

**POLICIES AND PROCEDURES**  
**FOR**  
**MARYLAND PRIVATE CAREER SCHOOLS**

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**Maryland Higher Education Commission**  
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FOR MARYLAND PRIVATE CAREER SCHOOLS**

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## **I. STATUTORY AUTHORITY OF THE COMMISSION REGARDING THE APPROVAL OF PRIVATE CAREER SCHOOLS**

The Maryland Higher Education Commission (Commission) has the responsibility to approve institutions of postsecondary education including private career schools. **Education Article, Section 11-202, Annotated Code of Maryland** states:

*An institution of postsecondary education may not commence or continue to operate, do business, or function without a certificate of approval from the Commission.*

### **A. Definition of a Private Career School:**

The Commission's approval authority extends to all private career schools that seek to operate in Maryland. A private career school is defined in **Education Article, Section 10-101(h) of the Annotated Code of Maryland** as follows:

*Private career school -- "Private career school" means a privately owned and privately operated institution of postsecondary education, other than an institution of higher education, that furnishes or offers to furnish programs, whether or not requiring a payment of tuition or a fee, for the purpose of training, retraining, or upgrading individuals for gainful employment as skilled or semi-skilled workers or technicians in recognized occupations or in new and emerging occupations.*

Therefore, a private career school is one that offers job training. The objective of the job training is to prepare an individual to gain initial employment, to retrain in order to re-enter the labor market, or to upgrade and advance to a different or higher level occupation. A private career school provides training that is of sufficient content and length to accomplish the objectives set out above.

As an institution of postsecondary education, a private career school offers an educational program in the State for individuals who are at least 16 years old and who have graduated from or left elementary or secondary school.

### **B. Exemptions:**

As identified in the **Code of Maryland Regulations (COMAR) 13B.01.01.03B**, exempt from the Commission's approval and the regulations which govern private career schools are the following:

1. *Workshops, seminars, and demonstrations which are not part of a program.*
2. *Refresher or continuing education instruction sponsored by any professional group for the exclusive use and benefit of the members of that professional group.*
3. *Instruction conducted by persons, firms, corporations, or other organizations exclusively for their own employees. This exclusion does not apply to these agencies or organizations if they enroll individuals other than their own employees.*
4. *Apprenticeship and other training offered by unions for their membership.*
5. *A church or other religious institution offering a postsecondary instructional program designed for and aimed at persons who hold or seek to learn the particular religious*

*faiths or beliefs of that church or religious organization, as provided in Education Article 11-202, Annotated Code of Maryland.*

**6. *Individual instructors who go to various places to offer instruction to not more than one individual.***

In most instances, vocational training offered internally or for a restricted audience and not the general public is exempt from regulation by the Commission. This includes: funded group contract training; corporate training conducted exclusively for corporate employees; training conducted by unions or professional associations exclusively for their own membership; and one-on-one instruction and tutorials. The exemption for funded group contract training does not apply to training provided through an individual training account or voucher.

Also exempt from regulation by the Commission is training, such as single seminars and workshops, which do not prepare or upgrade an individual for employment and which does not purport to be job preparatory.

In addition, continuing education courses that are required to maintain an individual's professional license and to update the knowledge required for an individual's current occupation are exempt from Commission approval. However, training that is provided for the purpose of training, retraining, or upgrading individuals for gainful employment requires Commission approval.

## II. FINANCIAL GUARANTEES

### A. Statutory Authority:

**Education Article, Section 11-203, Annotated Code of Maryland** empowers the Maryland Higher Education Commission to require financial guarantees of institutions of higher education, including private career schools. **Education Article, Section 11-203 (a-c) of the Annotated Code** states:

- (a) *May be required. - The Commission may require any institution of postsecondary education that is required to obtain a certificate of approval to furnish a performance bond or other form of financial guarantee to the State conditioned that the institution will:*
  - (1) *Perform faithfully all agreements or contracts it makes with its students; and*
  - (2) *Comply with this article.*
  
- (b) *Form and amount. - Any bond required under this section shall be in the form and amount the Secretary requires.*
  
- (c) *Liability of surety; payment.*
  - (1) *The total liability of a surety on a bond under this section may not exceed the amount of the bond.*
  
  - (2) *If the total amount of claims filed against a bond exceeds the amount of the bond, the surety shall pay the amount of the bond to the Secretary for distribution to the claimants.*

This statutory authority requirement applies to all private career schools.

