

Section I
Department of Higher Education Title 23 Clean-up & Revision
Draft Changes with Comments
October 22, 2007

Title 23 Article 1:

Article Title: Colorado Commission on Higher Education **and the Colorado Department of Higher Education**

Comment [j1]: Clarify the DHE and CCHE

23-1-101. Legislative declaration.

The purposes of this article are to maximize opportunities for postsecondary education in Colorado; to avoid and to eliminate needless duplication of facilities and programs in state-supported institutions of higher education; to achieve simplicity of state administrative procedures pertaining to higher education; to effect the best utilization of available resources so as to achieve an adequate level of higher education in the most economic manner; to accommodate state priorities and the needs of individual students through implementation of a statewide enrollment plan; and to continue to recognize the constitutional and statutory responsibilities of duly constituted governing boards of state-supported institutions of higher education in Colorado. In this article, express powers and duties are delegated to a central policy and coordinating board, the Colorado commission on higher education. The ultimate authority and responsibility is expressly reserved to the general assembly, and it is the duty of the Colorado commission on higher education **and the Colorado department of higher education** to implement the policies of the general assembly.

Comment [j2]: Clarify the DHE and CCHE

23-1-101.1. Definitions.

As used in this part 1, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education created and existing pursuant to article 1 of title 23, C.R.S.

(2) "Department of higher education" or "department" means the department of higher education created and existing pursuant to section 24-1-114, C.R.S.

(3) "Executive Director of the Colorado commission on higher education" or "executive director of the department of higher education" or "executive director" means the office of the executive director created and existing pursuant to section 24-1-114, C.R.S.

Comment [j3]: Section added to help clarify the use of "commission" and "department" throughout part 1.

23-1-103. Advisory committee to the Colorado commission on higher education.

(a) (I) Six members shall be appointed from the general assembly, including three senators, two of whom shall be from the majority party, appointed by the president of the senate, and three representatives, two of whom shall be from the majority party,

appointed by the speaker of the house of representatives. Except as provided in subparagraph (II) of this paragraph (a), said six members shall be appointed for terms of two years. **The minority leader of the senate and the minority leader of the house of representatives shall each appoint one member of the committee.**

Comment [j4]: Bringing advisory committee legislative selection process in line with other advisory committees.

23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning.

(8) Any acquisition or utilization of real property by a state-supported institution of higher education which is conditional upon or requires expenditures of state-controlled funds or federal funds shall be subject to the approval of the commission, whether acquisition is by ~~lease,~~ lease-purchase, purchase, gift, or otherwise.

Comment [j5]: Currently all requests for higher-ed lease spaces are administered through the Office of the State Architect/Real Estate Programs pursuant to 24-30-1303. The Commission's review of the leases is more of a rubber stamp. Schools which have dedicated real estate resources can determine whether or not they are getting a fair market price better than staff.

23-1-106.5. Duties and powers of the commission with regard to advanced technology – fund created.

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~~(1) The commission, in consultation with the governing boards of institutions of higher education and the office of information technology created in the office of the governor, shall:~~

~~(a) Establish priorities for the distribution of equipment and moneys available to the institutions of higher education according to its assessment of the long range goals and capabilities of such institutions;~~

~~(b) Integrate the needs of advanced technology industries in the state with the commission's overall master plan process and academic planning process;~~

~~(c) Facilitate technology transfers and cooperation between academic research programs and advanced technology industries;~~

~~(d) Distribute equipment and moneys among institutions of higher education based upon priorities established pursuant to paragraph (a) of this subsection (1);~~

~~(e) Receive annual reports from the various institutions of higher education on the use of allocated equipment and moneys.~~

~~(2) The priorities established pursuant to paragraph (a) of subsection (1) of this section shall take into account the following objectives:~~

~~(a) Avoiding unnecessary duplication of programs, particularly at the graduate level of instruction;~~

~~(b) Establishing centers of excellence in research and teaching for specialties at various campuses of the institutions of higher education, subject to available appropriations;~~

~~(c) Considering industry needs for technical training at the associate, baccalaureate, and graduate levels and for in-service and continuing education;~~

~~(d) Encouraging cooperation among institutions of higher education and local communities and other governmental entities;~~

~~(e) Developing the necessary infrastructure to support distance learning, telemedicine, economic development, and enhanced citizen access. The commission shall work cooperatively with the chief information officer in the office of information technology in the development of such necessary infrastructure.~~

~~(f) Increasing efficiency in funding through elimination of costly duplication and gaps in infrastructure that cause the misuse of state resources.~~

~~(3) In conjunction with institutions of higher education, the commission may promote and establish research centers and, in connection with the administration and operation of any such centers established in cooperation with institutions of higher education, the commission may:~~

~~(a) Enter into any contract or agreement not inconsistent with this article for the benefit of the centers;~~

~~(b) Purchase, lease, trade, or otherwise hold real or personal property, whether tangible or intangible;~~

~~(c) In conjunction with institutions of higher education, appoint professional and support staff to work in and administer the centers or jointly administer such centers; and~~

~~(d) Procure insurance.~~

~~(4) (a) The commission is specifically empowered to receive and expend grants, gifts, and bequests, specifically including state and federal funds and other funds available, and to contract with the United States and any other legal entities with respect thereto.~~

~~(b) Contributions of advanced technology equipment, grants, gifts, or bequests from private sources, including but not limited to advanced technology companies, individuals, and foundations, may be designated by the commission to a specific institution of higher education or may be nondesignated.~~

~~(c) Any nondesignated equipment, grants, gifts, or bequests received may be utilized for advanced technology research at institutions of higher education and for maintaining state-of-the-art laboratory equipment at such institutions.~~

~~(d) Contributions of advanced technology equipment, grants, gifts, or bequests from private sources, including but not limited to advanced technology companies, individuals,~~

and foundations, may be designated by the commission to research centers in the fields of advanced technology research.

(5) The commission may appoint advisory committees or individuals to advise and assist the commission and suggest solutions for the problems and needs of advanced technology industries and institutions of higher education.

(6) The commission shall work cooperatively with the chief information officer in the office of information technology created in the office of the governor and with the state board for community colleges and occupational education to promote the development and use of the Colorado customized training program created in section ~~23-60-306~~ to provide the skilled labor force required by advanced technology businesses establishing or expanding facilities in Colorado. No special appropriation shall be made for the purposes of this subsection (6), which shall be funded only through appropriations to the commission for advanced technology programs.

(7) (a) Repealed.

(b) On and after July 1, 1999, whenever the Colorado advanced technology institute or the Colorado advanced technology commission is referred to or designated by any contract or other document, such reference or designation shall be deemed to apply to the Colorado commission on higher education. All contracts entered into by said institute or commission prior to July 1, 1999, are hereby validated, with the Colorado commission on higher education succeeding to all rights and obligations under such contracts. Any appropriation of funds to said institute from prior fiscal years open to satisfy obligations under such contracts shall be transferred and appropriated to the Colorado commission on higher education for the payment of such obligations.

(8) Pursuant to the provisions of section ~~23-5-121~~, the commission may incorporate one or more private nonprofit corporations under articles 121 to 137 of title ~~7~~, C.R.S., for the purpose of developing discoveries and technology resulting from science and technology research.

(9) Repealed.

23-1-106.7. Duties and powers of the ~~commission~~ department with respect to technology transfers.

(1) The ~~commission, department~~ in consultation with the office of information technology created in the office of the governor, shall:

(a) In all its program efforts, endeavor to facilitate the transfer of newly created technologies from the laboratory to the private sector for the start-up of new businesses, to add product lines to established firms, or to introduce technologies into mature industries in order to strengthen the state's existing economic base; and

Comment [j6]: The duties and powers given to the Commission in this section are no longer used and are not foreseen to be used or of any benefit in the future.

