RULES AND REGULATIONS

Concerning

The Private Occupational Education Act of 1981

EFFECTIVE ~~NOVEMBER 1, 2010~~ 2011

Private Occupational School Board
Colorado Department of Higher Education

Division of Private Occupational Schools
1560 Broadway – Suite 1600
Denver, CO 80202

The official publication of these rules exists in the Colorado Code of Regulations
(8 Colorado Code of Regulations 1504-1)

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DEPARTMENT OF HIGHER EDUCATION

Division of Private Occupational Schools

RULES AND REGULATIONS CONCERNING THE PRIVATE OCCUPATIONAL EDUCATION ACT OF 1981

The official publication of these rules exists in the Colorado Code of Regulations (8 CCR 1504-1)

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

STATEMENT OF BASIS AND PURPOSE

The Private Occupational School Board, Colorado Department of Higher Education adopts these Rules and Regulations pursuant to the rule making authority as stated in the Private Occupational Education Act of 1981, Colorado Revised Statutes, Article 59 of Title 12 ("The Act"), for the purpose of delineating and clarifying the respective responsibilities of the Private Occupational School Board, the Division of Private Occupational Schools and the Private Occupational Schools under the Act as revised.

I. DEFINITIONS

In addition to the definitions used in the Private Occupational Education Act of 1981, the following will also apply in interpreting the Act and Rules except where the context requires otherwise.

A. "Acceptable full-time equivalent employment/work experience" (for the purposes of instructor qualifications) means full-time equivalent work experience reasonably related to the occupational area to be taught or supervised.

B. "Accreditation" is a status granted to a school by one or more of the accreditation organizations approved by the U.S. Secretary of Education as having met a set of standards established by the organization. Accreditation is voluntary and does not imply automatic transfer of credits from one institution to another.

C. "Admission requirement" means the specific minimum criteria a school must use when accepting a student into the school.

D. "Agent's permit" means the written authorization obtained pursuant to section 12-59-111, C.R.S, to engage in the activities of an agent as defined in section 12-59-103(1.5) C.R.S.

E. "Ancillary Education" - See Avocational Education.

F. "Approval" means approval by the Colorado Private Occupational School Board ("Board") unless otherwise provided by these Rules and requires fulfillment of the standards stipulated by the Act and Rules.

G. "Associate Degree" means a degree awarded to a student upon the successful completion of a program the equivalent of two (2) academic years of training consisting of a minimum of 90 quarter hours or 60 semester hours of instruction as defined by the Board.

H. "Avocational Education" means any education to facilitate the personal development of individual persons which is distinguishable from one's recognized occupation and is not conducted as part

of a program or course designed with the primary objective to ~~benefit or~~ prepare individuals for gainful employment in a recognized occupation. Such avocational education includes programs or courses that instruct participants where the instruction is primarily for personal interest and is recreational such as ~~Examples:~~ Aany hobby or craft; dance, music, art, yoga, martial arts and private pilot training.

I. "Certificate" means an award for the successful completion of a specific occupational course or program objective.

J. "Certified" is a term used by schools to describe certain programs or courses. The Division does not regulate the use of the term "certified" or certify or license persons.

K. "Computer based instruction" means instruction via electronic media.

L. "Continuing Education" means a course which leads to an occupational objective, or enhances education in a specific program area, or is required for renewal of a license.

M. "Correspondence occupational course/program" means a course or program offered by an educational institution wherein those who are enrolled are provided lesson materials prepared in a sequential and logical order for study.

N. "Course" means a unit of learning which is an integral part of an occupational program of learning.

O. "Contact hour" is defined as a minimum of 50 minutes of instruction with at least a five-minute break between hours.

P. "Designated agent" is the school's representative, having a physical Colorado address (no P.O. Box addresses) other than the school address, and upon whom any legal process, notice, or demand may be served. The designated agent shall be maintained continuously.

Q. "Diploma" means an award for the successful completion of an approved prescribed course of study in a particular field of endeavor requiring less than two years to complete.

R. "Distance Education" is education designed for learners who live at a distance from the school. The instruction is offered wholly or primarily by distance study, through virtually any media. Distance education courses can vary in scope, level, and length.

S. "Externship/internship" means an education course for which academic credit is awarded, offered as part of an instructional course or program with job experience included. To be considered an externship/internship the course shall meet the requirements of the Board further defined in Rule III.B.7.

T. "Fees", except when used in the context of fees assessed by the Board pursuant to section 12-59-116 C.R.S. ("Board fees"), means a refundable charge assessed to enrolling students and which are intended to cover non-instructional expenses. Fees may not be used to cover instructional expenses or books and supplies. All fees as defined herein must be itemized.

U. "General Education" means that body of instruction which is not directly related to a student's formal technical, vocational or professional preparation, but is supportive as a required part of a student's course of study, regardless of his or her area of emphasis; and is intended to impart common knowledge, intellectual concepts, and attitudes. For example, math is a general education course, but applied math is not.

V. "In-state school" is a school with physical presence within the state.

WV. "Instructor" means any person employed by a school who provides either a residential or distance education course/program for the purpose of delivering instruction or training necessary to meet the stated objectives of the course/program in which the person is qualified to teach; determines educational objectives and activities of any course or program area, including, but not limited to measures, assesses, records, reports or evaluates students' attendance, achievement or completion of lessons, courses or training programs; maintains essential student records and data for which s/he is responsible according to state law or school policy; or exercises technical and functional supervision over instructional staff aides or volunteers.

XW. "Instructional Staff" means program supervisors and instructors. Prospective instructional staff means program supervisor or instructor applicants that a school intends to hire.

YX. "Major program or stand-alone course revision" means changes since the last approval by the Board to the method of delivery; to the occupational objective; and/or increases or decreases since the last approval in the hours exceeding an accumulated 25% of the total hours of the program or stand-alone course approved.

ZY. "Minor program or stand-alone course revision" means any revision not meeting the definition of a major program or stand-alone course revision.

AAZ. "Occupational In Nature" for the purposes of determining and exemption under 12-59-104(1)(D), C.R.S., a program or course is "occupational in nature" if it satisfies the definition of "educational services" or "education" contained in 12-59-103(5), C.R.S., and the definition of "occupational education" contained in 12-59-103(8.5), C.R.S. Any program or course that does not meet this definition is not occupational in natures (also referred to herein as "Nonoccupational").

BB. "Out-of-state school" is a school located outside this state that offers education solely from its location and which solicits, recruits, and enrolls students from the state of Colorado. Out-of-state schools may operate in Colorado if said schools comply with applicable procedures found in the Act and in paragraph VI. (E) of these Rules.

CC. "Physical presence" means maintaining an address within the state of Colorado or any combination of factors lending to the determination that the institution maintains a physical presence within the state, including, but not limited to, the presence of a physical facility or equipment; the physical location of student records; or the presence of a resident director or similar administrator.

DDAA. "Prepaid tuition and fees" (for surety purposes) means the total of prepaid, unearned tuition and fee charges and fees paid by students but not yet earned by the institution, which includes debt incurred as a result of financial aid disbursements to the student.

EEBB. "Prerequisite" means any course, license or credential required as a necessary precondition of admission into a program, course or stand-alone course.

FFCC. "Private occupational school" or "school" means any school, entity or institution for profit or not-for-profit that does not meet any of the exemptions found in section 12-59-104, C.R.S. and that offers programs or courses, the majority of which are occupational in nature.

GGDD. "Program" or "program of education" means a group or series of organized courses, lesson, or units of instruction pursued to attain an occupational objective.

HHEE. "Provisional Certificate of Approval" means a conditional approval for a new school to operate. The initial Certificate of Approval is effective for not less than one year, but not more than two years and during the time of the provisional approval, the school shall establish satisfactory operation and maintain the minimum standards of the Act.

II~~FF~~. "Separate classroom" means a physical location where training occurs that is located a reasonable distance from the main school and is used for the purpose of training the overflow of students who cannot be accommodated at the main school.

JJ~~GG~~. "Standard Certificate of Approval" means a certificate that acknowledges the compliance of a school with the minimum standards of the Act, and authorizes the continuing operation of the school for a period of three years, provided that said school remains in compliance with the Act.

KK~~HH~~. "Stand-alone course" is a course, which may take the form of a seminar, workshop, continuing education course or other similar educational service that has an occupational objective of its own.

LL~~II~~. "Supplementary Education" .(See "Avocational Training")

MM~~JJ~~. "Teaching aids" means advertised aids in a program or stand-alone course of instruction.

NN~~KK~~. "Tuition" means the amount of money charged to students for instruction.

