

# Chapter 109

2020 Regular Session

**Subject** Omnibus Higher Education Policy Bill

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**Date** July 10, 2020

## Overview

Chapter 109 is the omnibus higher education policy bill.

Among other changes, the act:

- expands the range of conditions under which the Office of Higher Education (OHE) can take action against a school’s registration or licensure;
- allows OHE to collect a fee from postsecondary institutions for participation in the Statewide Authorization Reciprocity Agreement (SARA), and increasing renewal registration fees; and
- updates state laws governing the Minnesota college savings program statutes to account for changes in federal law.

## Article 1: Office of Higher Education

**Section** Description: Article 1 – Office of Higher Education

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**1 Statewide concurrent enrollment survey.**

Requires OHE and the Department of Education (MDE) to collaborate to annually provide statewide evaluative information on concurrent enrollment programs. Requires DOE and MDE to collaborate to determine which demographic and outcomes data are appropriate. The report is due December 1, 2021, and annually thereafter. Strikes existing language requiring concurrent enrollment programs to report National Alliance of Concurrent Enrollment Partnership (NACEP) survey results.

**2 Definitions.**

Adds to the state campus sexual assault law a definition of “incident.” An incident is limited to a single report of sexual assault, regardless of the number of complainants, respondents, or whether the identity of a party is known by the institution.

**3 Office name.**

Clarifies that the Office of Higher Education is also known as the Minnesota Office of Higher Education.

**Section Description: Article 1 – Office of Higher Education**

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**4 Student Advisory Council.**

Removes references to the Minnesota Career College Association in the Student Advisory Council statutes. Requires that the student on the council that is enrolled in a private for-profit institution be elected by students enrolled in private career schools.

**5 Postsecondary education of American Indians.**

**Subd. 1. Definitions.** Defines “Tribal Nations Education Committee” to mean a committee established through tribal directive that OHE seeks consultation with on matters relating to educating Minnesota’s American Indian postsecondary students.

**Subd. 2. American Indian community involvement.** Requires OHE to provide for the maximum involvement of the Tribal Nations Education Committee in establishing programs and formulating policies related to the postsecondary involvement of Minnesota’s American Indian students.

**Subd. 3. Consultation with Tribal Nations Education Committee.** Requires OHE to consult with the Tribal Nations Education Committee on matters related to the postsecondary involvement of Minnesota’s American Indian students. Permits OHE to consult individual tribal nations.

**6 FAFSA completion goal.**

Requires OHE, the Department of Education, and the Minnesota Association of Secondary School Principals to set an annual goal for the percentage of Minnesota high school seniors completing the Free Application for Federal Student Aid (FAFSA).

**7 Unpaid student account balances.**

Forbids a postsecondary institution receiving state financial aid from withdrawing a student from class or suspending a student due to an unpaid student account balance.

**8 Child care grant for graduate and professional postsecondary institutions.**

Allows postsecondary institutions offering only graduate or professional degrees to participate in OHE’s Child Care Grant Program.

**9 , Teacher shortage area definition.**

11-12 Assigns the Professional Educator Licensing and Standards Board the responsibility to define teacher shortage areas. Under current law the Department of Education defines the areas. The areas must be defined based on the teacher supply and demand report and other surveys conducted by the board that provide indicators for teacher supply and demand.

**Section Description: Article 1 – Office of Higher Education**

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- 10      **SELF loan amounts.**  
Permits OHE to determine loan limits for the SELF loan program. Requires OHE to define borrowing maximums based on program enrollment.
- 13      **Loan forgiveness.**  
Removes the five recipient cap from the Large Animal Veterinarian Loan Forgiveness Program.
- 14      **Revocation and suspension of degree-granting schools.**  
Requires OHE to give written notice and reasons before revoking, suspending, or refusing to renew registration or approval of a school's degree.  
  
