of the enrollment agreement or contract must be furnished the student by the agent before payment is made;

(b) The school or agent must inform each applicant of the nature of the obligation entered into and the responsibilities and rights of the student under the enrollment agreement or contract before the student signs the document. Evidence of compliance with this will be the student’s signature on file at the school verifying receipt of a copy of the contract as well as other documents required in OAR 715-045-0018;

(c) The total tuition for any specific course must be the same for all persons enrolling at a specific time, except that a group-training contract showing lower individual rates may be negotiated;

(d) Tuition changes in courses shall be effective on specific dates and applicable to all who enroll thereafter; and

(e) All charges and costs incidental to training must be revealed by the school or agent to the prospective student before any enrollment agreement or contract is signed.

(4) As recruitment of prospective students relates to advertising and promotional literature: No bonus or other incentive may be given a prospective student for the purpose of enticing the student to sign an enrollment agreement other than that which is offered to all students in a special promotional effort. This rule does not prohibit a school from establishing a bona fide program with clearly identified criteria.

(5) As recruitment of prospective students relates to the school's responsibility for its agents:

(a) The school is responsible for ensuring that the agent has been provided training and is knowledgeable about the school's:

(A) Beginning, history, and owners;

(B) Program of studies;

(C) Refund policy;

(D) Admission and assessment requirements;

(E) Graduation requirements;

(F) Rules and regulations;

(G) Financial policies and procedures;

(H) Governance by Oregon private career school law and rules;

(I) Relationship to applicable consumer protection laws; and

(J) Code of ethical conduct when dealing with prospective students and parent(s) or guardian(s).

(b) The school is responsible for all advertising or promotional literature used by its agents;

(c) The school or agent must provide the student a receipt for all money collected and a copy of the enrollment agreement;

(d) No person who has any responsibility for the recruitment of students shall use the title of counselor, advisor, or any term of similar import, as determined by the Superintendent. Persons responsible for student recruiting may use the titles of admissions representative, career consultant, or other similar titles. The use of such titles shall be allowed so long as neither the school nor any such titled person represents, either directly or by implication, that they are acting on behalf of the prospective student rather than on behalf of the school;

(e) No school or agent may discredit other schools or agents in any manner that may influence a student to leave another school or discourage a student from signing an enrollment agreement with another school; and

(f) All schools and their agents shall comply with all standards set forth in OAR 715-045-0033 and 581-045-0034 concerning advertising and promotional material.

Stat. Auth.: ORS 345.040 & 345.325

Stats. Implemented: ORS 345.040

Hist.: 1EB 257, f. 1-3-77, ef. 7-1-77; 1EB 30-1986, f. & ef. 7-23-86; EB 11-1990, f. & cert. ef. 2-1-90; EB 13-1996, f. & cert. ef. 7-26-96; ODE 23-2000(Temp), f. 7-27-00, cert. ef. 7-27-00 thru 1-22-01; ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; Renumbered from 581-045-0060 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0061

Private Career School Agents

(1) An agent shall be a person who has attained the age of 18 years, is of good moral character and is otherwise competent and qualified to safeguard and protect the interests of the public.

(2) No person shall act in the state as an agent for a private career school unless the Superintendent has received the agent's registration.

(3) Agents shall be considered registered only when the school notifies the Department in writing of the name, address, date of employment, and geographic territory for each agent.

(4) For licensing purposes, registered agents shall be considered employees of the school.

(5) No agent shall begin recruiting students until completing school-provided training in the areas identified in OAR 715-045-0060(5)(a).

(6) The school shall be responsible for developing identifying credentials and passport pictures for each of its agents. The credentials shall remain the property of the school. The identifying credentials shall include:

(a) The full name and address of the agent;

(b) The full name and address of the career school to be represented; and

(c) A passport-type picture affixed to the identifying credentials.

(7) The school shall immediately notify the Executive Director of the Higher Education Coordinating Commission of the termination of employment of an agent and demand return of the agent's credentials.

