

CHAPTER 1077

OVERSIGHT OF POSTSECONDARY EDUCATIONAL PROGRAMS AND INSTITUTIONS

S.F. 2267

AN ACT concerning oversight of schools offering postsecondary educational programs by the college student aid commission and making penalties applicable.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I POSTSECONDARY REGISTRATION — REQUIREMENTS

Section 1. Section 261B.2, Code 2011, is amended to read as follows:

261B.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “Commission” means the college student aid commission created pursuant to section 261.1.

2. “Course of instruction” means a postsecondary educational program that a school offers through in-person instruction, distance delivery, correspondence study methods, or any combination thereof.

3. “Degree” means a postsecondary credential conferring on the recipient the title of associate, bachelor, master, or doctor, or an equivalent title, signifying educational attainment based on any one or a combination of study or the equivalent which may be supplemented by experience or achievement testing. A postsecondary degree under this chapter shall not include an honorary degree or other unearned degree.

4. “Presence” means maintaining an address within Iowa a location in Iowa at which a student participates in any structured activity related to a school’s distance education course of instruction, with the exception of proctored examinations. “Presence” also means an address, location, telephone number, or internet protocol address in Iowa from which a school conducts any aspect of its operations. For the purpose of a residential course of instruction offered on a school’s campus that is not located in Iowa, “presence” does not include:

a. Occasional, short-term activities conducted at a location in Iowa for the purpose of recruiting students for the school’s residential course of instruction.

b. A residency, practicum, internship, clinical, or similar experience that the school permits the student to participate in at a location in Iowa, provided that a person who provides instruction or supervision at the Iowa location is not compensated by the school.

5. “School” means an agency of the state or political subdivision of the state, individual, partnership, company, firm, society, trust, association, corporation, or any combination which meets any of the following criteria:

a. Is, owns, or operates a nonprofit postsecondary educational institution.

b. Provides a postsecondary instructional program or course of instruction leading to a degree.

c. Uses in its name the term “college”, “academy”, “institute”, or “university” or a similar term to imply that the person is primarily engaged in the education of students at the postsecondary level, and which makes a charge for its services.

6. “Student” means a person who enrolls in or seeks to enroll in a course of instruction offered or conducted by a school.

Sec. 2. Section 261B.3, Code 2011, is amended to read as follows:

261B.3 Registration.

1. Except as provided in section 261B.11, a school that maintains or shall register with the commission if a person compensated by the school conducts one or more courses any portion of a course of instruction, including courses of instruction by correspondence or other distance delivery method, offered in this state or which if the school otherwise has a presence in this state and offers courses in other states or foreign countries shall register with the commission.

a. Registrations shall be renewed every four two years or and shall be amended upon any substantive change in location, program offering, or accreditation. A school makes a substantive change in a program offering when the school proposes to offer or modify a program that requires the approval of the state board of education or any other state agency authorized to approve the school or its program in this state.

b. Registration shall be made on application forms approved and supplied made available by the commission and at the time and in the manner prescribed by the commission. Upon receipt of a complete and accurate registration application, the commission shall issue an acknowledgment of document filed and send it to the school.

2. The commission may request require a school to provide additional information as the commission deems necessary to enable the commission to determine the accuracy and completeness of the information contained in the evaluate a school's suitability for registration application.

3. The commission shall notify a school in writing of its decision to grant or deny registration and any stipulation associated with the school's registration.

4. If a school fails to meet any of the registration criteria, or if the commission believes that false, misleading, or incomplete information has been submitted in connection with an application for registration, the commission may deny registration. The commission shall conduct a hearing on the denial if a hearing is requested by a school. The commission may withhold an acknowledgment of document filed pending the outcome of the hearing. Upon a finding after the hearing that the school fails to meet any of the registration criteria, or that information contained in the registration application is false, misleading, or incomplete, the commission shall deny an acknowledgment of document filed to the school registration. The commission shall make the final decision on each registration. However, the decision of the commission is subject to judicial review in accordance with section 17A.19.

3. 5. The commission shall adopt rules under chapter 17A for the implementation of this chapter.