Permits OHE to renew, revoke, or suspend registration for a degree-granting postsecondary institution if the institution was administratively or judicially determined to have committed fraud or a material violation of law involving state, local, or federal funds.
- 15      **Application.**  
Under current law, there is a religious exemption to the requirement that degree-granting schools register with OHE. The act allows the exemption to apply at the program level. This allows schools that offer both exempt and nonexempt programs to subject only the nonexempt programs to regulation.
- 16      **Exemption.**  
Exempts degree-granting programs from OHE regulation if all of the programs are offered by a religious organization or church, primarily designed for persons who seek to learn the faith and beliefs of the organization, and intended to prepare the students to enter a vocation closely related to the faith.
- 17      **Scope.**  
Clarifying the scope of the religious exemption for degree-granting schools.
- 18      **Proration.**  
Removes the requirement that a student give written notice when informing a private career school that the student intends to cancel the program. Students would receive prorated tuition under this provision even if they give nonwritten notice of cancellation.

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- 19      **Revocation and suspension of private career schools.**  
Permits OHE to revoke or suspend approval of a private career school if the school was administratively or judicially determined by the commissioner to have committed fraud or a material violation of law involving state, local, or federal funds
- 20      **Application for exemptions.**  
Allows a private career school to apply for a religious exemption for only some of its programs. This allows schools that offer both exempt and nonexempt programs to subject only the nonexempt programs to regulation.

## **Article 2: Minnesota College Savings Plan**

Article 2 makes changes to the law governing the Minnesota college savings plan, Minnesota’s section 529 plan. Most of these changes are to account for recent changes to federal law.

The main federal provisions the article responds to are:

- Permitting qualified distributions for:
  - Apprenticeship program expenses.
  - Student loan payments for the beneficiary or the beneficiary’s sibling.
- Permitting rollovers to Achieving a Better Life Experience (ABLE) Accounts.

**Section Description: Article 2 – Minnesota College Savings Plan**

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- 1      **Name clarification.**  
Clarifies that the Minnesota college savings plan is also known as the Minnesota 529 college savings plan.
- 2      **Contribution definition.**  
Includes recontributions, as defined under federal law, as a contribution for the purposes of the plan.
- 3      **Distribution definition.**  
Modifies distribution definition to allow qualified distributions to be sent to third parties.
- 4      **Dormant account definition.**  
Eliminates requirement that account statements be mailed and returned as undeliverable when determining if an account is dormant.

<b>Section</b>	<b>Description: Article 2 – Minnesota College Savings Plan</b>
5	<b>Technical change.</b> Fixes a broken cross-reference.
6	<b>Qualified rollover distribution definition.</b> Permits rollover contributions to ABLE accounts.
7	<b>Taxable distribution definition.</b> Defines “taxable distribution” as a nonqualified distribution and “taxable distributions not subject to the additional federal tax.”
8	<b>Accounts-type plan.</b> Amends definition of “accounts-type plan” to remove the requirement that qualified higher education expenses be spent at an eligible educational institution.
9	<b>Forfeited matching grants.</b> Requires refunded matching grants that were forfeited be returned to OHE.
10	<b>Technical change.</b> Changes reference from “program” to “plan.”
11	<b>Change of beneficiary.</b> Updates beneficiary change statutes to reference “taxable distributions.” That term is newly defined in the act and replaces the older definition of “nonqualified distributions.”
12	<b>Maximum account balance.</b> Deletes obsolete language related to the repealed matching grant program.
13	<b>Ownership of matching grant funds.</b> Permits OHE to pay distributions to a third party as requested by an account holder.
14	<b>Forfeiture of matching grants.</b> Requires beneficiaries to forfeit matching grants if the beneficiary receives a nonqualified distribution that is not taxed due to one of four circumstances specified in federal law. The circumstances are that the beneficiary dies, becomes disabled, receives a scholarship that covers 100 percent of qualifying higher education expenses, or is made on account of attendance at a military academy. Requires account owners to forfeit matching grants if they close an account by making a distribution for qualified higher education expenses that were not qualified higher education expenses when the matching grant program ended.