(8) The school may be fined for failure to keep its agent files current and accurate.

(9) Agents, when representing more than one school, shall disclose to each employing institution that they are employed by more than one school.

(10) Agents, when representing a school, shall:

(a) Report first to the administrative offices of any high school or college before conducting any student interviews or presentations;

(b) Make no statements which are false, misleading or fraudulent;

(c) Respond with all facts about the school the prospective student may wish to know prior to the making of an enrollment decision;

(d) Use only advertising that complies with OAR 715-045-0033 and 715-045-0034;

(e) Provide a copy of the school's catalog/brochure to high school administrators or counselors prior to making any presentation at a high school;

(f) Disclose information on tuition and other instructional costs upon request by prospective students;

(g) Explain to the student payment obligations before the student signs the enrollment agreement, and explain the school's refund policy;

(h) Make clear the school's academic policies and code of conduct;

(i) Accurately describe the school's facilities and living accommodations, and explain living costs;

(j) Give a report on current job prospects;

(k) Make available for review samples of the school's distance learning lessons prior to the signing of the enrollment agreement;

(l) Explain the school's placement assistance, and provide placement statistics;

(m) Explain the school's admissions criteria;

(n) Provide a copy of the enrollment agreement and fully explain all terms and conditions;

(o) Suggest that the prospective student visit the school to talk with teachers, guidance counselors, employment counselors and students; and

(p) Wear identifying credentials at all times when involved in recruitment activities outside of the school.

(11) Agents shall not:

(a) Make false, inaccurate or misleading statements concerning any degree, certificate or diploma offered by the school;

(b) State that credits from the school are transferable unless such claims are supported by documentation in the school's files and provided to and on file with the commission. The agent shall, at the time of representation, identify each school or type of school and program which accepts such credits. The agent shall clearly and conspicuously disclose all limitations on such transferability; for example, it is not possible to transfer credits from a certificate program to a degree program;

(c) Recommend a prospective student for acceptance if the agent does not have reason to believe the student has a chance to succeed;

(d) Distribute distance learning lessons if to do so limits the student's right to cancel the enrollment within five business days of signing and receive a full refund of all monies paid to the school;

(e) Collect any fee other than the application fee prior to the student's official admittance; or

(f) Represent that any commodity or service is free when, in fact, such commodity or service is regularly included as part of a course for which tuition or any other fee is paid.

(12) The school shall monitor its agent's activities and sales and marketing practices and immediately investigate and resolve complaints about their activities. The school shall be accountable for the adherence of its agents to ORS Chapter 345 and OAR chapter 581, division 45.

Stat. Auth.: ORS 345.325 & 345.040

Stats. Implemented: ORS 345.040

Hist.: 1EB 119, f. & ef. 7-19-68; 1EB 131, f. 5-19-72, ef. 6-1-72; 1EB 25-1978, f. 6-30-78, ef. 7-1-78; 1EB 30-1986, f. & ef. 7-23-86; EB 11-1990, f. & cert. ef. 2-1-90; EB 13-1996, f. & cert. ef. 7-26-96; Renumbered from 581-045-0050, ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; Renumbered from 581-045-0061 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0062

Application for Private Career School License Renewal

(1) Each school shall annually renew its license. At least 60 calendar days prior to the anniversary date of its license, the school must file with the Higher Education Coordinating Commission a completed application for license renewal, including:

(a) Current financial reports as required by OAR 715-045-0032;

(b) Financial report certification form signed by the school's owner or chief administrative officer;

(c) A current and accurate enrollment agreement or contract;

(d) A copy of the catalog that will be in effect for the instructional year that commences during the reporting period for which the license is being renewed. The catalog submission must include an indication of changes that have been made to the structure or wording of the catalog contents;

(e) A copy of any student handbook, addendums, or supplements to the school catalog, and any additional policies and requirements provided to the student that will be in effect for the instructional year that commences during the reporting period for which the license is being renewed. Submission of these materials must include an indication of changes that have been made to the structure or wording of these materials as previously approved by the Department;

