

Attachment 1 – Regulations Proposed for Rescission

603 CMR 3.00: Private Occupational Schools

3.01: Definitions

As used in 603 CMR 3.00, the terms listed below shall have the following meanings:

Commissioner. The Commissioner of Education of the Commonwealth of Massachusetts or his designee.

Department. The Department of Elementary and Secondary Education of the Commonwealth of Massachusetts.

Instructional Hour or Clock Hour. A period of 50-60 minutes in length, during which an instructor or teacher is present and interacting with students.

Registered School. A private business school charging not more than \$250.00 in tuition per student in a 12 month period.

Sales Representative. A person who solicits enrollments of prospective students, at their places of residence within the Commonwealth of Massachusetts, regardless of the location of the school.

School. A private business school as defined by M.G.L. c. 75D, § 1, a private trade school as defined by M.G.L. c. 93, § 21A, or correspondence school as defined by M.G.L. c. 75C, § 1. This term does not include seminars.

Seminar. Short term training of no more than 15 hours duration, not scheduled in a regular calendar format, and offered as introduction or orientation to an occupation or as advanced level training to those already engaged in a business or trade.

Surety. A bond with surety, or an irrevocable letter of credit payable to the Commonwealth as beneficiary, or a term deposit account payable to the Commonwealth, Commissioner of Education, to be held in trust for the benefit of students.

3.02: General Provisions

(1) All schools defined in 603 CMR 3.01, except registered schools, shall have a license from the Department to operate. A school shall display its license in a prominent location on its premises. A school shall not transfer its license.

(2) The Department may observe and inspect any location used for instructional purpose by a school. These locations may include, but are not limited to, the premises of a school, the site of clinical training or on-site job training.

(3) The Department may inspect school records, i.e., student files, enrollment agreements, student progress reports and grades, admission files, student payment records, course and program schedules and other related materials.

(4) No change in name, address or ownership of a school shall occur until the Department approves the requested changes(s).

3.03: Application Process

In addition to the information required to be submitted by M.G.L. c. 75C, § 3, M.G.L. c. 75D, § 4 and M.G.L. c. 93, § 21B, all applicants for a license to operate a school shall submit the following to the Department:

- (1) a completed application on a form provided by the Department;
- (2) the required fee;
- (3) certification from the State Auditor that the applicant is financially qualified to operate a school;
- (4) surety in the amount determined by the State Auditor;
- (5) an inspection report from the local building inspector certifying that the premises comply with the State Building Code (not applicable to correspondence schools); and
- (6) an inspection report from the local fire department certifying that the premises comply with applicable fire codes (not applicable to correspondence schools).

3.04: Registered Schools

Registered schools shall comply with the provisions contained in 603 CMR 3.06 and 3.13.

3.05: Sales Representatives

- (1) Any individual that the school employs as a sales representative shall be licensed by the Department. A representative's license shall remain valid for a period of two years from the date of issue.
- (2) In addition to the information required to be submitted by M.G.L. c. 75C, § 3, M.G.L. c. 75D, § 7 and M.G.L. c. 93, § 21E, all applicants for a sales representative's license, or to renew such license, shall submit the following to the Department:
 - (a) a completed application on a form provided by the Department;
 - (b) the required fee;
 - (c) proof of good moral character; and
 - (d) surety in the amount of \$ 1,000.

3.06: Surety Requirement

- (1) In addition to the information required to be submitted by M.G.L. c. 75C, §1A, M.G.L. c. 75D, § 3 and M.G.L. c. 93, § 20A, an applicant for a license to operate a school shall apply for certification that it is financially qualified by submitting financial statements to the State Auditor.
- (2) The State Auditor shall determine the amount of surety a school must have to operate. No school shall operate without valid surety, as determined by the State Auditor.

(3) A school shall apply for a reevaluation of its financial qualification on an annual basis by submitting current financial statements to the State Auditor. Failure to submit the financial statements is cause for suspension and/or revocation of a license pursuant to 603 CMR 3.17.