II. GENERAL AND ADMINISTRATIVE

A. Each school shall prominently display its Certificate of Approval to the public, prospective students and other interested persons.

B. The student-teacher ratio in each school shall be reasonable in terms of the suitability of the facility, adequacy of equipment and the method of instruction, and shall be approved at the time of curriculum submission.

C. Each school that allows tuition or fee financing through installment or deferred payment plans shall comply with the provisions of appropriate State and Federal laws concerning consumer credit and truth-in-lending or any other such law related to consumer financing.

D. The payment of all Board fees shall be made by school check, certified or cashier's check, money order, or other approved means made payable to the Division of Private Occupational Schools.

E. The Board shall propose, as part of the Division's annual budget request, an adjustment in the amount of Board fees that it is authorized to collect and spend. The Division will propose and the Board will modify as appropriate and adopt a fee schedule in May preceding the coming state fiscal year.

F. The Division Director shall set the Board agenda; which agenda may be modified by the Board.

G. For schools under corporate ownership, the Division may consider the on-site resident school director as the school representative and primary Division contact.

III. MINIMUM STANDARDS

In addition to the minimum standards outlined in the Act, a school shall comply with the following standards and shall not be owned, operated by, or employ any person who is addicted to or dependent upon alcohol or any controlled substance or such person who is a habitual user of a controlled substance if the use, addiction, or dependence is reasonably found by the Board to present a danger to students, clients or prospective clients.

A. Financial

1. To meet this minimum standard, the school, its owners or guarantors shall demonstrate it has sufficient financial resources to:

    a. Provide instructional services as described in its application for the full duration of any program or course of instruction.

    b. Make refunds as required by the Act.

2. A school submitting a provisional application for approval shall:

    a. Provide a statement of projected operations for a twelve (12) month period from the financial statement date.

B. Approval of Education Services

1. Schools shall offer only educational services that have been approved by the Board.

    a. Program, course or stand-alone course approval applications shall state the program/course occupational objective and list any prerequisites for admission to the program, course or stand-alone course.

2. All new programs and courses and program revisions shall be submitted to the Board for review and approval prior to the proposed date of implementation. Said revisions shall be submitted in a manner which will allow a reasonable period of time for such review. Major program revisions will be considered by the Board. Minor program revisions will be reviewed by Division staff for compliance with minimum required standards and may be approved by staff. A finding of noncompliance with minimum required standards will result in the submittal being returned to the school for changes necessary to meet compliance standards.

3. Programs or courses regulated by another agency must have and maintain continuous approval by the body before the program/course can be presented to the Board or staff for action. The withdrawal of approval of a program/course by the other regulatory agency will result in an automatic withdrawal of approval of the program/course by the Board.

4. Continuing Education Courses - All continuing education courses will be considered under the provisions of II.B.2. Administrative approval (Division level) may be granted to an approved school when the course is approved and approval documented for CEU's through the relevant regulatory or governing agency, national professional association or trade organization, or through an accredited community college, college, or university.

5. Any person, partnership, corporation, state agency, or local government operating a school which offers flight training with the statement or implication that their primary objective is to train persons for gainful employment; and is certified by the United States veteran's administration; and/or collects prepaid tuition and fees must apply for a Certificate of Approval. The requirements set by the FAA for flight training will constitute minimum standards for schools required to make application for a Certificate of Approval. The school shall submit a signed statement identifying how the FAA minimum requirements are met.

6. Schools shall assess students prior to enrollment and shall only admit those who demonstrate a reasonable likelihood of success in completing the education/training and being employed in the field for which trained. Documentation of this assessment shall be included in each student's records. A high school diploma, GED, Ability to Benefit Test, or other assessment approved by the Division may be utilized to meet the minimum requirements of this section.

7. The school shall provide adequate instruction, including having a sufficient number of qualified instructors to meet the needs of students.

8. Externships/Internships - No internship or externship will be approved in a program if it requires students to be on duty more than eight hours per day for five consecutive days. Appropriate breaks must be included in the externship/internship schedule, pursuant to any and all existing state and federal laws. An externship/internship must be under the coordination of a qualified instructor. To be considered an externship or internship, the program shall:

   a. Be part of the approved curriculum of the school.

   b. Provide for direct supervision of the student by a designated school instructor with appropriate qualifications.

   c. Have a written training plan that specifies the expected educational outcome.

   d. Designate an on-site supervisor who will guide the student's learning and who will participate in the student's evaluations.

   e. Be described in the school catalog, and include the purpose and requirements of the course.

   f. Provide a schedule of time required for the training and include an expected completion date.

   g. The student extern/intern is not to replace a permanent employee.

   h. Externships/internships may be paid or unpaid.

   i. If the externship/internship is part of the course requirements, students may not be considered as graduates or issued a graduation credential until the externship/internship has been satisfactorily completed.

   j. Externship/internship locations and available positions must be filed with the program application and/or revision. For each location and available position, the school must file documentation acceptable to the Board from an authorized agent of the location verifying that the location will provide the specified number of positions for a defined timeframe that corresponds with the program requirements. The number of students enrolled in a program may at no time exceed the number of available externship/internship positions.

9. Schools shall make an application for change of location not later than thirty (30) days prior to moving location. The Division shall have authority to approve applications for change of location.

10. Computer-based instruction is an acceptable method of delivering educational services.

11. A correspondence occupational course/program is an authorized method of delivering educational services. Each lesson when completed shall be returned to the school for correction and grading under the supervision of a qualified instructor. Corrected assignments shall be returned to the student. Correspondence schools may include a residential instruction component for courses/programs.

C. Instructional Equipment, Facilities and Materials

1. Programs shall only be offered in approved institutional facilities that are appropriate for learning activities necessary to complete the occupational objective of the program.

2. The equipment and facilities of each school shall conform to safety, health and other applicable requirements of local, county, state and federal agencies.

3. Equipment shall be maintained in good shape and materials shall be available in sufficient quantities to permit skilled development at required levels by all students.

4. Teaching aids, exclusive of basic supplies, must be as listed in the school catalog in effect at the time of the student's enrollment.

D. Administrative staff – the school shall have sufficient administrative, instructional and support personnel based on student enrollment and needs for educational and support services, including required record keeping.

1. Each school shall designate an on-site resident director.

2. Each school shall designate an in-state agent.

3. Each school shall designate a contact person responsible for instructional staff matters, including but not limited to maintaining and providing Division access to instructor qualification files.

E. Educational staff

1. Program Supervision - each school shall assure supervision of each program area in at least one of the following ways:

   a. For programs of any size - by appointing a program supervisor who has the following qualifications:

      (1) A minimum of three years of successful teaching experience in the program area to be supervised; or at least one year of successful teaching experience in the program area to be supervised, plus the establishment of an acceptable program advisory committee whose members are qualified to advise the program supervisor on the program content, and

      (2) Meets the minimum qualifications for an instructor as defined in Rule III.E.2.c

   b. For programs utilizing not more than two instructors - by establishing an acceptable program advisory committee whose members are qualified to advise the resident director on the program content.

2. Instructional Staff - all instructional staff employed by a school shall possess the following minimum qualifications to deliver educational services in the program area to be taught as set forth in this Rule III.E.2.

   a. Except as otherwise provided in Rule III.E.2.c.(2)(a), each school shall be responsible for assuring and documenting that its instructors meet minimum qualifications. Within 30 days after a school hires a new instructor, the school shall submit to the board, in the format required by the Division, certification that the instructor meets minimum qualifications.

   b. All new or renewal credentials issued by the Colorado Community Colleges System, Career Technology and Education Credentialing Office or the Division prior to September 1, 2006, are valid for five years from the date of issuance indicated on the paper credential certificate. Such credential is valid for teaching in any school, in the program area identified on the credential.

c. Minimum Qualifications :

(1) Experience . In those occupational areas for which industry standards or a governmental agency require a license, certification, registration, journeyman's card or similar regulatory credential ("Regulatory Credential") to engage in the occupation, a minimum of two years (4,000 hours) of acceptable full or part-time equivalent employment/work experience, plus the completion of a training or degree program at an accredited or Board approved school in the applicable occupational area(s) to be taught and possession of the applicable license(s), certification(s), registration(s), journeyman's card(s) or other similar regulatory credential(s) which must be continuously maintained and in good-standing shall be required.

(2) Education . In those occupational areas for which industry standards or governmental agencies do not require a license, certification, registration, journeyman's card or similar regulatory credential, five years (10,000 hours) of acceptable full or part-time equivalent employment/work experience in the occupational area(s) to be taught, plus a background of education adequate to enable the person to carry out the stated objectives of the specific courses, lessons or units of instruction shall be required.

