

The following Rules/Regs are those pertaining to INSTRUCTORS only.

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**Rules and Regulations
Concerning
The Private Occupational Education Act of 1981**

RULES AND REGULATIONS

Concerning The Private Occupational Education Act of 1981

**“Part I, Definitions
and
Part III, Sections D and E”**

Effective 3/02/07

**Private Occupational School Board
Colorado Department of Higher Education**

**Division Of Private Occupational Schools
1380 Lawrence Street #1200
Denver, CO 80204**

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

DPOS RULES AND REGS

Effective March 2, 2007

Part I, Definitions and Part III, Sections D and E (concerning "Instructors" only)

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 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 to benefit or prepare individuals for gainful employment in a recognized occupation. *Examples:* Any hobby or craft; 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/credential.
- 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 at home.
- 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, with a Colorado address other than the school address, 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" means a refundable charge to enrolling students to cover non-instructional expenses, except when used in the context of fees assessed by the Board pursuant to section 12-59-116, C.R.S. ("Board fees"). Fees may not be used to cover instructional expenses or books and supplies. All fees 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 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 agent" means a permitted individual who recruits students for enrollment and signs enrollment agreements as the school representative. An in-state agent may also service as a designated agent. In-state agent permits expire with school certificates of approval.
- W. "In-state school" is a school that is physically located within the state, maintains student records in the state and has a resident director.
- X. "Instructor" means any person employed by a school to provide either a residential or distance education course/program, or the educational services necessary to meet the stated objectives of the course/program in which the person is qualified to teach.
- Y. "Instructional staff" means program supervisors and instructors. "prospective instructional staff" means instructor or program supervisor applicants that a school intends to hire.

- Z. "Major program or stand-alone course revision" means changes since the last approval to the, method of delivery and/or changes since the last approval 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 by the Board.
- AA. "Minor program or stand-alone course revision" means any revision not meeting the definition of a major program or stand-alone course revision.
- BB. "Out-of-state school" is a school that is located outside the state and offers education either solely from its location or comes into the state on an intermittent schedule. All student records are located outside Colorado and there is no resident director. Out-of-state schools may operate in Colorado if said schools comply with applicable procedures found in the Act and paragraph VI. (E) of these Rules.
- CC. "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.
- DD. "Prerequisite" means any course, license or credential required as a necessary precondition of admission into a program, course or stand-alone course.
- EE. "Private occupational school" or "school" means any school, entity or institution for profit or not for profit that offers programs or courses, the majority of which are occupational in nature and does not meet any of the exemptions found in section 12-59-104, C.R.S.
- FF. "Program" or "program of education" means a group or series or organized courses, lesson, or units of instruction pursued to attain an occupational objective.
- GG. "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.
- HH. "Separate classroom" means a location where training occurs located at a reasonable distance from the main school used for the purpose of training the overflow of students who cannot be accommodated at the main school.
- II. "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.
- JJ. "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.
- KK. "Supplementary Education" See Avocational Education.
- LL. "Teaching aids" means advertised aids in a program or stand-alone course of instruction.
- MM. "Tuition" means the amount of money charged to students for instruction.

III. MINIMUM STANDARDS

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. Two years (4,000 hours) of acceptable full-time equivalent employment/ work experience plus the completion of a training or degree program in

applicable occupational area or five years (10,000 hours) of acceptable full-time equivalent employment/work experience in the occupational area(s) to be taught. Occupational areas for which industry standards or a governmental agency requires licensing, certification or registration or other similar regulatory credential to engage in the occupation/profession, this requirement will satisfy the educational requirement. Documentation of such license, certification or registration or similar regulatory credential shall be continuously maintained and in good-standing by the instructor and on file with the employing school.

(2) Education. Shall have a background of education adequate to enable the person to carry out the objectives of the specific courses, lessons, or units of instruction for which the credential is issued.

(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. The Director will notify the instructor or prospective instructor of the Director's determination.

(iii) The instructor or prospective instructor may appeal the Director's decision 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 a minimum of 1,000 hours of employment/work experience in tax preparation within the last five years of which 200 hours is within the last twenty-four (24) months. In lieu of having 200 hours within the last 24 months, the instructor may substitute a suitable tax preparation update course with the past 12 months which shall be 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 that contains 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.

(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.

(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 within thirty (30) 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 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 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 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 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.

i. Annual Certification of Instructional Staff – all schools are required annually to submit an instructional staff list of all instructional staff employed in a format prescribed by the Board, to 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 schools annual bond proposal (refer to Rule V.A) on or before July 31st.

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 or fraud or through misleading information or untruthful statements submitted or offered with the intent to misrepresent or mislead or conceal 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 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.