(f) Copies of any advertising materials used to recruit new students;

(g) Affidavit of ownership form, signed by all owners holding more than 10% ownership in the school, or by the chief corporate officer (other than the campus president) for publicly held companies;

(h) Affidavit of non-delinquency for student refunds, signed by the school owner or chief administrative officer, as described by OAR 715-045-0032(1)(f);

(i) Student enrollment, completion, and placement information as described in subsection (3) of this rule;

(j) Roster of all instructional staff utilized during the reporting period with dates of service and gross earnings paid;

(k) Information regarding changes to the instructional design as described in subsection (4) of this rule;

(l) License renewal fee and any outstanding penalties, late fees, or other charges owing to the commission.

(2) If a school has been licensed for three years or more and there are no changes in the school's structure, the commission's executive director may allow the school to submit an abbreviated renewal application that confirms the school's compliance with applicable Oregon Revised Statutes and Oregon Administrative Rules. Such abbreviated renewal application shall include the required renewal fee.

(3) The school must provide the following information on the forms provided by the commission for the reporting period:

(a) Names and enrollment information for all students continuing from the prior enrollment period;

(b) Names and enrollment information for all students who enrolled in the program during the reporting period;

(c) Names and enrollment information for all students who left the program without completing it during the reporting period;

(d) Names and enrollment information for all students who transferred between programs during the reporting period;

(e) Names and enrollment information for all students who were graduated from the program during the reporting period; and

(f) Names of those who graduated and were placed or are working in directly related occupations during the reporting period, along with employer information.

(4) If any changes have occurred in the instructional design for any course or program during the previous reporting period or changes are anticipated during the new reporting period, these changes will be submitted to the commission for review and approval.

(5) If the applicant school accepts enrollment of minors, or employs agents who have contact with persons under the age of 18 on behalf of the applicant school, the provisions of OAR 715-045-0003 will apply to any subject individuals the school currently employs or proposes to hire.

(6) An application for renewal of license shall be considered late if not postmarked (or date stamped if hand delivered to the commission) before or on the due date. The executive director, as allowed under ORS 345.995 and OAR 715-045-0190, may impose a late fee for each calendar day the renewal application is late. Such fees, where applicable, shall be included with the renewal application.

(7) The commission may invoke license suspension as defined in OAR 581-045-0001 and begin license revocation procedures when:

(a) A school fails to submit the application for license renewal by the due date as described in subsection (1) of this rule;

(b) The application does not include accurate or adequate, or complete materials necessary for license renewal; or

(c) The school is on probation and not making satisfactory progress to comply with all provisions of the program improvement plan.

(8) License renewal may be denied when a renewal application is incomplete or received by the commission less than 30 days before the license expiration date. Pursuant to ORS 183.484, denial of license renewal on these grounds is an order in other than a contested case. Appeal of the decision to deny may be made by written request to the Circuit Court within 60 days of the issuance of the denial order.

(9) The executive director may conditionally approve a license renewal providing a school agrees to a program improvement plan acceptable to the executive director. Conditional license approval shall be subject to the provisions of ORS 345.030(8). The conditional license issued by the commission shall include the period and dates of effectiveness of the license.

Stat. Auth.: ORS 345.030

Stats. Implemented: ORS 345.030

Hist.: EB 13-1996, f. & cert. ef. 7-26-96; Renumbered from 581-045-0004 by ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; ODE 3-2010, f. & cert. ef. 2-8-10; ODE 16-2010, f. 11-15-10, cert. ef. 1-1-11; Renumbered from 581-045-0062 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0063

Factors of Financial Responsibility

(1) To retain its license a school must demonstrate to the Higher Education Coordinating Commission that it is financially responsible under the requirements established in this rule.

