

8 VAC 20-350-10 et seq.
Virginia Board of Education
Regulations Governing the Operation of Proprietary Schools
and Issuing of Agent Permits

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PART I

DEFINITIONS, EXEMPTIONS

8VAC20-350-10. Definitions

8VAC20-350-20. Exemptions

8VAC20-350-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Agent" means a person who is employed by any school, whether such school is located within or outside this Commonwealth, to act as an agent, solicitor, procurer, broker or independent contractor to procure students or enrollees for any such school by solicitation in any form at any place in this Commonwealth other than the office or principal location of such school.

"Assessment year" means the calendar year (January 1 through December 31) to which the term "gross tuition collected" is applicable.

~~"Aversive stimuli" means physical forces (e.g. sound, electricity, heat, cold, light, water or noise) or substances (e.g. hot pepper or pepper sauce on the tongue) measurable in duration and intensity which when applied to a student are noxious or painful to the student, but in no case shall the term "aversive stimuli" include striking or~~

~~hitting the student with any part of the body or with an implement or pinching, pulling, or shaking the student.~~

~~"Behavior management" means planned, individualized, and systematic use of various techniques selected according to group and individual differences of the students and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior. The term is consistently generic and is not confined to those techniques which derive specifically from behavior therapy, operant condition, etc.~~

"Board" means the Virginia Board of Education.

"Branch campus" means any institution or other nonmain campus where courses and student services are offered on a regular continuing basis.

"Catalog" means a printed description of the school, which includes , but is not limited to, its courses or programs, staffing, instructional calendar, costs, and school policies.

"Certificate of Program Compliance" means a document issued upon completion of review of a program normally subject to review under these regulations offered by an institution approved under other statutes and regulations of the Commonwealth.

"Chapter" means this body of regulations.

~~"Correspondence school" means a privately owned and operated educational organization which, for a consideration, profit or tuition, teaches or instructs in any subject through the medium of correspondence between the pupil and the school by which the school transmits or exchanges matter to the pupil via printed material, telecommunications or other means.~~

"Course" means presentation of an orderly sequence of lectures or other presentation of material related to an individual topic or portion of a topic.

"Date of withdrawal or termination" means the student's last date of attendance.

"Day" means calendar days, inclusive of Saturdays, Sundays and officially designated holidays.

"Department" means the Department of Education.

"Diploma or certificate" means an award which represents a level of educational attainment below the associate degree level and which is given for successful completion of a curriculum comprised of two or more courses and applies only to those awards given for coursework offered within Virginia by postsecondary schools as defined in this section, which are appropriately approved to offer, either within the Commonwealth or outside the Commonwealth, diplomas below the associate level.

"Extension classroom" means a location away from the main campus where only courses are offered.

"Fees" means a costs or charges associated with an approval or other activity completed in response to upgrading or maintaining a certificate to operate or certificate of program compliance.

"Fund" means Student Tuition Guaranty Fund.

"Gross tuition collected" means all fees received by a school on a cash or accrual accounting method basis for all instructional programs or courses, except for nonrefundable registration and application fees and charges for materials, supplies, and books which have been purchased by, and are the property of, the student.

"Guaranty instrument" means a surety bond, irrevocable letter of credit or certificate of deposit.

~~"Intrusive aversive therapy" means a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of aversive stimuli contingent upon the exhibition of such behavior. The term shall not include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to §37.1-84.1 of the Code of Virginia or psychotropic medications which are used for purposes other than intrusive aversion therapy.~~

"Maximum student enrollment" means the projected enrollment for the school, as determined by the school, which shall not exceed the capacity of the school's facilities, equipment, and staffing, and guaranty instrument capacity.

"Person" means any individual, group of individuals, partnership, association, business trust, corporation, or other business entity.

"Program" means a listing of an orderly sequence of individual courses organized to develop a specific knowledge of career and technical skills for the purpose of training, retraining, or upgrading individuals for gainful employment.

"Proprietary career school" means a privately owned and operated institution or organization, no matter how titled, maintaining or conducting classes on-site or via distance education for the purpose of offering instruction for a consideration, profit or tuition, designed to prepare an individual for entry level positions in occupations, including but not limited to business, industry, skilled trades, or service occupations, or to upgrade an individual in previously acquired occupational-related skills. Such schools may be further classified by the board as necessary.

"Regulations" means this document in its entirety.

"School" or "schools" means any school defined in this section.

~~"School for students with disabilities" means a privately owned and operated preschool, school, industrial institution or educational organization, no matter how titled, maintained or conducting classes for the purpose of offering instruction, for a consideration, profit or tuition, to persons with mental retardation, visual impairment, speech impairment, hearing impairment, learning disabilities, physical disabilities, emotional disabilities or multiple disabilities.~~

"Superintendent" means the Superintendent of Public Instruction.

"Teach-out" means the process whereby a school undertakes to fulfill its educational and contractual obligations to currently enrolled students prior to voluntarily closing. Among its options are a cessation of enrollments with continued operation until present students are graduated, or making an agreement with a school or a group of schools in the same geographic areas to absorb its students at no additional cost to the affected students.

8VAC20-350-20. Exemptions.

- A. ~~Any school that is licensed or approved pursuant to other statutes of the Commonwealth.~~ The entities identified in § 22.1-320 of the Code of Virginia, shall be exempt from the provisions of these regulations:
- B. ~~Any school conducted by any person, firm, corporation, or other organization solely on a contractual basis where approval as a school is not a requirement of the contract and no individual person is charged tuition or for which no tuition or charge is made.~~ Notwithstanding the exemptions provided in this section, a school or organization may voluntarily seek approval for a Certificate to Operate or Certificate of Program Compliance for an otherwise exempt activity.
- C. ~~Any course or instruction not exceeding 16 hours in length offered by any person or any course or instruction not exceeding 40 hours which is offered as an adjunct to another primary business or service by any person.~~

- ~~D.— Any college, university or professional school approved or recognized as such by the State Council of Higher Education for Virginia or similar agency of another state in which its primary campus is located, which has offered or which may offer one or more courses covered in this chapter, if any tuition, fees and charges made by the institution are collected in accordance with the regulations prescribed by the board of trustees or other governmental body of such university, college, or institution of higher education.~~
- ~~E.— Any public or private high school accredited or recognized by the Board of Education which has offered or which may offer one or more courses covered in this chapter, if any tuition, fees and charges made by the school or collected in accordance with the regulations prescribed by the governing body of such school.~~
- ~~F.— Tutorial instruction given in a private home or elsewhere as supplemental to regular classes for students enrolled in any public or private school or in preparation of an individual for an examination for professional practice or higher education.~~
- ~~G.— Schools of fine arts or other avocational courses which are conducted solely to further artistic appreciation, talent, or for personal development or information.~~
- ~~H.— Schools offering exclusively religious instruction.~~
- ~~I.— A program through which persons with disabilities are provided employment and training primarily in simple skills in a sheltered or protective environment.~~

~~J. Any school, institute or course of instruction offered by any trade association or any nonprofit affiliate of a trade association on subjects related to the trade, business or profession represented by such trade association.~~

Part II

Compliance

8VAC20-350-30.	Certificate to Operate, Certificate <u>of Program Compliance</u> requirements
8VAC20-350-40.	Application Process Period
8VAC20-350-50.	Application Completion Deadline
8VAC20-350-60.	Restrictions
8VAC20-350-70.	Exemption from <u>Monitoring Visits</u> certain information for Accredited Schools
8VAC20-350-80.	Certification of Branch Campus/Extension Facilities
8VAC20-350-90.	Penalty for Noncompliance with Regulations
8VAC20-350-100.	Enforcement
8VAC20-350-110.	Information Sharing

8VAC20-350-30. Certificate to Operate, Certificate of Program Compliance requirements.

It shall be unlawful for any school defined in Chapter 16 (§22.1-319 et seq.) of Title 22.1 of the Code of Virginia to ~~be operated~~ advertise, enroll students or offer

training programs in this commonwealth without having received a Certificate to Operate or a Certificate of Program Compliance issued by the board.

8VAC20-350-40. Application process period.

A school seeking a Certificate to Operate or Certificate of Program Compliance shall submit the required information on forms provided by the ~~Board of Education~~ department at least 60 days prior to the date approval is requested.

8VAC20-350-50. Application completion deadline.

Following notification of the results of the initial review of an application for certification, all deficiencies must be corrected within a period of time, not to exceed ~~400~~ 60 days. Thereafter, the school must submit a written request for continued consideration and pay the penalty prescribed in 8VAC20-350-510 B of this chapter. Up to two subsequent grants of extension, not to exceed 30 days each may be granted and each request for extension will be subject to the additional penalty prescribed in 8VAC20-350-510 B of this chapter. After 120 days, any incomplete application will no longer be considered.

8VAC20-350-60. Restrictions.

No school may advertise or enroll students prior to receiving a Certificate to Operate or Certificate of Program Compliance. Schools found to be advertising, enrolling students or offering training programs prior to having received a Certificate to

Operate will be subject to the penalty prescribed in 8VAC20-350-510 B and 8VAC20-350-90 of these regulations.

8VAC20-350-70. Exemption from monitoring visits ~~certain information~~ for accredited schools.

Any school which is accredited by an accrediting agency recognized by the United States Department of Education shall may continue to be certified or may operate branch campuses after the initial issuance of a Certificate to Operate or Certificate of Compliance without ~~the submission of certain information required by §§22.1-319 through 22.1-335 of the Code of Virginia and this chapter. Such accreditation shall exempt the school from the inspection provisions of §22.1-323 of the Code of Virginia and from submission of information required by subdivisions 4, 5, 6, and 9 of §22.1-324 of the Code of Virginia and 8VAC20-350-120 of this chapter. In addition, such schools may be exempt from the~~ requirement of periodic monitoring visits required by 8VAC20- 350-200 A of this chapter if department staff is invited and accompanies the team from the school's accrediting agency on its visits to the school.

8VAC20-350-80. Certification of branch campus/extension facilities.

Any school holding a Certificate to Operate or Certificate of Program Compliance may open an additional facility to be operated under that certificate in this Commonwealth by submitting an application and securing authorization from the board or superintendent acting under authority from the board.

8VAC20-350-90. Penalty for noncompliance with regulations.

- A. Any person who opens, operates or conducts any school defined in Chapter 16 (§22.1-319 et seq.) of Title 22.1 of the Code of Virginia without having first obtained a Certificate to Operate or Certificate of Program Compliance shall be guilty of a Class 2 misdemeanor, and each day the owner permits the school to be open and operate without such a certificate shall constitute a separate offense.
- B. Any person who opens, operates or conducts any school defined in Chapter 16 (§22.1-319 et seq.) of Title 22.1 of the Code of Virginia without having first obtained a Certificate to Operate or Certificate of Program Compliance shall be subject to the penalty prescribed in 8VAC20-350-510 B of these regulations.

8VAC20-350-100. Enforcement.