Sec. 3. Section 261B.3A, Code 2011, is amended to read as follows:

261B.3A Requirements.

1. In order to register, a school shall be accredited by an agency or organization approved or recognized by the United States department of education or a successor agency, be approved by any other state agency authorized to approve the school in this state, and, subsequently, be approved for operation by the commission.

2. A practitioner preparation program, as defined in section 272.1, operated by a school that applies to register the program in accordance with this chapter shall, in order to register, be accredited by an agency or organization approved or recognized by the United States department of education or a successor agency, be approved by the state board of education pursuant to section 256.7, subsection 3, and, subsequently, be approved for operation by the commission.

3. The commission may grant a provisional registration to a school that is not accredited by an agency or organization that is recognized by the United States department of education or its successor agency. The commission shall determine the duration of the provisional registration. During the provisional registration period, the school shall, at six-month intervals, submit to the commission documentation of its progress toward achieving accreditation. The commission may renew the school's provisional registration at its discretion if the documentation submitted indicates that the school is making progress toward accreditation.

3. 4. Nothing in this chapter shall be construed to exempt a school from the requirements of chapter 490, or 491, or 714.

Sec. 4. Section 261B.4, Code 2011, is amended to read as follows:

261B.4 Registration information.

As a basis for registration, schools shall provide the commission with the following information:

1. The name or title of the school.

2. ~~The~~ As applicable, the principal location of the school in this state, in other states, and in foreign countries, and the location of the place or places in this state, in other states, and in foreign countries where instruction is likely to be given.

3. A schedule of the total tuition charges, fees, and other costs payable to the school by a student during the course of instruction.

4. The refund policy of the school for the return of refundable portions of tuition, fees, or other charges. The tuition refund policy for Iowa resident students of a for-profit school with at least one program of more than four months in length that leads to a recognized educational credential, such as an academic or professional degree, diploma, or license, must comply with section 714.23.

~~5. The degrees granted by the school.~~

6. ~~5.~~ The names and addresses of the principal owners of the school or the officers and members of the legal governing body of the school.

7. ~~6.~~ The name and address of the chief executive officer of the school.

8. ~~7.~~ A copy of or a description of the means by which the school intends to comply with section 261B.9.

9. ~~8.~~ The name of the accrediting agency recognized by the United States department of education or a successor agency which has accredited the school, ~~and the status under which accreditation is held, the name of any other accrediting or licensing entity that has accredited or licensed the school or its programs, a copy of the accrediting or licensure notice issued by the entity, and a record of any sanctions the entity has levied against the school.~~

10. ~~9.~~ The name, address, and telephone number of a contact person in this state. A school that applies for registration to offer a course of instruction by distance delivery may provide the name and address of its registered agent in Iowa.

11. ~~10.~~ The names or titles and a description of the courses and degrees to be offered in Iowa.

12. ~~11.~~ A description of procedures for the preservation of student records ~~and the contact information to be used by students and graduates who seek to obtain transcript information.~~

13. ~~12.~~ The academic and instructional methodologies and delivery systems to be used by the school and the extent to which the school anticipates each methodology and delivery system will be used, including, but not limited to, classroom instruction, correspondence, ~~electronic telecommunications~~ distance delivery, independent study, and portfolio experience evaluation.

14. ~~The name, title, business address, telephone number, and resume of an Iowa resident compensated by the school to perform duties at a location in Iowa. A school that applies for registration to offer a course of instruction by distance delivery may provide an internet address as the business address for an Iowa resident it compensates to perform duties remotely from a location in Iowa.~~

15. ~~The school's official Stafford loan cohort default rate as calculated by the United States department of education for the three most recent federal fiscal years, if applicable.~~

16. ~~Average student loan debt upon graduation of students completing programs at the school.~~

17. ~~The graduation rate of undergraduate students as reported to the United States department of education.~~

18. ~~Evidence that the school meets the conditions of financial responsibility established in section 714.18, or that the school qualifies for an exemption under section 714.19 or 714.22.~~

Sec. 5. Section 261B.7, Code 2011, is amended to read as follows:

261B.7 Unauthorized representation.