Section	Description: Article 2 – Minnesota College Savings Plan
	<p>Requires account owners who make a partially taxable distribution to proportionally forfeit matching grants.</p>
	<p>Requires account owners to proportionally forfeit grants if they make a partial distribution for qualified higher education expenses that were not qualified higher education expenses when the matching grant program ended.</p>
15	<p><b>Qualified distribution methods.</b></p> <p>Strikes language allowing qualified distributions in the form of a check.</p> <p>Permits payments to the owner or beneficiary.</p> <p>Permits payments directly to third parties.</p> <p>Permits matching grant distributions to be used only for qualified expenses that were qualified expenses when the matching grant program ended (December 31, 2010).</p> <p>Requires account owners to forfeit matching grants if they make a qualified distribution for expenses that were not qualified expenses when the matching grant program ended.</p> <p>Requires OHE to inform account owners that they are responsible for obtaining records to substantiate distributions.</p>
16	<p><b>Minor trust accounts.</b></p> <p>Requires distributions be used for a beneficiary if they qualify for a federal exemption for tax because the beneficiary becomes disabled, receives a scholarship that covers 100 percent of qualified expenses, or attends a military academy.</p> <p>Permits rollovers to ABLÉ accounts.</p>
17	<p><b>Repealer.</b></p> <p>Repeals the definitions of “adjusted gross income” and “nonqualified distribution.”</p> <p>Repeals outdated language related to the matching grant program.</p>

## Article 3: Institutional Approval Provisions

Makes a number of changes to the laws governing higher education institutional approval by the Office of Higher Education, including:

- Requiring degree-granting schools to establish a process for student complaints.
- Denying a religious exemption from OHE regulation if the school engages in misleading or fraudulent advertising.
- Allowing OHE to collect a fee from postsecondary institutions for participation in the Statewide Authorization Reciprocity Agreement (SARA), and increasing renewal registration fees.
- Permitting OHE to suspend or revoke the registration of a school that does not have enrollment within two years of registering.

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<b>Section</b>	<b>Description: Article 3 – Institutional Approval Provisions</b>
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| <b>1</b> | <b>Institutional eligibility requirements.</b><br>Permits OHE to terminate an institution’s eligibility for state financial aid programs if the federal Department of Education finds it ineligible for a federal financial aid program for a violation of laws, regulations, or participation agreements governing financial aid programs.           |
| <b>2</b> | <b>Schools to provide information.</b><br>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 act. |
| <b>3</b> | <b>Additional security.</b><br>Updates a reference to “schools” to instead reference “institutions” which is the preferred statutory description of postsecondary institutions.   |
| <b>4</b> | <b>Criteria for approval.</b><br>Requires a postsecondary institution to establish a process to receive and act on student complaints to receive approval for registration.   |
| <b>5</b> | <b>Conditional approval.</b><br>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.   |

**Section Description: Article 3 – Institutional Approval Provisions**

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- 6 Revocation and suspension of registration for degree-granting schools.**  
Requires OHE to give written notice and reasons before revoking, suspending, or refusing to renew registration or approval of a school's degree.  
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, except for programs that require extensive approval processes from the federal Department of Education.
- 7, 8 Application.**  
Under current law, there is a religious exemption to the requirement that degree-granting schools register with OHE. The act provides that the exemption does not apply to schools that engage in advertisement that is not truthful and gives false, fraudulent, deceptive, inaccurate, or misleading impressions about the school. Denials of exemption are subject to appeal. If appealed, the exemption is allowed until the final determination of the appeal, unless immediate effect is ordered by the court.
- 9 State reciprocity agreement school fees (SARA fees).**  
Requires OHE to collect reasonable fees to cover the cost to administer a reciprocity agreement for postsecondary distance education, such as the Statewide Authorization Reciprocity Agreement (SARA).  
  
The fee is set from \$750 to \$7,500, depending on the enrollment at the institution.
- 10 Registration fees.**  
Increases the annual renewal registration fee from \$1,200 to \$1,500.
- 11, 12 Visit or consulting fees.**  
Permits OHE to require institutions to pay for the costs of outside consultants used to investigate schools or programs for compliance with the Private Career School Act. Current law includes the same authority, but it is limited to reviews or evaluations.  
  
Section 11 is for degree-granting schools; section 12 is for private career schools.
- 13 Revocation and suspension of private career schools.**  
Permits OHE to revoke or suspend approval of a private career school if the school used fraudulent or coercive practices.



**Section Description: Article 3 – Institutional Approval Provisions**

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**14, 15 Application for exemptions.**

Clarifies that the religious exemption for degree-granting schools does not extend to programs that are marketed or represented to students as nonreligious or to prepare students for a vocation not related to the faith.



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