Any alleged or known violation of the provisions of Chapter 16 (§22.1-319 et seq.) of Title 22.1 of the Code of Virginia and this part shall be referred to the Office of the Attorney General for referral to the attorney for the Commonwealth of the county or city in which the violation is alleged to have occurred or is occurring.

8VAC20-350-110. Information sharing.

The department may seek information on applicant schools and may provide information on certified schools from other states and agencies as it deems necessary to administer this chapter.

Part III

Application

- 8VAC20-350-120. Application Requirements for Certificate to Operate
- 8VAC20-350-125. Application Requirements for Certificate of Program
Compliance
- 8VAC20-350-130. Application Commitments

8VAC20-350-120. Application requirements for Certificate to Operate.

The following information shall be submitted as part of the application:

1. The title or name of the school, together with the names and home addresses of its owners, controlling officials, and managing employees. Where a school is owned by a partnership or corporation, evidence of compliance with all applicable regulations of the State Corporation Commission to lawfully conduct business in the Commonwealth shall be submitted. Every school shall be designated by a permanent and distinct name which shall not be changed without first securing the approval of the department. The school name shall not be in violation of §23-272 D of the Code of Virginia which deals with the use of the word "college" in the school name nor shall it misrepresent the nature of the school;

2. ~~Program outlines, along with narrative descriptions of the courses in the program and occupational objectives~~ information meeting the requirements of 8VAC350-20-210 of these regulations shall be submitted where applicable;
3. A scale drawing or copy of the floor plan which includes room dimensions of the location or locations where such instruction will take place;
4. A Certificate of Occupancy or other reports from the appropriate government agencies indicating that the location or locations meet applicable fire safety, building code and sanitation requirements;
5. A copy of the deed, lease, or other legal instruments authorizing the school to occupy such locations;
6. A listing of the equipment, training aids and textbooks used for instruction in each program or course;
7. The maximum anticipated enrollment to be accommodated with the equipment available in each specified program or course and the ratio of students to instructors;
8. A listing of the educational and teaching qualifications of instructors and administrative staff of the school and a statement signed by the school owner or administrator that all staff qualifications are in compliance with 8VAC20-350-140 and 8VAC20-350-150 of this chapter;
9. A copy of the financial statements of the school or owning entity to include, but not be limited to, the following:

- a. A balance sheet, reflecting assets, liabilities, equity, and retained earnings;
 - b. An income statement, reflecting revenues, expenses, and profits and losses;
 - c. A statement of increase or decrease in cash, reflecting the sources and uses of working capital; and
 - d. Explanatory notes, which reflect the disclosures required by generally accepted accounting principles. These statements must be as of the date of the school's most recently-ended fiscal year.
10. The department reserves the right to ~~call for, if need be~~ request, in specific cases, one of these two types of statements:
 - a. An audited financial statement, certified by an outside, independent, certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants; or
 - b. A financial statement which has been "reviewed" by an outside, independent, certified public accountant in accordance with principles established for reviews by the American Institute of Certified Public Accountants.
11. A copy of the student enrollment agreement, a current schedule of tuition and other fees, copies of all other forms used to keep student records, and the procedure for collecting and refunding tuition;

12. Copies of all advertising ~~currently used or~~ proposed for use by such school;
13. Documentation as determined by the department evidencing compliance with the student tuition guaranty provisions of §22.1-324 B of the Code of Virginia and ~~Part XIII of this chapter (8VAC20-350-480 et seq.)~~ of this chapter;
14. A copy of the school's local business license.
15. Notarized statements signed by the chief executive officer and other administrative officers that they :
 - a. Have no record of felony convictions related to the operation of a school;
 - b. Have no record of convictions involving crimes of moral turpitude;
 - c. Have no record, within the last 10 years, that involves fraud or deceptive trade practices;
 - d. Have not owned within the last 10 years, a school with habitual violations of legal requirements or a school that closed with violations including, but not limited to, unpaid refunds in Virginia or another state; or
 - e. Have not knowingly falsified or withheld information regarding the requirements of approval for obtaining a Certificate to Operate or approval of similar nature in another state.
16. Such additional information as the board or department may deem necessary to carry out the provisions of the Act.

8 VAC 20-350-125. Application requirements for institutions seeking a Certificate of Program Compliance.

1. The fee as required by 8VAC20-350-510 B of these regulations.
2. Program outline information as required by Part VI of these regulations.
3. Evidence of equipment and classroom space necessary to carry out proposed instruction.
4. Evidence of institutional approval from the primary regulatory agency.
5. Evidence of adequate financial resources to maintain the program.
6. The maximum anticipated enrollment to be accommodated with the equipment available in each specified program or course and the ratio of students to instructors;
7. A listing of the educational and teaching qualifications of instructors and administrative staff of the school and a statement signed by the school owner or administrator that all staff qualifications are in compliance with 8VAC20-350-140 and 8VAC20-350-150 of this chapter;
8. Documentation as determined by the department evidencing compliance with the student tuition guaranty provisions of §22.1-324 B of the Code of Virginia and ~~Part XIII of this chapter~~ (8VAC20-350-480 et seq.) of this chapter;
9. A copy of the school's local business license.
10. Notarized statements signed by the chief executive officer and other administrative officers that they :
 - a. Have no record of felony convictions related to the operation of a school;

- b. Have no record of convictions involving crimes of moral turpitude;
 - c. Have no record, within the last 10 years, that involves fraud or deceptive trade practices;
 - d. Have not owned within the last 10 years, a school with habitual violations of legal requirements or a school that closed with violations including, but not limited to, unpaid refunds in Virginia or another state; or
 - e. Have not knowingly falsified or withheld information regarding the requirements of approval for obtaining a Certificate to Operate or approval of similar nature in another state.
11. Such additional information as the board or department may deem necessary to carry out the provisions of the Act.

8VAC20-350-130. Applicant commitments.

Each application for a Certificate to Operate or Certificate of Program Compliance also shall include the following commitments:

- 1. To conduct the school in an ethical manner and in accordance with the provisions of §§22.1-319 through 22.1-335 of the Code of Virginia and all applicable regulations ~~which may from time to time~~ be established by the board;
- 2. To permit the board or department to inspect the school or classes being conducted at any time and to make available to the board or department, when requested to do so, all information pertaining to the activities of the school and its financial condition;

3. To advertise the school at all times in a form and manner that is free from misrepresentation, deception, or fraud and that conforms to the regulations of the board governing advertising;
4. To see that all representations made by anyone authorized by the school to act as an agent or solicitor for prospective students shall be free from misrepresentation, deception, or fraud and shall conform to the regulations of the board governing such representations;
5. To display prominently the current Certificate to Operate or Certificate of Program Compliance where it may be inspected by students, visitors, and the board or department;
6. To maintain all premises, equipment, and facilities of the school in an adequate, safe, and sanitary condition;
7. To submit to the department, in the event a school should close with students enrolled who have not completed their program of study, a list of students enrolled at the time the school closes, including the amount of tuition paid and the amount of their course or program completed;
8. To maintain current, complete, and accurate student records which shall be accessible at all times to the Board of Education or its authorized representatives. These records shall include information outlined in ~~Part VII of this chapter~~ (8VAC20-350-230 et seq.) of this chapter;
9. To conduct all courses or programs in substantial accordance with outlines submitted to and approved by the department; ~~and~~

10. To maintain financial and educational resources at a level necessary to provide training and student services consistent with program outlines, catalog descriptions, and industry standards.

~~10~~ 11. To publish and adhere to policies which conform to all state and federal laws and regulations barring discrimination on the basis of race, religion, sex, national origin or ~~handicapping condition~~ disability in all school operations.

Part IV

Staff Qualifications

- | | |
|----------------------------|--|
| 8VAC20-350-140. | Administrators |
| 8VAC20-350-150. | Instructional Staff |
| 8VAC20-350-160. | Staff Competency Requirements <u>Penalty for Non-Compliance</u> |
| 8VAC20-350-170. | Personnel Policies |
| 8VAC20-350-180. | Staff, Schools for Students with Disabilities |
| 8VAC20-350-190. | Exceptions |

8VAC20-350-140. Administrators.

Personnel employed as administrators shall have the following qualifications:

1. Hold a degree from an accredited college or university with a major in one of the areas of study offered by the school or appropriate to the job responsibilities; or
2. Is qualified by appropriate education and relevant experience; and
3. Have documented four years of experience related to the job responsibilities.

8VAC20-350-150. Instructional staff.

All persons employed as instructional staff shall have the following qualifications:

1. Hold a degree from an accredited college or university with a major in the area of teaching responsibility, where applicable, or hold a degree in a related subject area; or
2. Be a graduate of a proprietary school certified by the Board (or similar certification or approval if the school is located in another state) or other training program above the high school level with a major in the area of teaching responsibility and have a minimum of two years of occupational experience in the area of teaching responsibility or a related area; or
3. Have a minimum of four years of occupational experience, above the learning stage, in the areas of teaching responsibility.

8VAC20-350-160. ~~Staff competency requirements~~ Penalty for non-compliance

~~Administrators and instructors must be competent to carry out their assigned responsibilities. The board or department may utilize the services of consultants or~~

~~employ other measures to determine the qualifications of personnel for the position in which they are employed. Schools that are found to hire administrators and instructional staff, whose qualifications are not in compliance with the sub-paragraphs above, will be subject to the penalty prescribed in 8VAC20-350-510 B of this chapter.~~

8VAC20-350-170. Personnel policies.

Each school shall develop written personnel policies for employees which shall include, but not be limited to, job descriptions, evaluation procedures and termination policies and make them available to the board or department if requested. Each school shall maintain personnel files, which, at a minimum, shall contain, a description of the educational and occupational experience of each employee, the teaching assignment of faculty members, copies of certificates, degrees, diplomas or other awards, transcripts of educational programs, results of student and supervisory evaluations and in-service and professional development experiences. Personnel files shall be made available to the department when requested.

~~8VAC20-350-180. Staff, schools for students with disabilities.~~

~~Personnel employed in schools for students with disabilities shall meet the specific requirements of Part XI of this chapter (8VAC20-350-330 et seq.).~~

8VAC20-350-190. Exceptions

The ~~Board~~ or department may make exception to any of the above sections for good cause.

Part V

Physical Facilities, ~~Inspections~~ Monitoring

8VAC20-350-200. ~~Facilities~~ Monitoring Visits, Facilities

8VAC20-350-200. ~~Facilities~~ Monitoring visits, facilities.

- A. ~~The department shall make an inspection of the school plant and facilities and file a report which is available to the board for review as a prerequisite to certification. The department shall schedule~~ All schools shall be subject to a monitoring visit prior to the issuance of its original Certificate to Operate/Certificate of Program Compliance. After the initial visit, periodic monitoring visits to each school will be scheduled at least once every two ~~three~~ years. At any time during the three year period, a monitoring visit may be triggered by, but not limited to, the following events:
1. The submission of questionable renewal application information.
 2. Student complaints.
 3. Adverse publicity.
 4. Adverse action by the U.S. Department of Education or the school's accrediting agency.
 5. Any other event deemed by the department to warrant a monitoring visit.