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(b) Assess the technology transfer potential of all academic programs targeted for investment and development.

~~(2) No special appropriation shall be made for the purposes of this section, which shall be funded only through appropriations to the commission for advanced technology program costs.~~

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23-1-107. Duties and powers of the commission with respect to program approval, review, reduction, and discontinuance.

~~(1) The commission shall review and approve, consistent with the institutional role and mission and the statewide expectations and goals specified in section 23-13-104, the proposal for any new program before its establishment in any institution and transmit its decision to the institution within a reasonable time after receipt of such proposal. No institution shall establish a new program without first receiving the approval of the commission. As used in this subsection (1), "new program" includes any new curriculum that would lead to a new vocational or academic degree. The commission shall further define what constitutes an academic or vocational program and shall establish criteria or guidelines that define programs and procedures for approval of new academic or vocational program offerings.~~

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(1)(a) The commission shall define what constitutes an academic or vocational program and shall establish criteria or guidelines that define programs and procedures for approval of new academic or vocational program offerings.

(b) Within a reasonable time after receipt of such proposal the department shall review and, consistent with the institutional role and mission and the statewide expectations and goals specified in section 23-13-104, make recommendation to the commission for appropriate action on any proposal for new program.

(c) No institution shall establish a new program without first receiving the approval of the commission. As used in this subsection (1), "new program" includes any new curriculum that would lead to a new vocational or academic degree.

~~(2) (a) The commission shall establish, after consultation with the governing boards of institutions, policies and criteria for the discontinuance of academic or vocational programs. In adopting the policies and criteria, the commission shall ensure that they conform to achievement of the statewide expectations and goals specified in section 23-13-104. The commission may direct the respective governing boards of institutions, including the board of regents of the university of Colorado, to discontinue an academic or vocational degree program area, as program area is defined by commission policies.~~

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Comment [j7]: Institutions have processes and policies in place to determine the necessity and cost effectiveness of their campuses programs. The governing boards are responsible for the financial operation of the campuses. In this environment of under-funded institutions the incentives to discontinue unnecessary or underutilized programs is high.

~~(3) (2) Each governing board of the state-supported institutions of higher education shall submit to the **commission department** a plan describing the procedures and schedule for periodic program reviews and evaluation of each academic program at each institution consistent with the statewide expectations and goals specified in section 23-13-104 and the role and mission of each institution. The information to be provided to the **commission department** shall include, but shall not be limited to, the procedures for~~

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using internal and external evaluators, the sequence of such reviews, and the anticipated use of the evaluations.

~~(4)~~ (3) Prior to the discontinuance of a program, the governing boards of state institutions of higher education are directed, subject to commission approval, to develop appropriate early retirement, professional retraining, and other programs to assist faculty members who may be displaced as a result of discontinued programs.

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~~(5)~~ (4) The ~~commission~~ **department** shall assure that each institution has an orderly process for the phaseout of programs.

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~~(6)~~ (5) For each institution of higher education, as defined in section 22-35.5-103 (5), C.R.S., that chooses to participate in the fast college fast jobs pilot program pursuant to article 35.5 of title 22, C.R.S., the commission shall review and either approve or disapprove the contract entered into between the institution of higher education and an eligible school district pursuant to section 22-35.5-106, C.R.S.

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23-1-108.5. Duties and powers of the commission with regard to common course numbering system - repeal.

(4) (a) Following adoption of the course numbering system, each higher education institution shall review its course offerings and identify those general education courses offered by the institution that correspond with the courses included in the course numbering system. The higher education institution shall submit its list of identified courses, including course descriptions and, upon request of the commission, summaries of course syllabi, for review and approval by the commission on or before March 1, 2003, for inclusion in the higher education institution's fall 2003 course catalogue.

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Comment [j8]: Outdated reference to 2003 course catalog.

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23-1-109. Duties and powers of the commission with regard to off-campus instruction.

(1) The general assembly declares its intent that the state-supported institutions of higher education may engage in instruction off the geographic boundaries of their campuses.

(2) The commission shall define, after consultation with the governing boards of institutions, the geographic and programmatic service areas for each state-supported institution of higher education. No such institution shall provide instruction off-campus in programs or in geographic areas or at sites not approved by the commission, unless otherwise provided by law.

(3) The general assembly declares its intent that all instruction at two-year institutions, including the first two years of instruction at Adams state college and Mesa state college, shall be funded throughout the institutions' commission-approved service area on the same basis as on-campus instruction.

(4) The ~~commission~~ **department** shall administer any centralized, statewide extension and continuing education program of instruction which may be offered by any state-supported baccalaureate and graduate institution. All instruction offered outside the geographic boundaries of the campus, including instruction delivered by television or other technological means, shall be a part of this program unless exempted by policy and action of the commission.

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(5) The commission shall set policies, after consultation with the governing boards of institutions, which define which courses and programs taught outside the geographic boundaries of the campus may be eligible for general fund support. The commission may include funding for those courses and programs in its systemwide funding recommendations to the general assembly.

23-1-109.3. Duties and powers of the commission with regard to student data - memorandum of understanding.

Notwithstanding the provisions of section ~~22-2-111~~ (3) (a), C.R.S., the commission shall enter into a memorandum of understanding on or before September 1, 2006, with the state board of education to adopt a policy to share student data. At a minimum, the policy shall ensure that the exchange of information is conducted in conformance with the requirements of the federal "Family Educational Rights and Privacy Act of 1974", as amended, 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted in accordance therewith. The policy shall additionally require the ~~commission,~~ **department**, upon request, to share student data with qualified researchers. For purposes of this section, qualified researchers shall include, but need not be limited to, institutions of higher education, school districts, and public policy research and advocacy organizations.

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23-1-110. Commission and department organization, meetings, duties and powers of the executive director and staff.

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Comment [J9]: Entire section changes made to reflect role of the Executive Director and the DHE and CCHE.

(1) The commission shall adopt its own rules of procedure, shall elect a chairman, a vice-chairman, and such other officers as it deems necessary, and shall keep a record of its proceedings, which shall be open to public inspection. Meetings of the commission shall be open to the public at all times; but, by a two-thirds vote of the members present at any meeting, the commission may go into executive session for consideration of personnel matters in accordance with part 4 of article 6 of title 24, C.R.S. No final policy decision, resolution, rule, regulation, or formal action and no action approving a contract calling for the payment of money shall be adopted or approved at any executive session.

(2) ~~(a)~~ The governor shall appoint, with the consent of the senate, an executive director qualified by substantial training and experience in the field of higher education. The executive director shall be the executive officer of the commission and the department of higher education, shall serve at the pleasure of the governor, and shall receive compensation commensurate with the duties of the office as determined by the governor. The duties and responsibilities of the executive director shall be discharged in accordance with the policies, procedures, and directives of the commission **and the department**. The

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executive director shall employ such professional and clerical personnel as deemed necessary to carry out the duties and functions of the commission **and the department**. Offices held by the executive director and professional personnel are declared to be educational in nature and not under the state personnel system.

~~(b) On July 1, 1999, certain employees of the Colorado advanced technology institute prior to said date shall be transferred to and become employees of the commission. Any such employees who are classified employees in the state personnel system at the time of the transfer shall retain all rights to the personnel system and retirement benefits pursuant to the laws of this state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and regulations.~~

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Comment [j10]: Since this transfer already occurred and the CATI is no longer in existence, this provision is unnecessary.

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(3) The executive director shall conduct all studies and programs of the commission and coordinate such studies and programs with those of other state agencies having duties and functions concerned with higher education, so as to avoid duplication of programs and staff.

(4) The executive director shall review and approve or deny any proposed action or recommendation of the private occupational school policy advisory committee acting pursuant to part 7 of article 60 of this title.