~~Neither a school nor its or a school's officials or employees shall not advertise or represent that the school is approved or accredited by the commission or the state of Iowa nor shall it use the registration as a reference in promotional materials. However, a registered school shall disclose that the school is registered by the commission on behalf of the state of Iowa and provide the commission's contact information for students who wish to inquire about the school or file a complaint.~~

Sec. 6. Section 261B.9, subsection 5, Code 2011, is amended to read as follows:

5. Whether the postsecondary credential ~~or certificate~~ issued, awarded, or credited to a student upon completion of the course or the fact of completion of the course is applicable toward a degree granted by the school and, if so, under what circumstances the application will be made.

Sec. 7. Section 261B.9, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The disclosures required by the department of education for an out-of-state school that the board of education approves to offer a practitioner preparation program by distance delivery method.

Sec. 8. Section 261B.11, Code 2011, is amended to read as follows:

261B.11 Exceptions.

1. This chapter does not apply to the following types of schools and courses of instruction:
1. a. Schools and educational programs conducted by firms, corporations, or persons solely for the training of their own employees.

2. b. Apprentice or other training programs provided by labor unions solely to members or applicants for membership.

3. c. Courses of instruction of an avocational or recreational nature that do not lead to an occupational objective.

4. d. Seminars, refresher courses, and programs of instruction sponsored by professional, business, or farming organizations or associations for the members and employees of members of these organizations or associations.

5. e. Courses of instruction conducted by a public school district or a combination of public school districts.

6. f. Colleges and universities authorized by the laws of this state to grant degrees.

7. g. Schools or courses of instruction or courses of training that are offered by a vendor solely to the purchaser or prospective purchaser of the vendor's product when the objective of the school or course is to enable the purchaser or the purchaser's employees to gain skills and knowledge to enable the purchaser to use the product.

8. h. Schools and educational programs conducted by religious organizations solely for the religious instruction of leadership practitioners of that religious organization.

9. i. Postsecondary educational institutions licensed by the state of Iowa ~~prior to July 1, 2009, under section 157.8 or 158.7 to conduct business~~ operate as schools of cosmetology arts and sciences or as barber schools in the state.

10. ~~j. Accredited higher~~ Higher education institutions that meet the criteria established under section ~~261.92, 261.9,~~ subsection 1.

11. k. Postsecondary educational institutions offering programs limited to nondegree specialty vocational training programs.

12. ~~Not for-profit colleges and universities established and authorized by city ordinance to grant degrees.~~

l. Higher education institutions located in Iowa that are affiliated with health care systems located in Iowa, and which offer health professions programs that are accredited by an accrediting agency recognized by the United States department of education.

m. Higher education institutions located in Iowa whose massage therapy curriculum is approved under administrative rules of the professional licensure division of the department of public health and whose instructors are licensed massage therapists under chapter 152C.

n. A postsecondary educational institution established in Bettendorf in 1969 to prepare students for the federal communications commission radio broadcasting examination.

2. A school that claims an exemption from registration under subsection 1, paragraph "h", "i", "k", "l", or "m", must demonstrate to the commission or its designee that it qualifies for the exemption. The school must apply for approval of its exemption claim on an application supplied by the commission. The commission or its designee may approve the school's exemption claim or deny it. A school whose exemption claim is approved must reapply to renew its exemption no less frequently than every two years.

a. A school that is granted an exemption under this section must file evidence of financial responsibility under section 714.18 or demonstrate to the commission or its designee that the school qualifies for an exemption under section 714.19 or 714.22.

b. A for-profit school with at least one program of more than four months in length that leads to a recognized educational credential, such as an academic or professional degree, diploma, or license, must submit to the commission or its designee a tuition refund policy that meets the conditions of section 714.23.

3. A school that is denied an exemption claim by the commission or its designee, or that no longer qualifies for a claimed exemption, shall apply for registration or cease operating in Iowa.

Sec. 9. NEW SECTION. 261B.11A Ineligibility for state student aid programs.

1. Students attending schools required to register under this chapter are ineligible for state student financial aid programs established under chapter 261.