- B. All facilities in use shall comply with appropriate state and local ordinances governing fire safety, sanitation, and health.
- B C A change in the location of a school shall be reported to the department at least 30 days before the move on forms provided by the department, and documents required by 8VAC20-350-120 of this chapter for the new location shall be submitted to the department before the actual move takes place. An on-site visit shall be made by the department as soon as possible following notification of the change.
- ~~C.~~ ~~The services of representatives from the Divisions of Regional Services, Compliance Coordination, Early Childhood, Pre and Early Adolescent or Adolescent may be utilized in the inspection of schools for students with disabilities. Whenever possible, the inspection of schools for students with disabilities should be made by a team knowledgeable of education for the disabled. In addition, representatives of local school divisions or other schools for students with disabilities may be included if appropriate.~~
- C D Schools which find it necessary to utilize extension facilities must submit the information required by 8VAC20-350-120 of this chapter and undergo an on-site visit to the facilities conducted by staff of the department.

~~D E~~ In the case of new construction, schools shall comply with Article 5 (§2.1-480 et seq.) of Chapter 32 of Title 2.1 of the Code of Virginia with reference to architectural barriers.

Part VI

Instructional Programs

8VAC20-350-210. Occupational Training Programs

~~8VAC20-350-220. Programs in Schools for Students with Disabilities~~

8VAC20-350-210. Occupational training programs.

- A. The instructional programs shall consist of those programs or courses or subjects which schools have been certified to offer. The course of study shall conform to state, federal, trade, or manufacturing standards of training for the occupational fields in which such standards have been established or must conform to recognized training practices in those fields. A statement from a representative or individual who has knowledge or expertise in the field (s) in which training is to be provided, attesting that the curriculum is consistent with industry standards and provides training at a level that is adequate to prepare for entry-level employment must be included. This representative or individual must also attest that he is not associated with the school;
- B. Each program shall include clearly defined occupational objectives, an orderly sequence of individual courses or units of instruction, standards of progress and grading, and specific requirements for entrance and completion.

- C. Narrative descriptions of programs and courses or units shall be submitted.
- D. Where programs contain internships or externships, in any form, the school shall enter into a written agreement for such internship or externship with the receiving company or entity, a copy of which shall be available for review by the board or department.
- E. Each resident school offering programs longer than three months in length shall divide the programs into sessions such as semesters, terms, quarters, or the like, most suitable to the school's operating calendar for a given year. Schools operating on a non-term basis may divide their programs into modules not longer than 4½ months in length.
- F. The holder of a certificate may present a supplementary application in such form as may be prescribed by the department for approval of additional programs or courses of instruction at any time.
- G. Revisions to existing programs must be submitted to the department for approval prior to implementation.

~~8VAC20-350-220. Programs in schools for students with disabilities.~~

~~Specific requirements for programs in schools for students with disabilities are found in Part XI of this chapter (8VAC20-350-330 et seq.).~~

Part VII

Student Services, Records, and Contracts

DRAFT

8VAC20-350-230. Student Services and Records

8VAC20-350-240. Applications and Enrollment Agreements

~~8VAC20-350-250. Student Records Maintenance~~

8VAC20-350-230. Student services and records.

- A. Each school shall develop, use and maintain adequate student records which shall include, but not be limited to, the following:
1. Application for admission;
 2. Enrollment agreement;
 3. Academic/attendance record (transcript);
 4. Financial payment record; and
 5. Placement record.
- B. Each school shall maintain a directory listing of all students who enroll which includes, but is not limited to, the student's name, address, telephone number, social security number, program, start date and anticipated graduation date. The information shall be current as of the date the student enrolls and shall be available for inspection by or submission to the board or department upon request.
- C. Each school offering career training shall offer placement services to the graduates of the school. A written policy must be developed and an explicit description of the extent and nature of the service submitted to the department

with the application for a certificate and published in the school's catalog. In the case of ~~correspondence~~ distance education schools, promises for job placement or career enhancement shall be as proposed, to include a placement service if appropriate.

D. Schools found to be in non-compliance with this section will be subject to the penalty prescribed in 8VAC20-350-510 B of this chapter.

~~D~~ E Records of student counseling sessions for academic or disciplinary reasons shall be maintained in the student's permanent record if termination, dismissal or withdrawal is the basis for the counseling while ~~he is in attendance~~ the student attends the school and shall be signed by the student and the staff member administering the counseling or the institution must document the student's refusal to sign. The student shall receive a copy of ~~said~~ the report.

~~E~~ F Schools shall develop, publish and provide to students clearly written, definitive policies governing conduct, attendance, satisfactory progress, and other matters relative to encouraging responsible student behavior during their matriculation at the school.

~~F~~ G Each school shall develop, publish and make available to students a procedure for resolving complaints which shall include information on reporting such complaints to the department. The department may utilize outside services to investigate and resolve complaints. To be considered for review, 1) all complaints must be submitted within one year of the occurrence of the alleged

grievable action , 2) the complainant must clearly demonstrate that he has exhausted all grievance procedures at the school level, and 3) complaints alleging quality and/or resource issues may only be filed against a school that is still in operation at the time the complaint is submitted to the department. The department may appoint a five-member committee to arbitrate and resolve complaints. Reasonable expenses incurred by the panel, if any, shall be paid by the school party requesting the arbitration.

8VAC20-350-240. Applications and enrollment agreements.

- A. The application for admission to a school ~~which~~ that has received a Certificate to Operate or Certificate of Program Compliance from the board or superintendent under authority from the board shall be in writing on a form separate from any other document.
- B. Any enrollment contract between a school certificated by the board or Superintendent under authority from the board and a student shall be in writing on a form separate from any other document ~~separate from the application for admission referred to previously~~ and shall clearly outline the obligations of both the school and the student.
- C. Any contract or enrollment agreement used by the school shall comply with the following provisions:
 - 1. The name and address of the school shall be clearly stated;

2. The name or other identification of the course or program, including the credit or number of hours of classroom instruction, home study lessons, or their study units shall be included;
3. The total cost of the course or program, including tuition and all other charges, shall be clearly stated;
4. ~~Inclusion of a~~ A disclosure that such agreement becomes a legally binding instrument upon the school's written acceptance of the student, unless cancelled pursuant to applicable sections of this chapter shall be included;
5. ~~Shall contain~~ The school's cancellation and refund policy, which shall be clearly stated shall be included; and
6. Each contract or enrollment agreement shall contain an explanation of the form and notice that should be used if a student elects to cancel the contract or enrollment agreement, the effective date of cancellation, and the name and address to which the notice should be sent.

D. An application for admission is not to be construed as binding on the student.

~~8VAC20-350-250. Student records maintenance.~~

~~Records for students in schools for children with disabilities shall be kept in accordance with the provisions found in Part XI of this chapter (8VAC20-350-330 et seq.).~~

Part VIII

Cancellation and Refund Policy

8VAC20-350-260. Cancellations, Refunds, and Minimum Refund Policy

8VAC20-350-270. ~~Correspondence Schools~~ Refund Policy for Schools
Providing Distance Education

8VAC20-350-280. Home Solicitation Sales Act

8VAC20-350-290. Exemption

8VAC20-350-300. Exception

8VAC20-350-260. Cancellations, refunds, and minimum refund policy.

- A. The school shall adopt a minimum refund policy relative to ~~the refund of tuition, fees, and other charges. if the student does not enroll in the school, does not begin the program or course, withdraws, or is dismissed.~~
- B. A school may require the payment of a reasonable nonrefundable initial fee, not to exceed ~~\$50~~ 100, to cover expenses in connection with processing a student's enrollment, provided it retains a signed statement in which the parties acknowledge their understanding that the fee is nonrefundable. No other nonrefundable fees shall be allowed prior to enrollment.

- C. All fees and payments, with the exception of the nonrefundable fee described in subsection B above, remitted to the school by a prospective student shall be refunded if the student applies but is not admitted.
- D. ~~The school shall provide a period of at least three business days, weekends and holidays excluded, during which a student applicant may cancel his enrollment~~ Upon written notification of enrollment by the school, the student applicant (one who has applied for admission to a school) shall have a period of time established by the school of no less than three business days in which to cancel his enrollment without financial obligation other than the nonrefundable fee described in subsection B above.
- E. ~~Following the period~~ After the expiration of the cancellation period described in subsection D above, a student applicant ~~(one who has applied for admission to a school)~~ may cancel, by written notice, his enrollment at any time prior to the first class day of the session for which application was made. When cancellation is requested under these circumstances, the school is required to refund all tuition paid by the student, less a maximum tuition fee of 15% of the stated costs of the course or program or \$100 whichever is less. A student applicant will be considered a student as of the first day of classes.
- F. ~~An individual's status as~~ A student's enrollment shall be terminated by the school not later than seven consecutive instructional days after the last day on which the student actually attended the school. Termination may be effected earlier by written notice. In the event that a written notice is submitted, the

effective date of termination will be the date the student last attended classes.

Schools may require that written notice be transmitted via registered or certified mail, provided that such a stipulation is contained in the written enrollment contract. The school may require that the parents or guardians of students under 18 years of age submit notices of termination on behalf of their children or wards. Schools are required to submit refunds to individuals who have terminated their status as students within 45 days after receipt of a written request or the date the student last attended classes whichever is sooner.

G. The minimum refund policy for schools which do not financially obligate the student for the entire amount of tuition at the time of initial enrollment and schedule tuition payments on a quarter, semester, trimester or other period not exceeding 4½ months basis shall be as follows:

1. A student who enters school but withdraws during the first $\frac{1}{4}$ (25%) of the period is entitled to receive as a refund a minimum of 50% of the stated cost of the course or program for the period.
2. A student who enters a school but withdraws after completing $\frac{1}{4}$ (25%), but less than $\frac{1}{2}$ (50%) of the period is entitled to receive as a refund a minimum of 25% of the stated cost of the course or program for the period.
3. A student who withdraws after completing half, or more than half, of the period is not entitled to a refund.

H. The minimum refund policy for schools which financially obligate the student for the entire amount of tuition and fees for the program or course shall be as follows:

1. A student who enters the schools but withdraws or is terminated during the first ~~¼~~ 25% of the program shall be entitled to a minimum refund amounting to 75% of the cost of the program.
2. A student who withdraws or is terminated during the second ~~¼~~ 25% of the program shall be entitled to a minimum refund amounting to 50% of the cost of the program.
3. A student who withdraws or is terminated during the third ~~¼~~ 25% of the program shall be entitled to a minimum refund amounting to 25% of the cost of the program.
4. A student who withdraws after completing ~~¾~~ (75%) of the program shall not be entitled to a refund.

I. Fractions of credit for courses completed shall be determined by dividing the total amount of time required to complete the period or the program by the amount of time the student actually spent in the program or the period, or by the number of correspondence course lessons completed, as described in the contract.

