

Chapter 345

2011 EDITION

Career Schools

DEFINITIONS

345.010 Definitions for ORS 345.010 to 345.450 and 345.992 to 345.997

LICENSING

345.015 Application of ORS 345.010 to 345.450
345.017 Application of ORS 345.010 to 345.450 to school that confers academic degrees; student eligibility for moneys from Tuition Protection Fund
345.020 Duty and powers of Superintendent of Public Instruction; interest in career schools prohibited
345.030 License requirements; considerations; fingerprints; transfer of license
345.040 Approval of registration of agent required; bonding
345.060 Appointment of superintendent as agent for service of process; service of process
345.070 Registered agent identification credential; use
345.080 Fees; disposition of fees; rules
345.110 Tuition Protection Fund; payments by schools; effect of failure to pay; claims; superintendent's contracting authority; rules
345.113 Negotiability of contract for student loan
345.115 Refund schedule as part of enrollment agreement; limit on advance deposit; when default occurs; tuition refunds
345.117 Address of state department as part of agreement

345.120 Investigations; probation; suspension or revocation of licenses

345.210 Proof of license required in suit by career school, agent or employee

345.230 Remedies are additional

345.240 Discrimination prohibited; complaint

STANDARDS

345.320 Legislative findings and purpose

345.325 Minimum standards; content; rules

345.330 Advisory committee; function

345.340 Recommended minimum standards

HAIR DESIGN, BARBERING, ESTHETICS AND NAIL TECHNOLOGY SCHOOLS

345.400 Regulation of schools teaching hair design, barbering, esthetics or nail technology; graduation requirements; rules

345.430 Determination of qualifications of out-of-state or out-of-country applicants to take board test

345.440 Safety and sanitation inspections by Oregon Health Licensing Agency

345.450 Annual inspection fee; transfer

PENALTIES

345.990 Criminal penalties

345.992 Civil penalties

345.995 Establishment of schedule of civil penalties; rules; imposition of such penalties

345.997 Civil penalty credited to General Fund

DEFINITIONS

345.010 Definitions for ORS 345.010 to 345.450 and 345.992 to 345.997. As used in ORS 345.010 to 345.450 and 345.992 to 345.997:

(1) “Agent” means a person employed by or for a career school for the purpose of procuring students, enrollees or subscribers by solicitation in any form, made at a place or places other than the school office or place of business of such school.

(2) “Barbering” has the meaning given that term in ORS 690.005.

(3) “Board” means the State Board of Education.

(4) “Career school” or “school” means any private proprietary professional, technical, home study, correspondence, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession.

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

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

(7) “License” means the authority the career school has been granted to operate under ORS 345.010 to 345.450.

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

(9) “Registration” means the approval by the Superintendent of Public Instruction of a teacher or agent to instruct in or to represent the school.

(10) “Superintendent” means Superintendent of Public Instruction. [Amended by 1957 c.279 §1; 1961 c.268 §1; 1965 c.529 §12; 1973 c.239 §1; 1975 c.478 §1; 1977 c.886 §27; 1979 c.387 §1; 1987 c.31 §13; 1989 c.333 §1; 1993 c.267 §19; 1995 c.343 §1; 2005 c.117 §8]

LICENSING

345.015 Application of ORS 345.010 to 345.450. 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) 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.

(3) 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 or personal self-improvement and the instruction or training is not:

(a) Advertised or promoted as leading to or fulfilling the requirements for licensing, certification, accreditation or education credentials; or

(b) Leading to an occupation, employment or other activity for which a person may reasonably expect financial compensation.

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

(5) Courses, instruction or training offered for a limited number of hours, as defined by rule of the State Board of Education.

(6) 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 the profession for which a course is being offered.

(7) Schools that the Superintendent of Public Instruction determines are adequately regulated by other means that guarantee the school meets the standards of ORS 345.325.

(8) 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 the profession.

(9) Schools described in ORS 348.597 and, except as provided in ORS 345.017, schools approved by the Higher Education Coordinating Commission to confer or offer to confer academic degrees under ORS 348.606.

(10) Any parochial or denominational institution providing instruction or training relating solely to religion and that does not grant degrees. [Amended by 1961 c.268 §2; 1965 c.529 §13; 1975 c.478 §3; 1979 c.148 §1; 1979 c.387 §2; 1989 c.333 §2; 1993 c.45 §261; 1995 c.343 §2; 1997 c.652 §32; 2005 c.546 §7; 2009 c.340 §3; 2011 c.637 §132]

Note: The amendments to 345.015 by section 132, chapter 637, Oregon Laws 2011, become operative July 1, 2012. See section 292, chapter 637, Oregon Laws 2011. The text that is operative until July 1, 2012, is set forth for the user’s convenience.

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) 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.