(2) The commission considers a school to be financially responsible only if it:

(a) Is able to provide the services described in its official publications and statements;

(b) Is able to provide the administrative resources necessary to comply with the requirements of this subpart;

(c) Is able to meet all of its financial obligations, including, but not limited to:

(A) Refunds that it is required to make; and

(B) Repayments to the U.S. Department of Education for liabilities and debts incurred in programs administered by the U.S. Department of Education.

(d) Demonstrates at the end of its latest fiscal year, a ratio of current assets to current liabilities of at least 1:1;

(e) Had, for its latest fiscal year, a positive net worth. For the purposes of this section, a positive net worth occurs when the school's assets exceed its liabilities;

(f) Has not had operating losses over both of its two latest fiscal years. In applying this standard, the commission's executive director may consider the effect of unusual events such as natural disasters;

(g) Has not had, for its latest fiscal year, an operating deficit exceeding 10 percent of the institution's net worth. For purposes of this section, an operating deficit occurs when operating expenses exceed revenues from current business activities; and

(h) Has not had, as part of the documents prepared by its independent accountant on its audited and certified financial statements for the institution's most recently completed fiscal year, a statement from the accountant acknowledging substantial doubt about the institution's ability to continue as a going concern.

(3) A school that is determined by the executive director not to be financially responsible may be considered "at-risk," and will be required to follow the procedures cited in OAR 715-045-0024.

(4) The executive director may waive or modify all or part of the requirements in subsections (1) through (3) of this rule for schools offering prelicense programs or courses.

Stat. Auth.: ORS 345.325(8) & 345.030

Stats. Implemented: ORS 345.325

Hist.: EB 13-1996, f. & cert. ef. 7-26-96; Renumbered from 581-045-0017, ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; Renumbered from 581-045-0063 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0064

Student Completion and Placement

(1) Schools shall submit true and correct data annually to the Higher Education Coordinating Commission which identifies completion and placement rates for each approved program. These rates shall be computed by individual programs and substantiated by worksheets and records.

(2) Any school failing to maintain completion and placement rates for each approved program of at least 50 percent may be placed on probation for up to one full year or such time as evidence submitted indicates that a 50 percent level of completion and placement is being achieved.

(3) The commission's executive director may withdraw approval of any program that fails to maintain completion and placement rates of at least 50 percent for two consecutive reporting periods. Unusual cause or circumstance will be considered by the commission and exceptions may be granted.

(4) The executive director may require the name, address, and telephone number of any or all graduates and employers accounted for in subsection (1) of this rule for verification and reporting purposes.

(5) The executive director, upon written request from a school, may waive or modify all or part of the requirements of the annual submission of student placement data.

Stat. Auth.: ORS 345.080

Stats. Implemented: ORS 345.080

Hist.: ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; Renumbered from 581-045-0064 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0065

Inspection and Periodic Review

(1) A school shall provide the Higher Education Coordinating Commission access to all information, records, physical facilities, school employees, and other parties (including advisory groups, administrators, students and graduates) as may be necessary to verify compliance with Oregon Revised Statutes, ORS 345.010 to

345.450, or standards of OAR 715-045-0001 through 715-045-0210.

(2) A school shall permit the commission's executive director to conduct an investigation or on-site review of the school with or without notice. When requested, the school must provide the executive director with true and accurate information including but not limited to records and documents.

(3) A school located in Oregon may be inspected on an annual basis or as the executive director determines necessary.

(4) A school may be reviewed to determine whether the school has and is adhering to policies and procedures in such areas as its programs, services and staff conduct.

(5) Whenever an inspection or other investigation reveals lack of compliance with Oregon Revised Statutes, ORS 345.010 to 345.450 or standards of OAR 715-045-0001 through 715-045-0210, the executive director may officially notify the school by certified mail that the school has been placed on probation and send the school a report of deficiencies. When deemed appropriate the executive director may initiate immediate license suspension or revocation proceedings and schools will be provided due process through the provisions allowed in subsection (5)(c) of this rule. If the executive director elects to place the school on probation, the school shall have 20 calendar days after date of notification to report on actions that have been taken to correct these deficiencies:

(a) The school's response shall indicate corrective action taken and/or a program improvement plan for correcting any remaining deficiencies;

(b) If violations cited are not corrected, or if a program improvement plan submitted to correct the violations is not acceptable to the executive director, the executive director shall send notice to revoke or suspend the school's license;

(c) The school may request a hearing within 21 calendar days of receipt of the commission's notice to revoke or suspend the school's license; and

(d) A school whose license has been placed on suspension shall not be permitted to engage in any advertising, recruitment or student enrollment activities, or begin the instruction of any new students during the period of suspension.