**SUMMARY OF FINANCIAL GUARANTEE REQUIREMENTS**  
**(Refer to Subsections B-F Below for Additional Information)**

**Note: Maryland regulations authorize the Secretary of Higher Education to determine the amount of a financial guarantee. Therefore, the Secretary may determine that the financial condition of an individual school warrants a financial guarantee in an amount greater than that identified below.**

<b>Type of Program and/or School</b>	<b>Financial Guarantee Requirement</b>
<u>Any</u> program delivered in whole or in part by distance education	<ul style="list-style-type: none"> <li>• A financial guarantee is mandatory for any program offered by distance education.</li> <li>• The guarantee must be in the form of a performance bond or a letter of credit.</li> <li>• The amount of the guarantee must be sufficient to protect 100% of the tuition liability of students enrolled in the distance education program.</li> <li>• See Subsection B for detailed information.</li> </ul>
New School	<ul style="list-style-type: none"> <li>• A financial guarantee is mandatory for a new school and must be maintained by the school for <u>10</u> years.</li> <li>• The guarantee must be in the form of a performance bond or a letter of credit.</li> <li>• During the initial 5 years of approval, the amount of the financial guarantee must be sufficient to protect either 50% or 100% of the tuition liability of the school's maximum student enrollment. The percentage is determined by the Secretary based on: (1) the financial condition of the school as reflected in a financial statement(s) and (2) the method by which tuition is collected by the school.</li> <li>• During the 6<sup>th</sup> through the 10<sup>th</sup> year of initial approval, the amount of the financial guarantee must be sufficient to protect either 30% or 100% of the tuition liability of the school's maximum student enrollment. The percentage is determined by the Secretary based on: (1) the financial condition of the school as reflected in a financial statement(s) and (2) the method by which tuition is collected by the school.</li> <li>• See Subsection C for detailed information.</li> </ul>
Approved School	<ul style="list-style-type: none"> <li>• After the 10<sup>th</sup> year of initial approval, the Secretary determines whether a financial guarantee is warranted based on the financial condition of the school and, if applicable, its parent corporation.</li> <li>• The guarantee must be in the form of a performance bond or a letter of credit.</li> <li>• The amount of the financial guarantee must be sufficient to protect 30% of the tuition liability of enrolled students.</li> <li>• See Subsection D for detailed information.</li> </ul>

Type of Program and/or School	Financial Guarantee Requirement
Change of Ownership	<ul style="list-style-type: none"> <li>• The Secretary determines whether a financial guarantee is required and in what amount based on: (1) the initial approval date of the school and (2) the financial condition of both the current and future owners of the school.</li> <li>• The guarantee must be in the form of a performance bond or a letter of credit.</li> <li>• See Subsection E for detailed information.</li> </ul>
Additional Locations of Existing Schools	<ul style="list-style-type: none"> <li>• See Subsection F below for detailed information.</li> </ul>

**B. Financial Guarantee for a Program Delivered in Whole or in Part by Distance Education:**

A financial guarantee is mandatory for a program delivered in whole or in part by distance education. This applies to all private career schools delivering distance education including new schools, approved schools, changes of ownership, and additional facilities of approved schools. A financial guarantee is required regardless of the financial condition of the school, the length of time an approved school has operated, or the method by which tuition is collected.

The required financial guarantee must be in the form of a performance bond or a letter of credit and in an amount sufficient to cover 100% of the tuition liability of students enrolled in any program delivered in whole or part by distance education.

The amount of the financial guarantee for a program delivered in whole or part by distance education will be determined by the following two-step calculation:

**Step one:** Multiply the cost of tuition by the maximum approved student enrollment. This maximum enrollment will be based upon the projected enrollment for the program, not to exceed the capacity of the school's facilities, equipment, and staffing, and upon the school's bonding capability.

**Step two:** Multiply the total tuition derived from step one by 100%. This figure represents the projected tuition liability.