(3) 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 or personal self-improvement and the instruction or training is not:

(a) Advertised or promoted as leading to or fulfilling the requirements for licensing, certification, accreditation or education credentials; or

(b) Leading to an occupation, employment or other activity for which a person may reasonably expect financial compensation.

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

(5) Courses, instruction or training offered for a limited number of hours, as defined by rule of the State Board of Education.

(6) 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 the profession for which a course is being offered.

(7) Schools that the Superintendent of Public Instruction determines are adequately regulated by other means that guarantee the school meets the standards of ORS 345.325.

(8) 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 the profession.

(9) Schools described in ORS 348.597 and, except as provided in ORS 345.017, schools approved by the Oregon Student Access Commission to confer or offer to confer academic degrees under ORS 348.606.

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

345.017 Application of ORS 345.010 to 345.450 to school that confers academic degrees; student eligibility for moneys from Tuition Protection Fund. When a school that is licensed under ORS 345.010 to 345.450 is approved by the Higher Education Coordinating Commission to confer or offer to confer an academic degree under ORS 348.606 and the school continues to offer a course or program that does not lead to an academic degree:

(1) The school must continue to be licensed as a career school and meet the requirements of ORS 345.010 to 345.450 until:

(a) All courses or programs offered by the school are approved by the commission; and

(b) All students who were first enrolled in the school when the school was licensed as a career school have:

(A) Completed the course or program for which the student contracted with the career school; or

(B) Terminated enrollment in the career school for any reason.

(2) A student who is enrolled in a course or program for which a school must be licensed under ORS 345.010 to 345.450 is eligible for moneys from the Tuition Protection Fund established under ORS 345.110 if the student:

(a) Qualifies for moneys under rules adopted by the State Board of Education under ORS 345.110; and

(b) Was first admitted to the school when the school was licensed as a career school under ORS 345.010 to 345.450.

(3) When a course or program that did not lead to an academic degree is approved by the Higher Education Coordinating Commission to lead to an academic degree, the regulatory authority for that course or program transfers to the commission upon the approval. [2009 c.340 §2; 2011 c.637 §133]

Note: The amendments to 345.017 by section 133, chapter 637, Oregon Laws 2011, become operative July 1, 2012. See section 292, chapter 637, Oregon Laws 2011. The text that is operative until July 1, 2012, is set forth for the user's convenience.

345.017. When a school that is licensed under ORS 345.010 to 345.450 is approved by the Oregon Student Access Commission through the Office of Degree Authorization to confer or offer to confer an academic degree under ORS 348.606 and the school continues to offer a course or program that does not lead to an academic degree:

(1) The school must continue to be licensed as a career school and meet the requirements of ORS 345.010 to 345.450 until:

(a) All courses or programs offered by the school are approved by the commission; and

(b) All students who were first enrolled in the school when the school was licensed as a career school have:

(A) Completed the course or program for which the student contracted with the career school; or

(B) Terminated enrollment in the career school for any reason.

(2) A student who is enrolled in a course or program for which a school must be licensed under ORS 345.010 to 345.450 is eligible for moneys from the Tuition Protection Fund established under ORS 345.110 if the student:

(a) Qualifies for moneys under rules adopted by the State Board of Education under ORS 345.110; and

(b) Was first admitted to the school when the school was licensed as a career school under ORS 345.010 to 345.450.

(3) When a course or program that did not lead to an academic degree is approved by the commission to lead to an academic degree, the regulatory authority for that course or program transfers to the commission upon the approval.

345.020 Duty and powers of Superintendent of Public Instruction; interest in career schools prohibited. (1) The Superintendent of Public Instruction shall administer ORS 345.010 to 345.450 and 345.992 to 345.997 and shall enforce all laws and rules relating to the licensing of career schools and agents.

(2) The superintendent may establish procedures whereby schools become eligible to participate in federal student assistance programs if approved by the United States Department of Education.

(3) The superintendent and the employees of the Department of Education shall not have financial interests in any career school and shall not act as agents or employees

thereof. [Amended by 1955 c.527 §1; 1961 c.268 §3; 1975 c.478 §4; 1989 c.333 §3; 1995 c.343 §3]

345.030 License requirements; considerations; fingerprints; transfer of license.

(1) A person may not open, conduct or do business as a career school in this state without obtaining a license under ORS 345.010 to 345.450.

(2) Except as provided in subsection (8) of this section, the Superintendent of Public Instruction may issue a license to conduct a career school only after the applicant has presented proof satisfactory to the superintendent or the representative of the superintendent that the applicant complies with applicable standards adopted under ORS 345.325 and 670.280. For the purpose of this subsection, ORS 670.280 applies to individuals who hold positions of authority or control in the operation of the school and to its faculty members and agents.