2. A school required to register under this chapter is prohibited from offering state aid or advertising that state aid is or may be available to students attending the school.

DIVISION II
POSTSECONDARY REGISTRATION — UNLAWFUL ACTIVITY

Sec. 10. Section 714.17, Code 2011, is amended to read as follows:

714.17 Unlawful advertising and selling of educational courses of instruction.

It shall be unlawful for any person, firm, association, or corporation maintaining, advertising, or conducting in Iowa any educational course of instruction for profit, or for tuition charge, whether by classroom instructions, ~~or~~ by correspondence, or by other delivery method to:

1. Falsely advertise or represent to any person any matter material to ~~such an educational course of instruction~~. All advertising of such courses ~~of instruction~~ shall adhere to and comply with the applicable rules and regulations of the federal trade commission ~~as of July 4, 1965~~.

2. Collect tuition or other charges in excess of one hundred fifty dollars in the case of educational courses offered by correspondence ~~courses of study~~, in advance of the receipt and approval by the pupil of the first assignment or lesson of such course. Any contract providing for advance payment of more than one hundred fifty dollars shall be voidable on the part of the pupil or any person liable for the tuition provided for in the contract.

3. Promise or guarantee employment utilizing information, training, or skill purported to be provided or otherwise enhanced by a an educational course, unless the promisor or guarantor offers the student or prospective student a bona fide contract of employment agreeing to employ said student or prospective student for a period of not less than one hundred twenty days in a business or other enterprise regularly conducted by the promisor or guarantor and in which such information, training, or skill is a normal condition of employment.

Sec. 11. Section 714.18, subsection 1, Code 2011, is amended to read as follows:

1. Except as otherwise provided in subsection 2, every person, firm, association, or corporation maintaining or conducting in Iowa any ~~such educational course of instruction~~ by classroom instruction or by correspondence ~~or by other distance~~ or by other delivery method, or soliciting in Iowa the sale of such course, shall file with the college student aid commission all of the following:

a. A continuous corporate surety bond to the state of Iowa in the sum of fifty thousand dollars conditioned ~~for~~ on the faithful performance of all contracts and agreements with students made by such person, firm, association, or corporation, or their salespersons; but the aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. The surety on the bond may cancel the bond upon giving thirty days' written notice to the college student aid commission and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

b. A statement designating a resident agent for the purpose of receiving service in civil actions. In the absence of such designation, service may be had upon the secretary of state if service cannot otherwise be made in this state.

c. A copy of any catalog, prospectus, brochure, or other advertising material intended for distribution in Iowa. Such material shall state the cost of the educational course offered, the schedule of tuition refunds for portions of the educational course not completed, and if no refunds are to be paid, the material shall so state. Any contract induced by advertising materials not previously filed as provided in this chapter shall be voidable on the part of the pupil or any person liable for the tuition provided for in the contract.

Sec. 12. Section 714.18, subsection 2, paragraph a, subparagraphs (1) and (4), Code 2011, are amended to read as follows:

(1) A continuous corporate surety bond to the state of Iowa in the sum of fifty thousand dollars or ten percent of the total annual tuition collected, whichever is less, conditioned ~~for~~ on the faithful performance of all contracts and agreements with students made by such school. A school desiring to file a surety bond based on a percentage of annual tuition shall provide to the college student aid commission, in the form prescribed by the commission, a notarized statement attesting to the total amount of tuition collected in the preceding twelve-month period. The commission shall determine the sufficiency of the statement and the amount of the bond. Tuition information submitted pursuant to this subparagraph shall be kept confidential.

(4) The college student aid commission may accept a letter of credit ~~from~~ issued by a bank in lieu of and for the amount of the corporate surety bond required by this paragraph “a” subparagraphs (1) through (3), as applicable.

Sec. 13. Section 714.19, unnumbered paragraph 1, Code 2011, is amended to read as follows:

~~None of the~~ The provisions of sections 714.17 to 714.22 714.21 shall not apply to the following:

Sec. 14. Section 714.19, subsections 6 through 8, Code 2011, are amended to read as follows:

6. Schools and educational programs conducted by firms, corporations, or persons ~~for the training of their own employees,~~ for which no fee is charged.

