

Enrolled
Senate Bill 1039

Sponsored by COMMITTEE ON RULES

CHAPTER

AN ACT

Relating to academic degrees; creating new provisions; amending ORS 345.015, 348.594, 348.606, 348.609 and 659A.318; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 348.594 to 348.615 do not apply to:

- (1) An Oregon community college;**
- (2) A state institution of higher education within the Oregon University System;**
- (3) The Oregon Health and Science University;**
- (4) A school that, on the date preceding the effective date of this 2005 Act, was a school described in ORS 348.594 (2)(d); or**
- (5) A school that is exempt from ORS 348.594 to 348.615 under section 2 of this 2005 Act.**

SECTION 2. Upon application from a school, as defined in ORS 348.594, the Oregon Student Assistance Commission, through the Office of Degree Authorization, shall grant an exemption from ORS 348.594 to 348.615 to the school if the school:

- (1) Is, or is operated by, a nonprofit corporation;**
- (2) Offers only associate, bachelor's or master's degrees with titles in theology or religious occupations, or, if the school also offers doctoral degrees, offers doctoral degrees in theology or religious occupations that have been approved by a federally recognized accrediting organization;**
- (3) Teaches students with faculty members who:**
 - (a) Hold degrees:**
 - (A) From a school that, at the time of the conferral of the degrees, was accredited by a federally recognized accrediting organization, held an exemption under this section, or was a school described in ORS 348.594 (2)(d) on the date preceding the effective date of this 2005 Act;**
 - (B) That are at least one level above the degree level of the program in which the faculty members teach or that are the terminal degrees in the field in which the faculty members teach; and**
 - (C) That are not honorary degrees; or**
 - (b) Possess sufficient compensatory qualifications to substitute for academic degrees in the fields in which the faculty members teach;**
 - (4) Offers a curriculum:**
 - (a) Of a duration and level that is comparable to the curriculums offered by schools that are not exempt under this section; and**
 - (b) That, with higher degrees, increases the difficulty of the work expected of students;**

- (5) Requires students to complete academic assignments and to demonstrate learning appropriate to the curriculum;
- (6) Awards credit toward degrees proportionate to the work done by students;
- (7) Offers admission:
 - (a) To a student:
 - (A) With a high school diploma or an equivalent credential; or
 - (B) Who completed the equivalent of a high school education through home study; and
 - (b) Based on evidence that the student can reasonably expect to complete a degree and benefit from the education offered;
- (8) Provides or arranges for faculty members and students to have access to information that supports instruction and stimulates research or independent study in all areas of the curriculum;
- (9) Provides accurate and appropriate credit transcripts to students of the school and accurate and appropriate diplomas to graduates of the school;
- (10) Charges tuition by the credit hour or other fixed rate for instruction during an academic term and does not charge tuition or fees for the award of a degree or charge a single fee for an entire degree program;
- (11) Provides the oversight required by the commission through the office over a faculty member or administrator who has:
 - (a) Been convicted of a felony; or
 - (b) Violated a state or federal law related to the operation of a school;
- (12) Provides facilities that permit private communication between faculty members and students;
- (13) Provides a number of faculty members that is adequate for the number of students enrolled;
- (14) Provides clear and accurate information to students about the school's expectations of students in the school's courses;
- (15) Ensures that a student who is pursuing a degree is making continuous progress toward the degree;
- (16) Before a student enrolls in the school, informs the student that a school to which the student might transfer retains the discretion whether to accept the transfer of credits earned at the school;
- (17) Provides official transcripts of faculty members to the office; and
- (18) Pays the fee imposed by section 4 of this 2005 Act.

SECTION 3. (1) A school that obtains an exemption under section 2 of this 2005 Act or that, on the date preceding the effective date of this 2005 Act, was a school described in ORS 348.594 (2)(d) may not:

- (a) Award more than 25 percent of the credit toward a degree for noninstructional activities, such as challenge examinations and professional or life experiences;
 - (b) Represent that the school is:
 - (A) Approved by the State of Oregon; or
 - (B) Accredited by an organization unless the organization is recognized as an accreditor by the United States Department of Education; or
 - (c) Pay a faculty member a commission or otherwise base a faculty member's compensation on the faculty member's recruitment of students to the school.
- (2) A school that obtains an exemption under section 2 of this 2005 Act or that, on the date preceding the effective date of this 2005 Act, was a school described in ORS 348.594 (2)(d) shall:
- (a) Preserve official transcripts for all faculty members and students;
 - (b) Notify the Office of Degree Authorization if a faculty member or administrator at the school has:
 - (A) Been convicted of a felony; or