23-1-113.2. Commission directive - admission standards for students holding international baccalaureate diplomas.

(1) (a) The general assembly hereby finds and declares that:

(I) It is in the best interests of the state to encourage the development and adoption of innovative and effective curricula for high school students;

(II) The international baccalaureate diploma program is an established and well-respected program designed to provide innovative curricula world-wide;

(III) In most other Western educational systems, secondary education includes the equivalent of a thirteenth grade, and the international baccalaureate diploma program conforms to this approach with its rigorous course of study over two years;

(IV) A student who has successfully completed the international baccalaureate diploma program is viewed as a highly attractive student by institutions of higher education due to the student's ambition, work habits, and scholarship;

(V) Nationwide, institutions of higher education recognize the high level of academic sophistication of international baccalaureate students and many offer considerable college credit as an inducement for those students to attend their institutions;

(VI) Many Colorado international baccalaureate students leave the state to attend institutions of higher education that provide attractive offers of credit; and

(VII) It is in the best interests of Colorado to retain the state's best and brightest students who can establish permanent residency and subsequently contribute to the intellectual and economic vitality of the state.

(b) It is therefore the intent of the general assembly in enacting this section that Colorado institutions of higher education be required to adopt comprehensive and reasonable policies to offer credit to international baccalaureate students.

(2) (a) ~~On or before January 1, 2004, the commission~~ **department** shall ensure that each governing board of a state-supported baccalaureate and graduate institution of higher education in the state adopt and implement, for each of the institutions under its control, a policy for the acceptance of first-time freshman students who have successfully completed an international baccalaureate diploma program.

Comment [J11]: Dept. needs ability make future rule changes.
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(b) Each governing board shall report the policy adopted and implemented pursuant to paragraph (a) of this subsection (2) to the ~~commission~~ **department** and shall make the policy available to the public in an electronic format.

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(c) Each governing board shall set the number of credits the institution may grant to a student who has successfully completed an international baccalaureate diploma program. Except as otherwise provided in paragraph (d) of this subsection (2), the number of credits granted by an institution shall be, at a minimum, twenty-four semester credits or their equivalent. Each governing board shall identify the specific general education or elective requirements that the student satisfies by having successfully completed the international baccalaureate diploma program and shall outline the conditions necessary to award the credits.

(d) Each institution may determine the level of student performance necessary to grant the credits, as measured by a student's exam performance in the specific courses constituting the international baccalaureate diploma program. An institution may only grant less than twenty-four semester credits or their equivalent if the student has received a score of less than four on an exam administered as part of the international baccalaureate diploma program, in which case the number of semester credits or their equivalent granted by the institution shall be reduced accordingly.

(3) The provisions of this section shall not apply to any institution of higher education that has entered into a performance contract with the ~~commission~~ **department** as an exemplary institution of higher education.

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23-1-113.3. Commission directive - basic skills courses.

(1) On or before September 1, 2000, the commission shall adopt and the governing boards shall implement standards and procedures whereby basic skills courses, as defined

in section 23-1-113 (1) (b) (II) (A.7), may be offered by state institutions of higher education pursuant to this section.

(2) (a) Adams state college, Mesa state college, any local community college, and any community college governed by the state board for community colleges and occupational education may offer basic skills courses, as defined in section 23-1-113 (1) (b) (II) (A.7), and receive stipend payments from the state on behalf of eligible undergraduate students, as defined in section 23-18-102 (5), enrolled in basic skills courses.

(b) Except as otherwise provided in subsection (5) of this section, any state institution of higher education not specified in paragraph (a) of this subsection (2) is prohibited from offering a basic skills course, unless the course is offered by contract through any of the institutions of higher education specified in paragraph (a) of this subsection (2).

(c) Notwithstanding the provisions of paragraph (b) of this subsection (2), Metropolitan state college of Denver and the university of Colorado at Denver are prohibited from offering basic skills courses either directly or through contract with an institution specified in paragraph (a) of this subsection (2).

(3) The state board for community colleges and occupational education, local community colleges, Adams state college, and Mesa state college shall:

(b) Compile data regarding student performance that describes with regard to students who take basic skills courses pursuant to section 23-1-113 (1) (b) (I) (B):

(I) The school districts from which said students graduated;

(II) The number of said students graduating from each school district; and

(III) The basic skills for which said students require remediation; and

(c) Report annually to the ~~commission~~ **department** the data compiled pursuant to paragraphs (a) and (b) of this subsection (3).

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(4) (a) The ~~commission~~ **department** shall transmit annually to the education committees of the senate and the house of representatives, the joint budget committee, and the department of education an analysis of the data:

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(b) The ~~commission~~ **department** shall disseminate the analysis to each school district and to public high schools within each district.

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(5) Any state institution of higher education not specified in paragraph (a) of subsection (2) of this section offering a basic skills course on a cash-funded basis shall report annually to the ~~commission~~ **department** the same data that is required to be compiled and reported pursuant to paragraphs (a) and (b) of subsection (3) of this section.

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(6) For purposes of this section, "local community college" shall include Aims community college, Colorado mountain college, northeastern junior college, and Colorado northwestern community college.

~~**23-1-115. Commission directive – review and action on existing degree programs.**~~

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~~The commission shall promulgate procedures and criteria for the discontinuance of academic programs, including a five-year schedule for the discontinuance of academic programs, which shall be reviewed on a statewide basis, as authorized in section 23-1-107 (2), by January, 1986. In promulgating such procedures and criteria for the discontinuance of academic programs, the commission shall consider, among other things, geographic factors and the educational needs of the service area of the institution offering such academic programs. Such procedures shall be implemented beginning in 1986, and the commission shall take action on the results of the statewide academic program reviews by December of each year.~~

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Comment [j12]: Institutions have processes and policies in place to determine the necessity and cost effectiveness of their campuses programs. The governing boards are responsible for the financial operation of the campuses. In this environment of under-funded institutions the incentives to discontinue unnecessary or underutilized programs is high.

23-1-119. Commission directive - transition between K-12 education system and postsecondary education system.

(1) The general assembly hereby finds and declares that, in order for students to succeed at state-supported institutions of higher education, the Colorado public system of elementary and secondary education must have provided such students with the skills and abilities necessary to make the transition to the postsecondary system. The general assembly further recognizes that the establishment of goals and standards for providing such skills and abilities is the prerogative of the elementary and secondary public education system. The general assembly recognizes that, in establishing such goals and standards, the elementary and secondary education system should be in communication with the postsecondary education system regarding the skills and abilities that are needed to succeed in higher education. It is therefore the intent of the general assembly that the ~~commission, department, in consultation with the state board of education department of education and appropriate school district boards,~~ adopt necessary policies and procedures to facilitate the transition for students between the two systems.

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Comment [j13]: The Department of Education is used to mirror the use of the Department of Higher Ed rather than their respective boards.

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(2) In consultation with the state board of education, appropriate school boards, and governing boards of state-supported institutions of higher education, the ~~commission department~~ and such governing boards shall adopt necessary policies and procedures to promote the establishment of a mechanism for postsecondary institutions to report back to the secondary public education system concerning:

- (a) The skills and abilities, and the level of proficiency thereof, that first-year students at such postsecondary institutions need to have in order to succeed;
- (b) The level of proficiency in such skills and abilities currently exhibited by first-year students;
- (c) The level of achievement currently exhibited by first-year students; and

(d) Any other information that will provide a better transition for students between the two education systems.

(3) In consultation with the state board of education, governing boards of state-supported institutions of higher education, and appropriate school district boards, the ~~commission~~ **department** shall aid the elementary and secondary public education system and the postsecondary public education system in establishing a network to connect the faculty of postsecondary institutions with the teachers in school districts for the purpose of exchanging information.

