

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
FLORIDA REAL ESTATE COMMISSION

IN RE: PETITION FOR DECLARATORY
STATEMENT BY:
ONLINEED, INC.

DS 2022-033

FINAL ORDER GRANTING PETITION FOR DECLARATORY STATEMENT

This matter came before the Florida Real Estate Commission (Commission) pursuant to section 120.565, Florida Statutes on August 16, 2022, in Orlando, Florida, for consideration of a Petition for Declaratory Statement (“Petition”), attached hereto and fully incorporated herein, regarding section 475.451, Florida Statutes. The Petition was filed June 29, 2022, by OnlineEd, Inc., and was assigned No. DS 2022-033. Notice of the Petition was published in the Florida Administrative Register on July 7, 2022 in Volume 48, Number 131. The Petitioner WAS present and was NOT represented by counsel. Having considered the Petition and relevant statutes and rules, the Commission finds as follows.

FINDINGS OF FACT

1. The facts considered by the Commission are as alleged in the Petition, a copy of which is attached hereto as Attachment A and which is incorporated by reference herein. The facts are accepted without any further information or investigation by the Commission.

2. No Petitions for Intervention or any comments were filed on the Petition.

3. In sum, Petitioner seeks a Declaratory Statement by the Commission whether the school permit holder must be a Florida licensed real estate Broker.

4. Section 475.451, F.S., states in material part as follows:

475.451 Schools teaching real estate practice.—

(1) ***Each person, school, or institution . . . which offers or conducts any course of study in real estate practice, teaches any course prescribed by the commission . . . , shall, before commencing or continuing further to offer or conduct such course or courses, obtain a permit from the department and abide by the regulations imposed***

upon such person, school, or institution by this chapter and rules of the commission adopted pursuant to this chapter. . . .

(2) An applicant for a permit to operate a proprietary real estate school or to be an instructor for a proprietary real estate school or a state institution must meet the qualifications for practice set forth in s. 475.17(1) and the following minimal requirements:

(a) *“School permitholder” means the individual who is responsible for directing the overall operation of a proprietary real estate school. A school permitholder must be the holder of a license as a broker, either active or voluntarily inactive, or must have passed an instructor’s examination approved by the commission.* A school permitholder must also meet the requirements of a school instructor if actively engaged in teaching.

(b) “School instructor” means an individual who instructs persons in the classroom in noncredit college courses in a college, university, or community college or courses in a career center or proprietary real estate school. . . .

(3) It is unlawful for any person, school, or institution to offer the courses described in subsection (1) or to conduct classes in such courses, regardless of the number of pupils, whether by correspondence or otherwise, without first procuring a permit. . . .

(4) Any person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

§475.451, F.S. (emphasis added)

* * * *

5. Petitioner currently holds a Real Estate School Permit in Florida and has possessed that permit since at least 2017; the permit has been renewed every biennium. The current School Permit Holder **is not a Florida-licensed real estate broker, but is licensed as a broker in another state.**

6. Petitioner is seeking to change their registered School Permit Holder; Petitioner’s candidate is likewise not licensed as a real estate broker in Florida.

CONCLUSIONS OF LAW

7. The Commission is authorized to issue this Declaratory Statement by Section 120.565, Florida Statutes.

8. The Petition is in compliance with the requirements of Section 120.565, F.S. and Rule 28-105.002, F.A.C.

9. Accordingly, the Commission determines that the Petition should be GRANTED, and the Commission should issue a statement that as applied to this Petitioner and with the facts and circumstances identified in this Petition, section 475.451(2)(a), F.S. should NOT be interpreted to

require that the substitute/replacement school permit holder for an existing Florida real estate school be a Florida licensed real estate broker if the current school permit holder is not a Florida licensed broker. It is, therefore,

ORDERED that the Commission GRANTS the Petition for Declaratory Statement and ISSUES THE STATEMENT ABOVE.

DONE AND ORDERED this 14th day of November, 2022.