(3) A career school licensed in any other state must be licensed in this state before establishing a physical presence in this state such as offices or agents, or both, for the purpose of solicitation of students.

(4) In determining whether to issue a license to a career school, the superintendent may consider the prior history of the applicant in operating other career schools. The prior history of operating other career schools includes, but is not limited to:

(a) Conduct by the applicant that is cause for probation of a licensee or for suspension or revocation of a license as provided in ORS 345.120 (2);

(b) Failure to comply with ORS 345.010 to 345.450 or rules adopted under ORS 345.010 to 345.450; and

(c) The history of the applicant in operating career schools in other states.

(5) The superintendent may not issue a license to or renew the license of a career school until the applicant provides all of the following to the superintendent:

(a) A financial statement, certified true and accurate and signed by the owner of the school;

(b) Proof of compliance with the tuition protection policy established by the State Board of Education pursuant to ORS 345.110; and

(c) Fingerprints of individuals as described in subsection (6) of this section.

(6)(a) Except as provided in paragraph (c) of this subsection, an applicant for an initial issuance of a license or a renewal of a license must provide to the superintendent the fingerprints of faculty members and agents of the school and individuals who hold positions of authority or control in the operation

of the school if the career school will be enrolling or does enroll persons under 18 years of age.

(b) In addition to requirements provided under paragraph (a) of this subsection, the superintendent may require a career school to provide the fingerprints of any agents of the school who will have contact with persons under 18 years of age on behalf of the career school.

(c) An applicant is not required to provide fingerprints under paragraph (a) or (b) of this subsection if the Department of Education has conducted a state or nationwide criminal records check on the person within the three years preceding the date of the application.

(d) Fingerprints acquired under this subsection may be used only for the purpose of requesting a state or nationwide criminal records check under ORS 181.534.

(7) Notwithstanding ORS 345.325 (10), the superintendent may place a school on probation or deny, suspend or revoke a license if the superintendent finds that an individual who holds a position of authority or control in the operation of the school was convicted of a crime listed in ORS 342.143.

(8) The superintendent may issue a conditional license to a career school that meets the requirements of subsection (5) of this section but that does not comply with the applicable standards adopted by rule under ORS 345.325. A conditional license issued under this subsection is effective for a period prescribed by the department, which may not exceed 90 days.

(9)(a) Except as provided in paragraph (b) of this subsection, a career school license is nontransferable. The licensee must give 30 days of notice to the Department of Education when transferring ownership of a career school.

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

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

(B) Other circumstances render the owner unable to operate the career school.

(10) Each career school shall display its license in a prominent place. [Amended by 1961 c.268 §4; paragraph (b) of subsection (2) and subsection (3) formerly 345.050; 1975 c.478 §5; 1989 c.333 §4; 1993 c.45 §262; 1995 c.343 §4; 2009 c.340 §4]

345.040 Approval of registration of agent required; bonding. (1) No person shall act in this state as an agent for a career school domiciled within or outside this state, unless the Superintendent of Public

Instruction has approved the agent's registration as a part of the school's license under ORS 345.010 to 345.450. No person shall act as an agent for a career school unless and until the career school has obtained a license.

(2) For the purposes of licensing and student protection, persons acting as agents for a career school domiciled within or outside this state are employees of the school and shall be included under the school's bonding or student protection policy, or both. Agents shall perform their duties and conduct their business in accordance with ORS 345.010 to 345.450.

(3) 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. [Amended by 1961 c.268 §5; 1973 c.827 §34; 1975 c.478 §6; 1979 c.744 §16; 1981 c.527 §1; 1989 c.333 §5; 1995 c.343 §5]

345.050 [Amended by 1961 c.268 §6; renumbered as part of 345.030]

345.060 Appointment of superintendent as agent for service of process; service of process. (1) Every agent for a career school not domiciled in this state shall be held to have appointed the Superintendent of Public Instruction as agent to accept service of all summonses, pleadings, writs and processes in all actions or proceedings brought against the applicant in this state. Service upon the superintendent shall be taken and held in all courts to be as valid and binding as if personal service thereof had been made upon the applicant within this state.

(2) When any summons, pleading, writ or process is served on the superintendent, service shall be by duplicate copies. One of the duplicates shall be filed in the office of the superintendent and the other immediately forwarded by certified mail to the agent thereby affected or therein named, at the agent's last-known post-office address. If service is of a summons, the plaintiff therein also shall cause the agent to be served therewith in a manner provided by ORCP 7. [Amended by 1961 c.268 §7; 1975 c.478 §7; 1979 c.284 §138; 1989 c.333 §6; 1995 c.343 §6]

345.070 Registered agent identification credential; use. The employing school shall issue an identification credential to each agent registered under ORS 345.010 to 345.450 in the form and size prescribed by the Superintendent of Public Instruction. Each agent shall carry the credential at all times while engaged as an agent of the school. [Amended by 1961 c.268 §8; 1975 c.478 §8; 1989 c.333 §7]