(3) Background Check . A school shall only employ instructors who are of good reputation and free of moral turpitude. Consideration of past felonies involving moral turpitude or other crimes or offenses involving moral turpitude (offenses involving an act of baseness, vileness or depravity in private or social duties owed to individuals or to society) ("offenses") must bear a reasonable relationship to the activity of providing occupational education. Past offenses shall be given consideration in determining whether instructional staff is of good reputation and free of moral turpitude at the time of application, however, past offenses do not automatically disqualify instructional staff. Instructional staff may meet minimum qualifications despite past offense(s) if they have been rehabilitated and are ready to accept the responsibilities of a law-abiding and productive member of society.

(a) Instructional staff and prospective instructional staff who may be teaching in schools designated by the Board as teaching students under sixteen years of age ("minor student"), a list of such schools that is available by contacting the division, must submit fingerprints and pay the required fee to the Colorado Bureau of Investigation for the purpose of conducting a state and national fingerprint background check in accordance with section 12-59-105.7, C.R.S.

(i) The Division Director shall give notice to any such instructor or prospective instructor when a fingerprint background check returned to the Board shows that the person has been convicted of, pled *nolo contendere* to, or received a deferred prosecution or deferred sentence for a felony or misdemeanor described in section 22-60.5-107(2)(b) or 2.5(a), C.R.S., or any other offense involving moral turpitude. The notice shall indicate that the instructor or prospective instructor may submit written data, views, arguments or information with respect to the background check and any subsequent rehabilitation that would tend to show that he or she is prepared to accept the responsibilities of teaching minor students. The Division Director shall give notice to a school that employs or is considering employing an instructor subject to a background check that the instructor's or

prospective instructor's qualifications are under review but the notice to the school shall contain no reference to or details of the results of the fingerprint background check.

(ii) The Director will consider the results of the background check and the instructor's or prospective instructor's response to the notice and any other information deemed necessary to determining whether the instructor or prospective instructor is qualified. The instructor or prospective instructor will not be deemed qualified unless the instructor or prospective instructor provides clear and convincing evidence and reasons establishing that he or she has been rehabilitated and is ready to accept the responsibilities associated with teaching minor students. Such a prospective instructor whose results of the fingerprint background check are under review by the Division Director, for such circumstances identified herein, shall not commence instruction of any student under the age of sixteen (16) until such time that the Division Director notifies the School and prospective instructor that a favorable qualification to instruct has been determined. The Director will notify the instructor or prospective instructor of the Director's determination. Notice to the School shall only include an indication of whether the instructor is qualified or unqualified.

(iii) The instructor or prospective instructor may file an appeal to an adverse Director's decision concerning qualification to instruct based on criminal history to the Board within 20 days after notice. The appeal shall state in writing the reasons for appealing the notice denying the qualification, including the facts, circumstances and/or arguments supporting its appeal. In the event the Board denies an appeal, the instructor or prospective instructor may request a hearing in accordance with the State Administrative Procedures Act. A final order of the Board is subject to judicial review in accordance with section 24-4-106, C.R.S. in an administrative hearing on instructor qualifications, a certified copy of the judgment of a court of competent jurisdiction of a conviction, the acceptance of a guilty plea, a plea of *nolo contendere* or a deferred prosecution or deferred sentence shall be conclusive evidence of the court's action.

(iv) All information related to the results of a fingerprint background check and any investigation of such results shall be treated as confidential data in accordance with section 12-59-105.4, C.R.S., except as necessary to conduct an investigation of qualifications, until such time as there may be a hearing in accordance with the State Administrative Procedures Act on the matter. A school that employs or is considering employing an instructor subject to a background check shall be notified when a review of instructor qualifications following submission of a background check is complete. Notice to the school shall include only an indication of whether the instructor is qualified or unqualified.

d. Exceptions .

(1) Modeling instructors - shall have a minimum of 1,000 hours of acceptable employment/work experience in modeling or related specialized occupations and completion of a modeling or specialized program in the occupational area(s) to

be taught, or 2,000 hours of acceptable work/employment experience in the occupational area(s) to be taught.

(2) Tax preparation instructors - shall have attained a minimum of 1,000 hours of employment/work experience in tax preparation within the last five years, 200 hours of such employment/work experience must have occurred within the last twenty-four (24) months. In lieu of having acquired 200 hours within the last 24 months, the instructor may substitute a suitable tax preparation update course, which was successfully completed within the past 12 months and which included at least five contact hours.

(3) General Education subject areas do not require verified occupational experience. Refer to Part I, paragraph U of these rules for the definition of general education.

e. Compliance Standards .

(1) Each school shall be responsible for assuring and documenting that its instructors meet minimum qualifications, except as provided in paragraph III.E.2.C.(3) of this rule. In a format prescribed by the Board, the school shall maintain an instructor qualification file for each instructor employed. Such instructor qualification file shall include data verifying employment/work experience, education and any applicable regulatory credentials including, but not limited to:

(a) Instructor application

(b) For instructors teaching in occupational areas for which industry standards or a governmental agency require regulatory credentials:

(i) A copy of any educational credentials (degree certificate or diploma) showing completion of a training or degree program at an accredited or Board approved school in the occupational area(s) to be taught

(ii) A copy of applicable license(s), certification(s), registration(s), journeyman's card(s) or similar regulatory credential(s) and a statement of good-standing from the applicable board, agency, association or similar regulatory body as identified in Rule III.E.2(c)(1).

(c) For instructors teaching in occupational areas for which industry standards or a governmental agency do not require regulatory credentials:

(i) A copy of any educational credentials in the occupational area(s) to be taught, or at a minimum, a transcript of courses with emphasis in the occupational area(s) to be taught or related areas sufficient to show that the instructor has a background of education adequate to enable the instructor to carry out the stated objectives of the specific courses lessons or units of instruction to be taught. (See Rule III.E.2(c)(1)).

(d) Documentation of required hours of employment/work experience in the occupational areas to be taught, verified by signature of the instructor and the school director.

(2) The school must notify the Division in writing within thirty (30) calendar days of any change in employment status of instructional staff.

(3) A school's instructor qualification files shall be available to the Division upon request. The Division may conduct unannounced site visits to inspect instructor qualification files and any other reasonably related records to ensure that the school is fulfilling its responsibilities to employ only qualified instructors.

f. Guest Instructors . Guest instructors are exempt from instructor qualification requirements of this rule. A guest instructor is a person whose special experience or expertise in an area related to the subject matter to be taught will make a contribution to the educational processes that will be supportive and expanding and whose use is to be limited to not more than 20% of the program or stand alone course. Students currently attending the school and persons who have attended the school at any time during the previous twelve (12) months may not act as guest instructors. The school shall maintain a record of all guest instructors with the respective courses to which they contributed that documents the special experience or expertise of the person.

g. Emergency Instructor Provision . A school owner/director experiencing a hardship in hiring an instructor who meets minimum standards and qualifications pursuant to the Act and Rules may petition the Board for permission to hire an instructor who does not meet applicable employment/work experience and/or education qualifications. The school shall provide the Board a summary of the conscientious efforts made to secure the services of a fully qualified instructor by describing the person's suitability for the position and attesting that the hiring of the person is essential to the preservation of the program/course. The Board may request additional detailed information to support the search efforts prior to approving or rejecting the petition. Board approval to hire an instructor under the emergency instructor provision is granted for a period of one (1) year from the date of approval for the specified school and specified program/course and is not subject to a period of extension or renewal beyond the one (1) year period of Board approval.

h. Continuing Competency .

(1) All instructional staff is expected to maintain continuing competency. Instructional staff shall provide the school on a regular basis, but not less than every five (5) years, with sufficient and recent educational and employment/work experience to assure up-to-date knowledge of content and practice to continue teaching in the occupational field for which they are employed to teach.

(2) Competency must be documented and demonstrated by successful completion of courses from accredited colleges or universities or board approved schools, occupational experience, workshops/seminars or continuing education approved by a regulatory agency, organization or recognized professional association, or school directed education/training, and by a written annual performance evaluation of the instructor performed by the school director or other authorized school representative. The performance evaluation must include, at a minimum, an evaluation of the instructor's effectiveness in meeting the stated objectives of the course and his/her performance with respect to properly and accurately maintaining and handling all student records for which the instructor is responsible under school policy, including but not limited to attendance and grades and/or satisfactory completion of lessons, courses or training programs.

(3) Where applicable, all instructional staff shall maintain an active, and in good-standing current license, certification, registration, or similar regulatory credential as

required by governmental regulatory agencies or industry standards to practice in the occupational field.

