

**TOPIC: DIVISION OF PRIVATE OCCUPATIONAL SCHOOLS:
RECOMMENDATION TO REVISE FEE SCHEDULE**

**PREPARED BY: LORNA CANDLER, DIVISION DIRECTOR AND INTA MORRIS,
CHIEF ADVOCACY AND OUTREACH OFFICER**

I. SUMMARY

This Action Agenda Item recommends the approval of a new fee schedule for the private occupational schools that are authorized to operate in Colorado by the Private Occupational Schools Board.

II. BACKGROUND

The Division of Private Occupational Schools (DPOS) was authorized under the Private Occupational School Act of 1981 (Colorado Revised Statutes, 12-59-101 et seq.) As the Division is 100 percent cash funded, it has statutory authority to adjust its fees annually so that the revenue generated from collected fees approximates the direct and indirect costs of administering this article.

Colorado Revised Statutes, 12-59-116(3)(b), requires the Colorado Commission on Higher Education (CCHE) to approve adjustments to fees the DPOS charges to occupational schools to operate in Colorado. Although this provision has existed in law for some time, the CCHE has not approved DPOS fee changes in the past. Our understanding is that Department leadership has assumed that this authority is delegated to the DPOS Board, along with all other legislatively granted authorities related to DPOS activities. The office of the Colorado Attorney General recently advised DPOS staff that the requirement for the CCHE to approve a fee change stands and should be met. The Division has already proposed these fee changes to its Board at its monthly meeting on May 27, 2014 and requested permission to begin the rulemaking process. That process will entail noticing all stakeholders of the proposed rule (fee increase) and providing the public with the opportunity to provide written and oral comments. The Board will hear those comments at its rulemaking hearing on July 22, 2014. The Division will also follow all other processes to ensure full compliance by notifying the Secretary of State, General Assembly, and will continue to work through the Attorney General's Office to obtain necessary rule review approval prior to enactment.

DPOS is currently under its first Sunset review and will seek to streamline this provision so that the Executive Director will have the authority to approve fee changes in the future.

III. STAFF ANALYSIS

The Division and Board set fees as a matter of course by collecting data from the previous year(s) and projecting the anticipated costs for the subsequent year(s) based on the most current numbers and data in combination with any probable or known changes or trends that would affect the Division budget.

The Division's greatest revenue source is student assessment fees which are reported and paid quarterly based on the number of students currently enrolled in the school (52 percent of budget). The second largest revenue source is the renewal of schools which occurs every three years (20 percent of budget). Combined in-state and out-of-state annual agent permits constitute the third greatest revenue stream (12 percent). Initial application for Provisional certificate is the fourth revenue source (8 percent). Program/Course fees are the fifth source (5 percent of budget). Lastly, the remaining fee categories in order of importance are Change of Ownership, Change of Location, Student Transcripts and Change of School Name (7 percent of budget combined). For the upcoming fiscal year, the Division has proposed introducing an annual Out of State Application Fee of \$1,000.

Once all fees are collected, staff prepares a report from which annual invoices are created based on the enrollment data submitted by the institutions to the Division. Given the recent legislative change, the current fees collected by the Department will not cover the costs of administering the Private Occupational School Act. (See Attachment B for a comparison of fees calculated for FY 2012-13 with the current fee structure and the projected revenue that would be generated with the proposed fee increase).

At this time the Division/Board are recommending fee increases due to two factors. First, the Division has identified a significant decrease under the current fee schedule due to HB 14-1136, signed into law on April 7, 2014. This new provision exempts Continuing Professional Education providers who deliver professional continuing education for the renewal or maintenance of a Colorado professional license recognized in Colorado. This legislation was introduced to reduce duplication of regulatory oversight for professional continuing education that was being adequately overseen by other agencies and commissions. DPOS has estimated that exempting these providers from DPOS oversight will result in a decrease of \$110,000 annually with the current fee schedule. This amount constitutes approximately 1/8 of the Division's budget.

Secondly, the Division will have compounded operating costs associated with approving an increased number of new schools with a provisional certificate. While there will be moderate fees generated by approving these new schools with low student counts, there will be a significant increase in workload associated with administering a one year provisional certificate.

These schools will require technical assistance and mentoring from DPOS staff; additionally, these new schools that are not familiar with rules and laws require significantly greater regulatory and enforcement oversight.