345.080 Fees; disposition of fees; rules. (1) Before issuing any licenses under ORS 345.010 to 345.450, the Superintendent of Public Instruction shall collect the following nonrefundable, annual license fees:

| In-State Schools | | |
|----------------------|--|----------|
| Tuition Income Range | | Fee |
| \$ 0 - 15,000 | | \$ 450 |
| 15,001 - 50,000 | | 600 |
| 50,001 - 125,000 | | 750 |
| 125,001 - 250,000 | | 1,050 |
| 250,001 - 500,000 | | 1,350 |
| 500,001 - 750,000 | | 1,650 |
| 750,001 - 1,000,000 | | 1,950 |
| Over 1,000,000 | | 2,250 |
| Out-of-State Schools | | |
| Tuition Income Range | | Fee |
| \$ 0 - 50,000 | | \$ 1,350 |
| 50,001 - 250,000 | | 1,650 |
| 250,001 - 500,000 | | 1,950 |
| 500,001 - 750,000 | | 2,250 |
| 750,001 - 1,000,000 | | 2,550 |
| Over 1,000,000 | | 2,850 |

(2) The State Board of Education may adopt, by rule, fees for teacher registration and fees for providing copies of student transcripts maintained at the Department of Education.

(3) The board may adopt, by rule, fees for conducting a state or nationwide criminal background check under ORS 181.534 and may collect fees for each criminal records check. Fees collected as provided by this subsection are in addition to any other fees collected by the department.

(4) All fees collected under this section shall be paid to the credit of the department. Such moneys are continuously appropriated to the department and shall be used for the administration of the licensing program under ORS 345.010 to 345.450. [Amended by 1955 c.527 §2; 1961 c.268 §9; 1975 c.478 §9; 1989 c.333 §8; 1993 c.45 §263; 1993 c.413 §5; 1999 c.638 §1; 2003 c.540 §1; 2009 c.340 §5]

345.090 [Amended by 1961 c.268 §10; repealed by 1975 c.478 §29]

345.100 [Amended by 1961 c.268 §11; 1975 c.478 §10; repealed by 1989 c.333 §25]

345.110 Tuition Protection Fund; payments by schools; effect of failure to pay; claims; superintendent's contracting authority; rules. (1) The Tuition Protection Fund is established separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. Proceeds of the fund are continuously appropriated to the Department of Education to protect students when a career school ceases to provide educational services and for administrative expenses incurred under subsection (5) of this section.

(2) The Superintendent of Public Instruction shall maintain and administer the fund, and the State Board of Education shall adopt by rule procedures governing the administration and maintenance of the fund, including requirements relating to contributions to and claims against the fund.

(3) Each career school shall pay to the Tuition Protection Fund an initial capitalization deposit in amounts and within time limits established by rule of the board. Thereafter, each school shall make installment payments based on a matrix adopted by rule of the board. In establishing the amount and frequency of payments, the board may consider the enrollment and financial condition of each school and such other factors as the board considers appropriate. The superintendent may deny, suspend or revoke the license of a school which fails to make payments or fails to conform to other requirements of this section or rules adopted by the board under this section.

(4) The superintendent shall deposit moneys received under this section with the State Treasurer in the Tuition Protection Fund.

(5) The superintendent may disburse moneys from the fund by checks or orders drawn upon the State Treasurer in conformance with rules of the board and only for tuition protection purposes, including the superintendent's costs in administering and maintaining the fund.

(6) The superintendent may enter into contracts to carry out the purposes of the fund. The provisions of ORS 279.835 to 279.855 and ORS chapters 279A and 279B do not apply to contracts entered into under this subsection. [Amended by 1975 c.478 §11; 1981 c.897 §49; 1989 c.333 §9; 1991 c.534 §4; 1993 c.45 §264; 1995 c.343 §7; 2003 c.540 §2; 2003 c.794 §257a]

345.113 Negotiability of contract for student loan. (1) In any contract for the provision of instruction or training or other services by a career school on credit entered into between a career school and a student, or between a lending institution which regularly loans money to students of a particular career school and a prospective student of that career school, such contract, note or any instrument or evidence of indebtedness of the student shall have printed on the face thereof the words "Student Loan." Such contract, note, instrument or evidence of indebtedness with the words "Student Loan" printed thereon shall not be a negotiable instrument within the meaning of ORS chapter 73. However, this section shall have no force or effect on the negotiability of any contract, promissory note, instrument or other evidence of indebtedness owned or guaranteed or insured by any state or federal govern-

mental agency even though the contract, note, instrument or other evidence of indebtedness contains the wording required by this subsection.

