

## **Irrevocable Letter of Credit**

### **Requirements and Instructions**

The requirements and instructions below and sample irrevocable letter of credit are being provided to assist you in the process of establishing an irrevocable letter of credit necessary to satisfy the statutory requirements to do business in this state.

#### **In order for the Irrevocable Letter of Credit to be accepted by the Division of Private Occupational Schools, it must meet the following requirements:**

1. The Applicant School Owner desires to engage in the operations of a private occupational school under the provisions of §§ 23-64-101 et seq., of the Colorado Revised Statutes (“C.R.S.”) and the Rules and Regulations concerning The Private Occupational Educational Act.
2. Section §23-64-121, C.R.S., requires that owners/operators of private occupational schools as a part of their application for certificate of approval to operate, or for the renewal thereof, shall provide the Division/Board of Private Occupational Schools (“Division” or “Board”) evidence of a surety bond or acceptable bond alternative meeting the requirements of section 11-35-101, C.R.S. Acceptable bond alternatives as set forth in section §23-64-121(10) (a) and Board Rule IV.E, include an irrevocable letter of credit.
3. The irrevocable letter of credit shall be conditioned to provide indemnification to any student or enrollee or to any parent or guardian of such student or enrollee determined by the Division/Board to have suffered a loss of tuition or any fees as a result of any act or practice that is a violation of any minimum standards as set forth in section §23-64-112, C.R.S., or in the event that an approved private occupational school ceases operation as provided in subsection (5) of §23-64-121, C.R.S.
4. The irrevocable letter of credit shall be executed by the Applicant School Owner and by a surety company or financial institution authorized to do business in this state as required by section §23-64-121(2), C.R.S.
5. The amount of the irrevocable letter of credit shall be equal to a reasonable estimate of the maximum of the prepaid, unearned tuition and fees of the school for a period or term during applicable school training year for which programs of instruction are offered. The period or term of greatest duration and expense shall be utilized for this computation where a school’s training year consists of one or more periods or terms. In no case shall the amount of the bond or bond alternative be less than five thousand dollars as specified in section §23-64-121(3), C.R.S.
6. The irrevocable letter of credit. Shall be payable to the “Division of Private Occupational Schools”, with the Colorado Department of Higher Education, Division of Private Occupational Schools designated as beneficiary.
7. Following the initial filing of the irrevocable letter of credit with the Division, the amount of the irrevocable letter of credit shall be recalculated annually based on upon a reasonable

estimate of the maximum prepaid, unearned tuition and fees received by the school for such period or term of greatest duration and expense.

8. The irrevocable letter of credit shall be continuous unless said surety is released as set forth in section §23-64-121(2), C.R.S. In order to be valid, the irrevocable letter of credit shall provide surety as needed and shall not permit any limitations on the number of times the letter of credit can be accessed or drawn upon until or unless the surety is released as provided for in section §23-64-121 subparagraph (9), C.R.S.

9. A surety shall be released only after the surety (financial institution) serves written notice to the Division at least sixty days prior to such release. Said release shall not discharge or otherwise affect any claim filed by any student or enrollee or his or her parent or guardian for loss of tuition of any fees that occurred while said bond or bond alternative was in effect or which occurred under any note or contract executed during any period of time when said bond or bond alternative was in effect, except when another bond is filed in a like amount and provides indemnification for any loss as described in section §23-64-121(9), C.R.S.

If you have any questions, or would like the Division to review a draft of the letter of credit, please feel free to contact the Division.

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