J. ~~It is not required that~~ Expenses incurred by students for instructional supplies, books, tools, activities, library, rentals, service charges, deposits, and all other

charges are not required to be considered in tuition refund computations when these expenses have been represented separately to the student in the enrollment contract and catalogue, or other documents prior to enrollment in the course or program. Schools shall adopt and adhere to reasonable policies regarding the handling of these expenses when calculating the refund and submit the policies to the department for approval.

- K. For programs longer than one year, the policy outlined in subsections G and H above shall apply separately for each year or portion thereof.
- L. All certificated proprietary schools shall comply with the cancellation and settlement policy outlined in this section, including promissory notes or contracts for tuition or fees sold to third parties. When notes, contracts or enrollment agreements are sold to third parties, the school continues to have the responsibility to provide the training specified. Schools found to be in non-compliance with the refund provisions described above may be subject to the penalty prescribed in 8VAC20-350-510 B of this chapter.

8VAC20-350-270. ~~Correspondence schools~~ Refund policy for schools providing distance education.

In the case of ~~correspondence~~ schools that provide distance education programs where a specific time limit for completion may not be applicable, the refund policy may be based on the number of lessons completed or other means acceptable to the department. If the program is a combination ~~correspondence~~ distance/resident program,

the refund policy shall apply to each part separately and the policy outlined in either subsection G or H ~~above~~ of 8VAC20-350-260 of this chapter shall apply to the resident portion depending on the length of the resident portion.

8VAC20-350-280. Home solicitation sales act.

In the case of home-solicited sales, the terms of the "Virginia Home Solicitation Sales Act," §59.1-21.3 et seq. of the Code of Virginia, shall supersede the provisions of this section of this chapter.

8VAC20-350-290. Exemption.

Schools which charge or are paid on a "services-rendered" basis may be exempted from the provisions of this part upon written request to the department.

8VAC20-350-300. Exception.

Schools may adopt a policy more liberal or fairer to the student than those outlined in this part upon approval of the department.

Part IX

Advertising, Publications

8VAC20-350-310. Advertising and Publications

8VAC20-350-310. Advertising and publications.

A. Pursuant to 8VAC20-350-30 of this chapter, no school may advertise for enrollment purposes until such time as it has received a Certificate to Operate or Certificate of Program Compliance.

A B Each school shall use its complete name and address as listed on its Certificate to Operate or Certificate of Program Compliance for all publicity or advertising purposes and in all publications and promotions.

~~B~~ C The school may advertise only that it has a Certificate to Operate or Certificate of Program Compliance from the Virginia Board of Education or Superintendent under authority from the board. No school, by virtue of having been issued a Certificate to Operate or Certificate of Program Compliance, may advertise that it is "supervised," "recommended," "endorsed," "accredited," "certified" or any other similar term, by the board, the department, or the Commonwealth of Virginia.

A school holding a ~~C~~ certificate to Operate issued by the board or superintendent under authority from the board shall not expressly or by implication indicate by any means that the ~~C~~ certificate to Operate represents an endorsement of any course or program offered by the school.

~~C~~ D No school, owner, partner, officer, employee, agent, or salesman shall advertise or represent, either orally or in writing, that the school is endorsed by colleges, universities, or other institutions of higher learning, unless it is so

endorsed and a copy of such endorsement is filed with the board or department.

D E A guarantee of placement for graduates shall not be promised or implied by a school, owner, partner, officer, employee, agent, or salesman. No school, in its advertising or through its owners, officers, or representatives, shall guarantee employment or imply the guarantee of employment or of any wage or salary before enrollment, while the course is being offered, or after its completion.

E F A school shall not advertise for enrollment in the "help-wanted" or other employment columns of newspapers or other publications. Referral ads placed in these columns are also prohibited.

F G Printed catalogues, bulletins, pamphlets, or promotional literature must be accurate concerning the school's prerequisite training requirements for admission, curricula, subject and course content, graduation requirements, tuition and other fees or charges, and terms for payment of tuition and other fees. Copies of such materials must be filed with the board or department.

G H A school shall not make any fraudulent or misleading statement about any phase of its operation including, but not limited to, the course outline, curriculum, premises, equipment, enrollment, and facilities in advertising, on its stationery, or in bulletins, pamphlets, or other material published or distributed by the school or its representatives.

¶ I Schools holding a franchise to offer specialized courses shall not advertise such courses in a manner that would impugn the value and scope of courses offered by other schools that do not hold such a franchise. Advertising special courses offered under a franchise shall be limited to the courses covered by the franchise.

¶ J Photographs, cuts, engraving, or illustrations in catalogues or sales literature shall not be used by a school in such a manner as to convey a false impression about the size, importance, or location of the school's facilities, or its equipment.

¶ K Schools shall not use endorsements, commendations, or recommendations by students, except with their consent and without any offer of financial compensation. Such material shall be kept on file by the school.

¶ L No 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, unless written evidence of this fact is presented to the board or department and permission to advertise is given by the ~~b~~Board or department.

¶ M The accrediting agency must be named if accreditation is used as part of a school's promotional material.

~~M~~ N No school may use the seal of the Commonwealth in any advertisement, publication or document.

N Q Each school shall develop and publish a catalogue conforming to this chapter. The catalogue shall describe the school's programs, policies, etc., and be submitted to the department for review and approval prior to final printing.

P. Any school found in violation of this section may be subject to the penalty prescribed in 8VAC20-350-510 B of this chapter.

Part X

~~Correspondence~~ Distance Education Schools

8VAC20-350-320. ~~Correspondence~~ Distance Education Schools

8VAC20-350-320. ~~Correspondence~~ Distance education schools.

D. Distance education programs must receive a Certificate to Operate or Certificate of Program Compliance prior to engaging in activities related to training via distance modality or at a site within Virginia. The certification requirements are primarily determined by the physical location of the school or business. Programs originating outside of Virginia through individual and private interstate communications are exempt.

A B The ~~board~~ department recognizes that requirements for facilities, equipment, and methods of instruction for ~~correspondence schools~~ distance programs are

different from those of resident schools. Where applicable, however, the regulations, as outlined, shall apply to ~~correspondence~~ these schools.

~~B~~ C Since the method of instruction provided by ~~correspondence~~ schools through distance education is ~~provided~~ transmitted primarily through the electronic exchange of ~~printed~~ material or printed materials and written examinations, the board will place considerable emphasis on the following when reviewing documentation submitted with an application from a ~~correspondence~~ distance education school:

1. The educational objectives shall be clearly defined, simply stated, and of such a nature that they can be achieved through ~~correspondence~~ distance study.
2. Courses offered are sufficiently comprehensive, accurate, and up-to-date, and educationally sound instructional material and methods are used to achieve the stated objectives.
3. The school provides adequate examination services, maintenance of records, encouragement to students, and attention to individual differences.

~~D. Correspondence~~ Distance schools that require, as a part of their training program, some type of terminal residence training shall comply with the regulations pertaining to facilities and staff.

~~Part XI~~

DRAFT

~~Specific Requirements for Schools for Children with Disabilities~~

~~8VAC20-350-330. State of Purpose, Philosophy, and Objectives~~

~~8VAC20-350-340. Administrative Personnel~~

~~8VAC20-350-350. Teachers~~

~~8VAC20-350-360. Ancillary Personnel~~

~~8VAC20-350-370. Personnel Files~~

~~8VAC20-350-380. Educational Program~~

~~8VAC20-350-390. Behavior Management Programs~~

~~8VAC20-350-400. Equipment and Instructional Materials~~

~~8VAC20-350-410. The School Plant~~

~~8VAC20-350-420. Provisions for Health~~

~~8VAC20-350-430. Transportation~~

~~8VAC20-350-440. Intradepartmental Cooperation~~

~~8VAC20-350-330. Statement of purpose, philosophy, and objectives.~~

~~Each school shall be responsible for formulating a written statement setting forth its purpose, philosophy, objectives and admissions policies which shall be used for guidance concerning the character and number of students with disabilities to be served, the instructional program to be offered, the staff to be used, and the services to be provided.~~

~~8VAC20-350-340. Administrative personnel.~~

- ~~A.— Each school shall designate a person to be responsible for the administration of the school. This person shall be a graduate of an accredited college or university and shall have sufficient time, training, and ability to carry out effectively the duties involved.~~
- ~~B.— The individual responsible for the day-to-day operation of the educational program, no matter how titled, shall hold and maintain a valid teaching certificate issued by the department. This individual shall hold an endorsement in at least one appropriate area of disability served by the school. The individual serving in this capacity could be the same person functioning as the administrator identified in subdivision 1 above provided certification requirements are met.~~
- ~~C.— The department may make exception to the above requirements for good cause upon application by the school.~~

~~8VAC20-350-350. Teachers.~~

- ~~A.— Teachers of academic courses shall hold a valid teaching certificate, issued by the department, with endorsement in at least one of the specific areas of disability served by the school, or otherwise comply with board regulations. "Otherwise comply" means: a teacher without endorsement in a specific area of disability must secure a waiver from the department and agree in writing to earn credit at the rate of six semester hours per year toward full endorsement beginning in the next semester. Requirements for a teaching certificate and the~~

~~procedure for securing a certificate are outlined in the current edition of the department's bulletin Certification Regulations for Teachers.~~

~~B. Teachers of specialized subjects such as music, art, and vocational education must hold a valid teaching certificate with an endorsement in the teaching area of responsibility and agree to complete coursework or in-service training in working with the types of students served by the school.~~

~~C. The board may make exception to the above requirements for good cause.~~

~~8VAC20-350-360. Ancillary personnel.~~

~~A. A therapist employed by a school shall be professionally trained in the area or areas of therapy in which he practices. The areas of therapy would include physical and occupational therapy. If the school employs a physical therapist, this person shall be licensed by the appropriate state authority. It is preferred that occupational therapists be registered with the American Occupational Therapy Association.~~

~~B. Audiologists or speech therapists employed by the school shall be licensed by the appropriate state authority or meet the requirements for certification as outlined in Certification Regulations for Teachers.~~

~~C. Psychologists employed by the school shall be licensed by the appropriate state authority, or meet the requirements for school psychologists, or both, as outlined in Certification Regulations for Teachers.~~

- ~~D. Teacher aides employed by the school shall be, at a minimum, a high school graduate or the equivalent and have in-service training or experience in working with the type of student served by the school.~~
- ~~E. All support personnel such as librarians, guidance counselors, social workers, etc., shall have earned a bachelor's degree from an accredited institution and hold a valid certificate, where applicable, issued by the department or be licensed by the appropriate state authority.~~
- ~~F. All medical personnel, including but not limited to nurses and physicians, shall hold all licenses required by the Commonwealth of Virginia to practice in this Commonwealth.~~
- ~~G. All volunteers and interns, or students who are receiving professional training, shall be properly supervised.~~
- ~~H. The department may make exception to the above for good cause upon application by the school.~~

~~8VAC20-350-370. Personnel files.~~

~~Personnel files for staff shall be maintained and shall include the following documentation:~~

- ~~1. Academic preparation and past experience;~~
- ~~2. Attendance records;~~
- ~~3. Copies of contracts indicating dates and terms of employment; and~~