For the Florida Real Estate Commission

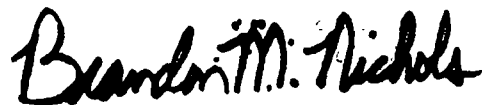
By Giovanna Corona,
Executive Director

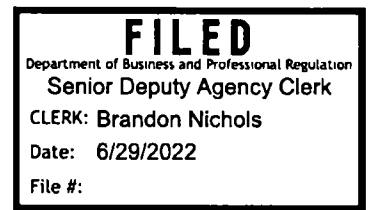
NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail To: **OnlineEd, Inc. c/o Julie Jaross**, 7405 SW Beveland Road, Portland OR 97223; by interoffice mail to **Division of Real Estate**, 400 West Robinson Street, Suite N801, Orlando FL 32801-1757; and by Email to Lawrence Harris, Senior Assistant Attorney General, Lawrence.harris@myfloridalegal.com and Cassandra.Fullove@myfloridalegal.com on this 16th day of November, 2022.





**Petition for Declaratory Statement Before the
Department of Business and Professional Development (DBPR):
Florida Real Estate Commission (FREC)**

Petitioner: OnlineEd, Inc.
Address: 7405 SW Beveland
Portland, OR 97223
Telephone: 503-670-9278
Email: admin@onlineed.com

DS 2022-033

Date: June 28, 2022

Dear Florida Real Estate Commission,

We are writing to request a declaratory statement on the following Florida statute:

Florida Statute (FS) 475.451, Schools teaching real estate practice, Section(2)(a) defines a "school permit holder" as "the individual who is responsible for directing the overall operation of a proprietary real estate school. A school permit holder must be the holder of a license as a broker, either active or voluntarily inactive, or must have passed an instructor's examination approved by the commission. A school permit holder must also meet the requirements of a school instructor if actively engaged in teaching."

Our interpretation of this statute is that an individual must have received a supervisory license from their governing real estate body to qualify as a school permit holder, which confirms the individual has the experience, knowledge, and skill necessary to hold such an important role.

The DBPR's interpretation of who qualifies as a *school permit holder* under FS 475.451 is substantially affecting our ability to update the name and contact information of our school permit holder.

Circumstances Regarding This Petition

When OnlineEd filed with FREC to be a real estate school, DBPR Form RE 5 requested information about who our registered school permit holder would be. The individual noted on the form we submitted was the holder of a supervisory broker-equivalent license in Oregon (See Exhibit 1 attached to this letter). FREC approved our real estate school application in 2017, and we were assigned the license number ZH1002611. We have successfully renewed our school license every two years using the same school permit holder (See Exhibit 2).

In May 2022, we submitted a request on DBPR Form RE 6 to change our school permit holder and included the required supplemental letter from our current school permit holder. The individual submitted to be our new school permit holder holds a supervisory broker license in California and

qualifies for the role as a school permit holder under FS 475.451(2)(a). California has a similar real estate license organization as Florida and uses the terms *broker* and *salesperson* to categorize their licensees.

In June 2022, we received a deficiency letter from DBPR stating

The requested applicant is not licensed with the state of Florida as a Broker or an Instructor. A Permit holder needs to have a license under one of these professions to qualify.

We have not been able to update our school permit holder, even though being licensed as a Florida real estate broker is not a qualification for school permit holder approval under FS 475.451.

Request for Resolution

We request clarification from the Commission regarding the specific definition of a *broker* under its authorization for an education provider to operate as a real estate school in this state. Specifically, we are asking the FREC to continue allowing qualified brokers licensed in other states to act as school permit holders responsible for directing the overall operation of a FREC-approved real estate school.

Thank you for your consideration.

Regards,

DocuSigned by:

Julie Jaross Hoskins

23382E8FC9D7431

Julie Jaross

Onlineed

503-670-9278

Exhibit 1 - Original OnlineEd School Permit Holder Application

State of Florida
 Department of Business and Professional Regulation
 Florida Real Estate Commission
 Application for School Permit [2506/1020]
 Form # DBPR RE 5

If you have any questions or need assistance in completing this application, please contact the Department of Business and Professional Regulation, Customer Contact Center, at 850.487.1395. For additional information see instructions at the end of this application.