- (B) Violated a state or federal law related to the operation of a school;
- (c) Place in any course catalog that is available to students or to the public a notice that states: “(Name of school) has been granted exempt status by the State of Oregon to offer theological and/or religious occupations degrees.”;
- (d) If the school closes, return to students tuition payments for the current term on a prorated basis;
- (e) If the school provides placement services to a student, describe the placement services clearly and accurately to the student and avoid giving unrealistic expectations of placement to the student; and
- (f) If an administrator claims to possess an academic degree:
 - (A) Ensure that the administrator possesses the academic degree that the administrator claims to possess; and
 - (B) Require that the degree is from a school that, at the time of the conferral of the degree, was accredited by a federally recognized accrediting organization, held an exemption under this section, or was a school described in ORS 348.594 (2)(d) on the date preceding the effective date of this 2005 Act.

SECTION 4. (1) The Oregon Student Assistance Commission may, by rule, impose a fee on a school that applies for an exemption under section 2 of this 2005 Act. The amount of the fee may not exceed the lesser of:

- (a) The actual cost to the commission of determining the school’s compliance with the requirements for an exemption under section 2 of this 2005 Act; or
 - (b) Fifty percent of the fee that the commission would impose on the school under ORS 348.606 (3) if the school were applying for approval to offer a bachelor’s degree.
- (2) Except as provided in section 2, 5 or 6 of this 2005 Act, the commission may not impose requirements for a religious exemption from ORS 348.594 to 348.615.

SECTION 5. (1) Each year, on a date prescribed by the Office of Degree Authorization, a school that obtains an exemption under section 2 of this 2005 Act or a school that, on the date preceding the effective date of this 2005 Act, was a school described in ORS 348.594 (2)(d), shall submit to the office a statement that reads: “(Name of School) hereby certifies that the school remains in compliance with all conditions for a religious exemption from ORS 348.594 to 348.615.”

(2) A school that obtains an exemption under section 2 of this 2005 Act or a school that, on the date preceding the effective date of this 2005 Act, was a school described in ORS 348.594 (2)(d) remains exempt unless the office suspends or revokes the exemption.

(3) The office may suspend or revoke an exemption if:

- (a) After the notice and opportunity to cure provided in subsection (4) of this section, a school fails to provide the statement required by subsection (1) of this section;
- (b) The office has received a complaint from a student or former student of the school that the school is failing to comply with a condition for exemption under 2 of this 2005 Act, the office determines that the complaint is valid, the school has been provided with notice and opportunity to cure as required by subsection (4) of this section and the school fails to comply with the condition listed in the notice; or
- (c) After the notice and opportunity to cure provided in subsection (4) of this section, a school is in violation of section 3 of this 2005 Act.

(4) The Oregon Student Assistance Commission, through the office, shall provide notice of and 90 days to cure a school’s:

- (a) Failure to provide the statement required by subsection (1) of this section;
- (b) Failure to maintain compliance with a condition for exemption under section 2 of this 2005 Act if the office has received a complaint from a student or former student of the school that the school is failing to comply with a condition for exemption under section 2 of this 2005 Act and the office has determined the complaint is valid; or
- (c) Violation of section 3 of this 2005 Act.

(5) A school may appeal the denial, suspension or revocation of an exemption to the commission.

(6) A school may appeal to the commission the office's decision that a faculty member does not possess sufficient compensatory qualifications to substitute for an academic degree in the field in which the faculty member teaches.

(7) The commission shall conduct an appeal under this section as a contested case under ORS chapter 183.

(8)(a) If a school appeals the denial, suspension or revocation of an exemption and the commission upholds the denial, suspension or revocation, the commission shall provide the school 90 days to cure the grounds for the denial, suspension or revocation. If the school does not cure the grounds for the denial, suspension or revocation within 90 days after the commission upholds the denial, suspension or revocation, then the denial, suspension or revocation becomes effective 90 days after the issuance of the decision on the appeal by the commission.