- ~~4. Results of a current X-ray or tuberculin test and preemployment physical examination reports or other health records required by §22.1-300 of the Code of Virginia and applicable regulations of the Virginia Department of Health.~~

~~8VAC20-350-380. Educational program.~~

- ~~A. The educational program of each school shall reflect the written philosophy of the school by implementing the stated objectives through methods, procedures, and practices which reflect an understanding of and meet the applicable academic, vocational, therapeutic, recreational, and socialization needs of the students served. Educational programs for students with disabilities shall be conducted in accordance with appropriate regulations governing the education of children with disabilities approved and issued by the board.~~
- ~~B. Programs for students with disabilities shall also comply with the following requirements:~~
- ~~5. Each student identified by an LEA (Local Education Agency) as eligible for special education and related services shall have an individualized education program on file with the school in accordance with regulations of the board governing the education of children with disabilities. Students not identified as such shall have an individualized program plan;~~
- ~~6. Records of students shall be kept in accordance with regulations of the board. Guidelines for record-keeping are outlined in the current edition of~~

~~the publication, Management of the Students Scholastic Record in the
Public Schools of Virginia (8VAC20-150-10 et seq.);~~

- ~~7. The school uses testing and evaluation materials that are not racially or culturally discriminatory and do take into consideration the student's disabling conditions, racial and cultural background;~~
- ~~8. Records of triennial evaluations of eligible students with disabilities conducted in accordance with board regulations shall be on file;~~
- ~~9. A planned program for personnel development shall be provided;~~
- ~~10. There will be a plan for and documentation of contact with parents, guardians, and local school division personnel;~~
- ~~11. All procedural safeguards required by regulations governing the education of students with disabilities shall apply for eligible students;~~
- ~~12. Instructional/training schedules shall be conducted in accordance with board regulations; and~~

~~(6) The school shall maintain pupil-teacher ratios in accordance with department regulations.~~

~~8VAC20-350-390. Behavior management programs.~~

~~If a school has a program for behavior management or modification, the school shall develop and have on file written policies and procedures conforming to the provisions of this section approved by the governing body of the school. All interested~~

~~parties shall be informed of the policies through written information contained in the institution's catalogue, brochure, enrollment contract or other publications.~~

~~The following actions are prohibited:~~

- ~~1. Deprivation of drinking water or food necessary to meet a student's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the student's file. Denial of use of toilet facilities is also prohibited;~~
- ~~2. Any action which is humiliating, degrading, or abusive;~~
- ~~3. Corporal punishment except as permitted in a public school or a school maintained by the Commonwealth pursuant to §22.1-279.1 of the Code of Virginia;~~
- ~~4. Deprivation of health care including counseling;~~
- ~~5. Intrusive aversive therapy except as permitted by other applicable regulations; and~~
- ~~6. Application of aversive stimuli except as part of an intrusive aversive therapy plan approved pursuant to other applicable regulations.~~

~~8VAC20-350-400. Equipment and instructional materials.~~

- ~~A. Equipment and materials for instruction shall be provided in sufficient variety, quantity, and design to implement the educational program to meet the needs~~

~~of the students with disabilities as identified in the IEP (Individual Education Program) as appropriate.~~

~~B. There shall be a library adequately equipped or resource materials available on site to meet the needs of the students according to the types of training or educational programs offered by the school, if applicable. Depending upon the age and needs of the students with disabilities, reference materials should be available to the preacademic, the academic, and the career education levels, if applicable.~~

~~8VAC20-350-410. The school plant.~~

~~In the case of new construction, schools shall comply with Article 5 (§2.1-480 et seq.) of Chapter 32 of Title 2.1 of the Code of Virginia with reference to architectural barriers.~~

~~8VAC20-350-420. Provisions for health.~~

~~A. A report of physical examination by a physician and an immunization record shall be on file for each student. Said reports shall not be more than three years old.~~

~~B. A student suffering with contagious or infectious disease shall be excluded from school while in that condition unless attendance is approved by a physician.~~

~~C. An adequate first aid outfit shall be provided for use in the case of accidents.~~

~~D.— In schools where meals are served on a daily basis, the school shall have the services of either a full-time or part-time dietitian or nutritionist, or consultative assistance to ensure that a well-balanced nutritious daily menu is provided. Records of menus for all meals served will be kept on file for six months.~~

~~8VAC20-350-430. Transportation.~~

~~A.— All drivers of vehicles transporting students shall comply with the requirements of the applicable laws of Virginia. Appropriate safety measures which take into consideration the age range and disabling conditions of students served at the school shall be taken by staff members or other adults who may transport students to and from school.~~

~~B.— Evidence of liability insurance to protect those students transported to and from the school shall be submitted.~~

~~C.— All schools shall have on file evidence that school owned vehicles used for the purpose of transporting students to and from school and school-related activities meet federal and state standards and are maintained in accordance with applicable state and federal laws.~~

~~8VAC20-350-440. Intradepartmental cooperation.~~

~~Staff from the Department of Education will be available for consultation on educational programming.~~

Certificate Generally, Restrictions

8VAC20-350-450. Certificates to Operate, Certificates of Program Compliance

8VAC20-350-460. Display of Certificate to Operate, Certificate of Program Compliance

8VAC20-350-470. Restrictions

8VAC20-350-450. Certificates to Operate, Certificates of Program Compliance.

- A. A Certificate to Operate or Certificate of Program Compliance is not transferable. New owners of a school shall make an application for an original ~~Certificate to Operate~~. A change of ownership occurs when 50% or more of the control of a school changes from one person to another.
- B. If there is a change in ownership of a school, the current owner shall notify the ~~board or~~ department at least 30 days prior to the proposed date of sale and provide a copy of the agreement of sale. An application for an original Certificate to Operate, including all attachments listed in 8VAC20-350-120 of this chapter or an application for a Certificate of Program Compliance, including all attachments listed in 8VAC20-350-125 of this chapter, shall be submitted to the ~~board or~~ department by the new owner within 30 days following the effective date of the change. The school may be operated ~~on a temporary basis~~ under the new ownership until an original ~~Certificate to Operate~~ has been issued by the ~~Board~~ or department.

- C. A school may be operated as a branch under the certificate issued to the main campus provided application is made to the department on forms provided and the school has complied with all applicable regulations.
- D. The Certificate to Operate or Certificate of Program Compliance ~~issued by the board~~ shall be returned immediately by registered mail to the department upon:
1. Revocation;
 2. Change of location;
 3. Change of ownership;
 4. Change of name;
 5. Voluntary closure of institution;
 6. Termination of surety bond or failure to comply with the guaranty provisions of ~~Part XIII of this chapter (8VAC20-350-480 et seq.)~~ of this chapter; and
 7. Any other cause deemed sufficient by the board.

8VAC20-350-460. Display of Certificate to Operate, Certificate of Program Compliance.

- A. The current C~~ertificate to Operate~~ ~~issued hereunder~~ shall be prominently displayed on the premises of the school where it may be inspected by students, visitors, the board, its representatives, or any interested person during regular school hours.

8VAC20-350-470. Restrictions.

- A. A Certificates to Operate and Certificates of Program Compliance shall be restricted to the programs or courses specifically indicated and no other programs or courses shall be offered by a school.
- B. No school offering franchised courses shall be issued a Certificate to Operate or Certificate of Program Compliance, nor shall any franchised course be approved without prior inspection and approval of the franchise agreement by the department. Such agreement shall contain a provision that the franchise shall not be terminated unless a satisfactory arrangement has been made to assure completion of instruction of the students in the school.
- C. If the department determines that an action has occurred that threatens a disruption of the operation of the school and exposes students to a loss of training or financial loss, Authority is granted to the department to, 1) suspend enrollment in or withdraw approval of programs or courses, 2) require a guaranty instrument or increase in the penal amount of a current guaranty, and/or 3) take other actions as may be necessary to protect the rights of currently enrolled or future students of holders of Certificates to Operate or Certificate of Program Compliance that do not continue to meet the requirements of this chapter. A school that has ~~had enrollment suspended or approval withdrawn~~ any of the actions above taken shall be notified by certified mail and shall not enroll new students in such programs until notified by the department that enrollment activity may resume.

- D. Failure to comply with the department's orders may result in the penalty prescribed in 8VAC20-350-510 B of this chapter, and in notification to the Office of the Attorney General for referral to the appropriate Commonwealth's attorney's office.

Part XIII

Student Guaranty Provisions

- | | |
|-----------------|--|
| 8VAC20-350-480. | Protection of Contractual Rights of Students |
| 8VAC20-350-490. | Student Tuition Guaranty Fund (Career Schools Only) |
| 8VAC20-350-500. | Guaranty Instrument Requirements |

8VAC20-350-480. Protection of contractual rights of students.

As required by §22.1-321 of the *Code of Virginia* each school applying for or maintaining a Certificate to Operate and § 22.1-320 (B) of the *Code of Virginia* for school applying for or maintaining a Certificate of Program Compliance shall provide a certain guaranty to protect the contractual rights of students. Either or both of the following provisions of 8VAC20-350-490 and 8VAC20-350-500 shall apply as determined by the department.

8VAC20-350-490. Student Tuition Guaranty Fund (~~career schools only~~).

- A. The board hereby creates and provides for a Student Tuition Guaranty Fund.

- B. The purpose of the fund is to reimburse tuition and fees due students at institutions approved under this chapter when the institution ceases to operate.
- C. The ~~initial~~ minimum operating balance of the fund shall be set at \$250,000.
- D. Each institution granted a Certificate to Operate or Certificate of Program Completion shall pay into the fund the amount required by this chapter. Except as otherwise provided, each institution participating in the fund need not maintain or acquire surety bonds, irrevocable letters of credit, or other financial guaranties to protect student tuition as a condition to continued operation after the adoption of this chapter unless notified by the department.
- E. If the department determines that deficiencies exist in the operating circumstances of any institution authorized to operate, the institution may be required to post a guaranty instrument in accordance with the provisions of this chapter. If so required, the institution shall maintain the guaranty instrument and comply with these provisions until notified otherwise.
- F. Each institution shall make payment into the fund on the following basis:
 - 1. Payment into the fund for an institution approved to operate on or before the adoption of this chapter shall be in accordance with the schedule set forth in subdivision F 3, and shall be based upon gross tuition collected in the assessment year beginning January 1 of the preceding year. The payment shall be made not later than 60 days after notification or January 1, whichever is earliest.