Section I - Applicant Information (School Permit Holder)

APPLICANT INFORMATION			
Last/Surname <i>SORCE</i>	First <i>N</i>	Middle <i>JEFFREY</i>	Suffix
Social Security Number: ██████████		Birth Date (MM/DD/YYYY) <i>08/17/1957</i>	Gender <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female
MAILING ADDRESS			
Street Address or P.O. Box <i>7405 SW BEVELAND ROAD</i>			
<i>PORTLAND</i>			
City		State <i>OR</i>	Zip Code (+4 optional) <i>97223-8610</i>
County (if Florida address)		Country <i>USA</i>	
CONTACT INFORMATION			
Contact Name: <i>HARLOW T. SPAIN</i>			
Primary Phone Number: <i>503-670-9278</i>		Primary E-Mail Address: <i>harlow@ONLINEED.COM</i>	
METHOD OF QUALIFICATION			
Qualified to hold school permit through:			
<input checked="" type="checkbox"/> Holding a license as a broker, either active or voluntarily inactive			
o Broker License Number <i>740802348</i>		State <i>OR</i>	
; or			
<input type="checkbox"/> Passing the Instructors Exam			
o Instructor Permit Number _____			
Note: If permit holder is also teaching, the applicant must meet requirements of school instructor.			
SCHOOL INFORMATION			
Company Name: <i>ONLINEED, INC.</i>			
Doing Business As (D/B/A) Name (if applicable):			
Ownership: <input type="checkbox"/> Proprietorship <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Professional Association <input type="checkbox"/> LLC <input type="checkbox"/> Other (please specify):			
School Name: <i>ONLINEED, INC.</i>			
Street Address <i>7405 SW BEVELAND ROAD</i>			
City <i>PORTLAND</i>		State <i>OR</i>	Zip Code (+4 optional) <i>97223-8610</i>
County <i>WASHINGTON</i>		Country <i>USA</i>	
Phone Number <i>503-670-9278</i>		Email <i>harlow@ONLINEED.COM</i>	

*Under the Federal Privacy Act, disclosure of Social Security numbers is voluntary unless specifically required by federal statute. In this instance, Social Security numbers are mandatory pursuant to Title 42 United States Code, Sections 653, 654, and 668(a); and Sections 455.203(9), 409.2577, and 409.2588, Florida Statutes. Social Security numbers must be recorded on all professional and occupational license applications and will be used to allow efficient screening of applicants and licensees by a Title IV-D child support agency to assure compliance with child support obligations.

Exhibit 2 - Signed Current School Permit License



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

2601 BLAIR STONE ROAD
TALLAHASSEE FL 32399-0783

Congratulations! With this license you become one of the nearly one million Floridians licensed by the Department of Business and Professional Regulation. Our professionals and businesses range from architects to yacht brokers, from boxers to barbeque restaurants, and they keep Florida's economy strong.

Every day we work to improve the way we do business in order to serve you better. For information about our services, please log onto www.myfloridalicense.com. There you can find more information about our divisions and the regulations that impact you, subscribe to department newsletters and learn more about the Department's initiatives.

Our mission at the Department is: License Efficiently, Regulate Fairly. We constantly strive to serve you better so that you can serve your customers. Thank you for doing business in Florida, and congratulations on your new license!

dbpr STATE OF FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

ZH1002611 ISSUED: 08/03/2021
 REAL ESTATE SCHOOL PERMITHOLDER
 ONLINEED INC

[Signature]
 Signature

LICENSED UNDER CHAPTER 475, FLORIDA STATUTES
 EXPIRATION DATE: SEPTEMBER 30, 2023

Ron DeSantis, Governor Julie I. Brown, Secretary

**STATE OF FLORIDA
 DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
 DIVISION OF REAL ESTATE**

LICENSE NUMBER: ZH1002611 **EXPIRATION DATE: SEPTEMBER 30, 2023**

THE SCHOOL PERMITHOLDER HEREIN IS PERMITTED UNDER THE PROVISIONS OF CHAPTER 475, FLORIDA STATUTES

ONLINEED INC
 7405 SW BEVELAND ROAD
 PORTLAND OR 97223

ISSUED: 08/03/2021 Always verify licenses online at MyFloridaLicense.com

Do not alter this document in any form.
 This is your license. It is unlawful for anyone other than the licensee to use this document.