Stat. Auth.: ORS 345.080

Stats. Implemented: ORS 345.080

Hist.: ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 17-2003, f. 12-30-03, cert. ef. 1-1-04; Renumbered from 581-045-0065 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0066

At-Risk School

(1) The Higher Education Coordinating Commission may determine a school is "at risk" if a pattern or history of one or more of the conditions cited in the definition for "at risk" exist.

(2) The school owner and/or director shall be required to meet with the commission's executive director to discuss the conditions.

(3) A school determined to be "at risk" at any time, will be required to provide:

(a) A school improvement plan acceptable to the executive director within 30 days after meeting with commission staff;

(b) A letter of credit if appropriate; and

(c) A monthly report for up to 12 months. During that time the school shall demonstrate improvement or the executive director shall proceed with further action of probation, suspension, or license revocation as deemed necessary.

Stat. Auth.: ORS 345.120

Stats. Implemented: ORS 345.120 & SB 326.051

Hist.: EB 13-1996, f. & cert. ef. 7-26-96; Renumbered from 581-045-0024 by ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; Renumbered from 581-045-0066 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0067

School Closure

(1) In the event a school closes, the school shall file a plan with the Higher Education Coordinating Commission designed to protect the contractual rights of its students and graduates, including the right to complete the course of instruction in which they were

enrolled. The school shall return its license to the commission immediately by certified mail upon cessation of instruction.

(2) A school that is closing, either voluntarily or involuntarily, shall:

(a) Inform the commission of this action by certified mail at least 30 calendar days prior to the anticipated cessation of instruction and other normal school business practices. Such notice shall detail the school's closure plan including:

(A) Teach-out arrangements (if made with another school);

(B) The name, address, and telephone number of the person, who will be responsible for closing arrangements;

(C) The name, address, telephone number, and the name of the course of instruction for every student who will not complete their course of instruction; and

(D) The amount of class time left for each student to complete the course with the amount of refund, if any, for which each student is eligible;

(b) Provide written notice to all registered and enrolled students of the school's closure plan at least 30 calendar days prior to closure;

(c) Furnish the commission with copies of the written notice being mailed to all enrolled students explaining the procedures they are to follow to secure refunds or to continue their education;

(d) File procedures for disbursement of refunds with the commission and set a date no later than 30 calendar days from the last day of instruction to issue refund checks in the full amount for which students are entitled; and

(e) Within four calendar days of its closing transfer permanent student transcripts and roster of all students enrolled at the time of closure to the commission. All transcripts of students not enrolled at the time of closure are due to the commission within 90 calendar days after closure.

(3) If students are receiving instruction prior to the school's closing, the school shall file a plan, approved by the commission's executive director, with the commission to ensure that the school's students will continue to receive training of the same quality and content as that for which they contracted.

(4) If the executive director, in any situation in which students are receiving instruction prior to a school's closing, determines that the school has not fulfilled its contractual obligations or that a student has reasonable and justifiable objections to the proposed transfer resulting from the closing, the school shall refund all tuition, fees, and other charges as related to OAR 715-045-0026(6).

(5) If the school to be closed offers a combination of distance learning and resident training, the school shall refund the entire cost of both the distance learning and resident portion paid.

(6) Any school owner, including a corporation and/or any of its officers, involved in the decision to close a school in violation of this section will not be granted a license to operate any other private career school in Oregon.

(7) When a school closes or ceases operation, for any reason, its license is automatically revoked effective the day following the date of closure or cessation of operations.