2. Payment into the fund for an institution operating for less than one assessment year on the effective date of this chapter or for an institution approved to operate on or after the effective date of this chapter shall be ~~\$450~~ 300.
3. An assessment shall then be made after an institution has been operating one assessment year and it shall then make payment into the fund in accordance with the schedule set forth below based on the previous assessment year's operation. All payments into the fund shall be made within 30 days of the close of the assessment year or notification, whichever is sooner:

Gross Tuition Collected During Payment Into

Assessment Year the Fund

\$0 to \$ 25,000 \$ ~~200~~ 500

25,000 to 50,000 ~~250~~ 550

50,000 to 100,000 ~~300~~ 600

100,000 to 200,000 ~~400~~ 700

200,000 to 300,000 ~~500~~ 800

300,000 to 400,000 ~~600~~ 900

400,000 to 500,000 ~~700~~ 1,000

500,000 to 750,000 ~~1,000~~ 2,000

750,000 to 1,000,000 ~~1,250~~ 2,500

1,000,000 to 1,500,000 ~~1,500~~ 3,000

1,500,000 to 2,000,000 ~~2,000~~ 4,000

Over 2,000,000 ~~2,000~~ 4,000 plus 1/10 of ~~4~~1.5% of all gross tuition over \$2,000,000

4. New schools shall meet the guaranty requirements of 8VAC20-350-500 for the first three years of operation and pay an initial fee of \$150300 upon receipt of its Certificate to Operate. Thereafter, the institution shall pay into the fund in a pattern equal to payments made by other schools upon notification by the department. Pursuant to 8VAC20-350-500 of this Chapter, after this initial period and upon satisfactory performance by the school, the guaranty requirement may be waived by the department. The provisions of this section shall not apply to schools holding a valid

Certificate to Operate or Certificate of Program Completion on a continuous basis prior to the enactment of this regulation.

- G. If, after the effective date of this chapter, the board authorizes the operation of an institution upon the determination that there has been a change in ownership, the institution shall make a payment into the fund, without regard to payments, if any, previously made by the institution or its predecessor under the following conditions:
1. If the institution has been operating for at least one assessment year, the institution, under its new ownership, shall pay into the fund in accordance with the schedule in subdivision F 3 of this section for the last assessment year of operation and the payment shall be due before approval to operate under new ownership; or
 2. If an institution has been operating for less than one assessment year, the institution, under its new ownership, shall pay into the fund in accordance with the provisions of subdivision F 2 of this section.
- H. In the event the school fails to pay its student guaranty fund assessment within the time set forth in subsection G of this section, the Certificate to Operate or Certificate of Program Compliance will automatically expire. The department may grant one 60-day extension if the school submits a written request citing hardship and submits a current financial statement.
- I. Advisory committee.

1. ~~The board shall appoint a five-member~~ The Proprietary Schools advisory committee, ~~to make recommendations to it respecting the fund.~~ provided for in Section 22.1-322 of the Code of Virginia, shall serve in an advisory capacity to the director of the fund.
2. ~~The five-member advisory committee shall be appointed and have terms as follows:~~
 - a. ~~Three members shall be school owners or operators;~~
 - b. ~~Two members shall be persons other than school owners or operators;~~
 - c. ~~All members shall be appointed for a three-year term except that the first appointment shall be for terms as follows:~~
 - (1) ~~The terms for each of the three school owners or operators shall be one for three years, one for two years, and one for one year, respectively.~~
 - (2) ~~The terms for each of the two persons who are other than school owners or operators shall be one to a two-year and one to a one-year term, respectively.~~
 - (3) ~~Advisory committee members are eligible for reappointment.~~
 - (4) ~~The advisory committee shall establish the time and place for its meetings and rules of procedures for its meetings.~~
 - (5) (2) ~~On July 31 of each year the advisory committee~~ department shall file ~~an advisory~~ report on the fund with the ~~board~~

superintendent, which shall include ~~such recommendations concerning the operations or changes in operation or minimum balance of the fund as it may deem appropriate.~~ any fund activity for the year and recommendations for the continued operation of the fund.

~~(6) The advisory committee shall recommend to the superintendent the amount of money which it concludes is the minimum operating level of the fund necessary for the fund to function effectively.~~

- J. The superintendent may appoint a director of the fund from ~~his staff~~ the department who shall serve at ~~his~~ the pleasure of and be responsible to the superintendent for the administration of the fund.
- K. The director of the fund, after consulting with the advisory committee, shall have the authority to determine whether a claim merits reimbursement from the fund, and if so, the:
1. Amount of the reimbursement;
 2. Time, place, and manner of ~~its~~ payment;
 3. Conditions upon which payment shall be made; and
 4. Order in which payments shall be made.
- L. A claimant or other person does not have any right in the fund as beneficiary or otherwise.

- M. Claims against the fund may be paid in whole or in part, ~~based upon~~ to the extent to which program objectives were met for of each claimant's percentage of program completion, and taking into consideration the:
1. Amounts available and likely to become available to the fund for payments of claims;
 2. Total amount and number of claims presented or reasonably likely to be presented in the future;
 3. Total amount and number of claims caused by the cessation of operation of an institution;
 4. Amounts paid out from the fund on claims in the past;
 5. Availability to the claimant of a teach-out program;
 6. The total amount of moneys paid to the school by identified or prospective claimants; and
 7. The balance maintained in the fund after payment of duly authorized claims may not drop below \$35,000.
- N. A claim shall be made against the fund only if it arises out of the cessation of operation by an institution on or after the effective date of this chapter. If the institution holds a surety bond or other guaranty instrument as required by 8VAC20-350-500, the first priority shall be to file a claim against the guaranty instrument. Claims shall be filed with the director of the fund on forms prescribed by the department within ~~three~~ one years after cessation of operation by the institution. Claims filed after that are not considered. Within a

reasonable time after receipt of a claim, the director shall give the institution or its owners, or both, notice of the claim and an opportunity to show cause, within 30 days, why the claim should not be reimbursed in whole or part. The director ~~may cause to be made other~~ expand the investigation of the claim as ~~he deems~~ appropriate or may ~~base his~~ issue a determination, without further investigation, upon information contained in the records of the board.

- O. The director's determination shall be in writing and shall be mailed to the claimant and the institution or its owners, or both, and shall become final 30 days after the receipt of the determination. ~~unless either the~~ During this 30 day period, the claimant or the institution, or its owners ~~within the 30-day period,~~ files may file with the director a written request for ~~a hearing~~ reconsideration. ~~Upon request, a hearing shall be held and, subject to the authority of the director to exclude irrelevant or other inappropriate evidence, the claimant and the institution or its owners may present such information as they deem pertinent.~~ The written request shall contain all the evidence which supports the request for reconsideration. Within 30 days of the receipt of the request for reconsideration, a three-member panel consisting of department staff shall review the request and make a final decision. The superintendent or designee shall approve the final decision.
- P. The superintendent shall administer the fund upon the following basis:

1. The assets of the fund ~~may not be expended for any purpose other than to pay bona fide claims made against the fund;~~ are restricted to payments of bona fide claims for reimbursement.

2. A bona fide student claim is determined as follows:

- a. Verification that the claimant was actively enrolled and in attendance at the closed school no more than six months prior to the official closure date;
- b. Verification of all tuition charges, including but not limited to cancelled checks, credit card receipts, and/or lender documentation; and
- c. Verification of all courses completed and grades received.

~~2~~ 3 All payments into the fund shall be maintained by the state comptroller who shall deposit and invest the assets of the fund in any savings accounts or funds which are federally or state insured, and all interests or other return on the fund shall be credited to the fund;

~~3~~ 4 Payment into the fund shall be made in the form of a company or cashier's check or money order made payable to the "Student Tuition Guaranty Fund";

Q. When a claim is allowed by the director, the superintendent, as agent for the fund, shall be subrogated in writing to the amount of the claim, ~~and~~ The superintendent is authorized to take all steps necessary to perfect the

subrogation rights before payment of the claim. Refunds will be made, first, to the lender issuing student financial aid or the guarantor of the loan, and second, to the student. In the event there was no financial aid involved, refunds will be made to the student. If payment of an institution's obligation is made from the fund, the superintendent shall seek repayment of the sums from the institution or such other persons or entities as may be responsible for the institution's obligations. This provision shall be enforced through the office of the Attorney General.

- R. If the moneys in the fund are insufficient to ~~satisfy for~~ pay the duly authorized claims, there shall be a reassessment based on the formula specified in subdivision F 3 of this section. If there are three reassessments, the superintendent and the advisory committee shall conduct a review of the operating circumstances of the fund and make recommendations to the board. These recommendations shall include, but not be limited to, recommendations as to whether the fund should remain in force or whether the minimum balance is sufficient. During the course of this review, the superintendent shall solicit advice from the schools and members of the public respecting the fund.

8VAC20-350-500. Guaranty instrument requirements.

- A. All initial applicants for a Certificate to Operate or Certificate of Program Compliance shall provide a bond, irrevocable letter of credit or certificate of deposit as required by this section and maintain said guaranty instrument for

~~the first three years of operation. After that time the school may petition the guaranty fund advisory committee for release from its obligation of the guaranty instrument. In addition, schools for students with disabilities shall maintain a guaranty instrument as required by this section as a condition of continued certification. apply to the department for a waiver from the guaranty instrument requirements. The school must demonstrate that it is in good standing with the department, free from student complaints for at least twelve months prior to the waiver request, submit financial statements audited or reviewed by a certified public accountant, show profitability for the two most recent years and have a positive net worth and maintain current assets to current liabilities ratio of no less than 1:1.~~

B. The department may suspend the waiver provision for good cause.

~~B~~ C If it is determined that a guaranty instrument is required for a career school in accordance with the provisions of 8VAC20-350-490 E, a guaranty instrument, payable to the Commonwealth of Virginia, on forms provided by the Department of Education to protect the contractual rights of the students shall be filed with the application for a Certificate to Operate.

~~C.~~ The amount of the guaranty instrument shall be based on the total maximum enrollments as follows:

~~Maximum Student~~

Enrollment ——— Minimum Guaranty

0-50 ——— \$ 5,000

51-100 ——— 10,000

101-150 ——— 15,000

151-200 ——— 20,000

201-250 ——— 25,000

251-300 ——— 30,000

301-350 ——— 35,000

351-400 ——— 40,000

401-450 ——— 45,000

451 and over ——— 50,000

~~D. The guaranty requirements for schools for students with disabilities may be reduced, at the discretion of the department, if the school shows that it collects no advance tuition other than equal monthly installments or is paid after~~

~~services have been rendered. The minimum guaranty for any school shall be \$1,000. Schools that feel they may qualify for a reduced guaranty may apply, on forms provided for that purpose, to the proprietary school service for authority to submit less guaranty than the law requires.~~

E. ~~For guaranty instrument purposes, the school shall count its total current enrollment as of the date of the application, or its largest enrollment as of the date of the application, or its largest enrollment in the preceding 12 months, whichever is greater. A school being organized shall use the maximum projected enrollment which will be subject to revision based on the enrollment 60 days following the date classes start. The penal amount of the guaranty instrument shall be calculated as follows based upon maximum approved student enrollment:~~

1. If the school collects tuition in multiple installments from or on behalf of students, a guaranty in an amount sufficient to cover 50% of the tuition liability of the school must be submitted, unless the department determines that financial conditions warrant a greater amount.
2. A school that does not collect tuition in multiple installments from or on behalf of its students provide a guaranty instrument in an amount sufficient to cover 100% of the tuition liability of the school.
3. The school may not exceed the maximum student enrollment covered by the guaranty instrument. The school may request approval from the department to increase or decrease the maximum student enrollment.