(4) If the State Auditor increases the amount of surety a school needs, the school shall submit additional surety to the Department within 30 days. Failure to obtain the additional surety is cause for suspension and/or revocation of a license pursuant to 603 CMR 3.17.

(5) If the surety is canceled, the school or sales representative shall procure new surety prior to the effective cancellation date. Failure to procure new surety is cause for suspension and revocation of a license pursuant to 603 CMR 3.17.

3.07: Facilities

A school's premises shall comply with all applicable building and fire codes. A school shall notify the Department of any proposed changes in location. A school shall not conduct classes in any facility unless it has obtained the inspection reports required by 603 CMR 3.03 (5) and (6). Failure to obtain such inspection reports is cause for suspension and revocation of a license pursuant to 603 CMR 3.17.

3.08: Equipment

(1) A school shall maintain a list of all books, supplies, material, equipment and tools used for instructional purposes. The list shall be made available for inspection upon request.

(2) Schools shall provide equipment, tools and supplies consistent with modern occupational standards, in a variety sufficient to allow instruction in all modern methods and in quantities sufficient to enable each student to work effectively and continuously towards the desired skill level. The equipment shall comply with all safety standards. The school shall provide adequate space and establish procedures sufficient to ensure the students' safety.

3.09: Curriculum

(1) Each school shall submit an outline describing each program to the Department, including the following information:

- (a) a brief description of each course;
- (b) a total number of instructional hours in each program and course;
- (c) the tuition charged for each program and course;
- (d) the minimum entrance requirements;
- (e) a description of the clinical off-campus training experiences in each program and course.

(2) A school shall notify the Department regarding any addition, modification or elimination of any program and/or course.

(3) A school shall give each prospective student a written outline of each program offered by the school. The outline shall contain course descriptions, entrance requirements, the total number of instructional hours required to obtain a certificate or diploma and the costs of the courses and programs.

3.10: Certificates or Diplomas

Each school shall file with the Department a sample copy of any certificate or diploma it awards to students. A description of the requirements for a certificate or diploma shall accompany the sample copy.

3.11: Attendance, Grading and Progress Reports

(1) A school shall keep attendance records on students for seven years.

(2) A school shall record the results of all examinations and evaluations for students enrolled in courses. The school shall include the results in a written progress report. A school shall provide students with appropriate reports of progress, at least once during the program or course. A school shall provide students with final grades and record the grades on the student's permanent record.

3.12: School Records

(1) A school shall keep a permanent record of each student who enrolls in any of the school's courses or programs. The record shall contain:

- (a) the student's name and address;
- (b) the date of enrollment;
- (c) the title of each course or program taken;
- (d) the student's grades;
- (e) the date of completion; and
- (f) the date the student received a diploma or certificate.

(2) A school shall keep a record of the amount of tuition paid by each student, the method of payment and a copy of the enrollment contract for a period of seven years.

(3) If a school closes or ceases to do business as a school, it shall provide a repository for all students' permanent records, payment records and enrollment contracts. These records shall be maintained for a period of seven years from the date of the school's closing. The school shall notify the Department in writing of the location of the repository.

(4) A school shall keep and maintain financial records that are required by the State Auditor for a period of seven years.

3.13: Enrollment Contracts

(1) Each school shall use a student enrollment contract, and shall provide each student with a copy of his/her enrollment contract. The enrollment contract shall include the following information: the title of the course or program to be taken by the student; the total number of instructional hours to be taken by the student; the tuition charges and any other charges; the method of payment; the refund policy; the entrance requirements and the period beyond which late registration will not be accepted.

(2) For-profit schools shall use a refund policy that conforms to the requirements of M.G.L. c. 255, §13K.

(3) Any agreement which contains a finance charge or that provides for five or more payments is subject to M.G.L. c. 255D, § 9.

3.14: Advertisements

(1) A school shall not call itself a "college" or "university" in advertising or elsewhere.

