

**MINUTES OF THE
COLORADO BOARD OF PRIVATE OCCUPATIONAL SCHOOLS
ANNUAL PLANNING MEETING**

November 5, 2009

The Colorado State Board of Private Occupational Schools convened at the Division of Private Occupational Schools, 1560 Broadway - Suite 1600, Denver, CO 80202.

Chair Robert Martin called the meeting to order at 9:52 A.M. and Board roll was taken.

Board Members Present:

Robert Martin, Chair	Lisa Bennison Noll, J.D Vice Chair	Jerry Sirbu, Secretary
Tom Narvaez	Winnifred Rovig	Karen Hall

Board Members Absent:

Buddy Douglass

Division Staff Present:

Jim Parker, Director	Georgia Roberts, Deputy Director
Bernadette Esquibel, Program Specialist	Voni Oerman, Program Specialist
Renee Belisle, Program Specialist	Loretta Perez, Administrative Assistant

Attorney General: Assistant Attorney General Lorna A. Candler attended.

There were no members of the general public or other guests present.

A. Annual Business:

1. Election of Officers: Chair, Vice Chair and Secretary

Discussion was held regarding the election of the Board's Chair, Vice-chair and Secretary for the upcoming year. The discussion included questions concerning certain board members' term limits. Director Parker indicated he will seek clarification and so inform the Board. Ms. Rovig, suggesting the Board retain the same officers for the upcoming year, motioned to elect Robert Martin as Chair; Lisa Bennison Noll as Vice-chair; and Jerry Sirbu as Secretary. The combined motion was seconded and unanimously passed. Robert Martin, Lisa Bennison Noll and Jerry Sirbu were elected by acclamation to retain their current officer positions.

2. Board Ethics/Responsibilities; the Open Meetings Act; and Executive Session: A Quick Refresher

Assistant Attorney General Candler presented to the Board a review of the Colorado Open Meetings Law; an update of the state statutes concerning public entity executive session parameters; and led a general discussion about Board ethics and related topics regarding conflicts or appearances of board conflict of interest and suggested best practices.

3. Basic Parliamentary Procedure

Deputy Director Roberts presented a refresher and provided reference material concerning basic parliamentary procedure, specifically Robert's Rules of Order, the procedure used by state agencies to conduct public business. General discussion with questions and answers ensued concerning how to best handle specific situations which more commonly arise.

4. Division Activities

a. Active schools and new schools

Program Specialist Oerman gave a brief overview of all of the active schools and the number of new schools approved by the Board during this last reporting year.

b. Education and Outreach/Technical Assistance

Program Specialists Belisle and Oerman reported on the Division's Education and Outreach efforts, which included technical assistance in respect to record-keeping, instructor qualifications and the renewal process.

c. Report concerning Student Complaints and other Matters of Non Compliance

Deputy Director Roberts provided the annual report regarding student complaint processing status.

d. Report concerning Instructor Criminal Background Check Compliance of Schools teaching minor age students

Deputy Director Roberts provided the annual report regarding School compliance concerning statutory criminal background checks for instructors teaching minor age students.

The Board recessed for lunch at 11:45 P.M. and reconvened at 12:27 P.M.

5. Review and Discussion of the definitions of "unlicensed school", "private occupational school" and associated statutory regulatory exemptions

In a discussion facilitated by Director Parker, the Board and staff reviewed the statute and associated rules concerning the definition of a "private occupational school"; expressed regulatory exemptions; and "unlicensed" schools, within the particular context of "product based" or "product usage training", often found within certain occupational fields, such as the cosmetology industry.

At the conclusion of the discussion, Ms. Bennison Noll motioned that the Division draft a policy for Board consideration which identifies the discussed criteria to be used to better

and consistently determine if an "event" meets the statutory definition of "occupational in nature" or a regulatory exemption.