(4) In respect to instructional staff of minor students (under the age of sixteen), in order to continue to be deemed competent, said instructor may not be judicially determined to have committed, nor pled guilty or nolo contendere to a felony or misdemeanor described in section 22-60.5-107(2)(B) or 2.5(A), C.R.S. or any other crime of moral turpitude, after his or her hire date by the School. Such change in instructor criminal history must be reported to the School not later than ten (10) calendar days from the date of entry of a judicial adjudication or court acceptance of a guilty plea or nolo contendere plea to a felony or misdemeanor described in section 22-60.5-107(2)B) or 2.5(A), C.R.S. or any other crime of moral turpitude. A School employing an instructor with such a post-hire change in criminal history must report to the Division in writing not later than twenty (20) calendar days from the receipt of instructor notice. The School's report to the Division shall include the complete name of the instructor, the nature of the change on criminal history, and the date and content of the adjudication or plea entry. The instructor may be required by the Division to submit additional information, including, but not limited to, sufficient court documents identifying the circumstances surrounding the charges and plea, and adjudication. The Division, upon notice, shall conduct a timely review of; issue a Director Decision and afford appeal rights in accordance with the procedure outlined in Rule III.E.2(c)(3).

(5) In order to meet and continue to maintain required minimum standards, all staff working at a School, including instructional and administrative staff, may not be judicially determined to have committed, nor pled guilty or *nolo contendere* to any felony or misdemeanor relative to the health and safety of all persons upon the School premises. Such change in instructor criminal history must be reported to the School not later than ten (10) calendar days from the date of entry of a judicial adjudication or court acceptance of a guilty plea or nolo contendere plea to a felony or misdemeanor described in subsection (5). A School must report to the Division in writing not later than twenty (20) calendar days from the receipt of notice of any judicial adjudication. The School's report to the Division shall include the complete name of the instructor or staff member, the nature of the change on criminal history, and the date and content of the adjudication or plea entry. The Division may require additional information, including, but not limited to, sufficient court documents identifying the circumstances surrounding the charges and plea, and adjudication. The Division, upon notice, shall conduct a timely review of; issue a Director Decision and afford appeal rights in accordance with the procedure outlined in Rule III.E.2(c)(3).

i. Annual Certification of Instructional Staff - all schools are required annually to submit, in a form prescribed by the Board, a list of all instructional staff employed.

(1) The list will include the name of the instructor, date of hire, name of program and courses taught and signature of the instructor and the signature of the school director or authorized school agent certifying that the instructor meets all minimum qualifications required by these rules. The instructional staff list shall be submitted to the Division, along with the filing of the school's annual bond proposal (refer to Rule V.A) on or before July 31st.

(2) With respect to instructional staff of minor students (under the age of sixteen), the School shall include in the annual certification, an affirmation stating that the School has exercised due diligence to determine whether the instructional staff has acquired a new criminal history since the last annual report. This may

include requiring the instructional staff to resubmit a fingerprint background check in compliance with Rule III.E.2.

j. Enforcement and Penalties .

(1) Enforcement.

(a) The Board has the authority to investigate, upon a student complaint or upon its own motion, or upon delegating to the Division Director the qualifications of any instructor. If the Board has reasonable grounds to believe that an instructor fails to meet instructor qualifications, the Board shall issue a notice of noncompliance setting forth the reasons that a school has violated or is violating the act or rules and a period of time within which the instructor and the school may respond by submitting written data, views, arguments or information in the notice. The school shall set forth in its response to the notice the measures that it used to verify the qualifications of the instructor and whether it knew of any deficiencies in the instructor's qualifications.

(b) The Board shall consider the submissions of the school and the instructor to the notice and notify the school and the instructor of the board's determination as to 1) whether the instructor meets minimum qualifications, and 2) if the instructor does not meet minimum qualifications, whether the school knew or should have known that the instructor did not meet minimum qualifications.

(c) The school and/or the instructor may request a hearing on the Board's decision within thirty (30) days after notice in accordance with the State Administrative Procedures Act. A final order of the Board is subject to judicial review in accordance with section 24-4-106, C.R.S.

(2) Penalties.

(a) An instructor whose qualifications are found to be deficient may not be employed by the school as an instructor.

(b) A school that knew or should have known that an instructor did not meet instructor qualifications and employed or continued to employ such instructor, may be subject to fines and/or other disciplinary action up to and including revocation of the school's certificate of approval.

(c) If the instructor is found to have engaged in any of the following, the Board may also order that the instructor is ineligible for employment at any school within the jurisdiction of the Board for such period of time as ordered by the Board:

(i) The instructor obtained employment or demonstrated continuing competency through misrepresentation; fraud; misleading information; or otherwise untruthful statements submitted or offered with the intent to misrepresent, mislead or conceal the truth.

(ii) The instructor failed to keep essential student records or failed to turn over all students records for which s/he is responsible according to state law or school policy.

(iii) The instructor falsified or misrepresented records or facts relating to students' attendance, grades or satisfactory completion of lessons, courses or training programs.

(iv) The instructor is employed by a school that teaches minor students and at any time during his or her employment has been convicted of or pled *nolo contendere* to or received a deferred sentence or deferred adjudication for a felony or misdemeanor described in section 22-60.5-107(2)(b) or 2.5(a), C.R.S. or any other crime of moral turpitude.

F. Educational Standards

1. A diploma shall be conferred only upon the successful completion of the prescribed course(s) of instruction as stated in the catalog and approved by the Private Occupational School Board.

2. Appropriate certification shall be conferred upon successful completion of individual subjects or a combination of subjects as listed in the catalog and approved by the Private Occupational School Board.

3. A school shall publish its admission standards in its catalog. A school must secure documentation to demonstrate that each applicant meets all admission requirements, for example, high school diploma, general equivalency, or ability to benefit test.

G. Requirements for Schools to offer Associate Degree Programs

1. All private occupational schools making application to grant associate degrees shall hold a Certificate of Approval by the Board.

2. Schools offering an Associate Degree shall be accredited by an accrediting agency which is officially recognized by the United States Department of Education.

3. All Associate Degree Programs offered by a school shall be approved by the Board.

4. Application Procedure--An approved school shall make a separate application to the Board for the approval of each associate degree program. The application shall clearly indicate the course of instruction for which the degree will be awarded. Information must be included in sufficient detail to indicate conformance with the following standards of instruction.

   a. The curriculum in the appropriate associate degree program shall include a program of instruction which corresponds with general education curriculum course credits required in institutions that prepare the student to enter full-time, entry level employment in their chosen occupation.

   b. Types of Associate Degrees:

      (1) Associate of Arts (A.A.)

      (2) Associate of Science (A.S.)

      (3) Associate of Applied Science (A.A.S.).

      (4) Associate of Occupational Studies (A.O.S.).

5. Admission - The student shall possess a high school diploma or a GED and be able to matriculate in a degree program.

6. Curriculum - The curriculum in the appropriate associate degree program of study will consist of courses and/or the occupational education area as established by the Board. The appropriate associate degree program of instruction will correspond with the curriculum course credits required in institutions of higher education offering such associate degree programs. This means a minimum curriculum as defined below:

   a. Associate of Arts (A.A.) - Degree Programs, requiring 45 quarter credit hours or 30 semester hours of general education courses (Arts, Humanities, Social or Behavioral Sciences, or one of the professional fields of emphasis). The range of credit hours is 60 semester or 90 quarter hours to 68 semester or 102 quarter hours. Associate of Arts degree programs are intended for transfer into baccalaureate degree programs with junior standing offered by senior colleges and universities.

   b. Associate of Science (A.S.) - Degree Programs, requiring 45 quarter credit hours or 30 semester credit hours of general education courses (Mathematical, Biological or Physical Sciences, or one of the professional fields' emphasis). The range of credit hours is 60 semester or 90 quarter hours to 68 semesters or 102 quarter hours. Associate of Science degree programs are intended to transfer into baccalaureate degree programs with junior standing offered by colleges or universities.

   c. Associate of Applied Science (A.A.S) - Degree Programs requiring 18 quarter credit hours or 12 semester credit hours of general education courses. The range of credit hours is 60 semester or 90 quarter hours to 75 semester or 108 quarter hours. Exceptions to the maximum may be granted by the Board if there is a demonstrated need. These programs are occupational in nature and are not intended for transfer to baccalaureate degree programs; however, certain courses may be accepted toward a bachelor's degree at some colleges and universities. Associate of Applied Science degree programs are intended to prepare students to enter full-time skilled, paraprofessional occupations.

   d. Associate of Occupational Studies (A.O.S) - Degree Programs. In addition to the minimum total credits of 90 quarter credit hours or 60 semester credit hours require only that the school justify each such program to the Board in terms of a logical sequence of courses which will assure adequate preparation for entry level employment in a particular occupational field. These programs are occupational in nature and are not intended for transfer to baccalaureate degree programs; however, certain courses may be accepted toward a bachelor's degree at some colleges and universities. Associate of Occupational Studies degree programs are intended to prepare students to enter full-time, skilled para-professional occupations.