7. Seminars, refresher courses, and schools of instruction ~~sponsored~~ conducted by professional, business, or farming organizations or associations for the members and employees of members of such organizations or associations. A person who provides instruction under this subsection who is not a member or an employee of a member of the organization or association shall not be eligible for this exemption.

8. Private business schools accredited by the accrediting commission for business schools or an acknowledged accrediting agency recognized by the United States department of education or the council for higher education accreditation.

Sec. 15. Section 714.19, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Private, nonprofit schools that meet the criteria established under section 261.9, subsection 1.

Sec. 16. Section 714.23, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 01. a. For the purposes of this section and section 714.25, “postsecondary educational program” means a series of postsecondary educational courses that lead to a recognized educational credential such as an academic or professional degree, diploma, or license.

b. For the purposes of this section, “school period” means the course, term, payment period, postsecondary educational program, or other period for which the school assessed tuition charges to the student. A school that assesses tuition charges to the student at the beginning of each course, term, payment period, or other period that is shorter than the postsecondary educational program’s length shall base its tuition refund on the amount of tuition costs the school charged for the course, term, or other period in which the student terminated. A school shall not base its tuition refund calculation on any portion of a postsecondary educational program that remains after a student terminates unless the student was charged for that

remaining portion of the postsecondary educational program before the student's termination and the student began attendance in the school term or course.

Sec. 17. Section 714.23, subsections 1 through 5, Code 2011, are amended to read as follows:

1. A person offering a course of instruction at the postsecondary level at least one postsecondary educational program, for profit, that is more than four months in length and leads to a degree, diploma, or license recognized educational credential, shall make a pro rata refund of no less than ninety percent of the tuition for a terminating student to the appropriate agency based upon charges to an Iowa resident student who terminates from any of the school's postsecondary educational programs in an amount that is not less than ninety percent of the amount of tuition charged to the student multiplied by the ratio of completed number of scheduled school days to the number of calendar days remaining in the school period until the date equivalent to the completion of sixty percent of the scheduled school calendar days of in the school term or course period to the total number of calendar days in the school period until the date equivalent to the completion of sixty percent of the calendar days in the school period.

2. Notwithstanding the provisions of subsection 1, the following tuition refund policy shall apply:

a. If a terminating student has completed sixty percent or more of a school term or course that is more than four months in length period, the person offering the course of instruction postsecondary educational program is not required to refund tuition for charges to the student. However, if, at any time, a student terminates a school term or course that is more than four months in length postsecondary educational program due to the student's physical incapacity or, for a program that requires classroom instruction, due to the transfer of the student's spouse's employment to another city, the terminating student shall receive a refund of tuition charges in an amount which that equals the amount of tuition charged to the student multiplied by the ratio of the remaining number of school calendar days in the school period to the total school number of calendar days of in the school term or course period.

b. A refund of ninety percent of the tuition for a terminating student shall be paid to the appropriate agency based upon the ratio of completed number of school days to the total school days of the school term or course. A school shall provide to a terminating student a refund of tuition charges in an amount that is not less than ninety percent of the amount of tuition charged to the student multiplied by the ratio of the remaining number of calendar days in the school period to the total number of calendar days in the school period. This paragraph "b" applies to those persons offering courses of instruction at the postsecondary level at least one postsecondary educational program of more than four months in length, for profit, whose cohort default rate for students under the Stafford loan program as defined reported by the United States department of education for the most recent federal fiscal year is more than one hundred ten percent of the national average cohort default rate of all schools for that program for that period the same federal fiscal year or six percent, whichever is higher.

3. If the financial obligations of a student are for three or fewer months duration, this section does not apply. In the case of a program in which student progress is measured only in clock hours, all occurrences of "calendar days" in subsections 1 and 2 shall be replaced with "scheduled clock hours".

4. Refunds A refund of tuition charges shall be paid provided to the appropriate agency student within thirty forty-five days following the student's termination date of the school's determination that a student has terminated from a postsecondary educational program.

