

Subject Office of Higher Education Agency Policy Bill

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Overview

The bill expands the Office of Higher Education's (OHE) authority to regulate degree-granting postsecondary institutions and private career schools.

Among other changes, the bill:

- expands the range of conditions under which OHE can revoke, suspend, or refuse to renew a school's registration or licensure;
- requires postsecondary institutions to provide OHE with additional data about their financial stability, and requires OHE to conduct risk analysis to identify institutions at risk of "precipitous closure"; and
- permits OHE to place new restrictions on institutions that are at risk of precipitous closure. These restrictions include limiting access to state financial aid, purchase of additional surety bonds, prohibiting enrollment of new students, and disallowing schools from accepting cash tuition.

The bill additionally increases registration renewal fees and allows OHE to seek reimbursement for costs associated with investigations and responding to student complaints.

Summary

Section	Description
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| 1 | Institution eligibility requirements for state financial aid.
Modifies the requirements for postsecondary institutions to participate in state financial aid programs and permits OHE to disallow the institutions from participating under certain circumstances. |
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Section	Description
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In order to receive state financial aid, a postsecondary institutions must meet the state requirements to hold a surety bond. Section 5 of the bill amends the requirements.

OHE may terminate an institution's participation in state financial aid programs under the following conditions:

- An institution that changes ownership does not make substantive progress toward participation in the Pell Grant program within four years of the first ownership change.
- The institution loses eligibility for federal financial aid. OHE may terminate eligibility effective the date of the loss of federal aid.
- The institution violates a provision of state Statutes, Rules, or administrative policies governing financial aid programs and fails to correct the violation and reimburse the office for audit findings within the timeframe specified in the audit report.
- The institution has a consistent pattern of violating state Statutes, Rules, or administrative policies, or lacks administrative capacity to successfully administer state aid programs. A lack of administrative capacity may be demonstrated based on the adequacy of the institution's:
 - financial aid staffing;
 - checks and balances in the institution's system of internal controls;
 - maintenance of records; and
 - ability to participate in electronic processes.
- The institution refuses to allow inspection of financial aid records upon request of OHE.
- The institution was administratively or judicially determined to have committed fraud or other material violation of law.
- The institution falsifies information or engages in misleading or deceptive practices involving the administration of financial aid programs.
- The institution no longer meets the requirements to participate in state financial aid programs that are currently in rule.
- The institution is terminated from participation in federal financial aid programs based on a violation of laws, regulations, or participation agreements governing financial aid programs.

Section	Description
2	<p>Termination procedures.</p> <p>Requires OHE to send written notice that an institution’s eligibility for financial aid was terminated. Termination is effective 90 days after the date of written notification, except if an institution is terminated because it lost the eligibility to participate in federal financial aid programs.</p> <p>Requires OHE to provide terminated institutions with an opportunity for administrative hearing under chapter 14.</p>
3	<p>Request for hearing.</p> <p>Requires terminated postsecondary institutions that request an administrative hearing to request the hearing with 30 days of receiving a written notice of termination.</p>
4	<p>Schools to provide information.</p> <p>Requires degree-granting schools that register with OHE to provide compliance audits and audited financial statements that meet federally established requirements. Additionally requires the schools to calculate the financial and nonfinancial risk analysis metrics described in section 13 of the bill.</p>
5	<p>Additional security.</p> <p>Under current law, postsecondary institutions that fall below minimum federal standards for participation in financial aid programs must provide OHE with a surety bond between \$10,000 and \$250,000. The bill changes the bond requirement to be 10 percent of net tuition and fees revenue in the previous fiscal year.</p> <p>The bill grants OHE additional authority if OHE determines that the institution does not meet existing rules about financial resources, or is vulnerable to a precipitous closure. In those circumstances, OHE may:</p> <ul style="list-style-type: none">▪ require an increased surety bond▪ prohibit the institution from accepting tuition payments during the add/drop period made using cash, alternative loans, or the equivalent▪ prohibit the institution from enrolling new students <p>Current law describes the prioritization for use of surety bonds funds in the case of school closure. Current law prioritizes (1) the destruction of private data; (2) reimbursing students who are currently enrolled (or withdrew in the last 180 days); (3) reimbursing veteran’s benefits; and (4) reimbursing OHE’s administrative costs.</p> <p>The bill establishes the following order of priorities for the surety bond.</p> <ol style="list-style-type: none">1) Destroying private education data.

Section	Description
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- 2) Reimbursing state financial aid.
- 3) Reimbursing cash payments made by or on behalf of a student enrolled at the time of closure (or who withdrew in the last 180 days).
- 4) Reimbursing private student loans used by or on behalf of a student enrolled at the time of closure (or who withdrew in the last 180 days).
- 5) Reimbursing veteran's benefits.
- 6) Reimbursing tuition and fee costs for coursework that did not transfer to a new institution.
- 7) Reimbursing administrative costs incurred by OHE.

Permits OHE to grant conditional approval to an institution that cannot meet the surety bond requirement. Schools granted conditional approval would be subject to restrictions on their access to state financial aid, and would be prohibited from enrolling new or prospective students.