**Example:** The projected tuition liability for a program with a maximum student enrollment of 50 and tuition of \$2,000 will be calculated as follows:

$$(50 \text{ students} \times \$2,000 \text{ tuition}) \times 100\% = \$100,000$$

**C. Financial Guarantee for a New School:**

The following requirements apply, except for programs delivered in whole or part by distance education. (Refer to Subsection B above for information about financial guarantees for distance education.)

The requirement of a financial guarantee for schools seeking initial approval to operate is referenced in the **Code of Maryland Regulations, Section 13B.01.01.04B(6)(b)**. It states:

*The Secretary may require a school to forward a financial guarantee in the form of a renewable performance bond or an irrevocable letter of credit. The bond or letter of credit shall be in an amount and under terms and conditions determined by the Secretary, and it shall be made payable to the Secretary of Higher Education. The completed bond or letter of credit is to be forwarded to the Secretary of Higher Education.*

Prior to approval, a proposed school will be required to obtain a financial guarantee as specified by the Secretary. The school will maintain the guarantee in this form for a period of at least ten years unless notified otherwise by the Secretary.

**During the Initial Five Years of Approval:** Except for training delivered by distance education, a new school during its initial five years of approval may choose to provide either of the following two options, if the school collects tuition in multiple installments from or on behalf of students:

1. Financial guarantee in an amount sufficient to cover 100% of the tuition liability of the school in accordance with the Code of Maryland Regulations, Section 13B.01.01.04B(12);<sup>1</sup>

**OR**

2. A financial statement required by the Code of Maryland Regulations, Sections 13B.01.01.04B(2)(b) and 13B.01.01.04B(11);<sup>2</sup> **and** A financial guarantee in an amount sufficient to cover 50% of the tuition liability of the school, unless the Secretary determines that financial conditions warrant a greater amount.

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<sup>1</sup> Section 13B.01.01.04B(12) of the Code of Maryland Regulations states:

*(12) A financial guarantee under B(2)(b) of this regulation shall be in the form of a bond or letter of credit that is sufficient to cover the full tuition liability of the school. The bond or letter of credit shall be in the amount and under the terms and conditions determined by the Secretary, and made payable to the Secretary of Higher Education.*

<sup>2</sup>Section 13B.01.01.04B(2) of the Code of Maryland Regulations states:

*(2) In addition to documents required by the application form, the application shall include the following items:*

- (a) A detailed and accurate description of the school's proposed program or programs and operation of the school;*
- (b) A financial statement described in B(11) of this regulation or a financial guarantee described in B(12) of this regulation;*

Section 13B.01.01.04B(11) of the Code of Maryland Regulations states:

- (11) A financial statement under B(2)(b) of this regulation shall:*
  - (a) Be reviewed by a certified public accountant;*
  - (b) Demonstrate that the applicant has adequate resources and assets to protect the interest of students to be enrolled;*
  - (c) Contain comparative financial data for the previous 3 fiscal years, when available; and*
  - (d) Be certified as true and correct by a responsible official on behalf of the applicant.*

A new school that does not collect tuition in multiple installments from or on behalf of its students must provide a financial guarantee in an amount sufficient to cover 100% of the tuition liability of the school.

The projected tuition liability will be determined by the following two-step calculation:

**Step one:** Multiply the cost of tuition by the maximum approved student enrollment. This maximum enrollment will be based upon the applicant's projected enrollment for the school, not to exceed the capacity of the school's facilities, equipment, and staffing, and upon the school's bonding capability.

**Step two:** Multiply the total tuition derived from step one by 100%, 50%, or a percentage specified by the Secretary. This figure represents the projected tuition liability.

**Example:** The projected tuition liability for a new school with a maximum student enrollment of 50 and tuition of \$2,000 will be calculated as follows:

$$(50 \text{ students} \times \$2,000 \text{ tuition}) \times 100\% = \$100,000$$

or

$$(50 \text{ students} \times \$2,000 \text{ tuition}) \times 50\% = \$50,000$$

The school may not exceed the maximum student enrollment covered by the financial guarantee. However, the school may request approval from the Commission to increase the maximum student enrollment which may result in an increase in the financial guarantee.