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(4) For purposes of this section, "postsecondary" means related to instruction of students over the age of seventeen years who are not enrolled in a regular program of kindergarten through grade twelve in a public, independent, or parochial school.

(5) Repealed.

23-1-119.1. ~~Commission~~ Department directive - notice of postsecondary educational opportunities and higher education admission guidelines.

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(1) Annually, beginning in the spring of 2006, upon receipt of the names and mailing addresses of students enrolled in the eighth grade from the board of education of each school district in Colorado and the state charter school institute, the Colorado ~~commission on higher education~~ **department of higher education** shall provide notice of postsecondary educational opportunities to the parents or legal guardians of all eighth-grade students enrolled in public schools in the state. At a minimum, the notice shall specify:

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(a) The Colorado commission on higher education's higher education admission guidelines and an explanation that compliance with the higher education admission guidelines is necessary for acceptance, but is not a guarantee of admission, to a state-supported institute of higher education;

(b) A student's potential need for remedial education and any related financial obligations that may fall to the student's parent or legal guardian if the student desires to apply to a state-supported, four-year college or university in Colorado but does not meet the higher education admission guidelines;

(c) A student who fails to pass a course listed in the higher education admission guidelines may enroll in a remedial course, successful completion of which will satisfy the requirements of the higher education admission guidelines;

(d) The availability of and instructions for acquiring information regarding financial assistance to attend an institution of higher education, including stipend amounts, tuition, and other financial aid;

(e) The annual state stipend amount as determined pursuant to section 23-18-202;

(f) The annual cost of in-state tuition for attendance at a public higher education institution in the state;

(g) The amount of the student's share of tuition as determined pursuant to section 23-18-207; and

(h) Notification that the stipend amount and the amount of tuition may change annually.

23-1-121. Commission directive - approval of teacher preparation programs.

Comment [j14]: Private schools are already included in these requirements, adding them simply updates the statute to existing policy. Department staff is currently working on different language to meet concerns that private schools have expressed.

(1) As used in this section, unless the context otherwise requires:

(a) "Approved teacher preparation program" means a teacher preparation program that has been reviewed pursuant to the provisions of this section and has been determined by the commission to meet the performance-based standards established by the commission pursuant to this section and the requirements of section 23-1-108 and to be designed and implemented in accordance with the requirements of the "Higher Education Quality Assurance Act", article 13 of this title.

(b) "Institution of higher education" means a public institution of higher education within the state system of higher education.

(c) "Teacher candidate" means a person who is participating in a teacher preparation program in order to enter the teaching profession.

(d) "Teacher preparation program" or "program" means a program of study specifically designed to prepare teacher candidates to provide high quality instruction for students.

(2) ~~On or before July 1, 2000,~~ the commission shall adopt policies establishing the requirements for teacher preparation programs offered by **public and private** institutions of higher education. ~~The commission~~ **department** shall work in cooperation with the state board of education in developing the requirements for teacher preparation programs. At a minimum, the requirements shall ensure that each teacher preparation program may be completed within four academic years, is designed on a performance-based model, and includes:

Comment [j15]: Dept. needs ability make future rule changes.

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(a) A comprehensive admission system that includes screening of and counseling for students who are considering becoming teacher candidates;

(b) Ongoing screening and counseling of teacher candidates by practicing teachers or faculty members;

(c) Course work and field-based training that integrates theory and practice and educates teacher candidates in the methodologies, practices, and procedures of teaching standards-based education, as described in part 4 of article 7 of this title, and specifically

in teaching to the state model content standards adopted pursuant to section 22-7-406, C.R.S.;

(d) A requirement that each teacher candidate complete during the course of the teacher preparation program a minimum of eight hundred hours of supervised field-based experience that relates to predetermined learning standards;

(e) A requirement that each teacher candidate, prior to graduation, must demonstrate the skills required for licensure, as specified by rule of the state board of education pursuant to section 22-2-109 (3), C.R.S., in the manner specified by rule of the state board;

(f) Comprehensive, ongoing assessment including evaluation of each teacher candidate's subject matter and professional knowledge and ability to demonstrate skill in applying the professional knowledge base.

(3) On or before July 1, 2000, the commission shall also adopt policies to ensure that each teacher preparation program includes implementation of procedures to monitor and improve the effectiveness of the program, including at a minimum the following:

(a) Periodic review by the institution of higher education offering the teacher preparation program to ensure that the program meets the requirements specified by the commission pursuant to this section;

(b) Implementation of a procedure for collecting and reviewing evaluative data concerning the teacher preparation program and for modifying the program as necessary in response to the data collected;

(c) Implementation of a procedure for reviewing the scores achieved on the professional competency assessments required pursuant to section 22-60.5-201, C.R.S., by teacher candidates enrolled in and graduating from the program and modifying the teacher preparation program as necessary to improve those scores;

(d) Implementation of an institutional reward system for faculty and supervisors involved in the teacher preparation program that supports and encourages field-based activity.

(4) (a) (I) ~~Beginning July 1, 2000, and prior to July 1, 2001, the commission,~~ **department**, in conjunction with the state board of education, shall review each teacher preparation program offered by any **public or private** institution of higher education as provided in paragraph (b) of this subsection (4). All teacher preparation programs shall be discontinued as of July 1, 2001, unless reapproved prior to said date.

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(II) Following the initial review of teacher preparation programs pursuant to this section, the ~~commission~~ **department** shall establish a schedule for review of teacher

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preparation programs that ensures each program is reviewed as provided in this section not more frequently than once every five years.

(III) Any institution of higher education, **public or private**, that chooses to offer a new teacher preparation program or modify an existing program, either by significantly modifying the content or modifying the geographic area in which the program is offered, shall submit the new or modified program to the ~~commission~~ **department** for review pursuant to this section; except that an institution need not submit for review any program offered on a cash-funded basis. The commission shall adopt policies and procedures for the review of new and modified programs.

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(b) Each program review conducted pursuant to paragraph (a) of this subsection (4) shall ensure that the program meets the minimum requirements adopted pursuant to subsections (2) and (3) of this section and the requirements of section ~~23-1-108~~ and any policies adopted pursuant thereto. In addition, the ~~commission~~ **department** shall ensure that the program is designed and implemented in accordance with the requirements of the "Higher Education Quality Assurance Act", article 13 of this title. In determining whether to initially approve or continue the approval of a teacher preparation program, the commission shall consider any recommendations made by the state board of education pursuant to section ~~22-2-109~~ (5), C.R.S., concerning the effectiveness of the program content. If the state board of education recommends that a program not be approved, the commission shall follow said recommendation by refusing initial approval of said program or placing said program on probation.

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(c) Each **public and private** institution of higher education that offers a teacher preparation program shall submit to the ~~commission~~ **department** an annual report to assist the ~~commission~~ **department** in reviewing the teacher preparation program pursuant to this section. The ~~commission~~ **department** shall collaborate with representatives from the governing boards of each institution of higher education that offers a teacher preparation program in specifying the information to be included in the annual report.

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(d) Following review of a teacher preparation program, if the commission determines that the program does not meet the requirements specified in paragraph (b) of this subsection (4), it shall place the program on probation. The commission shall adopt policies specifying the procedures for placing a program on probation and for subsequently terminating a program, including a procedure for appeal. A teacher preparation program that is placed on probation shall not accept new students until the commission removes the teacher preparation program from probationary status. If the commission determines that termination of the approval of a teacher preparation program is necessary, the program shall be terminated within four years after said determination. If the commission places a program on probation based on the recommendation of the state board of education, the commission shall consult with the state board of education in determining whether the program should be reapproved or whether approval should be terminated.