(2) Notwithstanding the absence of such notice on a contract, note, instrument or evidence of indebtedness arising out of a contract for the provision of training or instruction or other services by a career school, an assignee of the rights of the career school or lending institution as described in subsection (1) of this section is subject to all claims and defenses of the student against the career school or lending institution arising out of the contract for provision of professional instruction or training or other services. Any agreement to the contrary shall be of no force or effect in limiting the rights of a student under this section. The assignee's liability under this section shall not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee. The restrictions imposed by this subsection shall not apply with respect to any promissory note, contract, instrument or other evidence of indebtedness owned or guaranteed or insured by any state or federal governmental agency even though said note, contract, instrument or other evidence of indebtedness shall contain the words required by subsection (1) of this section.

(3) An assignee of a student loan who in good faith enforces a security interest in property held by the student shall not be liable to such student for punitive damages in an action for wrongful repossession. The fact that a career school misrepresented the nature of the training or instruction or other services shall not, of itself, make an assignee's repossession wrongful. [1975 c.478 §28; 1995 c.343 §8]

345.115 Refund schedule as part of enrollment agreement; limit on advance deposit; when default occurs; tuition refunds. (1) The enrollment agreement entered into between a person and a career school for the purpose of obtaining instruction or training shall contain a schedule for the refund of tuition, deposits and fees when the person does not complete the course or program of instruction or training which was the subject of the contract. No action or suit may be brought by a career school or its assigns if the enrollment agreement does not contain this refund schedule. This provision shall not limit the career school's right to defend any action or suit brought by any person on a contract which does not contain such a schedule.

(2) The refund schedule required by subsection (1) of this section shall be established by the Superintendent of Public Instruction

in consultation with the advisory committee appointed under ORS 345.330. In establishing the refund schedule, the superintendent shall consider:

(a) The reasonable, obligated and fixed costs of the career school, including but not limited to rent, personnel and nonreturnable supplies.

(b) The method of instruction.

(c) The reasonable value of services performed prior to cancellation of the course or program.

(3) The superintendent may establish varying refund schedules when the difference in services performed necessitates separate schedules.

(4) Nothing in this section is intended to prevent a career school from requiring an advance deposit of tuition on behalf of the person intending to enroll in a course or program offered by or through the career school. However, the advance deposit shall be limited to 20 percent of the total tuition and fees, excluding federal and state financial aid, unless the State Board of Education determines by rule that larger advance deposits are appropriate.

(5) 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 on a pro rata basis 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 at no additional tuition cost to the student beyond the original contract with the defaulting school. If the school does not make such provision, a total refund of all tuition and fees shall be made to the students. [1965 c.409 §2; 1967 c.67 §16; 1975 c.478 §12; 1989 c.333 §10; 1993 c.742 §78; 1995 c.343 §9]

345.117 Address of state department as part of agreement. Any enrollment agreement used within this state as a contract for instruction between a career school and a student shall have printed or stamped upon it: "Any inquiry a student may have regarding this contract may be made in writing to the school (name and address), or to the Superintendent of Public Instruction, Department of Education, (current address), Salem, Oregon (current zip code)." [1975 c.478 §22; 1989 c.333 §11; 1995 c.343 §10]

345.120 Investigations; probation; suspension or revocation of licenses. (1) On the written complaint of any person, the Superintendent of Public Instruction shall, and on the superintendent's own motion may, in-

vestigate the actions of any career school or agent, or any person who assumes to act in either capacity within this state.

(2) As a result of the investigation, and in addition to any penalty that may be imposed under ORS 345.992, the superintendent may place a licensee on probation or may suspend or revoke any license issued under ORS 345.010 to 345.450 when the licensee has:

(a) Obtained a license by misrepresentation.

(b) Violated ORS 345.010 to 345.450 or any applicable rule.

(c) Ceased to engage in the business authorized by the license.

(d) Willfully used or employed any method, act or practice declared unlawful by ORS 646.608.

(3) When notice of suspension or revocation is issued, the licensee shall be notified and, upon request, shall be granted a contested case hearing under ORS 183.310 (2).

(4) A licensee placed on probation must be formally notified by the superintendent that it has deficiencies that must be corrected within a time specified in the notice.

(5) A licensee whose license is suspended is prohibited from advertising, recruiting or enrolling students but may remain in operation to complete training of students enrolled on the effective date of the suspension.