**During the Initial 6<sup>th</sup> through 10<sup>th</sup> Year of Approval:** Except for training delivered by distance education, a school during its initial sixth through 10<sup>th</sup> year of approval may choose to provide either of the following two options, if the school collects tuition in multiple installments from or on behalf of students:

1. Financial guarantee in an amount sufficient to cover 100% of the tuition liability of the school in accordance with the Code of Maryland Regulations, Section 13B.01.01.04B(12);

**OR**

2. A financial statement required by the Code of Maryland Regulations, Sections 13B.01.01.04B(2)(b) and 13B.01.01.04B(11); **and** A financial guarantee in an amount sufficient to cover 30% of the tuition liability of the school, unless the Secretary determines that financial conditions warrant a greater amount.

A School that does not collect tuition in multiple installments from or on behalf of its students must provide a financial guarantee in an amount sufficient to cover 100% of the tuition liability of the school.

The projected tuition liability will be determined by the following two-step calculation:

**Step one:** Multiply the cost of tuition by the maximum approved student enrollment. This maximum enrollment will be based upon the maximum projected enrollment for the

school, not to exceed the capacity of the school's facilities, equipment, and staffing, and upon the school's bonding capability.

**Step two:** Multiply the total tuition derived from step one by 100%, 30%, or a percentage specified by the Secretary. This figure represents the projected tuition liability.

Example: The projected tuition liability for a new school with a maximum student enrollment of 50 and tuition of \$2,000 will be calculated as follows:

$$(50 \text{ students} \times \$2,000 \text{ tuition}) \times 100\% = \$100,000$$

or

$$(50 \text{ students} \times \$2,000 \text{ tuition}) \times 30\% = \$30,000$$

The school may not exceed the maximum student enrollment covered by the financial guarantee. However, the school may request approval from the Commission to increase the maximum student enrollment which may result in an increase in the financial guarantee.

At the conclusion of the ten-year period, the school's financial condition and requirement for a financial guarantee will be determined based on the criteria for approved schools. This criteria is identified in the following Subsection D.

**D. Financial Guarantee for an Approved School:**

The following requirements apply, except for programs delivered in whole or part by distance education. (Refer to Subsection B above for information about financial guarantees for distance education.)

**Section 13B.01.01.04C(6) of Code of Maryland Regulations** states:

*The Secretary may require a school to forward a financial guarantee in the form of a performance bond or an irrevocable letter of credit if, at the time of renewal of authority to operate or during the period of a school's operation, the Secretary determines the financial condition of the school warrants this action. The bond or letter of credit shall be in an amount and under terms and conditions determined by the Secretary, and made payable to the Secretary of Higher Education. The completed bond or letter of credit is to be forwarded to the Secretary of Higher Education. Failure to obtain a required bond or letter of credit shall result in a denial of the school's renewal of approval to operate.*

Thus, the Secretary may impose the requirement of a financial guarantee upon operating private career schools if financial conditions warrant.

The Secretary will evaluate on an annual basis the operation of the school and determine whether the institution complies with the minimum financial standards set forth in the Code of Maryland Regulations (COMAR). **Sections 13B.01.01.17A-D of COMAR** require schools to operate in accordance with sound principles of financial management and maintain financial resources adequate for the satisfactory conduct of the school. Schools will be measured for the satisfactory conduct of the school. Schools will be measured against these general principles as well as the standards identified later in this Subsection.

Approved private career schools will submit to the Commission financial statements, audited or reviewed by a Certified Public Accountant. These statements and other financial information, including external accounting reports on individual schools and their parent corporations, will be evaluated against criteria identified below to determine whether financial conditions warrant the imposition of a financial guarantee. Both the school and, if applicable, its parent corporation will be required to meet the minimum standards including the following:

1. Operate at a profit. Income must exceed expenditures for the two most recent years.
2. Have a positive net worth and maintain at least a 1:1 ratio of current assets to current liabilities.
3. Satisfy the following requirements, if the institution is accredited and participates in Title IV Federal Financial Aid:
  - a) The institution must maintain its eligibility to participate in Title IV Federal Financial Aid Programs.
  - b) The institution must meet the standards, including those pertaining to student loan default, required to maintain the school's current eligibility to participate in Title IV Federal Financial Aid Programs and to avoid suspension or withdrawal of eligibility for the Title IV Programs.