5. A student who terminates a course of instruction or term postsecondary educational program shall not be charged any fee or other monetary penalty for terminating a course of instruction or term the postsecondary educational program, other than a reduction in tuition refund as specified in this section.

Sec. 18. **NEW SECTION. 714.24 Additional requirements.**

1. A required filing of evidence of financial responsibility pursuant to section 714.18 must be completed at least once every two years.

2. An entity that claims an exemption under section 714.19 or 714.22 must file an exemption claim with the commission. The commission may approve or deny the exemption claim. Except for a school that claims an exemption under section 714.19, subsection 1, 3, or 10, a filing of a claim for an exemption pursuant to section 714.19 or 714.22 must be completed at least once every two years.

3. An entity that claims an exemption under section 714.19 or 714.22 must file evidence of financial responsibility pursuant to section 714.18 within sixty calendar days following the date upon which conditions that qualify the entity for an exemption under section 714.19 no longer exist. The commission may grant an entity a longer period to file evidence of financial responsibility based on documentation the entity provides to the commission of its substantial progress to comply with section 714.18, subsection 1, paragraph "a".

4. An entity that is required to file evidence of financial responsibility under section 714.18, or an entity that files a claim of exemption under section 714.19 or 714.22, shall utilize required forms approved and supplied by the commission.

5. The commission may, at its discretion, require a proprietary school that must comply with section 714.23 to submit its tuition refund policy to the commission for its review and approval.

6. The commission and the attorney general may, individually or jointly, adopt rules pursuant to chapter 17A for the implementation of sections 714.18 through 714.25.

7. Except as provided in section 714.18, subsection 2, paragraph "a", the information submitted under sections 714.18, 714.22, 714.23, and 714.25 are public records under chapter 22.

Sec. 19. Section 714.25, Code 2011, is amended to read as follows:

714.25 Disclosure.

1. For purposes of this chapter section, ~~unless the context otherwise requires, "proprietary school" means a person offering a course of instruction at the postsecondary level~~ postsecondary educational program, for profit, that is more than four months in length and leads to a degree, diploma, or license recognized educational credential, such as an academic or professional degree, diploma, or license.

2. A proprietary school shall, prior to the time a student is obligated for payment of any moneys, inform the student, the college student aid commission, and in the case of a school licensed under section 157.8, the board of cosmetology arts and sciences or in the case of a school licensed under section 158.7, the board of barbering, of all of the following:

a. The total cost of the ~~course of instruction~~ postsecondary educational program as charged by the proprietary school.

b. An estimate of any fees which may be charged the student by others which would be required if the student is to successfully complete the course postsecondary educational program and, if applicable, obtain a degree, diploma, or license recognized educational credential.

c. The percentage of students who successfully complete the course postsecondary educational program, the percentage who terminate prior to completing the course postsecondary educational program, and the period of time upon which the proprietary school has based these percentages. The reporting period shall not be less than one year in length and shall not extend more than five years into the past.

d. If claims are made by the proprietary school as to successful placement of students in jobs upon completion of the course of study proprietary school's postsecondary educational programs, the proprietary school shall provide the student with all of the following:

(1) The percentage of graduating students who were placed in jobs in fields related to the course of instruction postsecondary educational programs.

(2) The percentage of graduating students who went on to further education immediately upon graduation.

(3) The percentage of students who, ninety days after graduation, were without a job and had not gone on to further education.

(4) The period of time upon which the reports required by paragraphs "a" through "c" were based. The reporting period shall not be less than one year in length and shall not extend more than five years into the past.

e. If claims are made by the proprietary school as to income levels of students who have graduated and are working in fields related to the proprietary school's ~~course of instruction~~ postsecondary educational programs, the proprietary school shall inform the student of the method used to derive such information.

3. The requirements of subsection 2 shall not apply to a proprietary school that is eligible for federal student financial aid under Tit. IV of the federal Higher Education Act of 1965, as amended.

Sec. 20. REPEAL. Section 714.22, Code 2011, is repealed.

Approved April 12, 2012