(5) The commission, upon the request of a nonpublic institution that provides a teacher preparation program, shall approve the program upon:

(a) Receipt of confirmation by the state board of education that the program content is designed and implemented in a manner that will enable a teacher candidate to meet the requirements specified by the state board of education pursuant to section 22-2-109 (3), C.R.S., and the requirements for licensure endorsement adopted by rule of the state board of education pursuant to section 22-60.5-106, C.R.S.; and

(b) Confirmation that the program contains the requirement of a minimum of eight hundred hours of supervised field-based experience including, but not limited to, supervised field-based experience gained prior to admission to the teacher preparation program, general field-based experience, and student teaching.

(6) Beginning January 2002, the ~~commission~~ **department** shall annually prepare a report concerning the effectiveness of the review of teacher preparation programs conducted pursuant to this section and shall provide notice to the education committees of the senate and the house of representatives that such report is available to the members of the committees upon request. The report shall also state the percentage of teacher candidates graduating from each teacher preparation program during the preceding twelve months that applied for and received an initial teacher license pursuant to section 22-60.5-201, C.R.S., and the percentage of said graduates who passed the assessments administered pursuant to section 22-60.5-203, C.R.S. The education committees of the senate and the house of representatives shall consider the report in a joint meeting held pursuant to section 22-60.5-116.5, C.R.S.

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23-1-121.3. Commission directive - principal and administrator preparation programs.

The general assembly hereby finds and declares that state-supported institutions of higher education and **private institutions** that provide approved programs of preparation for principals or administrators must ensure that persons completing such programs receive sufficient training to successfully meet the challenges of managing a school or school district. Therefore, the commission shall adopt the necessary policies to require any state-supported institution of higher education that offers an approved program of preparation for principals or administrators to include in such program proficiencies in the principles of business management and budgeting practices and in the analysis of student assessment data and its use in planning for student instruction. In adding said proficiencies to any existing program of preparation, the institution of higher education shall ensure that said proficiencies are incorporated into the preparation program in such a manner that they do not increase the number of credit hours each student must complete for graduation nor increase the cost to the institution or to the student of providing the preparation program.

Comment [j16]: Private schools added, see above.

~~**23-1-124. Commission directive – sophomore assessments.**~~

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~~(1) (a) The commission shall adopt the necessary policies to ensure that during the spring semesters of 2000 and 2001, at one or more state supported institutions of higher education, a standardized, college level assessment examination is administered to students enrolled in their second year. On or before December 15, 2000, the commission shall report to the education committees of the senate and the house of representatives and to the governor on all aspects of the examinations. The report shall include an evaluation of the incentives proposed by the institutions to encourage students to do well on the examinations and whether sufficient information could be obtained through a sampling of students. This paragraph (a) shall be conducted with funds obtained from gifts, grants, and donations.~~

~~(b) The commission shall adopt the necessary policies to ensure that, starting with the spring semester in 2002, and each spring semester thereafter, the examination is administered to second year students at each state supported institution of higher education. This paragraph (b) shall be implemented only in fiscal years, beginning in fiscal year 2001-02, in which the commission submits a decision item that is approved for that fiscal year and reports pursuant to this section.~~

~~(2) The results of the assessments shall be used by the commission and the governing boards to evaluate institutions of higher education and aggregated by high school and provided to the local boards of education.~~

Comment [j17]: This assessment has never occurred. Implementation of test would have substantial costs that were never funded. Remediation and retention reports serve a similar function.

23-1-125. Commission directive - student bill of rights - degree requirements - implementation of core courses - competency test.

(1) **Student bill of rights.** The general assembly hereby finds that students enrolled in public institutions of higher education shall have the following rights:

(a) Students should be able to complete their associate of arts and associate of science degree programs in no more than sixty credit hours or their baccalaureate programs in no more than one hundred twenty credit hours unless there are additional degree requirements recognized by the commission;

(b) A student can sign a two-year or four-year graduation agreement that formalizes a plan for that student to obtain a degree in two or four years, unless there are additional degree requirements recognized by the commission;

(c) Students have a right to clear and concise information concerning which courses must be completed successfully to complete their degrees;

(d) Students have a right to know which courses are transferable among the state public two-year and four-year institutions of higher education;

(e) Students, upon completion of core general education courses, regardless of the delivery method, should have those courses satisfy the core course requirements of all Colorado public institutions of higher education;

(f) Students have a right to know if courses from one or more public higher education institutions satisfy the students' degree requirements;

(g) A student's credit for the completion of the core requirements and core courses shall not expire for ten years from the date of initial enrollment and shall be transferrable.

(2) **Degree requirements.** The commission shall establish a standard of a one-hundred-twenty-hour baccalaureate degree, not including specific professional degree programs that have additional degree requirements recognized by the commission

(3) **Core courses.** The ~~commission, department~~ in consultation with each Colorado public institution of higher education, is directed to outline a plan to implement a core course concept, which defines the general education course guidelines for all public institutions of higher education. The core of courses shall be designed to ensure that students demonstrate competency in reading, critical thinking, written communication, mathematics, and technology. The core of courses shall consist of at least thirty credit hours, but shall not exceed forty credit hours. Individual institutions of higher education shall conform their own core course requirements with the guidelines developed by the ~~commission department~~ and shall identify the specific courses that meet the general education course guidelines. If a statewide matrix of core courses is adopted by the commission, the courses identified by the individual institutions as meeting the general education course guidelines shall be included in the matrix. The commission shall adopt such policies to ensure that institutions develop the most effective way to implement the transferability of core course credits.

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(4) **Competency testing.** The ~~commission department~~ shall, in consultation with each public institution of higher education, define a process for students to test out of core courses, including specifying use of a national test or the criteria for approving institutionally devised tests. Students shall be granted credit for the core courses they successfully test out of, free of tuition for those courses.

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23-1.5-101. Legislative declaration.

~~The general assembly hereby finds that, in order to meet the increasing demands on the state system of higher education, the state must develop a comprehensive statewide enrollment plan that will address issues of resources, capacity, and quality and will specify the overall goals of the state system of higher education.~~

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Comment [j18]: Planning Committee has not been impaneled for at least 10 years; their involvement was not cited in the most recent master plan of the Commission, (1993-1998).

23-1.5-102. Higher education planning committee – creation – duties.

~~(1) The higher education planning committee appointed pursuant to subsection (2) of this section shall submit for introduction as a bill in the first regular session of the sixtieth~~

general assembly a comprehensive statewide enrollment plan for state-supported institutions of higher education that meets state priorities and the needs of individual students. The committee shall develop the bill with recommendations by the Colorado commission on higher education submitted pursuant to section 23-1.5-103. The objective of the statewide enrollment plan is to accommodate and not restrict enrollment demand. In developing a statewide enrollment plan, the committee shall emphasize incentives for change in the state's postsecondary education system to meet increased enrollment demands within projected revenues, including but not limited to collaboration with kindergarten through twelfth grade education, work force training, and direction of students toward enrollment in low-cost institutions. The committee shall work with the Colorado commission on higher education in developing the statewide enrollment plan.

(2) (a) The higher education planning committee shall consist of twelve members of the general assembly appointed as follows:

(I) Five members appointed by the president of the senate, no more than three of whom are members of the same political party; and

(II) Seven members appointed by the speaker of the house of representatives, no more than four of whom are members of the same political party.

(b) The president of the senate shall select the chairperson of the higher education planning committee, and the speaker of the house of representatives shall select the vice-chairperson of the committee. The committee shall meet as often as necessary to carry out its duties pursuant to this section.

(c) Legislation recommended by the higher education planning committee shall be treated as legislation recommended by an interim legislative committee for purposes of any introduction deadlines or bill limitations imposed by the joint rules of the general assembly.

