

DEPARTMENT OF HIGHER EDUCATION

Division of Private Occupational Schools

PRIVATE OCCUPATIONAL EDUCATION ACT OF 1981

8 CCR 1504-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

STATEMENT OF BASIS AND PURPOSE

The Private Occupational School Board, Colorado Department of Higher Education adopts these Rules and Regulations (“Rules”) pursuant to the rule making authority as stated in the Private Occupational Education Act of 1981, Colorado Revised Statutes, Article 64 of Title 23 (“The Act”), for the purpose of delineating and clarifying the respective responsibilities of the Private Occupational School Board, the Division of Private Occupational Schools and the Private Occupational Schools under the Act as revised.

I. DEFINITIONS

In addition to the definitions used in the Private Occupational Education Act of 1981, the following will also apply in interpreting the Act and Rules except where the context requires otherwise.

- A. “Acceptable full-time equivalent employment/work experience” (for the purposes of instructor qualifications) means full-time equivalent work experience reasonably related to the occupational area to be taught or supervised.
- B. “Accreditation” is a status granted to a school by one or more of the accreditation organizations approved by the U.S. Secretary of Education as having met a set of standards established by the organization, or by a programmatic accrediting body recognized by the Council for Higher Education Accreditation as having the ability to accredit freestanding, single-purpose institutions of construction education. Accreditation is voluntary and does not imply automatic transfer of credits from one institution to another.
- C. “Admission requirement” means the specific minimum criteria a school must use when accepting a student into the school.
- D. “Agent’s permit” means the written authorization obtained pursuant to § 23-64-117, C.R.S. to engage in the activities of an agent as defined in § 23-64-103(2) C.R.S., hereinafter referred to as Agent.
- E. “Ancillary/supplementary education” means an optional stand-alone course to further the knowledge of a professional holding an active license in good standing that is regulated by a Colorado state professional licensing entity. Those seeking an exemption from the provisions of Article 64, Title 23, C.R.S. for ancillary/supplementary education pursuant to § 23-64-104(1)(c), C.R.S., must apply for the exemption in a manner approved by the Board. The education must be less than 40 hours and must be less than \$1000. Additionally, the education, curriculum, syllabi, and licensed professional instructing the education must be approved by an industry recognized certification board, or registered product manufacturer or supplier.
- F. “Apprenticeships” are registered and defined by the United States Department of Labor and Employment.

G. "Approval" means approval by the Colorado Private Occupational School Board ("Board") unless otherwise provided by these Rules and requires fulfillment of the standards stipulated by the Act and Rules.

~~H.~~ "Asynchronous" means a learning activity involving academic engagement in which the student interacts with technology that can monitor and document the amount of time that the student participates in the activity. In an asynchronous environment, a school utilizes technology that monitors not only when a student logs in, but captures all activity within an academic portal demonstrating everything a student does within a specific time frame (scrolls through reading material, works on assignments, completes a quiz, etc.)

Commented [KC1]: Added definition of asynchronous

~~H.I.~~ "Avocational Education" means any education to facilitate the personal development of individual persons which is distinguishable from one's recognized occupation and is not conducted as part of a program or course designed with the objective to prepare individuals for gainful employment in a recognized occupation. Such avocational education includes programs or courses that instruct participants where the instruction is primarily for personal interest and is recreational such as any hobby, craft, personal development, or non-occupational interest.

~~H.J.~~ "Bona fide" means a trade, business, professional or fraternal organization that: is widely recognized by the industry; primarily benefits the organization's membership or mission; conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes; receives funding and revenue and charges fees in a manner that does not incent it or its employees to act other than in the best interest of its membership; compensates its employees in a manner that does not incent its employers to act other than in the best interest of its membership; and has existed and operated as a bona-fide organization for two years or more. The Division has the discretion to determine whether the trade organization meets the definition of bona fide and whether its level of oversight is adequate. Those seeking an exemption from the provisions of Article 64, Title 23, C.R.S. for education pursuant to § 23-64-104(1)(h), C.R.S., must apply for the exemption in a manner approved by the Board.

~~H.K.~~ "Certified" is a term used by schools to describe certain programs or courses. The Division does not regulate the use of the term "certified" or certify or license persons.

~~H.L.~~ "Computer/online based instruction" means instruction via electronic media.

~~H.M.~~ "Continuing Education" means a continuing professional educational program or courses as set forth in § 23-64-104(1)(o), C.R.S.

~~H.N.M.~~ "Course" means a unit of learning which is an integral part of an occupational program of learning.

~~H.O.N.~~ "Contact/Clock hour" is defined as a minimum of 50 minutes of qualified instructor supervised instruction with at least a five-minute break between hours as represented in the Board approved course outline. means a period of time consisting of a 50- to 60-minute class, lecture, or recitation in a 60-minute period or a 50- to 60-minute faculty-supervised laboratory, shop training, or internship in a 60-minute period;

Commented [KC2]: Stakeholder comment from Kathleen Vossenber: How does "supervised" affect distance learning? How is it defined?

Commented [KC3R2]: Added Clock hour to be used interchangeably with Contact hour. Added specific information on distance education

1. In distance education, 50 to 60 minutes in a 60-minute period of attendance in:

(a) a synchronous or asynchronous class, lecture, or recitation where there is opportunity for direct interaction between the instructor and students; or

(b) an asynchronous learning activity involving academic engagement in which the student interacts with technology that can monitor and document the amount of time that the student participates in the activity.

2. An institution must be capable of monitoring a student's attendance in 50 out of 60 minutes for each clock hour under this definition

- PQ. "Designated agent" is the school's representative, having a physical Colorado address (no P.O. Box addresses) other than the school's address, and upon whom any legal process, notice, or demand may be served. The designated agent shall be maintained continuously.
- PQ. "Distance Education" is a formal education process in which the orderly delivery of instruction occurs beyond a school's walls through virtually any media since the student and instructor are in different locations. Distance education may employ a variety of communication methods for delivering instruction to students.
- Distance education could be offered either synchronous, ~~where the instructor is engaging with students in real time,~~ or asynchronous, ~~where the instruction may be pre-recorded, or a combination of both.~~ Whether a particular method of distance education is appropriate for a particular type of education, is a case-by-case decision by DPOS.
- QR. "Enrollment" for the purposes of reporting data to the Division means any student who has signed an enrollment agreement with the school and remains enrolled after 10% of the training has elapsed.
- SR. "Externship/internship" is an educational component for which academic credit is awarded, offered as part of an instructional course or program with job experience included. To be considered an externship/internship the course shall meet the requirements of the Board further defined in Rule III.B.6.
- IS. "Fees", except when used in the context of fees assessed by the Board pursuant to § 23-64-122, C.R.S. ("Board fees"), means a refundable charge assessed to enrolling students and which are intended to cover non-instructional expenses. Fees may not be used to cover instructional expenses or books and supplies. All fees as defined herein must be itemized.
- UF. "General Education" means that body of instruction which is not directly related to a student's formal technical, vocational, or professional preparation, but is supportive as a required part of a student's course of study, regardless of his or her area of emphasis; and is intended to impart common knowledge, intellectual concepts, and attitudes. For example, math is a general education course, but applied math is not.
- VU. "In-state school" is a school with physical presence within the state that provides occupational educational services to students.
- WV. "Instructor" means any person employed by a school, contracted by a school, or who otherwise provides either a residential or distance education course/program for the purpose of delivering instruction or training necessary to meet the stated objectives of the course/program in which the person is qualified to teach; determines educational objectives and activities of any course or program area, including, but not limited to measures, assesses, records, reports or evaluates students' attendance, achievement or completion of lessons, courses or training programs; maintains essential student records and data for which s/he is responsible according to state law or school policy; or exercises technical and functional supervision over instructional staff aides or volunteers.
- XW. "Instructional Staff" means program supervisors and instructors. Prospective instructional staff means program supervisor or instructor applicants that a school intends to hire.

- YX.** “Major program or stand-alone course revision” means changes since the last approval by the Board to the method of delivery; to the occupational objective; and/or increases or decreases since the last approval in the hours exceeding an accumulated 25% of the total hours of the program or stand-alone course approved.
- ZY.** “Minor program or stand-alone course revision” means any revision not meeting the definition of a major program or stand-alone course revision.
- AAZ.** “Occupational in Nature” for the purposes of determining an exemption under § 23-64-104(1)(c), C.R.S., means a program or course that satisfies the definition of “educational services” or “education” contained in § 23-64-103(13), C.R.S., and the definition of “occupational education” contained in § 23-64-103(17), C.R.S. Any program or course that does not meet this definition is not occupational in nature.
- BBA.** “Out-of-state school” is a school ~~located in another state or territory of the United States~~outside of the State of Colorado and offers education from its location or through distance education, which actively solicits, recruits, and ~~for~~ enrolls Colorado residents as students. Out-of-state schools may operate in Colorado if said schools comply with the requirements of The Act, in particular in §§ 23-64-117(2) and 23-64-121(6), C.R.S.
- BBC.** “Physical presence” means a school that delivers educational services within Colorado, including any combination of factors leading to the determination that the institution maintains a physical presence within the state, including, but not limited to, the presence of a physical facility or equipment, whether owned, leased, rented, or provided without charge; the physical location of student records; or the presence of a resident director or similar administrator.
- DDC.** “Prepaid tuition and fees” (for surety purposes) means the total of prepaid, unearned tuition and ~~fee charges and~~ fees paid by students but not yet earned by the institution, including debt incurred as a result of financial aid disbursements to the student.
- DEE.** “Prerequisite” means any education, credential, license, coursework, specialized training, or expertise required as a necessary precondition of admission into a program or stand-alone course. Admission requirements such as high school diploma or GED are not considered prerequisites.
- EEF.** “Program” means a group or series of organized courses, lessons, or units of instruction pursued to attain an occupational objective.
- GGF.** “Provisional Certificate of Approval” means a conditional approval for a new school to operate. The initial Certificate of Approval is effective for more than one year, but less than two years and during the time of the provisional approval, the school shall establish satisfactory operation and maintain the minimum standards of the Act.
- HGG.** “Separate classroom” means a physical location where training occurs that is located a reasonable distance from the main school.
- IHH.** “Standard Certificate of Approval” means a certificate that acknowledges the compliance of a school with the minimum standards of the Act and authorizes the continuing operation of the school for a period of three years, provided that said school remains in compliance with the Act.
- JJH.** “Stand-alone course” is a single course, or one that can be offered independent of a program, which may take the form of a seminar, workshop, continuing education course, or other similar educational service. A stand-alone course may enhance or advance skills in an existing occupation. Courses from within a program that are offered independently or whereby students receive a Certificate of Completion and transcript must be approved as stand-alone courses.