(b) If a school does not appeal the denial, suspension or revocation of an exemption to the commission and the school does not cure the grounds for the denial, suspension or revocation within the period of time to appeal the decision to the commission, then the denial, suspension or revocation becomes effective upon the expiration of the period of time to appeal.

SECTION 6. Notwithstanding section 5 of this 2005 Act:

(1) A school that, on the date preceding the effective date of this 2005 Act, was a school described in ORS 348.594 (2)(d) shall, within 90 days of the effective date of this 2005 Act, submit to the Office of Degree Authorization a statement that reads: "(Name of School) hereby certifies that the school remains in compliance with all conditions for a religious exemption from ORS 348.594 to 348.615."

(2) The office may suspend or revoke an exemption if, after the notice and opportunity to cure provided in subsection (3) of this section, a school fails to provide the statement required by subsection (1) of this section.

(3) The office shall provide notice of and 30 days to cure a school's failure to provide the statement required by subsection (1) of this section.

(4) A school may appeal the suspension or revocation of an exemption under subsection (2) of this section to the Oregon Student Assistance Commission.

(5) The commission shall conduct an appeal under this section as a contested case under ORS chapter 183.

(6)(a) If a school appeals the suspension or revocation of an exemption under subsection (2) of this section and the commission upholds the suspension or revocation, the suspension or revocation becomes effective upon the issuance by the commission of the decision on the appeal.

(b) If a school does not appeal the suspension or revocation of an exemption under subsection (2) of this section to the commission, the suspension or revocation becomes effective upon the expiration of the period of time to appeal.

SECTION 7. ORS 345.015 is amended to read:

345.015. ORS 345.010 to 345.450 do not apply to:

(1) Instruction or training solely avocational or recreational in nature or to institutions offering such education exclusively.

(2) Schools that the Superintendent of Public Instruction determines are adequately regulated by other means, including but not limited to accreditation by the Northwest Association of Schools and Colleges.

(3) Instruction or training sponsored or offered by a bona fide trade, business, professional or fraternal organization or by a business solely for the organization's membership or the business's employees.

(4) Instruction or training sponsored, offered or contracted by organizations, institutions or agencies, if the instruction or training is advertised or promoted to be in the nature of professional self-improvement but is not advertised or promoted as leading to or fulfilling the requirements for licensing, certification, accreditation or education credentials.

(5) Any school approved by the Oregon Student Assistance Commission to confer or offer to confer academic degrees under ORS 348.606 or any school described in [ORS 348.594 (2)] **section 1 of this 2005 Act.**

(6) Schools offering only review instruction to prepare a student to take an examination to enter a profession, where the student has completed prior training related to that profession.

(7) Courses offered in hospitals which meet standards prescribed by the American Medical Association or national accrediting associations for nursing.

(8) Schools offering only courses of an advanced training or continuing educational nature when offered solely to licensed practitioners and people previously qualified or employed in a related profession.

(9) Any parochial or denominational institution providing instruction or training relating solely to religion and which does not grant degrees.

SECTION 8. ORS 348.594 is amended to read:

348.594. As used in ORS 348.594 to 348.615[.],

[1] "school" [includes] **means** a person, organization, school or institution of learning that confers or offers to confer an academic degree upon a person or to provide academic credit applicable to a degree.

[2] "School" does not include:]

[a] An Oregon community college;]

[b] A state institution of higher education within the Oregon University System;]

[c] The Oregon Health and Science University; or]

[d] A school that meets the criteria and procedures to obtain a religious exemption adopted by rule by the Oregon Student Assistance Commission and offers only degrees with approved titles in theology or religious occupations.]

SECTION 9. ORS 348.606 is amended to read:

348.606. (1) A school may not confer or offer to confer any academic degree upon a person, or provide services purporting to lead to a degree in whole or in part, without first obtaining approval from the Oregon Student Assistance Commission through the Office of Degree Authorization. The commission shall adopt by rule standards and procedures for the approval of schools.

(2) The commission shall substitute the standards adopted under subsection (1) of this section with private accreditation standards for a school that has conferred degrees under the same control for five years in Oregon from at least one operationally separate unit accredited as a separate institution by a regional accrediting association or its national successor, provided the school submits for arbitration by the commission any unresolved dispute in which a person alleges detrimental violation of a standard guaranteed by the accrediting association but which the association has declined to arbitrate.