(2) A school shall not advertise or imply that the Department "supervises," "recommends," "endorses," "accredits," or "approves" the school. A licensed school may indicate in literature or advertising that the school is "Licensed by the Commonwealth of Massachusetts, Department of Elementary and Secondary Education."

(3) A school shall not advertise or imply that the school guarantees employment, or specify a wage per hour or gross salary, for those who complete a course or program offered by the school.

(4) All advertising is governed by 940 CMR 3.10, violations of which are enforceable under the provisions of M.G.L. c. 93A, the Consumer Protection Act.

3.15: Qualifications for Instructors

(1) Prior to employment a school shall obtain the Department's approval of all candidates for teaching positions. Schools shall submit to the Department an application for approval of each teacher.

(2) Instructors shall have specific qualifications as follows:

(a) Business Programs and Academic Programs.

1. Bachelor's degree with a major or minor in the subject area to be taught; or
2. Bachelor's degree in Liberal Arts and four years documented work experience in the occupational area to be taught; or
3. A combination of education and work experience acceptable to the Department.

(b) Allied Health Programs.

1. A bachelor's degree in the subject area and two years recent occupational experience in the specialty to be taught; or
2. A combination of education and work experience acceptable to the Department

(c) Modeling and Related Programs.

1. High school diploma plus certificate from a licensed school of modeling, and two years work experience; or
2. High school diploma, plus three years work experience; or
3. A combination of education and work experience acceptable by the Department.

(d) Trade and Technical Programs.

1. High school diploma plus four years recent employment experience; or

2. Diploma or certificate from a postsecondary trade or technical school plus two years work experience; or
3. A combination of education and experience acceptable to the Department.

(3) A teacher of an occupation that requires its practitioners to be licensed shall be so licensed.

(4) All teachers shall be of sound moral character.

(5) In cases of emergency, a school may employ an unapproved teacher as a substitute for up to ten school days. A school shall obtain approval from the Department to employ an unapproved teacher as a substitute for more than ten school days.

(6) The Department has the right to revoke instructor approval at any time for reasonable cause.

3.16: Renewal of License

(1) Every license shall remain valid for a period of two years from the date of issue, unless suspended or revoked pursuant to 603 CMR 3.17.

(2) A school shall apply for renewal no later than 30 days before the expiration of its current license by submitting the information listed in 603 CMR 3.03 to the Department.

3.17: Suspension and Revocation

(1) The Commissioner may suspend a license for cause, subject to the provisions of M.G.L. c. 30A

(2) If a school's license has been suspended for failure to submit inspection reports as required by 603 CMR 3.07, the school shall cease all operations until such reports have been submitted to the Department.

(3) If a school's license has been suspended for failure to comply with 603 CMR 3.06, the school may provide instruction, but it shall not collect any tuition or fees from currently enrolled students. The school shall not engage in advertising or promotion nor recruit or enroll new students.

(4) Prior to the suspension or revocation of a license the Department shall provide the licensee written notification of the intended action in accordance with M.G.L. c. 30A.

(5) A licensee shall be entitled to a hearing prior to suspension or revocation unless the license is suspended or revoked for failure to comply with 603 CMR 3.06 or 3.07. The school shall request a hearing in writing, addressed to the Commissioner. The school shall send the request within 15 days of receiving notice of the Department's decision to suspend or revoke a license. If the school fails to request a hearing, the Department's decision to suspend or revoke shall become final. The Department's decision is subject to judicial review in accordance with M.G.L. c. 30A.

3.18: Student Complaints

- (1) A school shall establish a procedure for resolving student complaints. The procedure shall be published and distributed to the students. The procedure shall also be published in the school's catalogue.
- (2) The school shall respond to student complaints within 30 days from the submission of the complaint by the student in writing, to the school.
- (3) A written record of student complaints shall be maintained by a school for a period of one year following the graduation or withdrawal of the student.
- (4) Any student aggrieved by the failure of a school to resolve a complaint that concerns a violation of these regulations may file a written complaint with the Department.