Commented [KC4]: Division suggestion to strike language "in another state or territory of the United States" and replace with "outside of the State of Colorado"

KK. "Synchronous" means the instructor(s) and students utilize technology whereby the instructor monitors and directly interacts with students during scheduled class time, taking attendance and engaging with all students.

Commented [KC5]: Added definition of synchronous

LLJJ. "Tuition" means the amount of money charged to students for instruction.

II. GENERAL AND ADMINISTRATIVE

- A. Each school shall prominently display its current Certificate of Approval to the public, prospective students, and other interested persons.
- B. The student-teacher ratio in each school shall be reasonable in terms of the suitability of the facility, adequacy of equipment and the method of instruction, and shall be submitted for approval; once approved by the Board, the ratio as approved must not be exceeded at any time.
- C. Each school that allows tuition or fee financing through installment or deferred payment plans shall comply with the provisions of appropriate State and Federal laws concerning consumer credit and truth-in-lending or any other such law related to consumer financing.
- D. The payment of all Board fees shall be timely made by school ~~check, certified or cashier's check, money order,~~ online, or other approved means, ~~made payable to the Division of Private Occupational Schools.~~
- E. The Division Director shall set the Board agenda; which agenda may be modified by the Board.
- F. For schools under corporate ownership, the Division may consider the on-site resident school director as the school representative and primary Division contact.
- G. All applications and forms submitted to the Division requiring a fee as outlined below in the Fee Schedule must be complete within one year of receipt. If the Division has communicated deficiencies that must be cured prior to approval but the applicant(s) fails to make necessary change(s) to meet requirements of the rules and regulations, the application shall expire after one year, requiring the school to resubmit the application, fee and supporting documentation in order to be considered for approval.

FEE SCHEDULE
Effective Date April 1, 2023²

| FEE TYPE | FEE AMOUNT |
|--|--|
| Provisional In-State School: Initial Application for Certificate of Approval (COA) --includes up to five new Programs and Stand-Alone Courses. Any additional programs or stand-alone courses are subject to the Programs/Course fees listed below. Initial COA Application for Additional Campus | \$ 5,000.00 Per School \$ 2,500.00 Per Campus |
| Renewal In-State School: Standard COA – three (3) year period | \$ 2,000.00 Per School/Campus |
| Programs/Courses (Per Program and/or Stand-Alone Course): | |
| New Program/Stand Alone Course per Campus | \$ 500.00 |
| Major Revision Program/Stand Alone Course per campus | \$ 500.00 |
| Minor Revision Program/Stand Alone Course per campus | \$ 125.00 |
| In-State Agent Permit: | \$ 300.00 Per Agent |
| In-State Agent Permit for Multiple Campus Locations <i>under same ownership with same school name:</i> One (1) Permit per agent—valid at all campus locations (Provisional or Standard COA) | \$ 300.00 Per Agent |
| Out-of-State Initial/Renewal: Initial application and annual renewal | \$ 2,500.00 |
| Out-of-State Agent Permit per year <i>under same ownership with same school name:</i> One (1) Permit per agent—valid at all campus locations | \$ 300.00 Per Agent |
| Student Assessment: In-State and Out-of-State, Quarterly per Enrolled Student (out-of-state is Colorado resident that resides with-in Colorado receiving training or Colorado resident recruited to attend out-of-state school) | \$ 5.00 Per Enrolled Student (Subject to Change) |
| ADDITIONAL FEES | |
| | Per School |
| Change of School Location (per campus) | \$ 500.00 |
| Change of School Name (per campus) | \$ 250.00 |
| Change of School Ownership | \$ 5,000.00 |
| Student Transcript for Closed School | \$230.00 Per Transcript |
| Failure to pay and/or late payment of fees | 1st violation: minimum \$100; 2nd minimum \$300; 3rd minimum \$500, and each violation thereafter \$500. |
| Failure to adequately and timely submit Annual Filings pursuant to Rule V | \$500.00 minimum per violation per year |

PLEASE NOTE:

1. ~~_____~~ Please make all checks payable to: "DPOS" or "Division of Private Occupational Schools"
12. Fees are NOT refundable.
23. Fees are established pursuant to § 23-64-122(1), C.R.S., "for the direct and indirect costs of the administration of" the Private Occupational Education Act of 1981.

III. MINIMUM STANDARDS

In addition to the minimum standards outlined in the Act, a school shall comply with the following standards and shall not be owned, operated by, or employ any person who is addicted to or dependent upon alcohol or any controlled substance or such person who is a habitual user of a controlled substance if the use, addiction, or dependence is reasonably found by the Board to present a danger to students, clients, or prospective clients.

A. Financial

1. To meet this minimum standard, the school, its owners, or guarantors shall demonstrate it has sufficient financial resources to:
 - a. Provide instructional services as described in its application for the full duration of any program or course of instruction.
 - b. Make refunds as required by the Act.
2. A school submitting a provisional application for approval shall provide a statement of projected operations for a twelve (12) month period from the financial statement date.
3. A school submitting documentation to establish financial stability shall provide at a minimum a complete set of compiled financial statements which includes a cover sheet, balance sheet, income and expense statement, source and use statement and all supportive notes, prepared by an independent public accountant or a certified public accountant using a format which reflects generally accepted accounting principles and procedures.

B. Approval of Education Services

1. Schools shall offer only educational services through the method of delivery that has been approved by the Board.
 - a. Program or stand-alone course approval applications shall state the program/course occupational objective and list any prerequisites for **acceptance admission** to the program, course, or stand-alone course. Program or stand-alone course approval applications must be submitted in a manner approved by the Board, including but not limited to, detailed curriculum, course schedules, equipment lists detailing the equipment to be used, and catalog course descriptions for each course to be taught within the program.
 - b. The Board may require new and/or revised educational services to be evaluated by qualified professionals as defined by the Board.
 - c. Distance education is an acceptable method of delivering educational services.
 - (1) Courses and programs offered via distance education must meet the objectives set forth within the course curriculum and the requirements of this rule. Schools must submit documentation outlining the specifics of the distance education in the forms provided by the Division.
2. All new programs and stand-alone courses and program revisions shall be submitted to the Board for review and approval prior to the proposed date of implementation. Said revisions shall be submitted in a manner which will allow a reasonable period of time for such review. Major program revisions will be considered by the Board. Minor program

revisions will be reviewed by Division staff for compliance with minimum required standards and may be approved by staff. The Director reserves the right to submit any new or revised program and/or stand-alone course to the Board. A finding of noncompliance with minimum required standards will result in the submittal being returned to the school for changes necessary to meet compliance standards.

3. Programs or stand-alone courses regulated by another agency must have and maintain continuous approval by the body before the program/stand-alone course can be presented to the Board or staff for action. The withdrawal of approval of a program/stand-alone course by the other regulatory agency will result in an automatic withdrawal of approval of the program/stand-alone course by the Board.
4. Schools shall assess students prior to enrollment and shall only admit those who demonstrate a reasonable likelihood of success in completing the education/training and being employed in the field for which trained. Documentation of this assessment shall be included in each student's record. A high school diploma, GED, Ability to Benefit Test, or other assessment may be utilized to meet the minimum requirements of this section.
5. The school shall provide adequate instruction, including having a sufficient number of qualified instructors to meet the needs of students.
6. Externships/Internships - No internship or externship will be approved in a program if it requires students to be on duty more than eight hours per day for five consecutive days. Appropriate breaks must be included in the externship/internship schedule, pursuant to any and all existing state and federal laws. An externship/internship must be under the coordination of a qualified instructor. To be considered an externship or internship, the program shall:
 - a. Be part of the approved curriculum of the school.
 - b. Provide a designated school instructor who meets qualifications as defined in Rule III.E. and has oversight of the student's education at the internship/externship site.
 - c. Have a written training plan that specifies the expected educational outcome.
 - d. Designate an on-site supervisor who will guide the student's learning and who will participate in the student's evaluations.
 - e. Be described in the school catalog and include the purpose and requirements of the course.
 - f. Provide a schedule of time required for the training and include an expected completion date.
 - g. The student extern/intern is not to replace ~~an permanent~~ employee.
 - h. Externships/internships may be paid or unpaid.
 - i. If the externship/internship is part of the course requirements, students may not be considered as graduates or issued a graduation credential until the externship/internship has been satisfactorily completed.
 - j. Externship/internship locations and available positions must be filed with the program application and/or revision. For each location and available position, the

school must maintain documentation acceptable to the Board from an authorized representative of the location verifying that the location will provide the specified number of positions for a defined timeframe that corresponds with the program requirements. All externship/internship location contracts along with number of student positions shall be made available to the Division at time of such request/audit. The number of students enrolled in a program may at no time exceed the number of available externship/internship positions. Location of externship/internship shall be a location other than that of the school/institution where a student commences all remaining educational requirements. A school on-site clinic/lab in lieu of a program required externship/internship is not acceptable.

7. ~~Schools shall make an application for change of location not later than thirty (30) days prior to moving location. The Division shall have authority to approve applications for change of location.~~

C. Instructional Equipment, Facilities and Materials

1. Programs and stand-alone courses shall only be offered in institutional facilities that are appropriate for learning activities necessary to complete the occupational objective of the program.
2. The equipment and facilities of each school shall conform to safety, health, and other applicable requirements of local, county, state, and federal agencies.
3. Equipment shall be maintained in good shape and materials shall be available in sufficient quantities to permit skilled development at required levels by all students.
4. Teaching aids, exclusive of basic supplies, must be as listed in the school catalog in effect at the time of the student's enrollment.

D. Administrative staff

1. The school shall have sufficient administrative, instructional and support personnel based on student enrollment and needs for educational and support services, including required record keeping.
2. Each school shall designate an on-site school director for each approved campus.
3. Each school shall designate at least one in-state agent.
4. Each school shall designate a contact person responsible for instructional staff matters, including but not limited to maintaining and providing Division access to instructor qualification files.