Corona, Giuvanna

From: Sarah Little <slittle@onlineed.com>
Sent: Wednesday, June 29, 2022 1:11 PM
To: Corona, Giuvanna; Pomales, Jocelyn
Subject: Fwd: [admin@onlineed.com] exemption of Fl Broker for Permit Holder
Attachments: 2022-06-28_-declaratory_statement_signed.pdf

[NOTICE] This message comes from a system outside of DBPR. Please exercise caution when clicking on links and/or providing sensitive information. If you have concerns, please contact your Knowledge Champion or the DBPR Helpdesk.

Dear Giuvanna,

Good afternoon! My name is Sarah and I am writing to you to submit a declaratory statement requesting the Florida Real Estate Commission to make a formal opinion on the interpretation of FS 475.451. The document is attached to this message. The attached request includes our petitioner information, the statute that the statement is being sought, the description of the circumstances regarding the petition, and the signature of our school's COO, Julie Jaross. Please let me know if you have any questions. Thank you!

Sarah Little
OnlineEd Course Development Coordinator
(503) 670-9278

----- Forwarded message -----

From: Pomales, Jocelyn <Jocelyn.Pomales@myfloridalicense.com>
Date: Mon, Jun 27, 2022 at 12:34 PM
Subject: [admin@onlineed.com] exemption of Fl Broker for Permit Holder
To: ADMIN@ONLINEED.COM <ADMIN@onlineed.com>

Good Afternoon,

Thank you for contacting the Department of Business and Professional Regulation. Your email has been forwarded to me for a response.

In order for the Florida Real Estate Commission to possibly provide this exemption, you should probably file a petition for a formal opinion according to Section 120.565, Florida Statutes and Chapter 28-105, Florida Administrative Code, specifically 28-105.002.

Please see the information below found in 28-105.002, which explains what the petition should contain:

28-105.002 The Petition.

A petition seeking a declaratory statement shall be filed with the clerk of the agency that has the authority to interpret the statute, rule, or order at issue and shall provide the following information:

- (1) The caption shall read: Petition for Declaratory Statement Before (Name of Agency).
- (2) The name, address, any e-mail address, telephone number, and any facsimile number of the petitioner.
- (3) The name, address, any e-mail address, telephone number, and any facsimile number of the petitioner's attorney or qualified representative if any.
- (4) **The statutory provision(s), agency rule(s), or agency order(s) on which the declaratory statement is sought.**
- (5) A description of how the statutes, rules, or orders may substantially affect the petitioner in the petitioner's particular set of circumstances.
- (6) The signature of the petitioner or of the petitioner's attorney or qualified representative.

As a point of further information, the Commission receives many requests for declaratory statements that are denied for various reasons. Declaratory statements are not meant to address hypothetical situations. When drafting a petition for declaratory statement, ask yourself the following questions. If all of your answers are yes, there is a greater possibility that the Commission will issue a declaratory statement.

- Do you have an actual and practical need for a statement?
- Does your situation deal with a present set of undisputed facts?
- Has a controversy arisen over how the law applies to the question(s) that you are asking?
- Are you depending on the law to guide proposed actions?
- Are you directly involved in this question?

The petition must state which statutes or rules you are requesting clarification.

If you are a Realtor member I suggest you contact the Florida Realtors' Legal Hotline, who may be able to answer your question. The direct number to the Hotline is 407.438.1409.

You may also consider contacting an experienced and competent attorney who specializes in the real estate licensing law. If you need assistance in locating a Florida lawyer, I suggest you contact the Florida Bar referral service at 1-800-342-8011 or <http://www.floridabar.org>.

For your convenience you may access Declaratory Statement Final Orders at <http://www.myfloridalicense.com/dbpr/re/declaratorystatements.html>. If you wish to file a formal petition, please direct the petition to the Florida Real Estate Commission. You may send the petition via email to Giuivanna.Corona@myfloridalicense.com, and it will be forwarded to the Agency Clerk's Office for filing or you may file with the Agency Clerk's Office directly at AGC.Filing@myfloridalicense.com. Once filed, the petition must be noticed in the Florida Administrative Weekly 21 days prior to presenting same to the Florida Real Estate Commission to allow for public comments. The petition will be presented at the next available meeting after receipt of the request.

Please let me know if I may be of further assistance.

Sincerely,



Jocelyn Pomaes

Education Coordinator
Division of Real Estate

Florida Department of Business and Professional
Regulation

Phone: 407-317-7139



Email: jocelyn.pomaes@myfloridalicense.com

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