It was further motioned that the policy include as criteria whether licensure (pre or post) is identified in the marketing material of such an event as being required for registration/enrollment/attendance; to what degree the event appears to be "product based"; whether it is reasonably determined by the circumstances to be "occupational skill building"; who pays to register/enroll/attend the event (i.e. employer); whether the event is "business to business"; is there a cost and if so, is it a "nominal fee" under statute or board rule; the frequency such an event is offered within the state; and the duration of the event, itself. The motion was seconded and passed.

Board and staff then generally discussed the refinement of agency internal procedures/criteria in the assessment of whether an educational institution primarily is offering avocational versus occupational skills training in regard to determining whether an institution is statutorily exempt or in fact is an unlicensed private occupational school.

6. Discussion of Potential Statutory, Rulemaking or other Policy Matters:

Deputy Director Roberts presented for general discussion, and to elicit the Board's perspective, a pattern and practice used primarily by modeling and cosmetology schools to "fine" students additional money for non attendance on certain days (i.e. Saturdays compared to other training days). After due deliberation and discussion the Board concluded that certain days provide a greater opportunity for clinical or "lab" skills training than others. It further observed that often in certain occupational fields licensure requires a minimum number of clinical hours which must be completed, such that student attendance may be more critical on certain days than on others in order to complete the requisite clinical hours. The Board identified that when a particular student fails to attend on a day that he/she could have attained clinical hours, this necessitates a school be available at a future date to once again provide clinical hours.

The Board indicated that under such circumstances it considers this type of "fine" to be reasonably akin to "tuition" as it is in essence a "retake fee" (retake of clinical hours having been previously made available by the school but not attended by the student). In mentoring, the Board suggested schools may want to change the terminology used in its catalog and enrollment agreement from "fine" to, for example a "retake fee". The Board emphasized that it would expect a school to clearly identify for prospective and enrolled students the exceptions under which no additional costs ("retake fee") would be assessed. The Board by consensus also indicated that should a student withdraw it would expect this retake fee be handled as "tuition" for purposes of the school and the Division calculating any refund due.

The Program Specialists raised for Board discussion the distinction between "major" vs. "minor" program revisions/changes as defined in rules. The Board indicated that it expects the Division to continue its practice of bringing what it believes is a major revision before the Board, recognizing that the Division should "err" on the side of placing it before the Board, as regardless this gives the Board an opportunity to "mentor" schools during Board review.

7. Student Refund Policy Review

Director Parker provided a brief overview of the statutory refund policy and the recommended simplified refund calculation worksheet. He noted that the worksheet is also available on the web-site. A suggestion was made that the Division add to the worksheet the date in which the particular school determines a student's last date of attendance.

8. Discussion: Ensuring Adequacy of Bond Coverage

Director Parker gave a brief overview regarding Bond Coverage and measures taken to monitor adequate surety. After discussion, the Board suggested that the Division add to the Notice of Annual Bond Proposal (in second paragraph, 5th line) that the coverage amount "shall be based on the amount of maximum unearned prepaid tuition and fees collected and held".

9. Other Business/Discussion Items:

The Division sought the Board's input about whether a statutory change should be pursued to expand the criminal background check requirement to other circumstances and/or school staff (i.e. change of school ownership; to school owners, directors, sales agents, etc.). After general discussion the Board by consensus found no current circumstances necessitating such a statutory expansion at this time.

Deputy Director Roberts sought the Board's perspective about an emerging pattern of schools identifying potential students and initiating recruitment contact through electronic, online "situations wanted" websites (as distinguished from the already statutorily prohibited employment "help wanted" traditional formats). After general discussion the Board by consensus found no apparent problem with such practices, but indicated that it would expect that should a complaint be filed alleging a minimum standard violation, due to this practice, it would consider on a case by case basis, after an administrative investigation whether in fact such a practice is currently or should be prohibited in the future.

The Chair inquired concerning any other items to be discussed. There being no further business, a motion was made by Mr. Narvaez to adjourn. The motion was seconded and carried. The Board's Annual Planning meeting adjourned at 2:52 P.M.