Conversely, the small number of schools eligible for the new exemption represents a significant student body loss that produces a substantial reduction in revenue for DPOS without creating a commensurate decrease in workload. The Division has also increased its efforts to monitor unauthorized entities or schools operating illegally due to increased federal and state scrutiny on the industry.

The exemption noted above, combined with the increased workload associated with provisional certificates and monitoring of unauthorized entities, require the DPOS to adjust fees across the board (please see the attached proposed fee schedule).

It is important to note that the Division oversees a wide variety of industries encompassing schools, programs and student bodies of vastly differing sizes and types throughout the state. DPOS staff has endeavored to develop a fee schedule to most equitably allocate costs necessary to fund the administration of the Division.

The various fees are based on:

- Student enrollment at the various institutions quarterly
- Programming and courses offered
- Registered agents who must be approved to contract enrollment agreements with students
- Numbers of campuses operating
- An estimate of the time and resources required to process institutional applications
- An estimate of the time for program specialist's on site visits and continued oversight
- Review of financial stability and adequate bond or surety coverage for all pre-paid unearned tuition.
- Review of evaluator reports, courses, curriculum, school catalogue, marketing, recruitment, instructor's credentials, ownership status, safety inspections, student files, and continued review to ensure compliance with all minimum standards necessary for approval and continued operation.
- Indirect costs associated with student complaints and investigations, compliance monitoring of schools on probation, unannounced school inspections, overseeing and enforcement of school closures, administration of bond claims, and compliance of annual reporting requirements.
- Mentoring schools, outreach, training and oversight of Board and all Division activities.

The Division's Fee Calculations and FY Budget Estimates will show the fees calculated for FY2012-13 under the current fee structure and specifies actual amounts generated (and percent of budget) in comparison with anticipated revenue with the proposed fee increase for FY14-15. (See Attachment B)

The changes to the current schedule illustrated in Attachment A and B include:

- Increased in initial application fee for Provisional School (authorizing 1 year certificate);
- Increased in fee for School Renewal (authorizing 3 year certificate);
- Increase in Program Courses;
- Increase in In-State and Out-of-State Agent Permits
- Increase in Student Assessment (Quarterly assessed per capita for enrolled students)
- Increase in Change of Location, Change of Name, and Change of Ownership)
- Increase in Student Transcripts

IV. STAFF RECOMMENDATIONS

Staff recommends that the Commission approve the proposed revised fee schedule under the Private Occupational School Act.

STATUTORY AUTHORITY

12-59-116. Fees - private occupational schools fund - annual adjustment

(1) The board by rule shall establish fees for the direct and indirect costs of the administration of this article, which fees shall accompany any application for a certificate of approval for a new school or for a school other than a new school, for an in-state or out-of-state agent's permit, or for a change of ownership. All fees collected shall be transmitted to the state treasurer, who shall credit the same to the private occupational schools fund, which fund is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of this article. All moneys credited to the fund shall be used for the direct and indirect costs of the administration of this article and shall not be deposited in or transferred to the general fund of this state or to any other fund.

(2) In addition to the fees specified in subsection (1) of this section, the board by rule shall establish and receive fees for reviewing the qualifications of and for issuing appropriate credentials to instructors and administrators pursuant to *section 12-59-106 (1) (e)*. Such fees shall be collected and administered in the same manner as the fees specified in subsection (1) of this section.

(3) (a) The board shall propose, as part of the division's annual budget request, an adjustment in the amount of the fees that it is authorized to collect pursuant to this section. The budget request and the adjusted fees shall reflect the direct and indirect costs of administering this article.

(b) Based upon the appropriation made and subject to the approval of the Colorado Commission on Higher Education, the board shall adjust its fees so that the revenue generated from said fees approximates the direct and indirect costs of administering this article. The adjusted fees shall remain in effect for the fiscal year for which the budget request applies.

(c) Beginning July 1, 1995, and each July 1 thereafter, whenever moneys appropriated to the Division for its activities for the prior fiscal year are unexpended, said moneys shall be made a part of the appropriation to the Division for the next fiscal year, and such amount shall not be raised from fees collected by the Division. If a supplemental appropriation is made to the Division for its activities, the Division's fees shall be adjusted in the following fiscal year by an additional amount that is sufficient to compensate for the supplemental appropriation. Funds appropriated to the Division in the annual general appropriations bill shall be designated as cash funds and shall not exceed the amount anticipated to be raised from fees collected by the Division.

ATTACHMENTS:

Attachment A: Proposed Fee Schedule

Attachment B: Fee Calculations and FY14/15 Budget Estimates