(3)(a) The commission, by rule, may impose a fee on any school applying for approval to confer or offer to confer a degree upon a person or to provide academic credit applicable to a degree. The fee is nonrefundable.

(b) The amount of the fee shall be established to recover designated expenses incurred by the commission in carrying out the administration of ORS 348.594 to 348.615, **and may not exceed:**

(A) For a doctoral degree, \$5,500.

(B) For a master's degree, \$4,150.

(C) For a bachelor's degree, \$4,150.

(D) For an associate degree, \$2,750.

(c) Any fees collected under this subsection shall be deposited in the Office of Degree Authorization Account established under ORS 348.601.

SECTION 10. ORS 348.609 is amended to read:

348.609. (1) [No] A person who has been warned by the Oregon Student Assistance Commission, through the Office of Degree Authorization, to cease and desist *[shall]* **may not** claim or represent that the person possesses any academic degree unless the degree has been awarded to or conferred upon the person by a school that:

(a) Has accreditation recognized by the United States Department of Education or the foreign equivalent of such accreditation;

(b) Has been approved by the Oregon Student Assistance Commission through the Office of Degree Authorization to offer and confer degrees in Oregon;

(c) Is described in [ORS 348.594 (2)] **section 1 of this 2005 Act**; or

(d) Is located in the United States and has been found by the commission to meet standards of academic quality comparable to those of an institution located in the United States that has accreditation, recognized by the United States Department of Education, to offer degrees of the type and level claimed by the person.

(2)(a) A person who has been awarded a degree from a school other than a school described in subsection (1) of this section may claim or represent that the person possesses an academic degree if the claim or representation is accompanied by a disclaimer that states: “(Name of school) does not have accreditation recognized by the United States Department of Education and has not been approved by the Office of Degree Authorization.”

(b) The disclaimer shall be made in any resume, letterhead, business card, announcement or advertisement in which the person is claiming or representing to have an academic degree from a school that does not meet the requirements of subsection (1) of this section.

(c) This subsection does not alter any requirement for obtaining a license, admission into a school, teaching or employment or for other areas in which a degree from an accredited school is required.

[(2)] **(3)** The Oregon Student Assistance Commission shall adopt, by rule, standards and procedures for responding to complaints about degree claims and for validation of degree claims. Failure of a person to provide documentation of a claimed degree shall be prima facie evidence that the claim of such person to such degree is a violation of this section.

[(3)] **(4)** The Oregon Student Assistance Commission, by rule, may impose a fee on any school or person requesting validation of degree claims. The amount of the fee shall be established to recover designated expenses incurred by the commission in carrying out the administration of ORS 348.594 to 348.615. Any fees collected under this subsection shall be deposited in the Office of Degree Authorization Account established under ORS 348.601.

[(4)(a)] **(5)(a)** The Oregon Student Assistance Commission, through the Office of Degree Authorization, may cause a civil suit to be instituted in the circuit court for legal or equitable remedies, including injunctive relief, to ensure compliance with this section. The commission may recover attorney fees and court costs for any such action.

(b) The commission shall adopt a schedule of civil penalties for violations of this section. A civil penalty shall not exceed \$1,000 per violation.

(c) In addition to any action or penalty provided by law, any person who violates this section shall incur a civil penalty in an amount prescribed by the schedule adopted by the commission. Any civil penalty imposed under this subsection shall be imposed in the manner provided in ORS 183.745. All penalties recovered under this subsection shall be paid into the State Treasury and credited to the General Fund.

SECTION 10a. If Senate Bill 193 becomes law, section 10 of this 2005 Act (amending ORS 348.609) is repealed and ORS 348.609, as amended by section 4, chapter 196, Oregon Laws 2005 (Enrolled Senate Bill 193), is amended to read:

348.609. (1) [No] A person who has been warned by the Oregon Student Assistance Commission, through the Office of Degree Authorization, to cease and desist *[shall]* **may not** claim or represent that the person possesses any academic degree unless the degree has been awarded to or conferred upon the person by a school that:

(a) Has accreditation recognized by the United States Department of Education or the foreign equivalent of such accreditation;

(b) Has been approved by the Oregon Student Assistance Commission through the Office of Degree Authorization to offer and confer degrees in Oregon;

(c) Is described in [ORS 348.594 (2)] **section 1 of this 2005 Act**; or

(d) Is located in the United States and has been found by the commission to meet standards of academic quality comparable to those of an institution located in the United States that has accreditation, recognized by the United States Department of Education, to offer degrees of the type and level claimed by the person.