(6) A licensee whose license has been revoked is not authorized to continue in operation on and after the effective date of the revocation. [Amended by 1965 c.409 §3; 1975 c.478 §13; 1989 c.333 §12; 1993 c.45 §265; 1995 c.343 §11]

345.130 [Repealed by 1975 c.478 §29]

345.140 [Repealed by 1975 c.478 §29]

345.150 [Amended by 1971 c.734 §39; repealed by 1975 c.478 §29]

345.160 [Repealed by 1975 c.478 §29]

345.170 [Repealed by 1975 c.478 §29]

345.180 [Repealed by 1975 c.478 §29]

345.190 [Repealed by 1975 c.478 §29 and by 1975 c.759 §17]

345.200 [Repealed by 1975 c.478 §29 and by 1975 c.759 §17]

345.210 Proof of license required in suit by career school, agent or employee. No career school or its agents or employees shall bring or maintain any suit or action in any court in or of this state for a cause of suit or action arising out of doing business as a career school in this state, without alleging and proving that it has complied with the applicable licensing provisions of ORS 345.010 to 345.450 and 345.992 to 345.997 at the time such cause of suit or action arose. [Amended by 1975 c.478 §14; 1989 c.333 §13; 1995 c.343 §12]

345.220 [Amended by 1961 c.268 §12; 1965 c.529 §14; repealed by 1975 c.478 §29]

345.230 Remedies are additional. The remedies provided in ORS 345.010 to 345.450 and 345.992 to 345.997 are in addition to, and not exclusive of, any other remedies provided by law. [Amended by 1975 c.478 §15; 1975 c.759 §17a; 1991 c.67 §85]

345.240 Discrimination prohibited; complaint. (1) No career school licensed under ORS 345.010 to 345.450 shall refuse admission to or discriminate in admission against or discriminate in giving instruction to any person otherwise qualified.

(2) Any violation of this section is an unlawful practice under ORS chapter 659A. Any person unlawfully discriminated against under this section may file a complaint under ORS 659A.820 with the Commissioner of the Bureau of Labor and Industries.

(3) A certified copy of a finding by the Commissioner of the Bureau of Labor and Industries under ORS 659A.850 that the school has violated this section shall be adequate proof of the violation.

(4) As used in this section, “discriminate” has the meaning given “discrimination” in ORS 659.850. [Amended by 1957 c.724 §11; 1973 c.714 §4; 1989 c.333 §14; 1993 c.45 §266; 1995 c.343 §13; 2001 c.621 §77]

345.250 [Amended by 1957 c.724 §12; repealed by 1989 c.333 §26]

345.310 [1965 c.529 §2; repealed by 1975 c.478 §29]

STANDARDS

345.320 Legislative findings and purpose. (1) The Legislative Assembly finds that career schools are capable of increasing the educational opportunities available in this state or to residents of this state and of making a contribution to the social and economic progress of the people of this state. Career schools offer different approaches to education than do public schools and are often able to provide professional, technical and placement assistance not otherwise available.

(2) It is the purpose of ORS 345.010 to 345.450 to provide for the protection, education and welfare of the citizens of this state, its career schools and its students, by establishing minimum standards concerning quality of education, ethical and business practices, health and safety and fiscal responsibility, and protecting against substandard, transient, unethical, deceptive or fraudulent practices. [1965 c.529 §3; 1975 c.478 §2; 1993 c.45 §267; 1995 c.343 §14]

345.325 Minimum standards; content; rules. The State Board of Education shall adopt by rule minimum standards for the licensing of career schools under ORS 345.010

to 345.450 that are reasonably calculated to ensure that:

(1) The quality and content of each course or program of instruction can achieve its stated objective;

(2) The facilities, instructional equipment and materials are sufficient to enable students to achieve the program goals and are adequate for the purposes of the program;

(3) The directors, administrators and instructors are properly qualified;

(4) Prior to an applicant signing an enrollment agreement, the school provides the applicant with a catalog or brochure that includes an accurate description of the program for which the applicant is enrolling, total costs of tuition and fees and other information specified by rule;

(5) Upon satisfactory completion of instruction and training, the student is given appropriate educational credentials;

(6) Adequate records and standard transcripts are maintained;

(7) The career school is maintained and operated in compliance with all applicable ordinances and laws;

(8) The career school is financially sound and capable of fulfilling its commitments to students;

(9) Neither the career school nor its agents engage in advertising, sales, collection, credit or other practices of any type which are unlawful under ORS 646.608;

(10) The directors, administrators, supervisors and instructors of the school are of good reputation and character, except that a school shall not be placed on probation or a license shall not be denied, suspended or revoked because a faculty member has been convicted of a crime except as authorized under ORS 670.280;

(11) Any student housing owned, maintained or approved by the career school is appropriate, safe and adequate;

(12) The school has a written placement assistance plan; and

(13) A license application from a new school or an application for approval of a new program from an existing school shall include labor market information that identifies the need for the new school or program. [1975 c.478 §21; 1979 c.744 §17; 1989 c.333 §15; 1993 c.45 §268; 1995 c.343 §15]

345.330 Advisory committee; function.

(1) The Superintendent of Public Instruction shall appoint a representative advisory committee consisting of 11 members who shall serve for terms of three years ending June 30. Of the membership of the committee:

(a) Seven members shall be persons affiliated with career schools as owners, directors, administrators, instructors or representatives, but not more than one member shall represent an out-of-state career school.