Stat. Auth.: ORS 345.115 & SB 326.051

Stats. Implemented: ORS 345.115

Hist.: EB 13-1996, f. & cert. ef. 7-26-96; Renumbered from 581-045-0031 by ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; Renumbered from 581-045-0067 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0068

Reporting Obligations

(1) Schools must notify the Higher Education Coordinating Commission within 10 days of receipt of a notice from any source that involves

(a) Action against the school; or

(b) Action against owners, directors, administrators, agents, supervisors, and instructors subject to registration, licensure, or approval pursuant to ORS 345.010 to 345.450, including but not limited to disciplinary, licensure, legal, or conviction of any crime

and that might affect the person's ability to fulfill the assigned responsibilities.

(2) Upon request of the commission's executive director, the school must provide the commission with truthful and accurate information regarding the disciplinary action, licensure action, legal action, or conviction of any crime referenced in OAR 715-045-0068(1)(b).

(3) Schools must provide the commission with a copy of any notice of warning, if such notice indicates the school is in immediate jeopardy of losing recognition from that agency, or any notice of suspension or revocation received from any national, regional or state accrediting and/or approval agency within 10 days of receipt of such notice. The school shall at the same time inform the commission in writing of actions being taken to correct the deficiencies cited.

(4) In the event of a school name change, the school shall submit to the commission legal documents from the Secretary of State's office that validates the name change.

Stat. Auth.: ORS 345.080

Stats. Implemented: ORS 345.080

ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 17-2003, f. 12-30-03, cert. ef. 1-1-04; Renumbered from 581-045-0068 by HECC 2-2014, f. & cert. ef. 4-23-14

715-045-0190

Civil Penalties

(1) Amendments to OAR 715-045-0001 through 715-045-0210 must be implemented by the schools within 90 days after the effective date of the amendments. Failure to implement rule changes within 90 days shall subject a school to civil penalties.

(2) The commission may assess a civil penalty of \$500 per violation of ORS 345.010 to 345.450, or any administrative rules adopted pursuant to 345.010 to 345.450. Before imposing a civil penalty under this subsection, the commission shall consider the factors established in 345.995.

(3) Each act in violation of ORS 345.010 to 345.450, or any administrative rules adopted pursuant to 345.010 to 345.450 shall constitute a separate violation. The imposition of penalties under this section shall be in addition to, and does not preclude the imposition of, any other penalties for the same act or conduct pursuant to any other provision of law.

(4) Failure to pay civil penalties within 30 days of the service of a final order imposing penalties, unless stayed pending appeal by subsequent order of the Executive Director or a court of competent jurisdiction, may result in revocation of license to operate a school.

(5) The commission may retain reasonable costs related to the investigation and assessment of a civil penalty from civil penalties imposed under ORS 345.995 and this section. In support of its decision to retain civil penalties, the commission shall provide an accounting of the costs incurred during its investigation and the assessment of civil penalties, including but not limited to staff time, mailing costs, and attorney fees.

Stat. Auth.: ORS 345.992 & 345.995

Stats. Implemented: ORS 345.995

Hist.: EB 13-1996, f. & cert. ef. 7-26-96; ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; ODE 7-2009, f. & cert. ef. 6-29-09; Renumbered from 581-045-0190 by HECC 2-2014, f. & cert. ef. 4-23-14; HECC 7-2014, f. & cert. ef. 12-18-14

715-045-0200

Barbering, Hair Design, Esthetics, and Nail Technology

In addition to OAR 581-045-0001 through 581-045-0190, schools of barbering, hair design, esthetics, and nail technology shall comply with this rule and 581-045-0210.

(1) Minimum hourly training requirements:

(a) For hair design, 1,450 hours;

(b) For barbering, 1,100 hours;

(c) For esthetics, 250 hours;

(d) For nail technology, 350 hours; and

(e) In addition to the programs listed above, students are required to successfully complete the following requirements once:

(A) Safety and sanitation, 150 hours; and

(B) Career development, 100 hours.