The department will notify the school of any adjustments to the guaranty instrument penal amount as a result of the increase or decrease.

4. Failure to maintain sufficient guaranty, may result in the penalty prescribed in 8VAC20-350-510 B of this Chapter.

F. In the event a ~~surety bond~~ guaranty instrument is terminated, not renewed, or expires; the Certificate to Operate will automatically expire if a replacement ~~bond instrument~~ is not provided.

Part XIV

Fees and Penalties

8VAC20-350-510. Fees and Penalties, Generally

8VAC20-350-510. Fees and penalties, generally.

- A. The following fees shall be charged and shall apply toward the cost of investigation and issuance of the Certificate to Operate to career schools:
1. Original Certificate to Operate - ~~\$300~~ 600
 2. Original Certificate of Program Compliance - \$200
 - ~~2~~ 3 Renewal of Certificate to Operate - ~~\$150~~ 300 plus 0.12% of gross tuition receipts for the prior assessment year.
 4. Renewal of Certificate of Program Compliance - \$150 plus 0.1% of gross tuition receipts for the prior assessment year for affected program only.

- 3 5 Reissuance of Certificate to Operate for:
 - a. Change of location - ~~\$400~~ 200
 - b. Addition of programs - ~~\$400~~ 250
 - c. Program deletions - \$50
 - d. Addition of branch campus - ~~\$400~~ 200

- 4 6 Review of out-of-state school for issuing of agent permits (annual) -
~~\$400~~ 300

- 5 7 Original agent permit - ~~\$50~~ 150

- 6 8 Renewal of agent permit - ~~\$25~~ 75

- 7 9 Revised program review and approval/program name change - ~~\$500~~
100

- 8 10 Extension classroom/additional space approval - \$50

- 9 11 Requested catalog review - \$50

- ~~10. Penalty for failure to meet the deadline for submission of renewal
applications or complete the initial application timelines - \$100~~

- 11 12 Search and issuance of student transcript - \$5.00

B. The following fees penalties shall be charged and shall apply toward the cost of investigation and issuance of the Certificate to Operate and Certificates of Program Compliance ~~for students with disabilities:~~

1. ~~Original Certificate to Operate - \$150~~ Failure to meet the 60 day deadline for completion of original application per 8VAC20-350-50 - \$200
2. Request for 30-day extension-incomplete original application per 8VAC20-350-50 - \$200
- ~~2 3~~ Renewal of Certificate to Operate - \$75 Failure to meet certificate renewal deadline per 8VAC20-350-520 B - \$200
- ~~3 4~~ Reissuance of Certificate to Operate for: Request for certificate 30-day renewal extension per 8VAC20-350-520 B - \$200
 - a. ~~Change of location - \$25~~
 - b. ~~Addition of programs - \$25~~
- ~~4 5~~ Review of out-of-state school for issuing of agent permits (annual) - \$50
Failure to maintain administrative and instructional staff whose qualifications meet the requirements of 8VAC20-350-160 - \$500 per occurrence
- ~~5 6~~ Original agent permit - \$5.00 Failure to maintain student records in accordance with 8VAC20-350-230 - \$50 per record/\$1000 maximum

~~6 7~~ Renewal of agent permit – \$1.00 Failure to provide refunds in accordance with 8VAC20-350-260 - \$100 per violation/\$1000 maximum

~~7 8~~ Penalty for failure to meet the deadline for submission of renewal applications – \$100 Improper advertising per 8VAC20-350-310 et seq. - \$200

9. Failure to comply with the department's orders per 8VAC20-350-470 et seq. - \$500

10. Failure to maintain adequate guaranty 8VAC20-350-500 E - \$500

11. Failure to comply with the provisions of 8VAC20-350-500 F pertaining to the disbursement of tuition – \$500 per occurrence/\$5,000 maximum

C. All fees penalties shall be submitted at the time of ~~application~~ notification and are nonrefundable. All funds collected through the assessment of penalties will be deposited in the proprietary schools operating account and be used to assist in activities associated with school closures.

D. All fees and penalties shall be paid by school or company check or money order made payable to the "Treasurer of Virginia." Personal checks are not acceptable.

Part XV

Certificate Renewal

8VAC20-350.520. Renewal of Certificate to Operate, Certificate of Program Compliance

8VAC20-350-520. Renewal of Certificate to Operate, Certificate of Program Compliance.

- A. Every school that continues to operate as such shall submit annually, at least 45 days prior to the expiration date of its Certificate to Operate/Certificate of Program Compliance, an application, on forms provided by the department and pay the required fee for certificate renewal. The application for renewal shall include in addition to other information, a current financial statement, a current fire inspection report, and a current schedule of tuition and other fees. Schools which do not submit complete applications and documents required for renewal within the renewal period designated by the department, including a grace period of five business days after the deadline, shall be subject to the fee penalties described prescribed in ~~subdivision B 10 of~~ 8VAC20-350-510 B of this chapter.
- B. Every Certificate to Operate/certificate of program compliance which has not been renewed by the board on or before the annual certificate renewal anniversary date may be granted up to two 30-day extensions and pay the penalty prescribed in 8VAC20-350-510 B of this chapter. At the end of the

second 30-day extension, the Certificate to Operate/Certificate of Program Compliance shall expire and the school shall cease operation enrollment immediately. A new ~~C~~ertificate to Operate shall be obtained from the ~~h~~Board before such school may resume ~~operations~~ enrollment. ~~a~~All of the requirements of ~~Part III of this chapter (8VAC20-350-120 et seq.)~~ and 8VAC20-350-125 of this chapter shall be met before the department will issue a certificate.

- C. Any school not complying with the provisions of this section shall be deemed to be in violation of this chapter and shall be reported to the Office of the Attorney General for appropriate action.

Part XVI

Denial, Revocation, Suspension or Refusal to Renew a Certificate, Grounds

8VAC20-350-530.	Board Actions
8VAC20-350-540.	Refusal, Denial, Revocation or Suspension
<u>8VAC20-350-545.</u>	<u>Penalties for Violation of these Regulations</u>
8VAC20-350-550.	Board Investigation
8VAC20-350-560.	Department Investigation Procedures
8VAC20-350-570.	Corrective Actions
8VAC20-350-580.	Procedure for Taking Actions
8VAC20-350-590.	Revocation or Denial Consequences
8VAC20-350-530.	Board actions.

The Certificate to Operate or Certificate of Program Compliance shall not be denied, revoked or suspended or a request for renewal refused except upon the action of the ~~the~~ Board or its designee which shall be reported in writing. Records of the ~~board's~~ findings, recommendations and actions shall be preserved in writing.

8VAC20-350-540. Refusal, denial, revocation or suspension.

The board or designee may refuse to renew or may deny, revoke or suspend the Certificate to Operate of a school for any one or combination of the following causes:

1. Violation of any provision of Chapter 16 (§22.1-319 et seq.) of Title 22.1 of the Code of Virginia or any regulation made by the ~~the~~ Board;
2. Furnishing false, misleading, or incomplete information to the board or department or failure to furnish information requested by the ~~the~~ Board or department;
3. Violation of any commitment made in an application for a Certificate to Operate or Certificate of Program Compliance;
4. Presenting to prospective students information which is false, misleading, or fraudulent regarding employment opportunities, starting salaries or the possibility of receiving academic credit from any institution of higher learning;

5. Failure to provide or maintain the premises or equipment in a safe and sanitary condition as required by law or by state regulations or local ordinances;
6. Making false promises through solicitors or by advertising or by using some other method to influence, persuade, or induce enrollment;
7. Paying a commission or providing other compensation for service performed in violation of Chapter 16 (§22.1-319 et seq.) of Title 22.1 of the Code of Virginia;
8. Failing to maintain adequate financial resources to conduct satisfactorily the courses of instruction offered or to retain an adequate, qualified instructional staff;
9. Conducting instruction in a course or program which has not been approved by the board or department;
10. Demonstrating unworthiness or incompetency to conduct a school in any matter not calculated to safeguard the interests of the public;
11. Failing within a reasonable time to provide information requested by the bBoard or department as a result of a formal or informal complaint or as supplement to an application;
12. Attempting to use or employ enrolled students in any commercial activity whereby the school receives compensation without reasonable remuneration to the students unless activities are essential to their

- training and are permitted and authorized by the ~~b~~Board or department as a part of the program or course;
13. Engaging in or authorizing other conduct which constitutes fraudulent or dishonest action;
 14. Attempting to confer any degree on any student in violation of §23-272 D of the Code of Virginia;
 15. Violation of or failure to adhere to the student guaranty provisions set forth in ~~Part XIII of this chapter (8VAC20-350-480 et seq.)~~ of this chapter;
 16. Failure to comply with all applicable laws promulgated by a state outside Virginia in which the school is soliciting students; and
 17. Failing, within a reasonable time, to make refunds due and payable.
 18. Failure to comply with the department's orders in 8VAC20-350-470 regarding restrictions.
 19. Receives verification that the chief executive or other officers are in violation of 8VAC20-350-120 14 of this chapter.

8VAC20-350-545. Penalties for violation of these regulations

Instead of or in addition to denying, suspending, or revoking a Certificate to Operate or Certificate of Program Compliance, the superintendent may impose a penalty of up to \$5,000 for each violation of these regulations or of the conditions on

which any approval issued to the school was based. When imposing penalties, the superintendent shall consider one or more of the following:

1. The harm caused by the deficiency including, but not limited to, the number of individuals affected and the degree to which they were harmed;
2. The good faith of the school and any corrective actions taken, including all reasonable steps or procedures taken by the school that are necessary and appropriate to comply with statutes and regulations and to correct the violations;
3. Any history of previous deficiencies including, but not limited to, any prior violations by the school of statutes, regulations, or orders administered, adopted, or issued by the board;
4. Other pertinent circumstances.
5. The penalty may not be less than \$100 per day per violations;
6. The total penalty may not exceed \$5,000 per violation.
7. The superintendent may seek judicial remedies, such as an injunction, at any time following the written notice of the deficiencies and before the board's final decision regarding revocation or suspension.

8VAC20-350-550. Board investigation.

The ~~b~~Board or department may, upon its own motion, and shall upon the written complaint of any individual setting forth facts which, if proved, would constitute

grounds for denial, refusal, suspension, or revocation of a Certificate to Operate or Certificate of Program Compliance, investigate the actions of any applicant or any persons holding or claiming to hold such certificate.

8VAC20-350-560. Department investigation procedures.

~~Authority is granted to~~ The department staff ~~to investigate~~ complaints from individuals and other sources concerning alleged violations of Chapter 16 (§22.1-319 et seq.) of Title 22.1 of the Code of Virginia or the regulations either by a school or by an agent. In accordance with 22.1-322 (B) of the Code of Virginia, the department may use the services of a five-member arbitration committee to resolve the matter. ~~Where the findings of the department is in favor of the complainant,~~ . The school shall ~~abide by any recommendations made~~ comply with the findings of the committee. If the school ~~disagrees with the recommendations~~ appeals the findings, the department shall hold an informal hearing ~~to determine whether further action (i.e., revocation, suspension or refusal to renew a certificate) is warranted~~ in accordance with the provisions of the Administrative Process Act (§9-6.14:1 et seq. of the Code of Virginia). The superintendent or his designee shall chair the hearing.