7. Degree credit hours are computed as follows:

   For each quarter credit hour awarded:

   10 theory/lecture contact hrs. = 1 credit

   20 laboratory contact hrs. = 1 credit

   30 intern/externship contact hrs. =1 credit

   For each semester credit hour awarded:

   15 theory/lecture contact hrs. = 1 credit

30 laboratory contact hrs. = 1 credit

45 intern/externship contact hrs. = 1 credit

Computation of hours may not be rounded up.

8. Faculty - Instructors teaching only general education courses in associate degree programs shall hold at least a baccalaureate degree with adequate preparation in areas the instructors are assigned to teach.

9. Cosmetology and related credit hours. The following only relates to cosmetology and related areas. The school catalog shall include at least the following information which is to be given to the student at the time of the execution of the enrollment agreement.

   For all cosmetology schools credit hours are computed as follows:

   30 theory/lecture contact hours = 1 semester credit

   30 laboratory contact hours = 1 semester credit

   30 intern/externship contact hours = 1 semester credit

H. Catalogs

1. Each school shall publish a catalog which shall include at least the following information:

   a. The name and address of the school.

   b. Catalog number and date of publication.

   c. Table of contents.

   d. Names of owners and officers, including any governing Boards.

   e. The school calendar, including holidays, enrollment periods and beginning and ending dates of terms, courses or programs as may be appropriate.

   f. The school's enrollment procedures and entrance requirements, including late enrollment, if permitted.

   g. A description of the school's placement assistance. If no assistance is offered, the school shall make this fact known.

   h. The school's attendance policy.

      (1) Minimum attendance requirements.

      (2) Circumstances under which a student will be placed on probation for unsatisfactory attendance,

      (3) The conditions under which a student may be readmitted.

      (4) Student leaves of absence.

      (5) Dismissal for disruptive behavior,

(6) Any fees resulting from student absence.

i. The school's policy concerning satisfactory progress, and how the policy will be enforced which shall also include:

(1) How progress is measured and evaluated, including an explanation of the system of grading used.

(2) The conditions under which the student may be readmitted if terminated for unsatisfactory progress.

(3) A description of any probation policy.

j. The school's system for making progress reports to students.

k. The school's policy regarding student conduct, including causes for dismissal and conditions for readmission must be described.

l. A description of the school's facilities; teaching aids, exclusive of basic supplies; and equipment used for training.

m. A description of each approved educational program offered including objectives, tuition, fees, length, or, in the case of correspondence schools, number of lessons or units of instruction, as appropriate and the school shall designate credit hours as semester or quarter.

n. The school's policy concerning credit granted for previous education, training or experience.

o. A statement that the school does not guarantee the transferability of its credits to any other educational institution and that transferability is up to the receiving institution unless it has written agreement on file of current acceptability of such credits from other institutions.

p. The school's cancellation and refund policy which shall also include the school's method of determining the official date of termination.

q. Reasonable additional costs to the student for make-up hours for completion of the program.

r. In-state schools shall use a statement printed in the catalog to read, "Approved and Regulated by the Colorado Department of Higher Education, Private Occupational School Board." Out-of-state schools shall use a statement printed in the catalog to read, "Agents licensed by the Colorado Department of Higher Education, Private Occupational School Board."

s. Disclose that apprenticeship councils do not accept training from trade schools for advanced placement if program is in the apprenticeship area.

t. The policy for the granting of credit for previous training shall not impact the refund policy.

u. A section informing the student of the school's grievance policy and protocol for reviewing and resolving student complaints, appeals, or claims.

v. A section informing the student that complaints or claims pursuant to Section 12-59-118, C.R.S. or Section 12-59-115(6)(a), C.R.S, may be filed in writing with the Board within two years after the student discontinues his or her training at the school, or at any time prior to the commencement of training. Other complaints may be filed in writing with the

Board within two years of the date the alleged injury and its cause were known or should have been known.

(1) This section shall include the web address and phone number for the Division of Private Occupational Schools.

(2) This section shall include a statement that the student must file all complaints in writing. No action regarding third party complaints is required, except as required by Section 12-59-115 (6)(a), C.R.S.

2. Supplemental pages(s) may be used as part of the school catalog provided they are used in such a way as to become an effective part of the catalog and may include information such as faculty, calendar, and any other pertinent information. Supplemental pages shall show an effective date and shall be presented to each prospective student prior to execution of any enrollment contract.

3. Postponement clause – the school's policy regarding postponement of starting date and the effect on student's rights to a refund is to read:

   "Postponement of a starting date, whether at the request of the school or the student, requires a written agreement signed by the student and the school. The agreement must set forth:

   a. whether the postponement is for the convenience of the school or the student; and,

   b. the deadline for the new start date, beyond which the start date will not be postponed.

   If the course is not commenced, or the student fails to attend by the new start date set forth in the agreement, the student will be entitled to an appropriate refund of prepaid tuition and fees within 30 days of the deadline in accordance with the school's refund policy and all applicable laws and Rules concerning the Private Occupational Education Act of 1981."

4. Any changes to school catalogs at unaccredited schools, including addenda, shall be submitted to the Division for approval prior to the printing and distribution and execution of any student enrollment agreement

I. Student Enrollment Agreement

1. Each student enrollment agreement for educational service shall comply with the provisions of 12-59-120(1), C.R.S., be fully completed, dated and signed by the student and by an authorized representative of the school prior to the time instruction begins.

2. The school shall retain a copy of the student enrollment agreement and one copy shall be delivered to the student at the time of execution or by return mail when solicited by mail.

3. The student enrollment agreement shall include information that will clearly and completely define the terms of the agreement between the student and the school, including at least the following:

   a. The name and address of the school and the student.

   b. The title of the educational service, date training is to begin, and the number of contact/credit hours or units of instruction or lessons for which enrolled. Enrollment Agreements shall indicate that credit hours are semester or quarter credit hours.

   c. The total costs incurred by the student in order to complete the training. Such costs shall be itemized and shall include tuition, all fees, books, supplies where appropriate and all

other expenses necessary to complete the training. The student enrollment agreement shall outline the method of payment or the payment schedule.

d. The school's refund policy, including the method of determining the official date of termination, displayed in a type-size no smaller than that used to meet any other requirements of this section.

e. A statement acknowledging receipt of a current/approved copy of the school catalog (including addenda) and student enrollment agreement by the student.

f. A statement informing students that complaints may be filed at the Division following submission of said complaint to the school pursuant to its grievance policy.

g. A statement that there is a two-year limitation from the date the student discontinues his/her training at the school on the Board taking action on student complaints.

4. Each student enrollment agreement must reflect and be consistent with the school catalog in effect at the time of enrollment and must be approved by the Division prior to use.

J. Students Records

1. Each school shall maintain for a minimum of six years from the date the student discontinues his/her training at the school, student records which shall include at least the following:

   a. A copy of the enrollment contract and other instruments relating to the payment for educational services

   b. Student information including:

      (1) Student name.

      (2) Permanent or other address at which the student may be reached.

      (3) Records relating to financial payments and refunds.

      (4) Record of attendance as determined by the school.

   c. Date of completion or termination of training and the reason(s) as determined by the school.

   d. Record of any student grievance and subsequent resolution.

   e. Copies of all correspondence or other records relating to the recruitment, enrollment and placement of the student.

2. Each school shall provide upon request a transcript to the student who has satisfied all financial obligations currently due and payable to the school. This transcript of the individual student's records of achievement must be maintained as a permanent record in a form that provides at least the following information:

   a. Name of student

   b. Title of program, including total number of hours of training received and dates of enrollment.

   c. Grade record of each course, lesson or unit of instruction and the cumulative grade for the program.

d. Explanation of grading system.

e. Student transcripts in a form acceptable to the Board will be retained by the school in perpetuity.

3. In the event of closure of a school, the school shall deposit with the Division staff all educational, financial or other records of said school. These records shall be submitted to the Division within sixty (60) days of school closure. Any delay in record submission or any missing records shall be accounted for. The records will then be submitted in proper form to State Archives who will serve as Custodian of the records.

4. In the event of voluntary closure of a school, the school owner or designee shall:

   a. Notify the Division in writing within twenty-four (24) hours of the school closing.

   b. Provide a record of the status of all students currently enrolled whose training program has not been completed within forty-eight (48) hours following school closure.

   c. Surrender of the Certificate of Approval to the Division within forty-eight (48) hours following school closure.