(2) Individual progress records must be regularly maintained for the purpose of monitoring each student's progress through the instructional program and verifying actual hours of instruction in each certifiable classification. Once a student completes the minimum hourly training requirements specified in subsection (1) of this section and the school's own program completion requirements, the school shall administer a Department-approved written and practical exam prior to the student taking the State Board exam for licensure. The time required to take the practical exam shall be included as part of the contracted program hours included in the tuition cost.

(3) The Commission, with the assistance of a curriculum committee, will develop minimum standards for each certificated program or any combination of programs.

(4) No student shall perform any task in a clinic lab without first having achieved verifiable minimum competence. The following hours are recommended as a guideline for classroom and laboratory instruction that students should experience prior to any assignment in the clinic lab:

- (a) Hair design, 160 hours;
- (b) Esthetics, 40 hours;
- (c) Nail technology, 40 hours; and
- (d) Barbering, 100 hours.

(5) The instructional program shall determine the type of assignments students will receive in the clinic lab. Clinic lab assignments should, as nearly as possible, reflect the emphasis of the student's current and cumulative theory and laboratory experiences. Schools shall establish a minimum and maximum number of clinic activities for each type of task required in the clinic lab. These minimums/maximums should show a comparable distribution of activities reflective of industry practice. Only when students have completed the minimum in all areas can they be assigned to clinic activities in excess of the maximums.

(6) With the exception of a commission approved cosmetology teacher training program, a school shall not conduct both fixed-hour and student competency-based training programs in the same school facility concurrently unless the school is in transition from one training program to another. The Commission may set a time limit in which the transition must be completed.

(7) No school shall enroll a student wishing to transfer hours from a school of barbering, hair design, esthetics, and nail technology in Oregon or out-of-state without first receiving an official transcript properly signed or sealed directly from the previous schools. A school may admit a student on a temporary basis without receiving an official transcript. In no event should a student be considered a graduate until an official transcript from all prior schools is in the graduating school's student file. Schools shall evaluate and grant appropriate credit for any education and training students received at state regulated postsecondary schools.

(8) Schools shall validate only their own hours of instruction provided a student but not any hours provided by other schools.

(9) Upon receipt and evaluation of official transcripts from schools previously attended:

(a) Schools shall give full credit for hours earned within the last ten years; and

(b) Schools may grant credit for hours earned prior to the last ten years, if approved by the Superintendent.

(10) No school shall deny a student a record of hours earned. A record of hours does not infer or include the official transcript.

(11) The school shall have as a minimum the following staff present at all times:

- (a) 1–15 students present — one approved teacher;
- (b) 16–30 students present — two approved teachers; and
- (c) One additional approved teacher for each additional 20 students or part thereof. Teachers must be certified in all areas they teach and supervise. When only one teacher is present at the school, clinic lab operations, and classroom instruction shall not occur simultaneously. The lone teacher shall conduct and supervise one or the other but not both concurrently. Teachers who supervise

the clinic lab and/or approve student practical performance must be certified in all areas they supervise or approve;

(d) Exceptions to the student to teacher ratios in (a)–(c) may be granted for theory/lecture classes only. All hands-on practical lab and clinic lab classes are required to maintain specified staffing ratios.

(12) The minimum teaching staff, as set forth in these rules, shall not perform administrative or financial aid or any other non-instructional duties during the time that the clinic lab and classroom instruction are taking place concurrently.

(13) A teacher or student teacher shall not perform any services in the school during school hours except for teaching purposes.

(14) All services performed by students shall take place under the supervision and direction of a certified teacher.

(15) Premises shall be used during school hours only for instructing students and teacher trainees in barbering, hair design, esthetics, or nail technology.