Failure to demonstrate adequate financial resources by meeting minimum standards, including those previously stated, may require the school to obtain a financial guarantee sufficient to protect the tuition of students enrolled in the school. The Secretary will notify the school of the amount, form, and time frame within which the guarantee must be obtained. Current forms which a school may use to obtain a letter of credit or bond appear as **Appendices 1 and 2** respectively.

The following principles underlie the policies outlined below:

- An approved school electing to discontinue its operation is strongly encouraged to teach-out (complete the training for which they contracted) all current students.
- If the school is unable or unwilling to teach-out all students, the financial guarantee will be used at the discretion of the student for: (1) a viable teach-out arrangement approved by the Commission, or (2) a full tuition refund.

Therefore, the amount of the financial guarantee for approved schools will be determined by the Secretary based upon relevant factors, including but not limited to: The cost of a Commission approved teach-out to complete the training of enrolled students. This amount will be determined from an analysis of the school's actual costs for faculty and administrative salaries, lease agreements, and other items essential to the education and training of students. Such factors as advertising, recruiting, travel, and other items not directly related to an actual teach-out will be excluded.

Under no circumstances will the guarantee exceed projected tuition liability as calculated by multiplying the cost of tuition by the actual total student enrollment by a factor of 30%.

Once imposed, the school will be required to obtain the financial guarantee as specified by the Secretary. The school will maintain it in this form unless notified otherwise by the Secretary. The school may not exceed the maximum student enrollment covered by the financial guarantee.

The Secretary will periodically review the school's financial conditions and student enrollment to determine whether changes to the financial guarantee are required. The school will be notified if changes are warranted.

The school may request approval to increase the maximum student enrollment, which may result in an increase in the financial guarantee.

**E. Financial Guarantee for a Change of Ownership:**

The following requirements apply, except for programs delivered in whole or part by distance education. (Refer to Subsection B above for information about financial guarantees for distance education.)

The requirement of a financial guarantee for schools seeking approval for a change of ownership is referenced in the **Code of Maryland Regulations, Section 13B.01.01.04D(5)**. It states:

*The Secretary may require the prospective owner of a school to forward a financial guarantee in the form of a performance bond or an irrevocable letter of credit. The bond or letter of credit shall be in an amount and under terms and conditions determined by the Secretary and made payable to the Secretary of Higher Education. The completed bond or letter of credit is to be forwarded to the Secretary of Higher Education.*

Schools seeking approval for a change of ownership will be regarded as existing schools for the purpose of determining whether a financial guarantee is required and in what amount. The initial approval date of the school dictates the requirement or amount of a financial guarantee. If warranted, the acquisition of the guarantee will be required prior to Commission approval of the ownership change.

The policies and procedures outlined in the previous Subsections C and D apply in the case of a change of ownership with the following caveat: The financial statements of both the current and future owners will be evaluated to determine the appropriate amount of the guarantee, if warranted.

**F. Financial Guarantee for Additional Facilities of an Approved School:**

The following requirements apply, except for programs delivered in whole or part by distance education. (Refer to Subsection B above for information about financial guarantees for distance education.)

The requirements of a financial guarantee for additional facilities operated under the same ownership and corporation and offering the same programs as an approved school in good standing in Maryland are the same as the policies and procedures outlined in the previous subsections. Additionally, the Secretary will take into consideration the financial backing of the school, the school's business plan, and the recommendations by the Commission's accounting firm.

The school may not exceed the maximum student enrollment covered by the financial guarantee. However, the school may request approval from the Commission to increase the maximum student enrollment which may result in an increase in the financial guarantee.

### **III. DELEGATION OF RESPONSIBILITY**

The Maryland Higher Education Commission has delegated to the Secretary of Higher Education the responsibility and authority to act on its behalf on applications for the operation of private career schools in the State, including but not limited to initial approvals, renewals of approval, changes of ownership, approvals of additional locations and new programs, denials of approval, and withdrawals of approval.