(2)(a) A person who has been awarded a degree from a school other than a school described in subsection (1) of this section may claim or represent that the person possesses an academic degree if the claim or representation is accompanied by a disclaimer that states: “(Name of school) does not have accreditation recognized by the United States Department of Education and has not been approved by the Office of Degree Authorization.”

(b) The disclaimer shall be made in any resume, letterhead, business card, announcement or advertisement in which the person is claiming or representing to have an academic degree from a school that does not meet the requirements of subsection (1) of this section.

(c) This subsection does not alter any requirement for obtaining a license, admission into a school, teaching or employment or for other areas in which a degree from an accredited school is required.

[(2)] **(3)** The Oregon Student Assistance Commission shall adopt, by rule, standards and procedures for responding to complaints about degree claims and for validation of degree claims. Failure of a person to provide documentation of a claimed degree shall be prima facie evidence that the claim of such person to such degree is a violation of this section.

[(3)] **(4)** The Oregon Student Assistance Commission, by rule, may impose a fee on any school or person requesting validation of degree claims. The amount of the fee shall be established to recover designated expenses incurred by the commission in carrying out the administration of ORS 348.594 to 348.615. Any fees collected under this subsection shall be deposited in the Office of Degree Authorization Account established under ORS 348.601.

[(4)(a)] **(5)(a)** The Oregon Student Assistance Commission, through the Office of Degree Authorization, may cause a civil suit to be instituted in the circuit court for legal or equitable remedies, including injunctive relief, to ensure compliance with this section. The commission may recover attorney fees and court costs for any such action.

(b) The commission shall adopt a schedule of civil penalties for violations of this section. A civil penalty shall not exceed \$1,000 per violation.

(c) In addition to any action or penalty provided by law, any person who violates this section shall incur a civil penalty in an amount prescribed by the schedule adopted by the commission. Any civil penalty imposed under this subsection shall be imposed in the manner provided in ORS 183.745. All penalties recovered under this subsection shall be paid into the State Treasury and credited to the General Fund.

[(5)] **(6)** The provisions of [subsections (1) to (4) of] this section do not apply to a person who is a graduate of a veterinary college, or a veterinary department of a university or college, of good standing and repute, as determined by the Oregon State Veterinary Medical Examining Board.

SECTION 11. ORS 659A.318 is amended to read:

659A.318. (1) If an employer requires an applicant or employee to have an academic degree from a post-secondary institution to qualify for a position, but does not require a degree with a specific title, it is an unlawful employment practice for the employer to refuse to hire or promote or in any manner discriminate or retaliate against the applicant or employee only because the applicant or employee meets the educational requirements for the position by having a degree with a title in theology or religious occupations from a school **that, when the degree was issued, was a school described in ORS 348.594 (2)(d) on the date preceding the effective date of this 2005 Act, or was a school exempt from ORS 348.594 to 348.615 under section 2 of this 2005 Act.**

(2) If an employer other than a public body, as defined in ORS 192.410, offers employees benefits of tuition reimbursement, educational debt reduction, educational incentive or educational contribution or gift match for educational services provided by a post-secondary institution and the employer does not restrict the program to specific institutions or degrees with specific titles, it is an unlawful employment practice for the employer to refuse to offer the benefit to or in any manner discriminate or retaliate against an employee because the employee attends or seeks to attend a school, as] **that is:**

(a) A school that was, on the date before the effective date of this 2005 Act, described in ORS 348.594 (2)(d)[, *offering only degrees with titles in theology or religious occupations*]; **or**

(b) Exempt from ORS 348.594 to 348.615 under section 2 of this 2005 Act.

SECTION 12. This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect on its passage.

Passed by Senate May 3, 2005

Received by Governor:

Repassed by Senate July 1, 2005

.....M.,....., 2005

Approved:

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Secretary of Senate

.....M.,....., 2005

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President of Senate

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Governor

Passed by House June 13, 2005

Filed in Office of Secretary of State:

Repassed by House July 5, 2005

.....M.,....., 2005

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Speaker of House

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Secretary of State