IV. APPLICATION FOR CERTIFICATE OF APPROVAL AND SURETY REQUIREMENTS

A. School Name

The complete legal name and location of each school shall be clearly stated in its application for a Certificate of Approval.

B. Parent Corporation Financial Information

A school which is a subsidiary of another corporation shall submit to the Board as a part of the school's application current financial information about the parent corporation including separate financial statements pertinent to the school.

C. Franchise Agreement

A school operating under any form of franchise agreement must file said franchise agreement and all attachments thereto with the Board as a part of its application for a Certificate of Approval. No franchise school shall be approved unless the franchise agreement contains a provision that the franchise shall not be terminated by the franchiser or the franchisee by reason of default or otherwise, until sufficient arrangements, as determined by the Board, shall have first been made to assure the completion of training of students enrolled in said school; and for the appropriate preservation and/or transfer of pertinent school and/or student records to the Division.

D. School Sites

1. Schools under common ownership which offer educational services and maintain ongoing individual facilities, faculty or students shall be considered as independent entities. A school that intends to offer educational services on an intermittent schedule that does not represent a consistent pattern at locations other than the approved school site as described above must notify the Division staff thirty (30) days prior to each course or other educational service start date. No exterior or interior school emblem/logo is to be displayed at times other than during approved sessions. This notification shall include:

a. Date of educational service and the approved program, stand-alone or course to be offered on forms provided by Division staff.

b. Length of stand-alone course or other educational service.

c. Number of students anticipated.

d. Location of facilities (complete physical address).

e. Description of facilities, square feet, etc.

f. New surety calculation and, if appropriate, a new bond, bond rider, or alternative surety to cover all students regardless of the training location.

This would be classified as an auxiliary activity and would not require a separate Certificate of Approval. However, this auxiliary activity would fall under the jurisdiction of the school conducting the educational services and that school is responsible for maintaining all Rules and Regulations within the scope of its Certificate of Approval.

2. A school that uses a separate classroom must notify the Division of the location so that the Division may conduct an on-site visit.

E. Surety Bonds and Surety Bond Alternatives

1. At the time application is made for a Certificate of Approval, or when new programs, stand-alone courses or continuing education courses are added, the applicant shall file with the Division a surety bond or surety alternative which meets the requirements set forth in these Rules. Schools located in Colorado each shall file one bond or alternative covering the school and its agents.

   a. A school whose surety value is found by the Board to be insufficient to fund the unearned, prepaid tuition of enrolled students shall be noncompliant with these Rules, and, if, after a period of time determined by the Board from the issuance of a notice of noncompliance, the school has not increased its surety to an acceptable level, it shall be subject to revocation or suspension of its certificate of approval.

2. The bond or alternative-submitted to the Division with an application for a Certificate of Approval shall be in the amount required by 12-59-115(3), C.R.S. Each application for a Certificate of Approval shall include a proposal in the form of a letter signed by an authorized representative of the school showing in detail the calculations made pursuant to Section 12-59-115, C.R.S., and explaining the method used for computing the amount of the bond or alternative.

3. In order to be approved by the Board, a surety bond must be:

   a. Executed by the applicant and by a surety company authorized to do business in Colorado; and

   b. In a form acceptable to the Board; and

   c. Conditioned to provide indemnification to any student or enrollee of an in-state or out-of-state school or his/her parent or guardian determined by the Board to have suffered a loss of tuition or any fees as a result of violation of any minimum standard or as a result of a holder of a Certificate of Approval ceasing operation; and

   d. An original bond.

4. In lieu of a surety bond, an applicant may file with the Division an assignment of savings account that:

    a. Is in a form acceptable to the Board; and

    b. Is executed by the applicant; and

    c. Is executed by a state or federal savings and loan association, state bank or national bank which is doing business in Colorado and whose accounts are insured by a federal depositor's corporation.

5. In lieu of a surety bond, an applicant may file with the Division a timed certificate of deposit that:

    a. Is issued by a state or federal savings and loan association, state bank or national bank which is doing business in Colorado and whose accounts are insured by a federal depositor's corporation;

    b. Is either:

        (1) Payable to the Division of Private Occupational Schools; or

        (2) In the case of negotiable certificate of deposit, is properly assigned without restriction to the Division of Private Occupational Schools; or

        (3) In the case of nonnegotiable certificate of deposit, is assigned to the Division of Private Occupational Schools by assignment in a form satisfactory to the Division of Private Occupational Schools.

6. In lieu of a surety bond, an applicant may file with the Division an irrevocable letter of credit that:

    a. Is in a form acceptable to the Board; and

    b. Conditioned to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Private Occupational School Board to have suffered loss of tuition or any fees as a result of violation of any minimum standard or as a result of a holder of a Certificate of Approval ceasing operation.

    c. Is executed by a state or federal savings and loan association, state bank or national bank which is doing business in Colorado and whose accounts are insured by a federal depositor's corporation.

7. In lieu of a surety bond, an applicant may file with the Division of Private Occupational Schools a properly executed participation contract with a private association, partnership, corporation or other entity whose membership is comprised of private occupational schools, which:

    a. Is in a form acceptable to the Board; and

    b. Conditioned to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of prepaid tuition or any fees as a result of violation or any minimum standard or as a result of a holder of a Certificate of Approval ceasing operation, and provides evidence satisfactory to the Board of its financial ability to provide such indemnification and lists the amount of surety liability the alternative entity will assume.

8. Whenever these Rules require a document to be executed by an applicant the following shall apply:

a. If the application is a corporation, the document must be executed by the president of the corporation or person(s) designated by the corporate Board.

b. If the applicant is a limited liability corporation the document must be executed by the members.

c. If the applicant is a partnership, the document must be executed by all general partners.

d. If the applicant is an individual, the document must be signed by the individual.

e. If the applicant is a state agency, the document must be signed by the Director of that Department.

f. If the applicant is a local government, the document must be signed by the major or Board president.

9. Any bonding alternative entity must have independent financial resources necessary to meet the contractual obligation to the students of a failed member institution.

10. Any bonding alternative entity must have resources equal to or exceeding the maximum bond required of any single school.

F. Types of Certificates of Approval

1. Provisional certificate of approval

   a. Initial applications may receive a provisional certificate of approval that is effective for not less than and one (1) year.

   b. No more than two (2) consecutive provisional certificates of approval will be granted.

2. Standard certificate of approval

   a. Upon satisfactory demonstration of school operations during the provisional approval period schools may receive a standard certificate of approval, effective for three (3) years.

3. Application for change of ownership

   a. An application for change of ownership and control shall be filed for approval by the Board whenever a change of fifty-one (51) percent or more of the school's equity occurs. The seller, prior to the effective date of the change of ownership, shall notify the Board in writing of the pending sale. The buyer shall make application for change of ownership prior to or within thirty (30) days after the change of ownership. Said application shall be made on forms provided by the Division. Failure to do so shall result in the suspension of the school's Certificate of Approval by operation of law until such application has been received and approved by the Board. The Board may review of otherwise treat an application for a change of ownership as an application for a provisional certificate of approval.

   b. In addition, the new owners shall provide the new organizational chart and the names, addresses and corporate titles of all persons having a financial interest of ten (10) percent or more of the equity; copy of the sale agreement, agreement of new owners to assume responsibility for training or refunding of prepaid tuition and fees for students enrolled under previous ownership; and a report on any other changes made in the school's organization and operations.

4. Exemptions for accredited schools

   a. Pursuant to 12-59-106(2), C.R.S., the Board has determined that schools maintaining active good standing with accrediting agencies officially recognized by the U.S. Department of Education and whose accrediting standards meet or exceed the minimum standards set forth in this article, may be exempt from the following Rules and minimum standards described herein:

      (1) Instructional equipment, facilities, and materials (Rule III.C.)

      (2) Catalogs (Rule III.I.)

      (3) Student enrollment agreement (Rule III.J.)

   b. Schools maintaining active good standing with accrediting agencies officially recognized by the U.S. Department of Education are exempt from on-site visits for the purposes of renewal of a certificate of approval. However, accredited schools must invite Division staff to participate in on-site reauthorization visits by an approved accrediting agency, and must submit copies of the final letter of approval from the accrediting body regarding the school's status. Nothing in the rule shall prohibit the Division from conducting periodic on site visitations in the course of an investigation of a complaint, either filed with or initiated by the Board. Similarly, nothing in this rule shall prohibit the Division from conducting periodic on-site visitations deemed in furtherance of compliance with a rule or minimum standard not expressly exempt herein.

   c. Schools that lose their accreditation for any reason shall be subject to all Board Rules and minimum standards.