## IV. THE APPROVAL PROCESS

### A. Initial Approval to Operate a Private Career School:

Section 13B.01.01.04B(1) of the Code of Maryland Regulations (COMAR) states:

*Application for initial approval of a school shall be made to the Secretary on an application form provided by the Secretary, and accompanied by such additional information as may be required.*

**Appendix 3** is an Application for Initial Approval to Operate a Private Career School in Maryland. The application includes, but is not limited to the following items:

- 1 A description of the proposed school's program(s) and operation.
- 2 A financial statement reviewed by a certified public accountant.
- 3 A projection of anticipated revenue and expenditures for the school's first year of operation.
- 4 A non-refundable application fee in the amount of:
  - a. \$300 for schools seeking approval for up to three programs; or
  - b. \$300 plus \$100 for each programs over three, for schools seeking approval for more than three programs.
- 5 A plan for a school free of drug and alcohol abuse.

The application for approval to operate a private career school is in two parts (**Appendix 1**) . The applicant may submit Parts I and II of the application separately or both parts at the same time. The application is designed in this manner so that less costly items such as those in Part I of the application could be reviewed before the applicant submits Part II which requires substantial expenditures for facilities, equipment, and the hiring of employees.

If the applicant decides to submit first Part I of the application for review, the applicant may take up to six (6) months from the date of submittal of Part I to submit Part II of the application. Incomplete submissions of either Part I or Part II of the application must be accompanied by the remaining required materials within six months after the initial submission is made.

Within thirty days of receipt of both parts of the application, the Secretary will inform the applicant whether the application is complete or not complete. If the application is not complete, it will be returned to the applicant. The applicant may resubmit a completed application.

All new school applications are carefully reviewed to assure that new schools will open and operate on a sound educational and financial basis. Commission staff review the application to determine if it complies with the Code of Maryland Regulations governing private career schools. In addition, the curriculum is submitted to a subject specialist for review and comment. Any deficiencies with the application will be identified and forwarded to the applicant.

The amount of time required for this multi-phase review process varies according to the complexity and quality of each application. Prior to approval, Commission staff conduct an on-site visit to the school facility to assure that the proposed school complies with the regulations and is ready to operate.

When the application meets the minimum standards of the Maryland Code of Regulations (COMAR), the application will be presented before an advisory council appointed by the Secretary to make recommendations regarding the approval of private career schools. Currently the Secretary's Advisory Council (SAC) is comprised of six voting representatives knowledgeable of national and statewide manpower needs and two members from the private career school industry.

The applicant will have the opportunity to appear before the council to answer questions and make comments regarding the application. Following the meeting, SAC's recommendation will be forwarded to the Secretary. The Secretary will submit to the applicant a decision regarding the approval of the proposed new private career school.

The Secretary may grant approval to operate in accordance with **COMAR, Section 13B.01.01.04B7(b)** which states:

*If the Secretary is satisfied, based on all the information available to the Secretary, that the minimum requirements set forth in the regulations are met, the Secretary shall issue a certificate of approval to operate on the conditions and for a period of time not to exceed 5 years, as the Secretary may consider appropriate. The Secretary may grant interim approval for the school to operate, specifying the conditions and the duration of the interim approval.*

If the Secretary believes that a private career school that applies for a certificate of approval does not meet the conditions or standards necessary for the issuance of the certificate, the Secretary must give the institution written notice of the specific deficiencies. Within twenty days of receipt of this notice, the applicant may request a hearing before the Commission to determine if the certificate of approval should be issued. The applicant may also request a hearing if neither a certificate of approval nor a notice of deficiencies has been issued within 6 months of submitting a complete application to the Commission.

The applicant's right of appeal appears in the **Education Article, Annotated Code, Sections 11-202 (f)** which states:

- (2) *Within 20 days of receipt of a notice of deficiencies, the institution may request a hearing before the Commission, and within 60 days of receipt of the request the Commission shall hold a hearing to determine if the certificate of approval should be issued.*
- (3) *If, within 6 months from the date on which the application for certification was submitted to the Commission, the institution has received neither a certificate of approval under subsection (b) of this section nor written notice of deficiencies under this subsection, the institution may request within 20 days a hearing before the Commission to determine if the certificate of approval should be issued.*

Any institution that is denied a certificate of approval by the Commission after a hearing granted under **Section 11-202 (f) of the Annotated Code** may seek judicial review in accordance with **Section 11-202 (g) of the Annotated Code**.