8VAC20-350-570. Corrective actions.

Before proceeding to a hearing, as provided for in Chapter 16 (§22.1-319 et seq.) of Title 22.1 of the Code of Virginia, on the question of whether a Certificate to Operate, Certificate of Program Completion, or permit shall be denied, refused,

suspended, or revoked for any cause, the ~~b~~Board, or designee, may grant to the holder of, or applicant for, a ~~C~~certificate to Operate a reasonable period of time to correct any unsatisfactory condition. If within such time, the condition is corrected to the ~~board's~~ department's satisfaction, no further action leading to denial, refusal, suspension, or revocation shall be taken by the ~~board.~~department.

8VAC20-350-580. Procedure for taking actions.

All actions taken under the provisions of this section in regard to denials, revocations, suspensions, penalties, or refusals to renew shall be taken in accordance with the provisions of the Administrative Process Act (§9-6.14:1 et seq. of the Code of Virginia).

8VAC20-350-590. Revocation or denial consequences.

Any owner of a school ~~which~~ that has had a certificate revoked, has been denied a certificate, or has been refused renewal of a certificate shall not be allowed to apply for another certificate ~~before~~ for at least 12 months ~~have passed since~~ following the date of the formal action ~~was taken~~. In addition, this ~~policy~~ requirement shall apply to any owner who fails to comply with the provisions of ~~Part XIX of this chapter~~ (8VAC20-350-640 et seq.) of this chapter when closing a school.

Part XVII

Listing of Schools

8VAC20-350-600. School Listing

8VAC20-350-600. School listing.

The department shall maintain a list of schools holding valid ~~C~~certificates to operate under the provisions of Chapter 16 (~~§22.1-319 et seq.~~) of Title 22.1 of the Code of Virginia, which shall be available for the information of the public.

Part XVIII

Agent Permits

8VAC20-350-610. Agent's Permits: General Provisions

8VAC20-350-620. Application for Permit

8VAC20-350-630. Revoking and Suspending an Agent's Permit

8VAC20-350-610. Agent's permits: general provisions.

- A. Every agent or solicitor representing any school for the purpose of recruiting or enrolling students off the premises of the school, whether the school is located in the Commonwealth or outside the Commonwealth, shall apply to the department in writing upon forms prepared and furnished by it. Every such agent shall not function as such until ~~he~~ the agent has been issued a permit by the department. Representatives of a school participating in high school career

or college-day programs to explain their school's program of study and for that purpose only are exempted from securing an agent's permit.

- B. Any individual representing a school ~~who~~ that in any way comes into contact with prospective students off the premises of the school for the purpose of gaining information or soliciting enrollment shall be regarded as an agent of the school subject to all permit licensing requirements of the Commonwealth.
- C. Each school shall be responsible and liable for the acts of its agents acting within the scope of ~~his~~ their authority and must familiarize such agents with the provisions of Chapter 16 (§§22.1-319 et seq.) of Title 22.1 of the Code of Virginia and regulations adopted by the board.
- D. After an application for a permit has been filed with the department and is complete and acceptable, the department shall prepare and deliver to the applicant a card which among other things, shall contain the name, address, and picture of the agent, and the name of the employing school, and shall certify that the person whose name appears thereon is an authorized agent of the school named thereon. The year for which a permit is issued shall be prominently displayed on the card. The permit shall be valid for not more than one year and shall expire on December 31 following the date of issue.
- E. Each agent shall display or produce the agent's permit when requested to do so by any students, prospective students, parents, guardians, school officials or by a member of the department or its representatives.

- F. If agents are authorized to prepare or publish advertising, or to use promotional materials, the school accepts full responsibility for the advertising and the contents of the materials used.
- G. Where agents are authorized to collect money from an applicant for enrollment, they shall give the applicant a receipt for the money collected and a copy of the enrollment agreement.
- H. No agent is permitted to use a title which misrepresents his duties and responsibilities.
- I. No agent shall violate any of the standards set by the board governing advertising and promotional material.
- J. Each agent or solicitor shall submit annually on or before November 15 an application to renew his permit on forms provided by the department and pay a renewal fee as prescribed in Part XIV of this chapter (8VAC20-350-510 et seq.). Every permit which has not been renewed by the department on or before December 31 of each year shall expire. Schools which do not submit complete applications and documents required for renewal within the renewal period designated by the department, including a grace period of five business days after the deadline shall be subject to the penalty fee described in subdivision A 10 of 8VAC20-350-510 of this chapter.

8VAC20-350-620. Application for permit.

- A. Each applicant for an agent's permit shall furnish all information required by the department. The department may make such reasonable investigation of any applicant as it deems necessary. The application shall include, ~~among other things~~ but is not limited to:
1. Recommendations of three reputable persons certifying that the applicant is truthful, honest, and of good reputation and that they recommend that a permit be issued to the applicant. ~~The~~ At least one recommendations shall ~~include at least one~~ be from a former employer ~~and one other professional relation.~~
 2. Each application for an agent's permit shall be accompanied by a fee as prescribed in Part XIV of this chapter (8VAC20-350-510 et seq.). Payment shall be made by company or school check or money order payable to the "Treasurer of Virginia." The fee submitted with the agent's application shall not be refunded if the agent's permit is denied. Personal checks are not acceptable.
- B. Agents representing out-of-state schools. Out-of-state schools desiring to employ agents to solicit students in the Commonwealth shall submit the information prescribed in Part III of this chapter (8VAC20-350-120 et seq.) or as requested by the department in the case of renewal of permits and pay fees as listed in Part XIV of this chapter (8VAC20-350-510 et seq.). All catalogs, applications, enrollment agreements, advertising, or other similar items shall be in compliance with applicable sections of this chapter.

8VAC20-350-630. Revoking and suspending an agent's permit.

- A. The department may deny issuance of or suspend or revoke a permit issued to any agent for a school for the following causes:
1. Violation of any provision of Chapter 16 (§22.1-319 et seq.) of Title 22.1 of the Code of Virginia or any regulation of the board;
 2. Presenting or giving to a prospective student or his parent or guardian, information which is false, misleading, or fraudulent or which makes false or misleading representations concerning employment opportunities, or the possibility of receiving credit for courses offered by the school at any institution of higher learning;
 3. Failing to display a valid permit when requested by a prospective student, his parent, or guardian, or by any members of the board or representative of the department;
 4. Failing to provide information requested by the department as a result of a formal or informal complaint to the department; or
 5. Failing to comply with laws promulgated by any state outside Virginia in which the agent is soliciting students.
- B. The department may temporarily suspend a permit held by an agent employed by any school if action is being taken against the school by its state approving authority or accrediting agency pending resolution of the action if it is determined that such action may cause closure of the school.

- C. No permit shall be revoked, denied or ~~not renewed~~ refused renewal by the department until it has held a hearing. Such hearings and any appeals shall be conducted in the same manner as those relating to revoking, refusing to renew or denying a Certificate to Operate described in Part XVI of this chapter (8VAC20-350-530 et seq.).
- D. At the option of the student or his parent or guardian, all contracts entered into by any student, his parent or guardian, solicited or given them by any agent or solicitor who does not possess a current and valid permit, and any nonnegotiable promissory note or other nonnegotiable evidence of indebtedness taken in lieu of cash by such agent or solicitor may be declared invalid by the department and moneys paid recovered by the department from the school ~~he~~ the agent represents.
- E. Any agent having a permit revoked shall be prohibited from soliciting students for any school governed by this chapter for a period of one year following the date of formal action of the revocation.

Part XIX

School Closings

8VAC20-350-640. School Closing Procedures.

8VAC20-350-640. School closing procedures.

- A. A school which is closing shall notify its students of the closing in writing and make arrangements to assure that they are able to complete their program of

study or provide for refunds to students. In the event such arrangements cannot be made, the department shall ~~be available to~~ assist in making special arrangements for students to complete their programs or advise students ~~will be advised~~ of their rights in regard to filing claims against the Student Tuition Guaranty Fund.

- B. Each school which is closing shall notify the department in writing in advance of the anticipated closing date and provide the following information relative to the students currently enrolled:
1. A directory listing as described in 8VAC20-350-230 B of this chapter;
and
 2. A copy of each student's academic attendance, ~~and~~ financial payment records and ~~a copy of the~~ enrollment agreement.
- C. At the time of notification, the school shall submit a written plan detailing the process of closure which provides for the following:
1. The cessation of all recruitment activities and student enrollments as of the date of the notice;
 2. A description of the provisions made for the students to complete their program of study;
 3. Copies of all notices of the closing given to students, the general public and other interested parties ~~such as~~ including but not limited to accrediting agencies, the U.S. Department of Education, loan guarantee agencies, ~~etc~~;

4. Provisions for the transfer of all student records to the department within 30 days of the close and notification to all students of the location of their records; and
 5. Provisions for notifying students in writing of their financial obligations.
- D. Records for students transmitted to the department shall be the originals or certified true copies which include, at a minimum, the following components;
1. Academic records showing the basis for admission, transfer credits, courses completed, and grades for those courses;
 2. Up-to-date attendance and financial payment records and, where applicable, a completed financial aid transcript;
 3. Evidence of refunds made to students where applicable; and
 4. Any enrollment agreements executed between the student and the school.
- E. The cost of transferring the records to the department shall be borne by the school.
- F. In the event a school files a bankruptcy petition, a complete, certified true copy shall be filed with the department. If students are unable to complete their program of study, they shall be given the highest creditor status allowed by statute for refunds in the full amount of moneys paid into the school.
- ~~G. Records for students in schools for children with disabilities shall be returned to the student's home school division.~~

H G The board or department may request any additional information which is reasonable and necessary to carry out its responsibility.

Part XX

Transmittal of Documents and Materials

8VAC20-350-650. Transmitting Documents and other Materials

8VAC20-350-650. Transmitting documents and other materials.

- A. The mailing of applications, forms, letters, or other papers shall not constitute receipt of the same by the department unless sent by registered mail, certified mail, express mail, or courier with return receipt requested.
- B. All materials should be addressed to the Proprietary Schools Service Unit, Department of Education, Box 2120, Richmond, VA 23216-8-2120 or Proprietary Schools Service Unit, James Monroe Building, ~~49~~24th Floor, 101 North 14th Street, Richmond, VA 23219.
- C. Material submitted by electronic means (e.g., facsimile machine, computer ~~etc.~~) will be accepted contingent upon receipt of original documents sent in accordance with subsection A of this section.

Part XXI

Amendments

8VAC20-350-660. Regulatory Changes

8VAC20-350-660. Regulatory changes.

Substantive amendments to this chapter shall be made in accordance with the provisions of §9-6.14:1 et seq. of the Code of Virginia, formally known as the Virginia Administrative Process Act.