E. Educational staff

1. Program Supervision - each school offering associate degree programs shall assure supervision of each program area in at least one of the following ways:
 - a. For programs of any size - by appointing a program supervisor who has the following qualifications:
 - (1) A minimum of three years of successful teaching experience in the program area to be supervised; or at least one year of successful

- teaching experience in the program area to be supervised, plus the establishment of an acceptable program advisory committee whose members are qualified to advise the program supervisor on the program content, and
- (2) Meets the minimum qualifications for an instructor as defined in Rule III.E.2.
- b. For programs utilizing not more than two instructors - by establishing an acceptable program advisory committee whose members are qualified to advise the resident director on the program content.
2. Instructional Staff - all instructional staff employed by a school shall possess the following minimum qualifications to deliver educational services in the program area to be taught:
- a. Except as otherwise provided in Rule III.E.2.b.(3)(a), each school shall be responsible for assuring and documenting that its instructors meet minimum qualifications. Within 30 days after a school hires a new instructor, the school shall submit to ~~the the Division~~board, in the format required ~~by the Division~~, certification that the instructor meets minimum qualifications.
 - b. Minimum Qualifications:
 - (1) Experience. In those occupational areas for which industry standards or a governmental agency require a license, certification, registration, journeyman's card, or similar regulatory credential ("Regulatory Credential") to engage in the occupation, a minimum of two years comprised of at least 4,000 hours of acceptable full or part-time equivalent employment/work experience must be documented. Any licensure, certification(s), registration(s), journeyman's card(s) or other similar regulatory credential(s) which must be continuously maintained and in good standing shall be required.
 - (2) Education. For those occupations that do not require a license, certification, registration, journeyman's card or similar regulatory credential to engage in the occupation, either a minimum of five years comprised of at least 10,000 hours of acceptable full or part-time equivalent employment/work experience must be documented, or successful completion of an accredited or Board approved program in the occupational area as well as a minimum of two years comprised of at least 4,000 hours of acceptable full or part-time equivalent employment/work experience is required. Work experience in the occupational school after graduation may be credited toward the two-year requirement provided the work performed is related to the occupational area.
 - (3) Background Check. A school shall only employ instructors who are of good reputation and free of moral turpitude. Consideration of past felonies involving moral turpitude or other crimes or offenses involving moral turpitude (offenses involving an act of baseness, vileness, or depravity in private or social duties owed to individuals or to society) ("offenses") must bear a reasonable relationship to the activity of providing occupational education. Past offenses shall be given consideration in determining whether instructional staff is of good reputation and free of moral turpitude at the time of application, however, past offenses do not automatically disqualify instructional staff.

Instructional staff may meet minimum qualifications despite past offense(s) if they have been rehabilitated and are ready to accept the responsibilities of a law-abiding and productive member of society.

- (a) Instructional staff and prospective instructional staff who may be teaching in schools designated by the Board as teaching students under sixteen years of age ("minor student"), a list of such schools that is available by contacting the division, must submit fingerprints and pay the required fee to the Colorado Bureau of Investigation for the purpose of conducting a state and national fingerprint background check in accordance with § 23-64-110, C.R.S.
 - (i) The Division Director shall give notice to any such instructor or prospective instructor when a fingerprint background check returned to the Board shows that the person has been convicted of, pled *nolo contendere* to, or received a deferred prosecution or deferred sentence for a felony or misdemeanor described in § 22-60.5-107(2)(b) or 2.5(a), C.R.S., or any other offense involving moral turpitude. The notice shall indicate that the instructor or prospective instructor may submit written data, views, arguments, or information with respect to the background check and any subsequent rehabilitation that would tend to show that he or she is prepared to accept the responsibilities of teaching minor students. The Division Director shall give notice to a school that employs or is considering employing an instructor subject to a background check that the instructor's or prospective instructor's qualifications are under review but the notice to the school shall contain no reference to or details of the results of the fingerprint background check.
 - (ii) The Director will consider the results of the background check and the instructor's or prospective instructor's response to the notice and any other information deemed necessary to determining whether the instructor or prospective instructor is qualified. The instructor or prospective instructor will not be deemed qualified unless the instructor or prospective instructor provides clear and convincing evidence and reasons establishing that he or she has been rehabilitated and is ready to accept the responsibilities associated with teaching minor students. Such a prospective instructor whose results of the fingerprint background check are under review by the Division Director, for such circumstances identified herein, shall not commence instruction of any student under the age of sixteen (16) until such time that the Division Director notifies the school and prospective instructor that a favorable qualification to instruct has been determined. The Director will notify the instructor or prospective instructor of the Director's determination. Notice to the school shall only include an indication of whether the instructor is qualified or unqualified.

- (iii) The instructor or prospective instructor may file an appeal to an adverse Director's decision concerning qualification to instruct based on criminal history to the Board within 20 days after notice. The appeal shall state in writing the reasons for appealing the notice denying the qualification, including the facts, circumstances and/or arguments supporting its appeal. In the event the Board denies an appeal, the instructor or prospective instructor may request a hearing in accordance with the State Administrative Procedures Act. A final order of the Board is subject to judicial review in accordance with § 24-4-106, C.R.S. in an administrative hearing on instructor qualifications, a certified copy of the judgment of a court of competent jurisdiction of a conviction, the acceptance of a guilty plea, a plea of *nolo contendere* or a deferred prosecution or deferred sentence shall be conclusive evidence of the court's action.
- (iv) All information related to the results of a fingerprint background check and any investigation of such results shall be treated as confidential data in accordance with § 23-64-109, C.R.S., except as necessary to conduct an investigation of qualifications, until such time as there may be a hearing in accordance with the State Administrative Procedures Act on the matter. A school that employs or is considering employing an instructor subject to a background check shall be notified when a review of instructor qualifications following submission of a background check is complete. Notice to the school shall include only an indication of whether the instructor is qualified or unqualified.

c. Exceptions.

- (1) Modeling instructors - shall have a minimum of 1,000 hours of acceptable employment/work experience in modeling or related specialized occupations and completion of a modeling or specialized program in the occupational area(s) to be taught, or 2,000 hours of acceptable work/employment experience in the occupational area(s) to be taught.
- (2) Tax preparation instructors - shall have attained a minimum of 1,000 hours of employment/work experience in tax preparation within the last five years, 200 hours of such employment/work experience must have occurred within the last 24 months. In lieu of having acquired 200 hours within the last 24 months, the instructor may substitute a suitable tax preparation update course, which was successfully completed within the past 12 months, and which included at least five contact hours.
- (3) Securities Instructors – securities instructors offering educational services for occupations regulated by the United States Securities and Exchange Commission are exempt from the licensure, certification(s), registration(s), journeyman's card(s) or other similar regulatory credential(s) requirements of Rule III.E.2.b.(1).

- (4) General Education subject areas do not require verified occupational experience. Refer to Part I, paragraph T of these rules for the definition of general education.
- d. Compliance Standards.
- (1) Each school shall be responsible for assuring and documenting that its instructors meet minimum qualifications, except as provided in Rule III.E.2.C.(3). In a format prescribed by the Board, the school shall maintain an instructor qualification file for each instructor employed. Such instructor qualification file shall include data verifying employment/work experience, education and any applicable regulatory credentials including, but not limited to:
 - (a) Instructor application
 - (b) For instructors teaching in occupational areas for which industry standards or a governmental agency require regulatory credentials:
 - (i) A copy of any educational credentials (degree certificate or diploma) showing completion of a training or degree program at an accredited or Board approved school in the occupational area(s) to be taught
 - (ii) A copy of applicable license(s), certification(s), registration(s), journeyman's card(s) or similar regulatory credential(s) and a statement of good standing from the applicable board, agency, association, or similar regulatory body as identified in Rule III.E.2(b)(1).
 - (c) For instructors teaching in occupational areas for which industry standards or a governmental agency do not require regulatory credentials:
 - (i) A copy of any educational credentials in the occupational area(s) to be taught, or at a minimum, a transcript of courses with emphasis in the occupational area(s) to be taught or related areas sufficient to show that the instructor has a background of education adequate to enable the instructor to carry out the stated objectives of the specific courses, lessons, or units of instruction to be taught. (See Rule III.E.2(b)(2)).
 - (d) Documentation of required hours of employment/work experience in the occupational areas to be taught, verified by signature of the instructor and the school director.
 - (2) The school must notify the Division in writing within thirty (30) calendar days of any change in employment status of instructional staff.
 - (3) A school's instructor qualification files shall be available to the Division upon request. The Division may conduct unannounced site visits to inspect instructor qualification files and any other reasonably related

records to ensure that the school is fulfilling its responsibilities to employ only qualified instructors.

- e. Guest Instructors. ~~Guest instructors are exempt from instructor qualification requirements of this rule.~~ A guest instructor is a person whose special experience or expertise in an area related to the subject matter to be taught will make a contribution to the educational processes that will be supportive and expanding and whose use is to be limited to not more than 20% of the program or stand-alone course. ~~Guest instructors must be either licensed or certified in their area of expertise, if the industry or occupation requires licensure or certification, or be a registered product manufacturer or supplier.~~ Students currently attending the school and persons who have attended the school at any time during the previous twelve (12) months may not act as guest instructors. The school shall maintain a record of all guest instructors with the respective courses to which they contributed that documents the special experience or expertise of the person.
- f. Emergency Instructor Provision. A school owner/director experiencing a hardship in hiring an instructor who meets minimum standards and qualifications pursuant to the Act and Rules may petition the Board for permission to hire an instructor who does not meet applicable employment/work experience and/or education qualifications. The school shall provide the Board a summary of the conscientious efforts made to secure the services of a fully qualified instructor by describing the person's suitability for the position and attesting that the hiring of the person is essential to the preservation of the program/course. The Board may request additional detailed information to support the search efforts prior to approving or rejecting the petition. Board approval to hire an instructor under the emergency instructor provision is granted for a period of time as deemed appropriate by the Board.
- g. Continuing Competency.
- (1) All instructional staff is expected to maintain continuing competency. Instructional staff shall provide the school on a regular basis, but not less than every three (3) years, with sufficient and recent educational and employment/work experience to assure up-to-date knowledge of content and practice to continue teaching in the occupational field for which they are employed to teach.
 - (2) Competency must be documented and demonstrated by successful completion of courses from accredited colleges or universities or board approved schools, occupational experience, workshops/seminars, or continuing education approved by a regulatory agency, organization or recognized professional association, or school directed education/training, and by a written annual performance evaluation of the instructor performed by the school director or other authorized school representative. The performance evaluation must include, at a minimum, an evaluation of the instructor's effectiveness in meeting the stated objectives of the course and his/her performance with respect to properly and accurately maintaining and handling all student records for which the instructor is responsible under school policy, including but not limited to attendance and grades and/or satisfactory completion of lessons, courses, or training programs.
 - (3) Where applicable, all instructional staff shall maintain an active, and in good-standing current license, certification, registration, or similar

Commented [KC6]: Written stakeholder comment submitted by Ryan Lishner, Colorado School of Trades

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regulatory credential as required by governmental regulatory agencies or industry standards to practice in the occupational field.