(b) Four members shall be persons who are not eligible under paragraph (a) of this subsection. At least one of these members shall have graduated from a career school.

(2) The advisory committee appointed under subsection (1) of this section shall:

(a) Make recommendations to the superintendent and State Board of Education concerning the need for professional and technical instructional and training facilities, the types of instruction and training needed and by whom these can best be provided.

(b) Recommend standards for career schools as provided in ORS 345.325 which are consistent with the purposes of such schools.

(c) Investigate and present findings to the State Board of Education on the administration and operation of laws relating to career schools. However, the investigations and findings of the advisory committee do not affect the authority of the superintendent to issue, deny, suspend or revoke the license of any career school.

(d) Consult with the superintendent in determining the refund schedule under ORS 345.115.

(e) Make recommendations to the superintendent concerning rule development for ORS 345.010 to 345.450 and 345.992 to 345.997.

(3) Members of the advisory committee are entitled to compensation and expenses as provided in ORS 292.495 from funds appropriated to the Department of Education for purposes of administering ORS 345.010 to 345.450. [1965 c.529 §4; 1967 c.67 §17; 1975 c.478 §16; 1989 c.333 §16; 1993 c.45 §269; 1995 c.343 §16]

345.340 Recommended minimum standards. Consistent with the requirements of ORS 345.325, the advisory committee shall recommend to the State Board of Education minimum standards for the operation of career schools. In making its recommendations, the committee shall consider changes in technological, economic and social conditions which affect employment needs, opportunities and skills. [1965 c.529 §5; 1975 c.478 §18; 1995 c.343 §17]

345.350 [1965 c.529 §§6,10; repealed by 1975 c.478 §29]

345.360 [1965 c.529 §7; repealed by 1975 c.478 §29]

345.370 [1965 c.529 §8; 1975 c.478 §19; repealed by 1989 c.333 §26]

345.380 [1965 c.529 §11; repealed by 1975 c.478 §29]

HAIR DESIGN, BARBERING, ESTHETICS AND NAIL TECHNOLOGY SCHOOLS

345.400 Regulation of schools teaching hair design, barbering, esthetics or nail technology; graduation requirements; rules. In addition to the other requirements of ORS 345.010 to 345.450, the rules adopted by the State Board of Education to regulate schools teaching hair design, barbering, esthetics or nail technology:

(1) May include rules the board considers necessary to protect the economic or physical health and safety of the public and of the students attending the school including compliance with ORS 345.110.

(2) Shall include rules that set standards for teachers teaching in schools licensed to teach hair design, barbering, esthetics or nail technology pursuant to ORS 345.010 to 345.450.

(3) Shall require the schools to teach, and require for graduation from the school, courses that meet the following minimum standards:

(a)(A) A minimum hourly training requirement for:

- (i) Hair design, 1,450 hours;
- (ii) Barbering, 1,100 hours;
- (iii) Esthetics, 250 hours; and
- (iv) Nail technology, 350 hours; and

(B) In addition to the programs listed in this subsection, a student is also required to successfully complete the following requirements once:

- (i) Safety and sanitation, 150 hours; and
- (ii) Career development, 100 hours.

(b) A student competency-based training requirement for hair design, barbering, esthetics or nail technology, if the school has developed written requirements for graduation that are approved by the Superintendent of Public Instruction. [1977 c.886 §29; 1987 c.31 §14; 1989 c.333 §17; 1991 c.67 §86; 1993 c.45 §270; 1993 c.267 §20; 1995 c.79 §188; 1995 c.343 §18; 2005 c.117 §9]

345.410 [1977 c.886 §30; 1987 c.31 §15; repealed by 1989 c.333 §26]

345.420 [1977 c.886 §31; 1983 c.151 §23; 1989 c.333 §18; 1993 c.45 §271; repealed by 1993 c.742 §77]

345.430 Determination of qualifications of out-of-state or out-of-country applicants to take board test. At the request of the Board of Cosmetology, the Superintendent of Public Instruction shall determine whether a person from out-of-state or out-of-country seeking a certificate in hair design, barbering, esthetics or nail technology is qualified to take the test of the Board of Cosmetology. A determination shall be made by an evaluation of academic tran-

scripts, apprenticeship records and work experience documentation. If documentation is not available, the superintendent may refer the person to a career school for evaluation and recommendation. [1977 c.886 §33; 1987 c.31 §16; 1989 c.333 §19; 1993 c.267 §21; 1995 c.343 §19; 1999 c.425 §27; 2005 c.117 §10]