6 Criteria for approval

Adds additional requirements for a postsecondary institution to receive approval for registration. The requirements are:

- 1) Not requiring students to sign mandatory pre-dispute arbitration clauses.
- 2) Establishing a process to receive and act on student complaints.
- 3) Participating in the financial stability risk analysis required under section 13 of the bill.

7 Conditional approval.

OHE has the authority to grant a degree-granting school a one-year conditional approval while the school applies for accreditation. This language limits that authority to schools physically located in Minnesota.

8 Disapproval of registration appeal.

Permits OHE to renew, revoke, or suspend registration for a degree-granting postsecondary institution if the institution:

- fails to have enrollment in the last two years
- fails to have enrollment within two years of registration approval
- fails to provide a surety bond in accordance with section 5 of the bill
- is determined to be vulnerable to closure under OHE's risk analysis, which is required in section 13 of the bill

If OHE takes action against a school's registration to a failure to meet the risk analysis required in section 13 of the bill, the bill permits the office to:

- withhold student aid payments

Section	Description
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- oversee the transfer of state aid to students to ensure that payments in excess of tuition and fees reach students
- require the return of advance state aid payments
- require documentation of the proper use of aid
- issue financial aid payments directly to a student

9 Religious exemption for degree-granting schools.

Under current law, there is a religious exemption to the requirement that degree-granting schools register with OHE. The bill provides that the exemption does not apply to schools that engages in advertisement that is not truthful and gives false, fraudulent, deceptive, inaccurate, or misleading impressions about the school.

10 Exemption.

Technical change to convert language in current law from paragraphs to clauses.

11 Religious exemption for private career schools.

Under current law, there is a religious exemption to the requirement that private career schools register with OHE. The bill provides that the exemption does not apply to schools that engages in advertisement that is not truthful and gives false, fraudulent, deceptive, inaccurate, or misleading impressions about the school.

12 State reciprocity agreements regarding postsecondary distance education.

Requires OHE to collect reasonable fees to cover the cost to administer a reciprocity agreement for postsecondary distance education.

The fee is set from \$750 to \$7,500, depending on the enrollment at the institution.

13 Risk analysis.

The bill requires OHE to apply financial and non-financial measures to determine if a school is at risk of precipitous closure. A schools is at risk of precipitous closure if:

- it is unable to meet the requirements for registration in state law; and
- OHE determines that the failure to meet requirements for registration represents a risk of precipitous closure.

OHE is required to use industry standards to develop financial and nonfinancial indicators.

Requires a school to notify OHE within five business days if:

- the school has defaulted on a debt payment and not received a waiver of violation

Section	Description
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- the school's owners withdraw equity and the school has a federal composite score of less than 1.5, unless the withdrawal is a transfer between affiliated entities with a common composite score
- The federal Department of Education requires a 25 percent or greater letter of credit or heightened cash monitoring
- The school receives a notification of probation, warning, show-case, or loss of accreditation
- The school's accreditor loses federal recognition
- The school violates the federal Department of Education's 90/10 requirement

If OHE is notified for one of the reasons in the list above, it must collect data to determine if the school is at risk of closure. If OHE determines the school is at risk of precipitous closure, OHE may:

- Inform the school and request additional context and information from the school.
- If the school does not respond to the request for additional context and information, OHE may:
 - revoke, suspend, or refuse to renew registration, name approval, or degree approval
 - require additional surety or information from the institution
 - initiate alternative processes and communications with students
- Use the reevaluated determination to revoke, suspend, or renew registration, name approval, or degree approval.

Permits OHE to require a school at risk of precipitous closure to conduct monitoring and submit periodic financial reports, submit contingency plans, provide additional surety, and submit school closure information.

Requires OHE to provide schools with the metrics used to determine their risk of precipitous closure, and post a list of reviewed indicators and measures on its website.

14 Registration Fees.

Increases the annual renewal registration fee from \$1,200 to \$2,000.

Section	Description
15, 17	<p>Visit or consulting fee.</p> <p>Permits OHE to require institutions for the costs of outside consultants used to investigate schools or programs. Current law includes the same authority, but it is limited to reviews or evaluations.</p> <p>Section 15 is for degree-granting schools; section 17 is for private career schools.</p>
16, 18	<p>Student complaint fee.</p> <p>Requires institutions to reimburse OHE for the costs necessary to investigate student complaints, if OHE receives more than 5 student complaints per annual registration period. Reimbursement is \$500 for each complaint beyond the fifth, plus \$300 for each day that requires a site visit, plus the customary cost of meals, lodging, and travel expenses.</p> <p>Section 16 is for degree-granting schools; section 18 is for private career schools.</p>
19	<p>Private career school licensure; fraudulent, coercive, or dishonest practices</p> <p>Permits OHE to revoke, suspend, refuse to issue, or refuse to renew the license of a private career school, if OHE finds the school used fraudulent, coercive or dishonest practices, or demonstrated gross mismanagement.</p>
20, 21	<p>Religious exemption, private career schools.</p> <p>Under current law, there is a religious exemption to the requirement that private career schools be licensed by OHE. The bill provides that the exemption does not apply to schools that engages in advertisement that is not truthful and gives false, fraudulent, deceptive, inaccurate, or misleading impressions about the school.</p>



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