- (4) In respect to instructional staff of minor students (under the age of sixteen), in order to continue to be deemed competent, said instructor may not be judicially determined to have committed, nor pled guilty or *nolo contendere* to a felony or misdemeanor described in § 22-60.5-107(2)(b) or 2.5(a), C.R.S. or any other crime of moral turpitude, after his or her hire date by the school. Such change in instructor criminal history must be reported to the school not later than ten (10) calendar days from the date of entry of a judicial adjudication or court acceptance of a guilty plea or *nolo contendere* plea to a felony or misdemeanor described in § 22-60.5-107(2)(b) or 2.5(a), C.R.S. or any other crime of moral turpitude. A school employing an instructor with such a post-hire change in criminal history must report to the Division in writing not later than twenty (20) calendar days from the receipt of instructor notice. The school's report to the Division shall include the complete name of the instructor, the nature of the change on criminal history, and the date and content of the adjudication or plea entry. The instructor may be required by the Division to submit additional information, including, but not limited to, sufficient court documents identifying the circumstances surrounding the charges and plea, and adjudication. The Division, upon notice, shall conduct a timely review of; issue a Director Decision and afford appeal rights in accordance with the procedure outlined in Rule III.E.2(b)(3)(a)(iii).
- (5) In order to meet and continue to maintain required minimum standards, all staff working at a school, including instructional and administrative staff, may not be judicially determined to have committed, nor pled guilty or *nolo contendere* to any felony or misdemeanor relative to the health and safety of all persons upon the school premises. Such change in instructor criminal history must be reported to the school not later than ten (10) calendar days from the date of entry of a judicial adjudication or court acceptance of a guilty plea or *nolo contendere* plea to a felony or misdemeanor described in subsection (5). A school must report to the Division in writing not later than twenty (20) calendar days from the receipt of notice of any judicial adjudication. The school's report to the Division shall include the complete name of the instructor or staff member, the nature of the change on criminal history, and the date and content of the adjudication or plea entry. The Division may require additional information, including, but not limited to, sufficient court documents identifying the circumstances surrounding the charges and plea, and adjudication. The Division, upon notice, shall conduct a timely review of; issue a Director Decision and afford appeal rights in accordance with the procedure outlined in Rule III.E.2(c)(3).

h. Enforcement and Penalties.

- (1) Enforcement.
 - (a) The Board has the authority to investigate, upon a student complaint or upon its own motion, or upon delegating to the Division Director the qualifications of any instructor. If the Board has reasonable grounds to believe that an instructor fails to meet instructor qualifications, the Board shall issue a notice of noncompliance setting forth the reasons that a school has violated or is violating the act or rules and a period of time within

- which the instructor and the school may respond by submitting written data, views, arguments, or information in the notice. The school shall set forth in its response to the notice the measures that it used to verify the qualifications of the instructor and whether it knew of any deficiencies in the instructor's qualifications.
- (b) The Board shall consider the submissions of the school and the instructor to the notice and notify the school and the instructor of the board's determination as to 1) whether the instructor meets minimum qualifications, and 2) if the instructor does not meet minimum qualifications, whether the school knew or should have reasonably known that the instructor did not meet minimum qualifications.
 - (c) The school and/or the instructor may request a hearing on the Board's decision within thirty (30) days after notice in accordance with the State Administrative Procedures Act. A final order of the Board is subject to judicial review in accordance with § 24-4-106, C.R.S.
- (2) Penalties.
- (a) An instructor whose qualifications are found to be deficient may not be employed by the school as an instructor.
 - (b) A school that knew or should have reasonably known that an instructor did not meet instructor qualifications and employed or continued to employ such instructor, may be subject to fines and/or other disciplinary action up to and including revocation of the school's certificate of approval.
 - (c) If the instructor is found to have engaged in any of the following, the Board may also order that the instructor is ineligible for employment at any school within the jurisdiction of the Board for such period of time as ordered by the Board:
 - (i) The instructor obtained employment or demonstrated continuing competency through misrepresentation; fraud; misleading information; or otherwise untruthful statements submitted or offered with the intent to misrepresent, mislead or conceal the truth.
 - (ii) The instructor failed to keep essential student records or failed to turn over all students records for which s/he is responsible according to state law or school policy.
 - (iii) The instructor falsified or misrepresented records or facts relating to students' attendance, grades or satisfactory completion of lessons, courses, or training programs.
 - (iv) The instructor is employed by a school that teaches minor students and at any time during his or her employment has been convicted of or pled *no/o*

contendere to or received a deferred sentence or deferred adjudication for a felony or misdemeanor described in § 22-60.5-107(2)(b) or 2.5(a), C.R.S. or any other crime of moral turpitude.

F. Requirements for Schools to offer Associate Degree Programs

1. All private occupational schools making application to grant associate degrees shall hold a Certificate of Approval by the Board.
2. Schools offering an Associate Degree shall be accredited by an accrediting agency which is officially recognized by the United States Department of Education [or the Council for Higher Education Accreditation](#).
3. All Associate Degree Programs offered by a school shall be approved by the Board.
4. Application Procedure--An approved school shall make a separate application to the Board for the approval of each associate degree program. The application shall clearly indicate the course of instruction for which the degree will be awarded. Information must be included in sufficient detail to indicate conformance with the following standards of instruction.
 - a. The curriculum in the appropriate associate degree program shall include a program of instruction which corresponds with general education curriculum course credits required in institutions that prepare the student to enter full-time, entry level employment in their chosen occupation.
 - b. Types of Associate Degrees:
 - (1) Associate of Arts (A.A.)
 - (2) Associate of Science (A.S.)
 - (3) Associate of Applied Science (A.A.S.).
 - (4) Associate of Occupational Studies (A.O.S.).
5. Admission - The student shall possess a high school diploma or a GED and be able to matriculate in a degree program.
6. Curriculum - The curriculum in the appropriate associate degree program of study will consist of courses and/or the occupational education area as approved by the Board. The appropriate associate degree program of instruction will correspond with the curriculum course credits required in institutions of higher education offering such associate degree programs. This means a minimum curriculum as defined below:
 - a. Associate of Arts (A.A.) - Degree Programs, requiring 45 quarter credit hours or 30 semester hours of general education courses (Arts, Humanities, Social or Behavioral Sciences, or one of the professional fields of emphasis). The range of credit hours is 60 semester or 90 quarter hours to 68 semester or 102 quarter hours. Associate of Arts degree programs are intended for transfer into baccalaureate degree programs with junior standing offered by senior colleges and universities.

- b. Associate of Science (A.S.) - Degree Programs, requiring 45 quarter credit hours or 30 semester credit hours of general education courses (Mathematical, Biological or Physical Sciences, or one of the professional fields' emphasis). The range of credit hours is 60 semester or 90 quarter hours to 68 semesters or 102 quarter hours. Associate of Science degree programs are intended to transfer into baccalaureate degree programs with junior standing offered by colleges or universities.
 - c. Associate of Applied Science (A.A.S) - Degree Programs requiring 18 quarter credit hours or 12 semester credit hours of general education courses. The range of credit hours is 60 semester or 90 quarter hours to 75 semester or 108 quarter hours. Exceptions to the maximum may be granted by the Board if there is a demonstrated need. These programs are occupational in nature and are not intended for transfer to baccalaureate degree programs; however, certain courses may be accepted toward a bachelor's degree at some colleges and universities. Associate of Applied Science degree programs are intended to prepare students to enter full-time skilled, paraprofessional occupations.
 - d. Associate of Occupational Studies (A.O.S) - Degree Programs. In addition to the minimum total credits of 90 quarter credit hours or 60 semester credit hours require only that the school justify each such program to the Board in terms of a logical sequence of courses which will assure adequate preparation for entry level employment in a particular occupational field. These programs are occupational in nature and are not intended for transfer to baccalaureate degree programs; however, certain courses may be accepted toward a bachelor's degree at some colleges and universities. Associate of Occupational Studies degree programs are intended to prepare students to enter full-time, skilled paraprofessional occupations.
7. Degree credit hours are computed as follows:
- For each quarter credit hour awarded:
- 10 theory/lecture contact hrs. = 1 credit
 - 20 laboratory contact hrs. = 1 credit
 - 30 intern/externship contact hrs. =1 credit
- For each semester credit hour awarded:
- 15 theory/lecture contact hrs. = 1 credit
 - 30 laboratory contact hrs. = 1 credit
 - 45 intern/externship contact hrs. = 1 credit
- Computation of hours may not be rounded up.
8. Faculty - Instructors teaching only general education courses in associate degree programs shall hold at least a baccalaureate degree with adequate preparation in areas the instructors are assigned to teach.

9. Cosmetology and related credit hours. The following only relates to cosmetology and related areas. The school catalog shall include at least the following information which is to be given to the student at the time of the execution of the enrollment agreement.

For all cosmetology schools credit hours are computed as follows:

30 theory/lecture contact hours = 1 semester credit

30 laboratory contact hours = 1 semester credit

30 intern/externship contact hours = 1 semester credit

G. Catalogs

1. Each school shall publish a catalog which shall include at least the following information:
- a. The name and address of the school.
 - b. Catalog number and date of publication.
 - c. Table of contents.
 - d. Names of owners and officers, including any governing Boards.
 - e. The school calendar, including holidays, enrollment periods and beginning and ending dates of terms, courses or programs as may be appropriate.
 - f. The school's enrollment procedures and entrance requirements, including late enrollment, if permitted.
 - g. A description of the school's placement assistance. If no assistance is offered, the school shall make this fact known.
 - h. The school's attendance policy.
 - (1) Minimum attendance requirements.
 - (2) Circumstances under which a student will be placed on probation for unsatisfactory attendance,
 - (3) The conditions under which a student may be readmitted.
 - (4) Student leaves of absence.
 - (5) Dismissal for disruptive behavior,
 - (6) Any fees resulting from student absence.
 - i. The school's policy concerning satisfactory progress, and how the policy will be enforced which shall also include:
 - (1) How progress is measured and evaluated, including an explanation of the system of grading used.