V. ANNUAL FILINGS

Each school holding a Certificate of Approval shall file annually a bond proposal, enrollment, and placement statistics as follows:

A. Bond Proposal

Each school holding a Certificate of Approval shall file annually a proposal justifying the continued adequacy of the bonding or alternative being maintained by the school. The proposal shall be based on the amount of maximum prepaid tuition and fees collected and held at any one time during the calendar year and shall be submitted on or before July 31st. The proposal shall be covered in the surety requirements as specified in paragraph IV.E. 1-10.

Upon the Board's request the school shall also file a complete set of financial statements which includes cover sheet, balance sheet, income and expense statement, source and use statement and all supportive notes, prepared by an independent public accountant or certified public accountant using a format which reflects generally accepted accounting principles and procedures.

B. Enrollment and Placement Statistics

1. Each school which offers or advertises placement assistance for any course or instruction shall file with the Division its placement statistics for each program for the preceding year.

2. Schools shall submit the following placement assistance data with their annual surety proposals or renewal applications:

   a. The number of graduates who requested placement assistance.

b. The number of graduates who received job offers for which they were trained.

c. The number of graduates who received job offers in a related area for which they were trained.

3. For schools offering and marketing placement assistance, data on such activities shall be submitted on or before July 31st.

C. Student Graduate Data

1. Any Private Occupational School holding a certificate of approval to operate, and which offers a program/course certificate, diploma or associate degree as defined by rule Part I, "Definitions" of the Rules and Regulations Concerning The Private Occupational Education Act shall, on an annual basis, submit to the Division student graduate data consistent with the following:

   a. Name of the school;

   b. Name/identification of the respective program(s) for which certificates, diplomas or associate degrees are awarded; and

   c. The number only (not by names or by any other personally identifying student information) of graduates having successfully completed and been awarded either a certificate, diploma or associate degree, within the annual reporting period. This graduate quantitative/number data shall be provided in respect to or reported by each program so identified by the school in fulfillment of this annual reporting requirement.

   d. The printed name and written signature of the school representative submitting said annual report on behalf of the school, and an acknowledgement that with his or her signature this representative affirms under penalty of law that the school exercised due diligence in identifying, compiling and reporting a true and complete graduate data report.

2. Exemptions to this rule and its reporting requirement are those programs or courses approved as stand-alone courses which are offered solely as Advanced Education or Continuing Education.

3. The graduate data annual report shall be submitted to the Division on or before July 31st.

4. Violation of this rule by a school not exempt from this reporting requirement may be subject to disciplinary actions, fining authority or other powers of the Board as defined by statute and Board rule.

VI. ADMISSION REPRESENTATIVES/AGENTS

A. Each school shall be responsible for the conduct of its admission representative/agents in the performance of their duties and shall select each of them with the utmost care, provide them with adequate training and arrange for the regular and proper supervision of their work.

B. The admission representative/agent shall not use the availability of student aid as an inducement.

C. No school shall conduct surveys for the purpose of developing enrollment leads near (3 blocks or less) any state or federal social services program center (i.e., welfare, food stamps, unemployment, etc.).

D. A school is allowed to solicit in public places provided that the name and address of the school is displayed.

E. Out-of-State Schools

1. Prior to the issuance of an agent's permit to any person representing a school located outside of this state, the school shall submit at least the following:

    a. Copies of documents relating to the school's authorization to operate in its home state and any accreditation's or other approvals held by the school.

    b. A published catalog containing the information required by these Rules and Regulations.

    c. Copies of all media advertising and promotional literature intended for use in Colorado must include the school name, address, telephone number and location(s) where training will be offered.

    d. Copies of all student enrollment agreements or other instruments evidencing indebtedness and intended for use in Colorado which must comply with the provisions specified in these Rules and Regulations.

    e. The name and Colorado physical address of a real person who is a designated agent upon whom any process, notice or demand may be served. The Division shall be notified **IN WRITING** of any change in said agent within ten (10) days of the change.

2. The Board shall not be required to act upon an application for an agent's permit for any person desiring to engage in the performance of the duties of an agent for a school located outside this state until the school shall have complied with the provisions of this section.

3. Revisions to catalog or student enrollment agreement must be reviewed by Division staff and receive approval prior to utilizing same in Colorado.

4. The utilization by any agent of the school of any catalog or student enrollment agreement not specifically approved by the Board will be viewed as a willful and deliberate violation of the Rules and the Board shall summarily suspend all agent permits for the school pending a hearing which shall be promptly initiated and determined.

F. An agent's permit is not required for referrals.

VII. DECEPTIVE TRADE AND SALES PRACTICES

As clarification and in furtherance of the protections against the deceptive trade and sales practices outlined in the Private Occupational Education Act of 1981, as amended, a school shall comply with the following:

A. A guarantee of placement shall not be falsely promised or implied.

B. If a school located within the State of Colorado refers to the fact that it is approved, the school will use the following phraseology as it pertains to its approved educational programs or courses only: "Approved and Regulated by the Colorado Department of Higher Education, Private Occupational School Board."

C. A school shall disclose in its printed advertising and promotional materials the principal location at which the training is offered.

D. A correspondence school or distance education school shall disclose in its advertising and promotional materials that correspondence or distance education is the primary instructional methodology.

E. A school or other representative shall not falsely or deceptively represent that the school has restrictions on enrollment as to number, date of submission of application or similar false representations.

F. A school or its agents and representatives shall not make or perpetuate any false or deceptive statements in regard to any other postsecondary school or college, whether public or private, nor shall a school or agent recruit students who are currently enrolled in another school.

G. A school shall advertise only in its approved name.

H. Schools located within the State of Colorado using broadcast media shall satisfy the requirements of this section by including the school name, a phone number, street address, and city in the advertisement. Out-of-state schools must include school name, street, city, state, zip code and location where training is to be offered.

I. A school shall not represent directly or by implication that there is a substantial demand for persons completing any of the programs offered by the institution unless the institution has a reasonable basis for the representation documented by competent, objective, and statistically valid data.

J. A school shall clearly indicate in its advertising and promotion materials that education and/or occupational training is being offered.

K. A school may use only testimonials that accurately reflect current practices of the institution or current conditions or current employment opportunities in the field. Such testimonials may be used if prior written consent is obtained and no remuneration or other consideration is made for either the consent or the use of the endorsement.

L. A school may advertise that it is endorsed by manufacturers, business establishments, organizations or individuals engaged in the line of work for which it provides training, if the school has written evidence of this fact and this evidence is made available to the student.

M. No school shall advertise "accredited" unless such status has been received from an accrediting body currently listed as recognized by the U.S. Secretary of Education.

N. A school shall not advertise as an employment agency or the equivalent.

O. A school shall not deceptively advertise in conjunction with any other business or establishment.

P. A school may not follow-up employer help wanted advertisement with offers of training.

Q. Any school which has an agency shall not advertise in the help wanted section for that agency.

R. Any school or agency which offers classes at "no charge" but receives direct or indirect payment of fees or other pecuniary benefits or considerations, "for other services including publications, photo sessions and workshops" is considered to be a school and is required to hold a Certificate of Approval from the Board.

S. Students who apply for and properly represent their financial aid application and do not qualify for financial aid within the first two weeks of classes and are accepted on the basis of forthcoming financial aid eligibility shall not be referred to a collection agency.

T. All flight schools/flying clubs/individuals advertising commercial advanced training and collecting prepaid tuition and fees must hold a Certificate of Approval.

U. All Federal Aviation Administration Part 141 and/or Part 147 approved flight schools and/or maintenance schools must hold a Certificate of Approval.

V. Institutions placing advertisements in classified columns of newspapers or other publications to attract students must use only classifications such as: "Education," "Schools," or "Instruction." Headings such as "Help Wanted," "Employment," "Career Opportunity," or "Business Opportunities" may be used only to procure employees for the institution.

VIII. REFUND POLICY

A. The official date of termination or withdrawal of a student shall be determined in the following manner:

1. The date on which the school is noticed to be the student's last date of actual attendance.

2. The date on which the student violates published school policy which provides for termination.

3. Should a student fail to return from an excused leave of absence, the effective date of termination for a student on an extended leave of absence or a leave of absence is the earlier of the date the school determines the student is not returning or the day following the expected return date.

B. Refunds must be calculated from the official date of termination or withdrawal and calculated on the period of time designated on the current agreement executed with the student.

C. Application/registration fees may be collected in advance of a student signing an enrollment contract; however, all monies paid by the student will be refunded if the student does not sign an enrollment contract and does not enter school.