345.440 Safety and sanitation inspections by Oregon Health Licensing Agency. Safety and sanitation inspections performed in schools licensed under ORS 345.010 to 345.450 to teach hair design, barbering, esthetics or nail technology shall be conducted by the Oregon Health Licensing Agency. [1977 c.886 §34; 1987 c.31 §17; 1987 c.414 §150; 1993 c.45 §272; 1993 c.267 §22; 1995 c.343 §19a; 2001 c.104 §120; 2005 c.117 §11; 2005 c.648 §119]

345.450 Annual inspection fee; transfer. (1) In addition to the fees required by ORS 345.080, before issuing any license under ORS 345.010 to 345.450 to a school teaching hair design, barbering, esthetics or nail technology, and annually thereafter, the Department of Education shall collect a nonrefundable annual inspection fee of \$100.

(2) The inspection fee collected under subsection (1) of this section shall be transferred to the Oregon Health Licensing Agency for inspections performed under ORS 345.440. [1977 c.886 §35; 1987 c.31 §18; 1987 c.414 §151; 1989 c.333 §20; 1993 c.45 §273; 1993 c.267 §23; 1995 c.343 §19b; 2001 c.104 §121; 2005 c.117 §12; 2005 c.648 §120]

345.460 [Formerly 690.275; 1989 c.333 §21; 1989 c.491 §52a; 1993 c.45 §274; repealed by 1995 c.343 §72]

345.470 [Formerly 690.087; 1989 c.333 §22; 1993 c.45 §275; repealed by 1995 c.343 §72]

345.505 [1975 c.557 §1; 1979 c.271 §1; 1985 c.579 §4; 1989 c.619 §5; 1991 c.67 §87; 1993 c.45 §276; 1999 c.59 §92; 1999 c.717 §6; 2007 c.407 §5; repealed by 2011 c.301 §1]

345.515 [1975 c.557 §2; 1993 c.45 §277; repealed by 2011 c.301 §1]

345.525 [1975 c.557 §3; 1979 c.271 §2; 1993 c.45 §278; 1995 c.769 §3; 2005 c.22 §241; repealed by 2011 c.301 §1]

345.535 [1975 c.557 §4; 1989 c.491 §53; 2009 c.595 §218; repealed by 2011 c.301 §1]

345.545 [1975 c.557 §5; 1979 c.387 §3; repealed by 2011 c.301 §1]

345.555 [1975 c.557 §6; repealed by 2011 c.301 §1]

345.565 [1975 c.557 §7; repealed by 2011 c.301 §1]

345.575 [1975 c.557 §8; repealed by 2011 c.301 §1]

345.585 [1975 c.557 §12; 1989 c.333 §23; 1993 c.45 §279; 1995 c.343 §20; 1997 c.383 §14; 2011 c.301 §11; renumbered 342.197 in 2011]

PENALTIES

345.990 Criminal penalties. Violation of any provision of ORS 345.020, 345.030, 345.070, 345.115 or 345.325 is a Class B misdemeanor. [Amended by 1975 c.478 §26; subsection (2) enacted as 1975 c.557 §9; 1993 c.45 §280; 2011 c.301 §8]

345.992 Civil penalties. (1) In addition to any other penalty provided by law, any person who violates any provision of ORS 345.020, 345.030, 345.070, 345.115 or 345.117, or who engages in an unlawful trade practice as defined by ORS 646.608 shall incur a civil penalty for each violation in the amount prescribed by the schedule adopted under ORS 345.995.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.745. [1975 c.478 §23; 1991 c.734 §17]

345.995 Establishment of schedule of civil penalties; rules; imposition of such penalties. (1) After consultation with the advisory committee established under ORS 345.330, the State Board of Education shall adopt by rule a schedule or schedules establishing the amount of civil penalty that may be imposed for a particular violation of ORS 345.010 to 345.450. No civil penalty shall exceed \$500 per violation. The board shall consult with the Attorney General before adopting the schedule of penalties for violations of ORS 345.120 (2)(d).

(2) In imposing a penalty for violation of ORS 345.010 to 345.450 pursuant to the schedule or schedules authorized by this section, the Superintendent of Public Instruction shall consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations of ORS 345.010 to 345.450 or rules adopted pursuant thereto.

(c) The economic and financial conditions of the person incurring a penalty.

(3) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the superintendent considers proper and consistent with the public welfare.

(4) The superintendent may impose penalties which may be remitted or mitigated on condition that a particular violation not continue or occur after a certain period not to exceed 15 days. [1975 c.478 §24; 1991 c.67 §88; 1993 c.45 §281]

345.997 Civil penalty credited to General Fund. All penalties recovered under ORS 345.992 shall be paid into the State Treasury and credited to the General Fund. [1975 c.478 §25; 1989 c.706 §11; 1991 c.734 §18]