- (2) The conditions under which the student may be readmitted if terminated for unsatisfactory progress.
 - (3) A description of any probation policy.
- j. The school's system for making progress reports to students.
- k. The school's policy regarding student conduct, including causes for dismissal and conditions for readmission must be described.
- l. A description of the school's facilities; teaching aids, exclusive of basic supplies; and equipment used for training.
- m. A description of each approved educational program offered including objectives, prerequisites, tuition, fees, length, or, in the case of distance education, number of lessons or units of instruction, as appropriate and the school shall designate credit hours as semester or quarter.
- n. The school's policy concerning credit granted for previous education, training, or experience.
- o. A statement that the school does not guarantee the transferability of its credits to any other educational institution and that transferability is up to the receiving institution unless it has written agreement on file of current acceptability of such credits from other institutions.
- p. The school's cancellation and refund policy which shall also include the school's method of determining the official date of termination.
- q. Reasonable additional costs to the student for make-up hours for completion of the program.
- r. In-state schools shall use a statement printed in the catalog to read, "Approved and Regulated by the Colorado Department of Higher Education, Private Occupational School Board." Out-of-state schools shall use a statement printed in the catalog to read, "Agents approved by the Colorado Department of Higher Education, Private Occupational School Board."
- s. The policy for the granting of credit for previous training shall not impact the refund policy.
- t. A section informing the student of the school's grievance policy and protocol for reviewing and resolving student complaints, appeals, or claims. This section must also include:
 - (1) A statement that informs the student that they or their guardian may file complaints in writing with the Board through the Division's established process within two years after the student's last date of attendance at the school, or at any time prior to the commencement of training.
 - (2) This section shall include the web address and phone number for the Division of Private Occupational Schools.
 - (3) The complaint policy shall be displayed in a type-size no smaller than that used to meet any other requirements of this section.

- u. A school shall publish its admission standards in its catalog. A school must secure documentation to demonstrate that each applicant meets all admission requirements, for example, high school diploma, general equivalency.
 - v. Course/programs not regulated by DPOS but offered by the school should clearly be designated as such in the school catalog.
2. Supplemental pages(s) may be used as part of the school catalog provided they are used in such a way as to become an effective part of the catalog and may include information such as faculty, calendar, and any other pertinent information. Supplemental pages shall show an effective date and shall be presented to each prospective student prior to execution of any enrollment contract.
3. Postponement clause – the school's policy regarding postponement of starting date and the effect on student's rights to a refund is to read:
- "Postponement of a starting date, whether at the request of the school or the student, requires a written agreement signed by the student and the school. The agreement must set forth:
- a. whether the postponement is for the convenience of the school or the student; and,
 - b. the deadline for the new start date, beyond which the start date will not be postponed.
- If the course is not commenced, or the student fails to attend by the new start date set forth in the agreement, the student will be entitled to an appropriate refund of prepaid tuition and fees within 30 days of the deadline in accordance with the school's refund policy and all applicable laws and Rules concerning the Private Occupational Education Act of 1981."
4. Any changes to approved school catalogs, including addenda, shall be submitted to the Division for review. The school will not print or distribute the new catalog prior to confirmation of review by the Division. It is the responsibility of each school to ensure that catalogs, including addenda, are in compliance with Rules and The Act.

H. Student Enrollment Agreement

- 1. Student enrollment agreements for educational service shall comply with the provisions of § 23-64-126(1), C.R.S., be fully completed, dated, and signed by the student and by an authorized representative of the school prior to the time instruction begins.
- 2. The school shall retain a copy of the student enrollment agreement and one copy shall be delivered to the student at the time of execution or by return mail when solicited by mail.
- 3. The student enrollment agreement shall include information that will clearly and completely define the terms of the agreement between the student and the school, including at least the following:
 - a. The name and address of the school and the student.
 - b. The title of the educational service, date training is to begin, and the number of contact/credit hours or units of instruction or lessons for which enrolled.

Enrollment Agreements shall indicate that credit hours are semester or quarter credit hours.

- c. The total costs incurred by the student in order to complete the training. Such costs shall be itemized and shall include tuition, all fees, books, supplies where appropriate and all other expenses necessary to complete the training. The student enrollment agreement shall outline the method of payment or the payment schedule.
- d. The school's refund policy, including the method of determining the official date of termination, displayed in a type-size no smaller than that used to meet any other requirements of this section.
- e. A statement acknowledging receipt of a current/approved copy of the school catalog (including addenda) and student enrollment agreement by the student.
- f. A statement that students may file complaints online directly with the Division within two years from the student's last date of attendance. A statement that informs the student that they or their guardian may file complaints in writing with the Board through the Division's established process within two years after the student's last date of attendance at the school, or at any time prior to the commencement of training.
 - (1) This section shall include the web address and phone number for the Division of Private Occupational Schools.
 - (2) The complaint policy shall be displayed in a type-size no smaller than that used to meet any other requirements of this section.
- g. The complaint policy shall be displayed in a type-size no smaller than that used to meet any other requirements of this section and must precede any other grievance/complaints policies referenced.
- h. In-state schools shall use a statement printed in the enrollment agreement to read, "Approved and Regulated by the Colorado Department of Higher Education, Private Occupational School Board." Out-of-state schools shall use a statement printed in the enrollment agreement to read, "Agents approved by the Colorado Department of Higher Education, Private Occupational School Board."

4. Student enrollment agreements must reflect and be consistent with the school catalog in effect at the time of enrollment. Any changes to approved student enrollment agreements, including addenda, shall be submitted to the Division for review. The school will not print or distribute the new student enrollment agreement prior to confirmation of review by the Division. It is the responsibility of each school to ensure that student enrollment agreements, including addenda, are in compliance with Rules and The Act.
5. Student enrollment agreements shall reflect minimum admission(s) requirements as outlined in the school catalog.

I. Student Records

1. A diploma, certificate of completion, and transcripts shall be conferred only upon the successful completion of the prescribed course(s) of instruction as stated in the catalog and approved by the Private Occupational School Board.

2. Appropriate certification shall be conferred upon successful completion of individual subjects or a combination of subjects as listed in the catalog and approved by the Private Occupational School Board.
3. Each school shall maintain for a minimum of six years from the date the student discontinues his/her training at the school, student records in electronic format which shall include at least the following:
 - a. A copy of the enrollment contract and other instruments relating to the payment for educational services
 - b. Student information including:
 - (1) Student name.
 - (2) Permanent or other address at which the student may be reached.
 - (3) Records relating to financial payments and refunds.
 - (4) Record of attendance as determined by the school.
 - c. Date of completion or termination of training and the reason(s) as determined by the school.
 - d. Record of any student grievance and subsequent resolution.
 - e. Copies of all correspondence or other records relating to the recruitment, enrollment, and placement of the student.
4. Student transcripts and certificates of completion, diploma, or degree must be retained by the school in perpetuity.
 - a. Upon request, each school shall provide a transcript within seven (7) days to the student who has satisfied all financial obligations currently due and payable to the school. This transcript of the individual student's records of achievement must be maintained as a permanent record in a form that provides at least the following information:
 - (1) Name of student
 - (2) Title of program/course, including total number of hours of training received, specify the number of hours and method of delivery for each course, and dates of enrollment.
 - (3) Grade record of each course, lesson, or unit of instruction and the cumulative grade for the program.
 - (4) Explanation of grading system.
 - b. Upon request, each school must provide a certificate of completion, diploma, or degree within seven (7) days to the student who has satisfied all academic and financial obligations currently due and payable to the school, or who meets the criteria set forth in § 23-5-113.5(2)(b), C.R.S. This certificate of completion, diploma, or degree of the individual student's records of achievement must be

Commented [KC8]: AG suggestion to add language after the word "school": ", or who meets the criteria set forth in §23-5-113.5(2)(b), C.R.S." due to HB22-1049.

maintained as a permanent record in a form that provides at least the following information:

- (1) Name of student
- (2) Title of program/course, including total number of hours of training received and date of completion.

5. In the event of closure of a school, the school shall deposit with the Division all educational, financial, or other records as described below of said school in electronic format. These records shall be submitted to the Division within sixty (60) days of school closure. Any delay in record submission or any missing records shall be accounted for.
 - a. Student educational records including transcripts, records of completion, diplomas, and certificates for all students since the school began operation. Financial records, including enrollment agreements, ledger cards or record of student payments and refund calculations for all students who attended the school for two years prior to the closure. The school is required to submit to the Division a student roster including contact information of all students who attended two years prior to closure.
 - b. It is acceptable for the school to maintain its records once it is no longer operating as a DPOS-approved school if the school is continuing to operate in other locations or has met an approved DPOS exemption: It is also acceptable for a school to use a third-party transcript/record retention company, approved by the Division, to maintain their records.
 - c. ~~The school is required to submit to the Division a list of students from two years prior to closure and Tthe school must provide the Division with detailed school contact information regarding where the for directing students requiring copies of their records and transcripts are maintained.~~
6. In the event of voluntary closure of a school, the school owner or designee shall:
 - a. Notify the Division in writing within twenty-four (24) hours of the school closing.
 - b. Provide a record of the status of all students currently enrolled whose training program has not been completed within forty-eight (48) hours following school closure.
 - c. ~~Surrender of the Certificate of Approval to the Division within forty-eight (48) hours following school closure.~~

IV. APPLICATION FOR CERTIFICATE OF APPROVAL AND SURETY REQUIREMENTS

A. School Name

The complete legal name and location of each school shall be clearly stated in its application for a Certificate of Approval.

B. Parent Corporation Financial Information

A school which is a subsidiary of another corporation shall submit to the Board as a part of the school's application current financial information about the parent corporation including separate financial statements pertinent to the school.

C. Franchise Agreement

A school operating under any form of franchise agreement must file said franchise agreement and all attachments thereto with the Board as a part of its application for a Certificate of Approval. No franchise school shall be approved unless the franchise agreement contains a provision that the franchise shall not be terminated by the franchiser or the franchisee by reason of default or otherwise, until sufficient arrangements, as determined by the Board, shall have first been made to assure the completion of training of students enrolled in said school; and for the appropriate preservation and/or transfer of pertinent school and/or student records to the Division.