D. No student shall be continued on an inactive basis in violation of school policy without written consent of the student. Inactive students must be terminated within 30 days of the next available start date and refunded appropriate prepaid tuition and fees at that time.

E. Refunds, including bond claim refunds, will be made to sponsoring agencies or individuals rather than to students.

F. In the event of a school ceasing operation, the student shall be entitled to 100 percent of the prepaid, unearned tuition and fees at the time of closure unless a teach-out is available and accepted by the student.

IX. COMPLAINTS

A. The school shall attempt to resolve internally filed or noticed student complaints promptly and fairly in accordance with the procedures stated in its grievance policy, and shall not subject a student to punitive action because the student filed a grievance/complaint with the school or the Board.

B. Complaints or claims pursuant to Section 12-59-118, C.R.S., or Section 12-59-115(6)(a), C.R.S., may be filed in writing with the Board within two (2) years after the student discontinues his/her training at the school, or at any time prior to the commencement of training.

C. The Board may initiate an investigation, issue a notice of noncompliance and/or commence administrative or court action, with or without a complaint at any time that it has reason to believe that a school has violated or is violating the Act or Rules.

X. STATE ADMINISTRATIVE PROCEDURES ACT

All final decisions made by the Board regarding issuance, denial and revocation of all types of Certificates of Approval, agent permits and instructor qualifications according to Section 12-59-123 of the Private Occupational Education Act of 1981, Title 12, Article 59, Colorado Revised Statutes, will be under the provisions of the State Administrative Procedures Act, Section 24-4-101,C.R.S., et seq. (APA).

XI. DISCIPLINARY ACTIONS

A. The Board may deny, suspend, revoke or place on probation a school's Certificate of Approval or agent's permit if the applicant or holder:

1. Violates any provision of the Act or the Rules and Regulations established pursuant to the Act.

2. Fails to meet the requirements of the Act or the Rules and Regulations established pursuant to the Act; or uses fraud, misrepresentation or deceit in applying for or attempting to apply for approval.

3. Is convicted of, or has entered a plea of *nolo contendere* or guilty to, or has received a deferred sentence or a deferred prosecution for a felony.

4. Violates probation.

5. Uses deceptive advertising.

B. The Board may use an administrative law judge employed by the Office of Administrative Courts in the Department of Personnel and Administration to conduct hearings or hold the hearings itself if time is determined to be a factor.

C. The Board may enter into a voluntary agreement with any school or agent to suspend, revoke, or place on probation the school's certificate of approval or the agent's permit. Such agreements shall have the force and effect of an order of the Board and violation of the terms of such agreement by a school or agent shall be grounds for disciplinary action up to and including revocation of the school's certificate or the agent's permit.

D. Administrative Fines . In addition to or in lieu of seeking a temporary restraining order or an injunction pursuant to Section 12-59-125(1), C.R.S., the Board may impose an administrative fine on a School or Agent which violates the Act, the Rules, or an order of the Board. Fines for violations shall be determined by the Board pursuant to the Act and the Rules. There is no statutory minimum or maximum fine amount prescribed by the Act. Fines may be imposed by the Board, unless otherwise provided by the Act or the Rules.

1. <u>Procedure</u>

a. <u>Notice of Non-Compliance</u>. Based upon a reasonable belief that a violation occurred, the Board shall issue a Notice of Non-Compliance to the School or Agent requesting a response. After receiving the response, the Board shall deliberate and make a decision on the issuance of a fine and the fine amount.

b. <u>Notice of Fine</u>. If the Board decides to fine a School or Agent, the Board shall issue a Notice of Fine, which shall:

(i) Identify the School or Agent;

(ii) Provide a concise statement of the facts and/or conduct constituting the violation and the specific statutory provision or rule violated;

(iii) The fine assessed in accordance to this Rule;

(iv) A statement that the School or Agent has a right to request a hearing of the Board's decision; and

(v) A statement of how and when the fine must be paid.

2. Factors Used to Determine Fine Amount . In determining whether to impose a fine and the amount of the fine, the Board shall consider and take into account the following aggravating and mitigating factors in establishing the degree of seriousness of the violation(s) for which to impose a fine on a School or Agent:

(a) Aggravating Factors.

- The School or Agent has failed to correct the violation or continues or repeats the violation;
- The violation involved intentional, misleading and false representation, reporting and disclosure;
- The actual and potential damages suffered, and actual or potential costs incurred, by the Board, or by any other person as a result of the violation;
- The violation resulted in intentional and reckless willful and negligent conduct;
- The violation resulted in significant negative impact, threat or harm to the public; and
- The School or Agent has engaged in a pattern of noncompliance with Board laws, rules and orders.

(b) Mitigating Factors:

- The School or Agent self-reported the violation;
- The School or Agent demonstrated prompt, effective and prudent response to the violation, to remedy and mitigate whatever harm might have been done as result of the violation;
- The School or Agent cooperated with the Board, or other agencies and impacted parties with respect to addressing the violation; and
- The violation was outside of the entity's reasonable control and responsibility.

3. Schedule of Fines. Unless otherwise provided by the Act, the Board may utilize the following classification table in determining and imposing administrative fines on a School or Agent:

Violation	Fine
Deceptive Trade or Sales Practice 12-59-106(1)(k), 12-59-117, C.R.S., and Board Rule VII	$1000 minimum for each violation.

Operating after expiration date of certificate of approval, 12-59-107(1)(a), C.R.S. Board Rule IV.F	$1000 minimum for violation and $50 each day in violation.
Operating without adequate Surety Coverage, 12-59-115, C.R.S., and Board Rule IV.E.1-10	$1000 minimum for violation and $50 each day in violation.
Offering Program/Courses without Board approval 12-59-106(1)(c), C.R.S., Rule III.B.1	$500 minimum fine for each violation
Unauthorized Agent, 12-59-111(1) & (2), C.R.S and Board Rule VI	$500 minimum for violation and $50 per day in violation.
Failure to pay and/or late payment of fees, 12-59-116, C.R.S.	1st violation: minimum $100; 2nd minimum $300; 3rd minimum $500, and each violation thereafter $500.
Failure to adhere to state refund policy upon student withdraw or termination, 12-59-114, C.R.S., and Board Rule VIII	1st violation: minimum $100; 2nd minimum $300; 3rd minimum $500, and each violation thereafter.
Unqualified instructional staff, 12-59-106(1)(e), C.R.S., and Board Rule III.E.2	1st violation: minimum $200; 2nd violation minimum $300; 3rd violation minimum $500 and each violation thereafter.
Failure to timely and adequately correct an on-site inspection deficiency and/or application/record review 12-59-106, C.R.S	1st Offense minimum $100 per violation; 2nd Offense minimum $300 per violation; 3rd Offense minimum $500 per violation, and each violation thereafter.
Failure to timely and adequately file annual bond calculation, 12-59-	$500 minimum per year

115(3), C.R.S. and Board Rule V.A	
Failure to timely and adequately file annual instructional staff list, 12-59-106(1)(e), C.R.S., and Board Rule III.E.2.h	$500 minimum per year
False statement about material fact in application, 12-59-106, C.R.S., and Board Rule XI.A	$500 minimum per violation
Failure to properly execute student enrollment agreement, 12-59-120(1) and Board Rule III.J	$200 minimum per violation
Any other violation of the Act, Rule or order of the Board	$100 to $5000 per violation

4. Administrative Hearing. In lieu of paying the imposed fine, the School or Agent may request a hearing before an administrative law judge in accordance to the State Administrative Procedures Act. All final decisions of the Board regarding the issuance of fines and any other form of disciplinary action as set forth in the Act, including administrative fines, shall be in accordance to the State Administrative Procedures Act.

5. Payment of fines. Unless the School or Agent requests a hearing pursuant to the State Administrative Procedures Act, any fine imposed pursuant to Section 12-59-125, C.R.S., and this Rule shall be paid within 30 days of the date of the Notice of Fine. Any fine imposed subsequent to an administrative hearing and final Board order shall be paid within 30 days of a final Board order. All fines shall be paid by certified check, cashier's check or money order, payable to the "Division of Private Occupational Schools." All fines collected pursuant to this Rule shall be transferred to the State Treasurer, who shall credit the same to the State General Fund.

6. Failure to Pay a Fine. Failure to pay an administrative fine by its due date may result in the suspension or revocation of the School's certificate of approval or the Agent's permit in accordance with the Act, the Rules and the State Administrative Procedures Act.

Editor's Notes

History

Section II-F eff. 03/02/2009.

Entire rule eff. 03/31/2009.

Section V.C. eff. 11/01/2010.

Section I.H, V, BB, CC eff. 11/01/2011