(d) Members of the higher education planning committee shall be reimbursed for necessary expenses incurred in connection with the performance of their duties and shall be paid the same per diem as other members of interim committees in attendance at meetings. All reimbursements and per diem shall be paid out of available appropriations.

(e) The legislative council staff, the office of legislative legal services staff, and the Colorado commission on higher education staff shall be available to assist the committee in carrying out its duties pursuant to this section. All staff assistance shall be provided within available appropriations.

~~23-1.5-103. Statewide enrollment plan – policies.~~

~~(1) On or before September 1, 1994, the Colorado commission on higher education shall study and submit to the higher education planning committee recommendations for the statewide enrollment plan. In developing recommendations for a statewide enrollment~~

Comment [j19]: Planning Committee has not been impaneled for at least 10 years; their involvement was not cited in the most recent master plan of the Commission, (1993-1998).

~~plan, the Colorado commission on higher education may consider and recommend higher education policies including, but not limited to, policies in the following areas as they relate to enrollment:~~

~~(a) Matriculation and transfer of students between and within institutions of higher education;~~

~~(b) Availability of appropriate core curriculum for institutions of higher education in accordance with each institution's role and mission;~~

~~(c) Setting of tuition, which policy is developed in consultation with the joint budget committee;~~

~~(d) Admissions requirements for entering freshmen and transferring students that take into consideration the content standards established pursuant to part 4 of article 53 of title 22, C.R.S.;~~

~~(e) Necessary levels of state support for institutions of higher education, which policy is developed in consultation with the joint budget committee;~~

~~(f) Appropriate percentages of resident and nonresident students within an institution of higher education, so long as any policies adopted in this area comply with the requirements of section 23-1-113.5;~~

~~(g) Provision of student advising and counseling services;~~

~~(h) Coordination between the state postsecondary education system and the kindergarten through twelfth grade education system;~~

~~(i) Distribution of faculty efforts and institutional productivity in institutions of higher education; and~~

~~(j) Increasing enrollment of under represented students in institutions of higher education.~~

~~(2) In preparing recommendations for the statewide enrollment plan, the commission shall consider and recommend to the committee those programs, requirements, and state mandates that the commission recommends for elimination.~~

23-2-103.5. Notification and deposit of records upon discontinuance.

If a private or public college or university, seminary or bible college, or private occupational school discontinues operation in this state, its chief executive officer shall notify the Colorado ~~commission on higher education~~ **department of higher education and its regional accrediting agency** of the date of discontinuance and the name and address of the agency where records of such institution will be maintained. Records shall

Comment [j20]: Such a plan has not been produced in at least five years. Most of what is specified to be included in the enrollment plan is carried out in related statutes contained in Title 23. For example, other articles address admissions requirements, setting tuition & fees, appropriate percentages of resident/non-resident students, state support for higher education, etc.

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be permanently maintained and copies may be obtained by authorized parties, and such records shall include, but not be limited to, information pertaining to the admission of each student and former student and the educational record of each student and former student. Financial aid records of each student and former student shall be retained consistent with state and federal regulations.

23-5-116. Governing boards - authority to provide out-of-state courses.

(1) The governing board of any state institution of higher education may offer postsecondary courses at locations outside the state of Colorado for credit applicable toward a degree program. Each governing board shall promulgate policies and procedures concerning the administration of such courses. The policies and procedures shall include, but are not limited to, the following:

(a) A requirement that no state general fund moneys shall be expended in connection with such out-of-state courses; and

(b) A requirement that credit earned for courses offered outside the state of Colorado shall be applicable toward a degree from the sponsoring institution.

(2) The governing board of any state institution of higher education may offer postsecondary noncredit courses at locations outside the state of Colorado. Each governing board shall promulgate policies and procedures concerning the administration of such courses. The policies and procedures shall include, but are not limited to, the following:

(a) A requirement that no state general fund moneys shall be expended in connection with such out-of-state courses; and

(b) A requirement that noncredit courses may be provided that are not applicable toward a degree from the sponsoring institution.

(3) Each governing board shall notify the Colorado commission on higher education of policies and procedures promulgated pursuant to this section.

~~(4) Prior to the offering of out-of-state courses, institutions and governing boards must receive approval from the Colorado commission on higher education. Such approval shall be based upon the following criteria: A statement of need for the instruction; evidence of the institution's ability to deliver the program without adversely affecting the institution's approved role and mission; and geographical proximity of the delivery site to the institution or evidence that the instruction is particularly related to the institution's role and mission.~~

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~~(5) Out-of-state courses offered in the states of Arizona, New Mexico, Utah, Wyoming, Nebraska, Kansas, and Oklahoma shall be exempt from the provisions of subsection (4)~~

of this section; however, institutions offering courses in these states shall do so upon the approval of their governing boards.

~~(6)~~ (4) Each governing board shall provide an annual report to the Colorado commission on higher education department which describes all courses offered outside the boundaries of the state of Colorado. **The report will include a statement of need for the instruction; geographical location of the institution and confirmation that no state funds were used for instruction.**

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~~(7)~~ (5) This section shall not be construed to limit the authority of the governing boards of state institutions of higher education to offer courses in the state of Colorado.

Comment [j21]: Commission has granted the Executive Director the authority to approve out of state programs that are submitted by the institutions. Upon executive directors approval the programs are an information item on the Commission's next meeting. In past two and a half years no programs were denied. These changes intend to keep the requirements for out of state programs, allow the governing boards to approve programs, but require an annual report to DHE on out of state programs that certify the requirements were met.

Section II DPOS Citation Changes Draft Changes with Comments

23-60-701. Legislative declaration.

The general assembly hereby finds and declares that, pursuant to article 59 of title 12, C.R.S., there is a demonstrated need for statewide administration of private occupational schools in order to provide standards for, foster improvements of, and protect the citizens of this state against fraudulent or substandard educational services in private occupational schools. Therefore, the general assembly has determined that the overall responsibility for such administration and for ensuring compliance with article 59 of title 12, C.R.S., should be placed with a division which has only this responsibility; **and all other needed information and statutes are located in article 59 of title 12.**

Comment [j22]: The following changes clarify references to the Division of Private and Occupational Schools which is primarily located in Article 59 of Title 12. These changes move all sections dealing with DPOS in Title 23 to Title 12, leaving a cross reference in 23-60-701. This change is intended to put all of DPOS statutes in one title for ease of use, no policy change is intended.

23-60-702. Definitions.

As used in this part 7, unless the context otherwise requires:

(1) "Board" means the private occupational school board created in section ~~23-60-704~~.

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(2) "Director" means the director of the private occupational school division created in section ~~23-60-703~~.

Comment [j23]: Title 12 already contains a definition section, this is deleted to avoid duplication.

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(3) "Division" means the private occupational school division created in section ~~23-60-703~~.

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(4) "Executive director" means the executive director of the department of higher education appointed pursuant to section ~~23-1-110 (2)~~.

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~~(5) "Occupational education" means any education which is designed to facilitate the vocational, technical, or occupational development of individual persons, including but not limited to vocational or technical training or retraining given in schools or classes, including field or laboratory work incident thereto, and which is conducted as a part of a program designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations, requiring less than a four year baccalaureate degree.~~

~~(6) "Private occupational school" or "school" means any entity or institution for profit or not for profit located within or without this state which offers educational credentials or educational services that constitute occupational education in this state and which is not specifically exempt from the provisions of article 59 of title 12, C.R.S.~~

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12-59-101. Short title.

This article shall be known and may be cited as the "Private Occupational Education Act of 1981".

12-59-102. Legislative declaration.