D. School Sites

1. Schools under common ownership which offer educational services and maintain ongoing individual facilities, faculty or students shall be considered as independent entities.
2. A school that intends to offer educational services on an intermittent schedule that does not represent a consistent pattern at locations other than the approved school site as described above must notify the Division thirty (30) days prior to each course or other educational service start date. No exterior or interior school emblem/logo is to be displayed at times other than during approved sessions. This notification shall include:
 - a. Date of educational service and the approved program or stand-alone course to be offered on forms provided by Division staff.
 - b. Length of stand-alone course or other educational service.
 - c. Number of students anticipated.
 - d. Location of facility (complete physical address).
 - e. Description of facility, including square feet, type of facility, etc.
 - f. New surety calculation and, if appropriate, a new bond, bond rider, or alternative surety to cover all students regardless of the training location.

This would be classified as a temporary offsite educational offering not to exceed three months and would not require a separate Certificate of Approval. However, this temporary offsite educational offering would fall under the jurisdiction of the school conducting the educational services and that school is responsible for maintaining all Rules and Regulations within the scope of its Certificate of Approval.

3. A separate classroom may be used under special circumstances if the student's education or training benefits from the usage of a separate classroom location due to enhanced or specialized equipment and/or teaching aids. A school that uses a separate classroom must notify the Division using forms provided by the Division. A site visit will be conducted prior to approval.
4. Schools shall make an application for change of location not later than thirty (30) days prior to moving location. The Division shall have authority to approve applications for change of location.

E. Surety Bonds and Surety Bond Alternatives

1. At the time application is made for a Certificate of Approval, or when new programs, stand-alone courses or continuing education courses are added, the applicant shall file with the Division a surety bond or surety alternative which meets the requirements set forth in these Rules. Schools located in Colorado each shall file one bond or alternative covering the school and its agents.
 - a. A school whose surety value is found by the Board to be insufficient to fund the unearned, prepaid tuition of enrolled students shall be noncompliant with these Rules, and, if, after a period of time determined by the Board from the issuance of a notice of noncompliance, the school has not increased its surety to an acceptable level, it shall be subject to revocation or suspension of its certificate of approval.
 - b. Pursuant to §§ 23-64-119(5), 23-64-121(8), and 23-64-121(10), C.R.S.:
 - (1) Schools must submit a continuation certificate to the Division no less than fifteen (15) days prior to the renewal date of the bond confirming the next term of coverage.
 - (2) Schools must submit the following for alternative surety instruments:
 - (i) Schools that have assigned a certificate of deposit to the Division as a surety bond alternative must submit a bank statement or other acceptable verification from the bank within fifteen (15) days of the maturity date or as requested by the Board. The bank statement must show that the certificate of deposit account remains open, the account number, the amount of the Certificate of Deposit, and the next maturity date/ term.
 - (ii) Schools that have assigned a savings account to the Division as a surety bond alternative must submit annually, or as requested by the Board, a current bank statement or other acceptable verification from the bank confirming the account remains open. The bank statement must show the savings account number and the balance of the savings account.
 - (iii) Schools that have assigned an irrevocable letter of credit to the Division as a surety bond alternative must submit verification that the letter of credit requirements are still being met and that the irrevocable letter of credit remains in effect, within fifteen (15) days prior to the expiration date or as requested by the Board. The verification must include the letter of credit number, the amount, and the next expiration date or term, if applicable.
 - (iv) Schools that have executed a participation contract with a private association, partnership, corporation, or other entity whose membership is comprised of private occupational schools must submit annually, within fifteen (15) days prior to the execution anniversary date, or as requested by the Board, verification that the participation contract is current. The verification must include the amount and the next expiration date or term, if applicable.
2. The bond or alternative-submitted to the Division with an application for a Certificate of Approval shall be in the amount required by § 23-64-121(3), C.R.S. Each application for a Certificate of Approval shall include a bond calculation in the form of a letter signed by an

authorized representative of the school showing in detail the calculations made pursuant to § 23-64-121, C.R.S., and explaining the method used for computing the amount of the bond or alternative.

3. In order to be approved by the Board, a surety bond must be:
 - a. Executed by the applicant and by a surety company authorized to do business in Colorado; and
 - b. In a form acceptable to the Board; and
 - c. Conditioned to provide indemnification to any student or enrollee of an in-state or out-of-state school or his/her parent or guardian determined by the Board to have suffered a loss of tuition or any fees as a result of violation of any minimum standard or as a result of a holder of a Certificate of Approval ceasing operation; and
 - d. A clear, clean electronic copy of an original bond.
4. In lieu of a surety bond, an applicant may file with the Division an assignment of savings account that:
 - a. Is in a form acceptable to the Board; and
 - b. Is executed by the applicant; and
 - c. Is executed by a state or federal savings and loan association, state bank or national bank which is doing business in Colorado and whose accounts are insured by a federal depositor's corporation.
5. In lieu of a surety bond, an applicant may file with the Division a timed certificate of deposit that:
 - a. Is issued by a state or federal savings and loan association, state bank or national bank which is doing business in Colorado and whose accounts are insured by a federal depositor's corporation;
 - b. Is either:
 - (1) Payable to the Division of Private Occupational Schools; or
 - (2) In the case of negotiable certificate of deposit, is properly assigned without restriction to the Division of Private Occupational Schools; or
 - (3) In the case of nonnegotiable certificate of deposit, is assigned to the Division of Private Occupational Schools by assignment in a form satisfactory to the Division of Private Occupational Schools.
6. In lieu of a surety bond, an applicant may file with the Division an irrevocable letter of credit that:
 - a. Is in a form acceptable to the Board; and
 - b. Conditioned to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Private Occupational School Board

to have suffered loss of tuition or any fees as a result of violation of any minimum standard or as a result of a holder of a Certificate of Approval ceasing operation.

- c. Is executed by a state or federal savings and loan association, state bank or national bank which is doing business in Colorado and whose accounts are insured by a federal depositor's corporation.
7. In lieu of a surety bond, an applicant may file with the Division of Private Occupational Schools a properly executed participation contract with a private association, partnership, corporation, or other entity whose membership is comprised of private occupational schools, which:
 - a. Is in a form acceptable to the Board; and
 - b. Conditioned to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of prepaid tuition or any fees as a result of violation of any minimum standard or as a result of a holder of a Certificate of Approval ceasing operation and provides evidence satisfactory to the Board of its financial ability to provide such indemnification and lists the amount of surety liability the alternative entity will assume.
 8. Whenever these Rules require a document to be executed by an applicant the following shall apply:
 - a. If the application is a corporation, the document must be executed by the president of the corporation or person(s) designated by the corporate Board.
 - b. If the applicant is a limited liability corporation the document must be executed by the members.
 - c. If the applicant is a partnership, the document must be executed by all general partners.
 - d. If the applicant is an individual, the document must be signed by the individual.
 - e. If the applicant is a state agency, the document must be signed by the Director of that Department.
 - f. If the applicant is a local government, the document must be signed by the major or Board president.
 9. Any bonding alternative entity must have independent financial resources necessary to meet the contractual obligation to the students of a failed member institution.
 10. Any bonding alternative entity must have resources equal to or exceeding the maximum bond required of any single school.
 11. The Board may make demand on the surety of a school that has ceased operation as authorized in § 23-64-121(5), C.R.S.
 - a. To the extent that the school's records allow, the Division will provide written notice to students enrolled within two years of the time of the school closure. The notice will be sent to the students' last known address as provided by the school, and the student will have 30 days to request train-out assistance or file a claim

with the Board for the student's prorated share of the prepaid, unearned tuition and fees paid by the student, Claims for refund must be accompanied by necessary documentation.

- b. After the 30-day notice time has expired, the Division will use the amount of the surety to issue refunds for students' prorated share of the prepaid, unearned tuition and fees paid by the student, or for the implementation of a train-out for the students of the school,
- c. If surety exceeds the amount necessary to satisfy Rule IV.E.11.b., the remainder may be retained by the Division within the Colorado Department of Higher Education as reimbursement up to the amount of any actual administrative costs incurred by the division that are associated with the school closure and documented as such.

F. Types of Certificates of Approval

1. Provisional certificate of approval

- a. Initial applications may receive a provisional certificate of approval that is effective for more than one (1) year and less than two (2) years.
- b. No more than two (2) consecutive provisional certificates of approval will be granted.

2. Standard certificate of approval

- a. Upon satisfactory demonstration of school operations during the provisional approval period schools may receive a standard certificate of approval, effective for three (3) years.

3. Application for change of ownership

- a. An application for change of ownership and control shall be filed for approval by the Board whenever a change of fifty-one (51) percent or more of the school's equity occurs. The seller, prior to the effective date of the change of ownership, shall notify the Board in writing of the pending sale. The buyer shall make application for change of ownership prior to or within thirty (30) days after the change of ownership. Said application shall be made on forms provided by the Division. Failure to do so shall result in the suspension of the school's Certificate of Approval by operation of law until such application has been received and approved by the Board. The Board may review or otherwise treat an application for a change of ownership as an application for a provisional certificate of approval.
- b. In addition, the new owners shall provide the new organizational chart and the names, addresses and corporate titles of all persons having a financial interest of ten (10) percent or more of the equity; copy of the sale agreement, agreement of new owners to assume responsibility for training or refunding of prepaid tuition and fees for students enrolled under previous ownership; and a report on any other changes made in the school's organization and operations.

V. ANNUAL FILINGS

Each school holding a Certificate of Approval shall file annually on or before July 31st a bond calculation, student enrollment and graduate/completion data, placement statistics, instructional staff, and an attestation that all student records for the reporting period are maintained in electronic format as follows:

A. Bond Calculation

1. Each school holding a Certificate of Approval shall file annually a bond calculation justifying the continued adequacy of the bonding or alternative being maintained by the school. The calculation shall be based on the amount of maximum prepaid tuition and fees collected and held at any one time during the calendar year. The calculation shall be covered in the surety requirements as specified in Rule IV.E.
2. Upon the Board's request the school shall also file at a minimum a complete set of compiled financial statements which includes a cover sheet, balance sheet, income and expense statement, source and use statement and all supportive notes, prepared by an independent public accountant or a certified public accountant using a format which reflects generally accepted accounting principles and procedures.