(16) The school shall provide a minimum of 2,800 square feet of total floor space to be allocated as follows; one work station for each of the first twenty students; one additional work station for every five students in excess of twenty; and, where hair design is taught, one shampoo bowl for every five work stations. The executive director must approve any exception to this requirement. Classroom and clinic space are in compliance with OAR 715-045-0022. Schools must comply with ORS 345.240 relative to accessibility of programs for persons with handicapping conditions.

(17) The executive director may approve a facility of less than 2,800 square feet of floor space for schools if the school presents a written plan as to how the number of students will be served in the space provided. The plan must include how the school meets the entire model curriculum standards.

(18) The school shall be separated from adjoining rooms used for another business or for domestic purposes, by means of walls or substantial partitions extending from floor to ceiling; all doors leading to the school from the aforesaid adjoining rooms must be kept closed. Access to the school shall be provided by means of an outside or separate entrance, or from a public passageway in a public building.

(19) Each school shall include the names of all actively employed (full-time or part-time) approved teachers on its annual license renewal application.

(20) A licensed school of barbering, hair design, esthetics, or nail technology may offer a teacher training program if it complies with the following:

(a) Courses of teacher training for instruction in barbering, hair design, esthetics, and nail technology may be offered only in a school of hair design licensed under the provisions of ORS Chapter 345 or Mt. Hood Community College. Courses of study must be submitted to the Superintendent for approval;

(b) The Standard Course of Study shall require 1,000 hours of instruction that shall include the following:

- (A) Preparation and use of lesson plans,
- (B) Use of audiovisual and other instructional aids,
- (C) Development and administration of tests and evaluation of test results,
- (D) Evaluation and recording of student progress, and recording of attendance,
- (E) Observation of practical demonstrations,
- (F) Assisting with practical demonstrations,
- (G) Setting up and performance of practical demonstrations, and
- (H) Practice teaching.

(c) The Superintendent shall approve teacher-training programs of 200 hours for:

(A) Teachers whose certification has lapsed more than three years, and

(B) Teachers from other states whose licensing requirements are less than the minimum requirements for Oregon.

(d) The school shall:

(A) Maintain daily records of the teacher trainee's attendance, and the subject matter covered; and

(B) Conduct and record the results of periodic evaluations of each teacher trainee.

(e) The school may evaluate and give up to 500 hours credit for professional teaching experience or any academic training received in a community college or institution of higher education when that academic training contributes to achievement of the total approved Standard Course of Study. The Superintendent may grant a waiver to the 500 hour limitation if sufficient evidence is submitted;

(f) A school shall not have more than three approved teacher trainees at one time. The school shall designate who shall have the principal supervisory responsibility for the student in the teacher-training program. Each trainee, when in the clinic lab, must be under direct supervision of an approved teacher with a minimum of two years teaching experience;

(g) Teacher trainees shall evaluate students only under the direct supervision of a certified teacher; and

(h) Teacher training students must be registered with the Superintendent prior to commencement of their training.

Stat. Auth.: ORS 345.400

Stats. Implemented: ORS 345.400

Hist.: EB 13-1996, f. & cert. ef. 7-26-96; ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; ODE 17-2003, f. 12-30-03, cert. ef. 1-1-04; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; ODE 32-2012(Temp), f. 11-7-12, cert. ef. 11-9-12 thru 5-7-13; Administrative correction, 5-22-13; Renumbered from 581-045-0200 by HECC 2-2014, f. & cert. ef. 4-23-14; HECC 6-2014, f. & cert. ef. 12-18-14

715-045-0210

Safety and Sanitation Compliances and Inspections for Schools of Hair Design, Barbering, Esthetics and Nail Technology Only

(1) Students, teachers and school owners shall observe and be subject to all state, county and municipal laws and regulations pertaining to public health. Compliance with state and municipal fire regulations is required.

(2) Sanitation and safety rules set forth in OAR chapter 817 shall be available in the school.

(3) The current sanitation inspection report required by this section shall be conspicuously displayed in the school.

(4) Sanitation and safety inspections of schools regulated by this rule shall be conducted periodically by agents of the Oregon Health Licensing Agency. Such inspections shall be for the purpose
