

TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 10. ACADEMIC AFFAIRS
SUBCHAPTER 1. PRIVATE AND OUT-OF-STATE PUBLIC INSTITUTIONS

RULE IMPACT STATEMENT

A. Brief description of the purpose of the proposed rule.

In Spring 2023, Senator Ally Seifried introduced Senate Bill 550 to the 2023 Oklahoma legislative session to add additional safeguards for Oklahoma students of all non-exempt private and out-of-state public institutions. Signed by the Governor on April 28, 2023, the legislation revised 70 O.S. § 4103 to require all private (non-exempt) and out-of-state public institutions to be authorized by the Oklahoma State Regents for Higher Education (OSRHE) to offer distance education degree courses and programs to students in Oklahoma. The bill also requires all non-exempt private and out-of-state public institutions to pay an annual authorization fee to offset the administrative costs of authorization and to make payments into a student tuition recovery fund to protect students from financial loss in the event of a sudden closure. Additionally, the legislation expands the scope of OSRHE responsibilities and authority to ensure that all non-exempt private and out-of-state public institutions operating in Oklahoma meet the same standards of academic quality and fiscal responsibility required for institutions in the state system, and to deny, not renew, or revoke the authorization of institutions that do not. Finally, SB 550 directs the State Regents to promulgate rules to implement the new requirements.

The proposed rules set authorization fees and establish the formula to calculate payments into the Tuition Recovery Revolving Fund, and require the State Regents to establish policies and procedures to assess and administer the fees and payments as well as policies and procedures to ensure that non-exempt private and out-of-state public institutions operating in Oklahoma by any modality meet the same standards of academic quality and fiscal responsibility required for institutions in the state system.

B. Description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the agency from any private or public entities.

The proposed rule changes will affect the OSRHE, non-exempt private and out-of-state public institutions operating in Oklahoma and students who attend non-exempt private and out-of-state public institutions that close or cease operations. These rules will create additional costs for non-exempt private and out-of-state public institutions operating in Oklahoma. No information on cost impacts has been received from any private or public entities.

C. Description of the classes of persons who will benefit from the proposed rule.

The proposed rule changes will benefit Oklahoma students who attend non-exempt private and out-of-state public institutions that close or cease operations. Money collected pursuant to these rules from such institutions and deposited into the Tuition Recovery Revolving Fund shall be used to offset student tuition losses in the event an authorized institution closes or ceases operations.

D. Description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change.

Unauthorized nonexempt private and out-of-state public institutions shall pay an application and an initial authorization fee to be authorized to operate as a degree-granting institution in Oklahoma, as follows:

- (1) Application fee: \$500
- (2) Initial Authorization fee: \$2,500

Authorized institutions shall pay annually an application and a re-authorization fee to be re-authorized to operate as a degree-granting institution in Oklahoma as follows:

- (1) Application Fee: \$500
- (2) Annual Re-authorization fee: \$2,000

Out-of-state public institutions shall pay additional location fees to establish and operate one or more locations in Oklahoma for students to receive synchronous or asynchronous instruction. The fee shall be \$1,000 per location for both initial and annual re-authorization of the location. Institutions applying for provisional re-authorization shall be assessed a non-refundable provisional application fee and provisional authorization fee in addition to the standard application fee and authorization fee. The provisional application fee shall be \$250 and the provisional authorization fee shall be \$1,000. Applications will not be reviewed until all required application fees have been received.

Each private institution authorized by OSRHE to operate as a degree-granting institution in Oklahoma shall pay to OSRHE a sum annually to be maintained in the Tuition Recovery Revolving Fund. This payment is in addition to the application and authorization fees established in 610:10-1-4. The payment for initial authorization shall be \$2,500. Each private institution authorized by OSRHE shall make payments to the Tuition Recovery Revolving Fund for annual re-authorization as follows:

- (1) Each private institution shall pay 0.25 percent (.0025) of its annual gross tuition revenue received from students living in Oklahoma at the time of their enrollment.
- (2) A minimum payment of \$250 shall be due annually regardless of the private institution's enrollment or tuition revenue during the applicable year.
- (3) Private institutions whose payment is not received by the due date will be subject to non-approval of authorization, provisional authorization or revocation of authorization according to the policies and procedures set by OSRHE.
- (4) The Student Tuition Recovery Fund will be maintained between a minimum and maximum funding level to be determined by OSRHE.
- (5) Institutions will be assessed annually until the maximum funding level is reached. If the Fund amount is reduced below the minimum funding level, assessments will begin again until the maximum level is regained. If the monies in the fund are insufficient to satisfy all duly authorized claims, OSRHE may reassess authorized institutions as necessary, in addition to the annual assessment, and the authorized institutions shall pay the additional amounts assessed.

The assessment, administration, and disbursement of funds from the Tuition Recovery Revolving Fund shall occur according to policies and procedures set by OSRHE.

These fees are justified by the objectives and requirements of 70 O.S. § 4103.

E. Probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency.

An "agency" under the Administrative Procedures Act includes, but is not limited to, "any constitutionally or statutorily created state board, bureau, commission, office, authority, public trust in which the state is a beneficiary, or interstate commission...." 75 O.S. § 250.3. The proposed rule changes will require additional time and efforts by OSRHE staff to implement the authorization described in these rules. The fee amounts established in OAC 610:10-1-4 are intended to offset such OSRHE implementation costs.

F. Determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule.

A "political subdivision" is defined as "a county, city, incorporated town or school district within this state" under the Administrative Procedures Act, 75 O.S. § 250.3. The proposed rules are not expected to have an economic impact on any political subdivisions and will not require their cooperation for implementing or enforcing these rules.

G. Determination of whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.

After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rules may have an adverse impact upon Small Business, such as certain nonexempt private institutions of higher education operating in Oklahoma. To offset this impact, application and authorization fees are designed to be reasonable. Payments made by private institutions required to pay into the Tuition Recovery Revolving Fund are calculated based on a percentage of the institution's gross tuition revenue received from students living in Oklahoma at the time of their enrollment. This amount is intended to fulfill the intents and purposes of 70 O.S. § 4103 while not being prohibitively expensive for institutions to operate in Oklahoma.

H. Explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule.

In addition to the above, OSRHE, as part of its Notice of Rulemaking Intent, requested business entities affected by these proposed rules to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Although previously stated, it's important to emphasize that payments into the Tuition Recovery Revolving Fund are assessed annually until the maximum funding level is reached. If the Fund amount is reduced below the minimum funding level, assessments will begin again until the maximum level is regained. This mechanism is intended to minimize compliance costs.

I. Determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk.

The proposed rules will have no effect on the public health, safety, and environment.

J. Determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.

No effect on the public health, safety, or the environment will result if the proposed rules are not implemented.

K. Date the rule impact statement was prepared and if modified, the date modified.

January 9, 2024.