B. Student Enrollment and Graduate/Completion Data

1. Any private occupational school holding a certificate of approval to operate, and which offers a program/course certificate, diploma, or associate degree as defined by rule Part I, "Definitions" of the Rules and Regulations Concerning The Private Occupational Education Act shall, on an annual basis, submit to the Division student enrollee and graduate data consistent with the following:
 - a. Name of the school;
 - b. Name/identification of the respective program(s) for which certificates, diplomas or associate degrees are awarded; and
 - c. The number only (not by names or by any other personally identifying student information) of graduates having successfully completed and been awarded either a certificate, diploma, or associate degree, within the annual reporting period. This graduate quantitative/number data shall be provided in respect to or reported by each program so identified by the school in fulfillment of this annual reporting requirement.
 - d. The race, ethnicity, and gender data of its post-admission enrollees and graduates. ~~Schools should collect this data using the Division-approved prompts and definitions.~~ An individual student may decline to provide their own data.
 - e. The printed name and written or electronic signature of the school representative submitting said annual report on behalf of the school, and an acknowledgement that with his or her signature this representative affirms under penalty of law that the school exercised due diligence in identifying, compiling, and reporting a true and complete graduate data report.
2. Violation of this rule by a school not exempt from this reporting requirement may be subject to disciplinary actions, fees, fining authority, or other powers of the Board as defined by statute and Board rule.

C. Placement Statistics

1. Each school which offers or advertises placement assistance for any course or instruction shall file with the Division its placement statistics as follows for each program for the preceding year.
 - a. The number of graduates who requested placement assistance.
 - b. The number of graduates who received job offers for which they were trained.
 - c. The number of graduates who received job offers in a related area for which they were trained.
2. For schools offering and marketing placement assistance, data on such activities shall be submitted on or before July 31st.

D. Reporting of Instructional Staff

1. All schools are required annually to submit, in a form prescribed by the Board, a list of all instructional staff employed to include the following:
 - a. The name of the instructor, date of hire, name of program and stand-alone courses taught and the signature of the school director or authorized school representative certifying that the instructor meets all minimum qualifications required by these rules. The instructional staff list must be submitted to the Division.
 - b. With respect to instructional staff of minor students (under the age of sixteen), the school must include in the annual filing, an affirmation stating that the school has exercised due diligence to determine whether the instructional staff has acquired a new criminal history since the last annual report. This may include requiring the instructional staff to resubmit a fingerprint background check in compliance with Rule III.E.2.

VI. AGENTS

- A. Each school shall be responsible for the conduct of its agents in the performance of their duties and shall select each of them with the utmost care, provide them with adequate training and arrange for the regular and proper supervision of their work.
- B. The agent shall not use the availability of student aid as an inducement.
- C. No school shall conduct surveys for the purpose of developing enrollment leads near (3 blocks or less) any state or federal social services program center (i.e., welfare, food stamps, unemployment, etc.).
- D. A school is allowed to solicit in public places provided that the name and address of the school is displayed.
- E. Out-of-State Schools
 1. Prior to the issuance of an agent's permit to any person representing a school located outside of this state, the school shall submit at least the following:
 - a. Copies of documents relating to the school's authorization to operate in its home state and any accreditation's or other approvals held by the school.

- b. A published catalog containing the information required by these Rules and Regulations.
 - c. Copies of all media advertising and promotional literature intended for use in Colorado must include the school name, address, telephone number and location(s) where training will be offered.
 - d. Copies of all student enrollment agreements or other instruments evidencing indebtedness and intended for use in Colorado which must comply with the provisions specified in these Rules and Regulations.
 - e. The name and Colorado physical address separate from that of the school of a real person who is a designated agent, or a designated agent service, upon whom any process, notice or demand may be served. The Division shall be notified in writing of any change in said agent within ten (10) days of the change.
- 2. The Board shall not be required to act upon an application for an agent's permit for any person desiring to engage in the performance of the duties of an agent for a school located outside this state until the school shall have complied with the provisions of this section.
 - 3. Revisions to catalog or student enrollment agreement must be reviewed by Division staff and receive approval prior to utilizing same in Colorado.
 - 4. The utilization by any agent of the school of any catalog or student enrollment agreement not specifically submitted to the Division for review will be viewed as a willful and deliberate violation of the Rules and the Board shall summarily suspend all agent permits for the school pending a hearing which shall be promptly initiated and determined.
- F. An agent's permit is not required for referrals.

VII. DECEPTIVE TRADE AND SALES PRACTICES

As clarification and in furtherance of the protections against the deceptive trade and sales practices outlined in the Private Occupational Education Act of 1981, as amended, a school shall comply with the following:

- A. A guarantee of placement shall not be falsely promised or implied.
- B. If a school located within the State of Colorado refers to the fact that it is approved, the school will use the following phraseology as it pertains to its approved educational programs or courses only: "Approved and Regulated by the Colorado Department of Higher Education, Private Occupational School Board."
- C. Distance education shall be disclosed in the school's advertising and promotional materials that distance education is the primary instructional methodology.
- D. A school or other representative shall not falsely or deceptively represent that the school has restrictions on enrollment as to number, date of submission of application or similar false representations.
- E. A school or its agents and representatives shall not make or perpetuate any false or deceptive statements in regard to any other postsecondary school or college, whether public or private, nor shall a school or agent recruit students who are currently enrolled in another school.

- F. A school shall advertise only in its approved name.
- G. All schools shall satisfy the requirements of this section by including the school name, a phone number, street address, city, and location where training is to be offered in all print advertising including electronic media.
- H. A school shall not represent directly or by implication that there is a substantial demand for persons completing any of the programs offered by the institution unless the institution has a reasonable basis for the representation documented by competent, objective, and statistically valid data.
- I. A school shall clearly indicate in its advertising and promotion materials that education and/or occupational training is being offered.
- J. A school may use only testimonials that accurately reflect current practices of the institution or current conditions or current employment opportunities in the field. Such testimonials may be used if prior written consent is obtained and no remuneration or other consideration is made for either the consent or the use of the endorsement.
- K. A school may advertise that it is endorsed by manufacturers, business establishments, organizations or individuals engaged in the line of work for which it provides training, if the school has written evidence of this fact and this evidence is made available to the student.
- L. No school may advertise "accredited" unless such status has been received and maintained from an accrediting body currently listed as recognized by the U.S. Secretary of Education or is accredited by a programmatic accrediting body recognized by the Council for Higher Education Accreditation as having the ability to accredit the freestanding, single purpose institution of construction education. This refers to the U.S. Department of Education's List of Agencies (Eff. Oct. 2019), available electronically at <https://ope.ed.gov/dapip/#agency-list> (later amendments not incorporated), or the Council for Higher Education Accreditation's Directory of Recognized Accrediting Organizations (Updated July 2021), available electronically at <https://www.chea.org/chea-recognized-accrediting-organizations> (later amendments not incorporated). The U.S. Department of Education is located at 1244 Speer Blvd., Ste. 310, Denver, CO 80204. The Council for Higher Education Accreditation is located at One Dupont Circle NW, Suite 510, Washington, DC 20036. The Colorado Division of Private Occupational Schools maintains a copy available for public inspection at 1600 Broadway, Ste. 2200, Denver, CO 80202, during regular business hours. Upon request, the Colorado Division of Private Occupational Schools will provide an electronic copy for free or a printed copy for a reasonable per page charge.
- M. No school may offer access to Title IV funds without approval to participate in the Title IV student federal fund program from the United States Department of Education. This refers to the Higher Education Act of 1965, P.L. 89-329, § 401, 79 Stat. 1219, 1232-1254 (1965), available electronically at <https://www.govinfo.gov/content/pkg/STATUTE-79/pdf/STATUTE-79-Pg1219.pdf>. Later amendments not incorporated. The U.S. Department of Education is located at 1244 Speer Blvd., Ste. 310, Denver, CO 80204. The Colorado Division of Private Occupational Schools maintains a copy available for public inspection at 1600 Broadway, Ste. 2200, Denver, CO 80202, during regular business hours. Upon request, the Colorado Division of Private Occupational Schools will provide an electronic copy for free or a printed copy for a reasonable per page charge.
- N. A school shall not advertise as an employment agency or the equivalent.
- O. A school shall not deceptively advertise in conjunction with any other business or establishment.

- P. A school may not follow-up employer help wanted advertisement with offers of training.
- Q. Any school which has an agency shall not advertise in the help wanted section for that agency.
- R. Any school or agency which offers classes at "no charge" but receives direct or indirect payment of fees or other pecuniary benefits or considerations, "for other services including publications, photo sessions and workshops" is considered to be a school and is required to hold a Certificate of Approval from the Board.
- S. Students who apply for and properly represent their financial aid application and do not qualify for financial aid within the first two weeks of classes and are accepted on the basis of forthcoming financial aid eligibility shall not be referred to a collection agency.
- T. All flight schools/flying clubs/individuals advertising commercial advanced training and collecting prepaid tuition and fees must hold a Certificate of Approval.
- U. All Federal Aviation Administration Part 141 and/or Part 147 approved flight schools and/or maintenance schools must hold a Certificate of Approval. This refers to the FFA Aeronautics and Space Rule, 14 C.F.R. §§ 141, 147 (2019), available electronically at <https://www.ecfr.gov/cgi-bin/text-idx?SID=5704117b53d59554801670a843884cf4&mc=true&node=pt14.3.141&rgn=div5> and <https://www.ecfr.gov/cgi-bin/text-idx?SID=197bd38b282991600e4da161e10e4fdf&mc=true&node=pt14.3.147&rgn=div5>, respectively. Later amendments not incorporated. The Federal Aviation Administration's Flight Standards District Office is located at 26805 East 68th Ave., Ste. 200, Denver, CO 80249. The Colorado Division of Private Occupational Schools maintains a copy available for public inspection at 1600 Broadway, Ste. 2200, Denver, CO 80202, during regular business hours. Upon request, the Colorado Division of Private Occupational Schools will provide an electronic copy for free or a printed copy for a reasonable per page charge.
- V. Institutions placing advertisements in classified columns of newspapers or other publications to attract students must use only classifications such as: "Education," "Schools," or "Instruction." Headings such as "Help Wanted," "Employment," "Career Opportunity," or "Business Opportunities" may be used only to procure employees for the institution.

VIII. REFUND POLICY

- A. The official date of termination or withdrawal of a student shall be determined in the following manner:
 - 1. The date on which the school is noticed to be the student's last date of actual attendance.
 - 2. The date on which the student violates published school policy which provides for termination.
 - 3. Should a student fail to return from an excused leave of absence, the effective date of termination for a student on an extended leave of absence or a leave of absence is the earlier of the date the school determines the student is not returning or the day following the expected return date.
- B. Refunds must be calculated from the official date of termination or withdrawal and calculated on the period of time designated on the current agreement executed with the student and must be made within thirty (30) days from the official date of termination.