(1) It is the purpose of this article to provide standards for and to foster and improve private occupational schools and their educational services and to protect the citizens of this state against fraudulent or substandard private occupational schools by:

(a) Prohibiting the use of false or misleading literature, advertising, or representations by private occupational schools or their agents;

(b) Establishing accountability for private occupational schools and their agents through the setting of standards relative to the quality of educational services, fiscal responsibility, and ethical business practices;

(c) Providing for the preservation of essential records;

(d) Providing certain rights and remedies to the private occupational school division, the private occupational school board created in section ~~23-60-704~~, **12-59-105.1** C.R.S., and the consuming public necessary to effectuate the purposes of this article;

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(e) Providing for the authorization of appropriate educational credentials by approved schools including, but not limited to, certificates, diplomas, and associate degrees; and

(f) Providing train-out for students of private occupational schools ceasing operation.

(2) To these ends, this article shall be liberally construed.

12-59-103. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Administrative law judge" means a person, appointed by the authority from a list provided by the attorney general, who shall conduct hearings on any matter which is within the jurisdiction of the division and which is referred to such administrative law judge by the division.

(1.5) "Agent" means any person owning any interest in, employed by, or representing for remuneration or other consideration a private occupational school located within or without this state who enrolls or who, in places other than the principal school premises, offers or attempts to secure the enrollment of any person within this state for education in a school.

(2) "Agent's permit" means a nontransferable written authorization issued to an agent pursuant to the provisions of this article by the division upon approval by the executive director.

(2.5) "Associate degree" means a degree offered by a school on the successful completion of the degree requirements as established by the division.

(2.6) "Board" means the private occupational school board created in section ~~23-60-704~~, 12-59-105.1, C.R.S.

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(2.7) "Ceasing operation" means the voluntary discontinuation of operation by a private occupational school or the discontinuation of operation by a private occupational school due to the denial, expiration, revocation, or suspension of such school's certificate of approval by the division.

(2.8) "Certificate" means an award for the successful completion of a specific course or program objective.

(3) "Certificate of approval" means a written authorization issued by the division, upon approval by the executive director, to the principal owners of a school in the name of such school, pursuant to the provisions of this article, to operate a school in this state.

(3.5) "Diploma" means an award for the successful completion of an approved prescribed program of study in a particular field of endeavor.

(3.6) "Director" means the director of the private occupational school division created pursuant to section ~~23-60-703~~, 12-59-104.1, C.R.S.

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(3.7) "Division" means the private occupational school division created pursuant to section ~~23-60-703~~, 12-59-104.1, C.R.S.

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(4) "Educational credentials" means certificates, diplomas, associate degrees, transcripts, reports, numbers, or words which signify or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements for education at a school.

(5) "Educational services" or "education" includes, but is not limited to, any class, course, or program of training, instruction, or study which is designed or is purported to meet all or part of the requirements for employment in an agricultural, trade, industrial, technical, business, office, sales, service, or health occupation and which constitutes occupational education.

(6) "Entity" includes, but is not limited to, any person, society, association, partnership, corporation, or trust.

(7) "Executive director" means the executive director of the department of higher education appointed pursuant to section 23-1-110 (2), C.R.S.

(8) "New school" means a private occupational school that does not hold an existing certificate of approval as of June 30, 1981, or a school holding an existing certificate of approval as of June 30, 1981, which subsequently expires pursuant to the provisions of section 12-59-108 (4) or is revoked or denied pursuant to the provisions of this article.

(8.5) "Occupational education" means any education designed to facilitate the vocational, technical, or occupational development of individual persons including, but not limited to, vocational or technical training or retraining which is given in schools or classes, including field or laboratory work incident thereto, which is conducted as a part of a program designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations requiring less than a four-year baccalaureate degree. The term also includes instruction related to the occupation for which the person is being trained or which is necessary for him to benefit from such training.

(9) "Offer" or "offering" includes, in addition to its usual meaning, advertising, publicizing, soliciting, or encouraging any person in any manner to perform the act described.

(10) "Operate" or "operating", when used with respect to a school, means to establish, keep, or maintain any facility or location in this state where, from, or through which educational services are offered or educational credentials are offered or granted.

(11) "Private occupational school" or "school" means any entity or institution for profit or not for profit located within or without this state which offers educational credentials or educational services that constitute occupational education in this state and which is not specifically exempt from the provisions of this article.

(12) Repealed.

(13) "Train-out" means the opportunity for a student of a private occupational school ceasing operation to meet such student's educational objectives through training provided by another approved private occupational school, a community college, an area vocational school, or any other training arrangement acceptable to the division.

12-59-104. Exemptions.

(1) The following educational institutions and educational services are exempt from the provisions of this article:

(a) A public school or public educational institution funded wholly or in part by a local school district or school districts or by direct appropriation from the state to a school, public educational institution, or board;

(b) A nonprofit school owned, controlled, operated, and maintained by a bona fide parochial or denominational institution exempt from general property taxation under the laws of this state;

(c) A school offering education solely avocational, supplementary, or ancillary in nature;

(d) A college or university which:

(I) Confers four-year baccalaureate or higher degrees; and

(II) Offers programs or courses in this state, the majority of which are not occupational in nature, as defined by the division, or are at the graduate level;

(e) Repealed.

(f) A private school providing a basic academic education comparable to that provided in public elementary and secondary schools of this state;

(g) A school offering only educational services for which no money or other consideration is paid;

(h) A school offering only educational services to an employer for the training of its employees;

(i) Education offered by a bona fide trade, business, professional, or fraternal organization solely for that organization's membership;

(j) Educational services offered by an employer for the training of its own employees;

(k) Apprenticeship training registered pursuant to state or federal law;

(l) Educational services offered by an approved school which:

- (I) Do not require the payment of money or other consideration;
- (II) Are avocational, supplementary, or ancillary in nature; or
- (III) Are offered only to an employer for the training and preparation of his employees;
- (m) Nurse aide training programs approved pursuant to section 12-38.1-108 (1);
- (n) Flight schools that are not certified by the United States veterans administration;
- (o) Flight schools and flight instructors that do not collect advance tuition or fees;
- (p) Educational programs, continuing education programs, and training programs offered or conducted by an organization which is listed as an exempt organization in 26 U.S.C. sec. 501 (c) of the federal "Internal Revenue Code of 1986", as amended. Any such program, in order to qualify for the exemption created in this paragraph (p), shall be consistent with the purposes or requirements of the organization offering or conducting the program.
- (q) A private educational institution that is accredited by an agency recognized by the United States department of education, that confers post-graduate degrees, and that offers programs or courses that are not defined as occupational education pursuant to section 12-59-103 (8.5).

~~23-60-703. 12-59-104.1~~ Private occupational school division - creation.

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There is hereby created the private occupational school division in the department of higher education and the office of director of the division. The division and the director shall exercise their powers and perform their duties and functions specified in this part 7 under the department of higher education and the executive director thereof as if the same were transferred to the department by a **type 2** transfer as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S. The director shall be appointed by the executive director. The director, with the approval of the executive director, shall employ such professional and clerical personnel as deemed necessary to carry out the duties and function of the division. The director and professional personnel are declared to hold educational offices and to be exempt from the state personnel system.

12-59-105. Powers and duties of division.

(1) The division shall have, in addition to the powers and duties now vested therein by law, the following powers and duties:

(a) to (c) (Deleted by amendment, L. 98, p. 36, § 8, effective March 17, 1998.)

(d) To publish a list of schools and maintain a list of agents authorized to operate in this state under the provisions of this article;

(e) To receive or cause to be maintained as a permanent file, in conformity with section 12-59-119, copies of educational, financial, and other records;

(f) to (j) (Deleted by amendment, L. 98, p. 36, § 8, effective March 17, 1998.)