- C. Application/registration fees may be collected in advance of a student signing an enrollment contract; however, all monies paid by the student will be refunded if the student does not sign an enrollment contract and does not enter school.
- D. No student shall be continued on an inactive basis in violation of school policy without written consent of the student. Inactive students must be terminated within 30 days of the next available start date and refunded appropriate prepaid tuition and fees at that time.
- E. Refunds, including bond claim refunds, will be made to sponsoring agencies or individuals rather than to students.
- F. In the event of a school ceasing operation, the student shall be entitled to 100 percent of the prepaid, unearned tuition and fees at the time of closure unless a teach-out is available and accepted by the student.

IX. COMPLAINTS

- A. The school shall attempt to resolve internally filed or noticed student complaints promptly and fairly in accordance with the procedures stated in its grievance policy and shall not subject a student to punitive action because the student filed a grievance/complaint with the school or the Board.
- B. Complaints or claims pursuant to §§ 23-64-121(4)(a) or 23-64-124, C.R.S., may be filed electronically in writing with the Board through the Division's established process within two years after the student's last date of attendance at the school, or at any time prior to the commencement of training.
- C. The Board and/or Division may initiate an investigation. The Board may issue a notice of noncompliance and/or commence administrative or court action, with or without a complaint at any time that it has reason to believe that a school has violated or is violating the Act or Rules.

X. STATE ADMINISTRATIVE PROCEDURES ACT

All final decisions made by the Board regarding issuance, denial, and revocation of all types of Certificates of Approval, agent permits and instructor qualifications according to § 23-64-129, C.R.S., will be under the provisions of the "State Administrative Procedures Act", article 4 of title 24.

XI. DISCIPLINARY ACTIONS

- A. The Board may issue a cease and desist order, deny, suspend, revoke or place on probation a school's Certificate of Approval or agent's permit if the applicant or holder:
 - 1. Violates any provision of the Act or the Rules and Regulations established pursuant to the Act.
 - 2. Fails to meet the requirements of the Act or the Rules and Regulations established pursuant to the Act; or uses fraud, misrepresentation, or deceit in applying for or attempting to apply for approval.
 - 3. Is convicted of, or of or has entered a plea of *nolo contendere* or guilty to, or has received a deferred sentence or a deferred prosecution for a felony.
 - 4. Violates probation.
 - 5. Uses deceptive advertising.

6. Fails to notify the Division in writing within seven (7) days of any action which changes the school's status with the United States Department of Education, any other state or federal regulatory body, accrediting body, trade or membership association, or any national association or organization. This includes any adverse or disciplinary action, including but not limited to, probationary status.
- B. The Board may use an administrative law judge employed by the Office of Administrative Courts in the Department of Personnel and Administration to conduct hearings or hold the hearings itself if time is determined to be a factor.
- C. The Board may enter into a voluntary agreement with any school or agent to suspend, revoke, or place on probation the school's certificate of approval or the agent's permit. Such agreements shall have the force and effect of an order of the Board and violation of the terms of such agreement by a school or agent shall be grounds for disciplinary action up to and including revocation of the school's certificate or the agent's permit.
- D. Administrative Fines or Fees. In addition to or in lieu of seeking a temporary restraining order or an injunction pursuant to § 23-64-131(1), C.R.S., the Board may impose an administrative fine or fee on a school or agent which violates the Act, the Rules, or an order of the Board. In pursuing a school or agent which violates the Act, the Rules, or an order of the Board, the Board may also assess fees incurred by the Board for the direct and indirect costs of the administration of the Act pursuant to § 23-64-122(1), C.R.S. Fines or fees for violations shall be determined by the Board pursuant to the Act and the Rules. There is no statutory minimum or maximum fine or fee amount prescribed by the Act. Fines or fees may be imposed by the Board, unless otherwise provided by the Act or the Rules.
 1. Procedure.
 - a. Notice of Non-Compliance. Based upon a reasonable belief that a violation occurred, the Board shall issue a Notice of Non-Compliance to the school or agent requesting a response. After receiving the response, the Board shall deliberate and make a decision on the issuance of a fine or fee and the fine or fee amount.
 - b. Notice of Fine or Fee. If the Board decides to fine a school or agent, the Board shall issue a Notice of Fine or Fee, which shall:
 - (i) Identify the school or agent;
 - (ii) Provide a concise statement of the facts and/or conduct constituting the violation and the specific statutory provision or rule violated;
 - (iii) The fine or fee assessed in accordance to this Rule;
 - (iv) A statement that the school or agent has a right to request a hearing of the Board's decision; and
 - (v) A statement of how and when the fine or fee must be paid.
 2. Factors Used to Determine Fine or Fee Amount. In determining whether to impose a fine or fee and the amount of the fine or fee, the Board shall consider and take into account the following aggravating and mitigating factors in establishing the degree of seriousness of the violation(s) for which to impose a fine or fee on a school or agent:
 - (a) Aggravating Factors.

Commented [KC9]: AG submitted written comment

Commented [KC10R9]: Strike "or fee" the second time it appears as this statute cited does not reference fees.

Commented [KC11]: AG submitted written comment

Commented [KC12R11]: Add additional language after "order of the Board" to read: "In pursuing a school or agent which violates the Act, the Rules, or an order of the Board, the Board may also assess fees incurred by the Board for the direct and indirect costs of the administration of the Act pursuant to § 23-64-122(1), CRS."

- The school or agent has failed to correct the violation or continues or repeats the violation;
- The violation involved intentional, misleading, and false representation, reporting and disclosure;
- The actual and potential damages suffered, and actual or potential costs incurred, by the Board, or by any other person as a result of the violation;
- The violation resulted in intentional and reckless willful and negligent conduct;
- The violation resulted in significant negative impact, threat, or harm to the public; and
- The school or agent has engaged in a pattern of noncompliance with Board laws, rules, and orders.

(b) Mitigating Factors:

- The school or agent self-reported the violation;
- The school or agent demonstrated prompt, effective and prudent response to the violation, to remedy and mitigate whatever harm might have been done as result of the violation;
- The school or agent cooperated with the Board, or other agencies and impacted parties with respect to addressing the violation; and
- The violation was outside of the entity's reasonable control and responsibility.

3. Schedule of Fines or Fees. Unless otherwise provided by the Act, the Board may utilize the following classification table in determining and imposing administrative fines or fees on a school or agent:

| Violation | Fine or Fee |
|---|---|
| Deceptive Trade or Sales Practice §§ 23-64-112(1)(k) and 23-64-123, C.R.S., and/or Board Rule VII. | \$1000 minimum for each violation. |
| Operating after expiration date of certificate of approval, § 23-64-113(1)(a), C.R.S., and/or Board Rule IV.F. | \$1000 minimum for violation and \$50 each day in violation. |
| Operating without adequate Surety Coverage, § 23-64-121, C.R.S., and/or Board Rule IV.E. | \$1000 minimum for violation and \$50 each day in violation. |
| Offering Program/Courses without Board approval § 23-64-112(1)(c), C.R.S., and/or Rule III.B.1. | \$500 minimum fine for each violation. |
| Unauthorized agent, § 23-64-111, C.R.S and/or Board Rule VI. | \$500 minimum for violation and \$50 per day in violation. |
| Failure to adhere to state refund policy upon student withdraw or termination, § 23-64-120, C.R.S., and/or Board Rule VIII. | 1st violation: minimum \$100; 2nd minimum \$300; 3rd minimum \$500, and each violation thereafter. |
| Unqualified instructional staff, § 23-64-112(1)(e), C.R.S., and/or Board Rule III.E.2. | 1st violation: minimum \$200; 2nd violation minimum \$300; 3rd violation minimum \$500 and each violation thereafter. |

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|--|---|
| Failure to timely and adequately correct an on-site inspection deficiency and/or application/record review § 23-64-112, C.R.S. | 1st Offense minimum \$100 per violation; 2nd Offense minimum \$300 per violation; 3rd Offense minimum \$500 per violation, and each violation thereafter. |
| False statement about material fact in application, § 23-64-112, C.R.S., and/or Board Rule XI. | \$500 minimum per violation |
| Failure to properly execute student enrollment agreement, § 23-64-126, C.R.S., and/or Board Rule III.H. | \$200 minimum per violation |
| Any other violation of the Act, Rule or order of the Board. | \$100 to \$5000 per violation |

4. **Administrative Hearing.** In lieu of paying the imposed fine or fee, the school or agent may request a hearing before an administrative law judge in accordance to the State Administrative Procedures Act. All final decisions of the Board regarding the issuance of fines or fees and any other form of disciplinary action as set forth in the Act, including administrative fines or fees, shall be in accordance to the State Administrative Procedures Act.
5. **Payment of fines or fees.** Unless the school or agent requests a hearing pursuant to the State Administrative Procedures Act, any fine or fee imposed pursuant to § 23-64-131, C.R.S., and this Rule shall be paid within 30 days of the date of the Notice of Fine or Fee. Any fine or fee imposed subsequent to an administrative hearing and final Board order shall be paid within 30 days of a final Board order. All fines or fees shall be paid ~~by certified check, cashier's check, or money order, payable to the "Division of Private Occupational Schools."~~ Allelectronically. All fines collected pursuant to this Rule shall be transferred to the State Treasurer, who shall credit the same to the State General Fund.
6. **Failure to Pay a Fine or fee.** Failure to pay an administrative fine or fee by its due date may result in the suspension or revocation of the school's certificate of approval or the agent's permit in accordance with the Act, the Rules and the State Administrative Procedures Act.

Editor's Notes

History

Rule II-F eff. 03/02/2009.
 Entire rule eff. 03/31/2009.
 Rule V.C. eff. 11/01/2010.
 Entire rule eff. 12/10/2011.
 Fee Schedule emer. rule eff. 11/06/2013.
 Entire rule eff. 12/30/2013.
 Fee Schedule eff. 03/02/2014.
 Fee Schedule eff. 09/14/2014.
 Fee Schedule, Rules IV. E. 1. b, XI. D. 1-3 eff. 01/31/2017.
 Entire rule eff. 06/14/2018.
 Entire rule eff. 12/15/2019.
 Rule II.H emer. rule eff. 06/16/2020; expired 10/14/2020.