(k) To negotiate and enter into interstate reciprocity agreements with similar agencies in other states whenever, in the judgment of the division and the board, such agreements are or will be helpful in effectuating the purposes of this article; except that nothing contained in any such reciprocity agreement shall be construed as limiting the division's powers, duties, and responsibilities with respect to investigating or acting upon any application for a certificate of approval for a private occupational school or an application for issuance of or renewal of any agent's permit or with respect to the enforcement of any provision of this article or any of the rules promulgated under this article.

~~**23-60-704. 12-59-105.1 Private occupational school board - established - membership.**~~

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(1) Effective June 30, 1998, the private occupational school policy advisory committee is abolished, and the terms of members of the advisory committee serving as such immediately prior to June 30, 1998, are terminated.

(2) Effective July 1, 1998, there is established, in the private occupational school division, the private occupational school board which shall advise the director on the administration of this ~~part 7 section~~ and shall have the powers and duties specified in section ~~23-60-704.5 12-59-105.3~~. The board shall exercise its powers and perform its duties and functions specified in this ~~part 7 section~~ as if the same were transferred to the department by a **type 1** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

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(3) The board shall consist of seven members appointed by the governor, with the consent of the senate, as follows:

(a) Three members shall be owners or operators of private occupational schools that receive Title IV funds;

(b) Four members shall be representatives of the general public, at least one of whom is employed by a lending institution located in Colorado and is familiar with the Colorado student loan program and at least two of whom are owners or operators of businesses within Colorado that employ students who are enrolled in schools that are subject to administration by the private occupational school division.

(4) No appointed member shall be an employee of any junior college, community or technical college, school district, or public agency that receives vocational funds allocated by any state agency.

(5) The board members shall serve four-year terms; except that, of the members first appointed to the board, three members to be selected by the governor shall serve two-year terms. No member shall serve more than two consecutive four-year terms.

(6) The board shall hold regular meetings at such times as it may deem appropriate, but it shall not meet less than four times per year.

(7) Board members shall be paid a per diem of thirty-five dollars for each day on which the board meets and their actual and necessary expenses incurred in the conduct of official business.

(8) The division shall provide any necessary staff assistance for the board.

12-59-105.3. Powers and duties of board.

(1) The board shall have the following powers and duties:

(a) To establish minimum criteria in conformity with section 12-59-106, including quality of education, ethical business practices, and fiscal responsibility, which an applicant for a certificate of approval shall meet before such certificate of approval may be issued and continued in effect. The criteria to be developed under this section shall be such as will effectuate the purposes of this article.

(b) To establish minimum criteria in conformity with section 12-59-106 which an applicant for an agent's permit shall meet before such agent's permit may be issued and continued in effect. The criteria to be developed under this section shall be such as will effectuate the purposes of this article.

(c) To consult with the division regarding interstate reciprocity agreements;

(d) To receive, investigate, and evaluate, as it deems necessary, and act upon applications for certificates of approval, agents' permits, and changes of ownership;

(e) To require the posting of appropriate notices on the school premises notifying students of any school closure by operation of law or otherwise;

(f) To investigate, as it deems necessary, any entity subject to, or reasonably believed by the board to be subject to, the jurisdiction of this article and, in connection therewith, to subpoena any persons, books, records, or documents pertaining to such investigation, to require answers in writing, under oath, to questions propounded by the board, and to administer an oath or affirmation to any person in connection with any such investigation.

Such investigation may include the physical inspection of school facilities and records. Said subpoena shall be enforceable by any court of record of this state.

(g) To deny or revoke the agent's permit of an agent of an out-of-state school determined not to be in compliance with this article;

(h) To appoint administrative law judges to conduct hearings on any matter within the jurisdiction of the board, which shall include the conduct of hearings in aid of any investigation or inquiry pursuant to paragraph (f) of this subsection (1);

(i) To grant accreditation to schools that make application and that meet the standards of accreditation established by the board, which shall include at least the standards of accreditation required for recognition of an accrediting authority for private occupational schools by the United States office of education. Accreditation shall be voluntary and shall not affect, in any manner, a certificate of approval issued by the board as provided in this article. A school making application for accreditation shall pay all reasonable expenses incurred by the board, including any payments to evaluators, in the performance of the accreditation evaluation or in connection with the continuation of any accreditation received under this paragraph (i).

(j) To promulgate rules and to adopt procedures necessary or appropriate for the conduct of its work and the implementation of this article;

(k) To establish educational standards and requirements for the awarding of appropriate educational credentials by private occupational schools;

(l) To exercise other powers and duties implied, but not enumerated, in this section which, in the judgment of the board, are necessary in order to carry out the provisions of this article;

(m) To designate, by category of instruction, those schools that teach students under sixteen years of age for which instructional staff and prospective instructional staff, as defined by board rule, shall be required to submit a complete set of fingerprints pursuant to section 12-59-105.7;

(n) To prescribe uniform academic reporting policies and procedures to which a private occupational school shall adhere.

12-59-105.4. Duties of private occupational schools.

A private occupational school shall provide the division with such data as the board deems necessary upon written request of the board. Data pertaining to individual students or personnel shall not be divulged or made known in any way by a member of the board, by the director, or by any division or school employee, except in accordance with judicial order or as otherwise provided by law. A person who violates this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. In

addition, such person shall be subject to removal or dismissal from public service on grounds of malfeasance in office.

12-59-105.5. Occupational credentials for instructors of barbering and cosmetology.

The holder of a valid current Colorado license to practice as an instructor of barbering or cosmetology prior to November 1, 1990, shall be awarded a current occupational credential by the board as prescribed by the rules concerning private occupational schools promulgated pursuant to section 12-59-105.3 (1) (j). All persons awarded such occupational credential pursuant to this section shall meet the requirements of the board for renewal of the credential.

12-59-105.7. Submittal of fingerprints for persons teaching at designated schools - criminal history record check - prerequisite for commencing or continuing employment.

(1) (a) Instructional staff or prospective instructional staff who may be teaching students in a school designated by the board pursuant to section 12-59-105.3 (1) (m) shall, beginning July 1, 2006, in order to commence or continue employment at a designated school, submit a set of his or her fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Nothing in this section shall preclude the board from making further inquiries into the background of instructional staff or prospective instructional staff. Instructional staff or prospective instructional staff shall pay the fee established by the Colorado bureau of investigation for conducting the fingerprint-based criminal history record check. Upon completion of the criminal history record check, the bureau shall forward the results to the board. The board shall conduct a review of the results of the criminal history record check forwarded by the bureau and consider the results in assessing whether instructional staff or prospective instructional staff meet minimum standards of qualification, as established by the board pursuant to section 12-59-106, necessary to commence or continue employment at the designated school.

(b) Instructional staff or prospective instructional staff shall be required to resubmit a set of his or her fingerprints pursuant to paragraph (a) of this subsection (1) even if he or she previously submitted his or her fingerprints pursuant to paragraph (a) of this subsection 1.

(2) In addition to any other requirements established by the board for the necessary qualifications of instructional staff or prospective instructional staff, the submittal of fingerprints pursuant to subsection (1) of this section and results consistent with the minimum standards of qualification established by the board pursuant to section 12-59-106 shall be a prerequisite to commencing or continuing employment as instructional staff who may be teaching students in a school designated by the board pursuant to section 12-59-105.3 (1) (m).

~~23-60-704.5. Duties and powers of the board.~~

The board shall have the powers and duties specified in section ~~12-59-105.3, C.R.S.~~

~~23-60-705. 12-59-105.9 Duties and powers of the division subject to the approval of the executive director.~~

The division shall exercise all of the powers and duties set forth in section 12-59-105, C.R.S. The executive director shall review and approve, consistent with the institutional role and statewide needs, any action taken by the division pursuant to the powers and duties set forth in section 12-59-105, C.R.S.; except that the participation of the executive director shall not be required in any action taken by the board.

Comment [j24]: This cross reference is no longer necessary.

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