**B. Approval of a Change of Ownership of a Private Career School:**

**Section 13B.01.01.04D(1-3) of the Code of Maryland Regulations (COMAR)** states:

- (1) The certificate of approval of a school may not be sold, transferred or pledged.*
- (2) The certificate of approval of a school is automatically revoked upon a change of ownership, by whatever means, of that school.*
- (3) If an approved school is being sold, pledged, or otherwise transferred, the school and its prospective transferees shall apply for approval for the school before the transfer is consummated. The application shall be made in accordance with regulations governing initial approval. If an approved school is sold, pledged, or otherwise transferred, without the approval of the Secretary, the initial approval shall be automatically revoked.*

**Appendix 4** is an Application for Approval of a Change of Ownership of a Private Career School. The application includes items required by the application for initial approval (**Appendix 3**) plus the following requirement:

Submission of a completed copy of the proposed sale and purchase agreement for the new school. This agreement must condition the consummation of the sale upon the receipt of the required approval from the Secretary of Higher Education.

The process to obtain approval of a change of ownership, includes the following steps:

- 1 Submission of a fully completed application for approval of a change of ownership.
- 2 Staff determination that the application meets the minimum standards of the Maryland Code of Regulations (COMAR).
- 3 Presentation of the application before the advisory council.
- 4 Recommendation of the advisory council concerning the approval of the application forwarded to the Secretary.
- 5 Notification of the Secretary's decision concerning the approval of the application.

If the school fails to satisfy the conditions for the granting of a certificate of approval, the school's authority to operate will expire and the school will be closed.

On an exceptional basis, the Secretary may grant interim approval for a change of ownership. If conditions warrant, interim approval may be issued at the discretion of the Secretary provided the applicant has submitted a completed application that has been reviewed and determined to meet the minimum standards of the Code of Maryland Regulations. **Sections 13B.01.01.04D(4) and 13B.01.01.04B(7)(d)** state:

*For continued operation, the Secretary may grant interim approval for the school to operate and specify the conditions and the duration of the interim approval.*

*A certificate of approval for each school location shall be issued in the name of the applicant. Certificates of approval are valid for the period specified by the Secretary, unless surrendered by the school or revoked by action of the Secretary. In the event of the death of an individual certificate holder, the certificate may become void. However, the Secretary may grant interim approval for the school to operate, specifying the conditions and the duration of the interim approval.*

**C. Approval of New Locations - Additional Locations and Changes in Location:**

In accordance with the Code of Maryland Regulations (COMAR), an approved private career school must seek and obtain approval prior to either expanding or changing its location. To quote COMAR, Sections 13B.01.01.04B(8) and 13B.01.01.04E(1) respectively:

*The approval of a school is limited to the location and programs for which application has been made and approval granted. Applications shall be made to the Secretary for additional locations as well as changes in locations and programs as provided by these regulations.*

*Instruction may not begin at an additional location, additional separate classroom, or changed locations before the Secretary approves the location.*

Described below is the approval process for each of the following: an additional location, a separate classroom, and a change of location.

1. **Approval of Additional Locations:** An "additional location" is defined in **Section 13B.01.01.02B(1)** of COMAR as follows:

*“Additional location” means a separate facility of an approved school, not in close proximity to the approved school.*

In Maryland, each school is approved as a separate entity. Therefore, an additional location is required to obtain approval as a new school. The application for initial approval to operate a private career school must be submitted and all requirements for a new school, including the financial requirement, must be met.

**Appendix 3** is the application which is required for approval of an additional location. For information concerning the approval process, refer to the previous section entitled Initial Approval to Operate a Private Career School.

2. **Approval of Separate Classrooms:** A "Separate classroom" is defined in **Section 13B.01.01.02B(25)** of COMAR as follows:

*“Separate classroom” means supplemental training space:*

- (a) *Located near an approved school for the purpose of training students who cannot be accommodated in the existing approved facilities of the school or for the purpose of expanding a school’s educational offerings; and*

*(b) The location of which shall provide students convenient, safe, and easy access to the training and services provided at the existing approved facilities of the school.*

A separate classroom is an expansion of an approved school's training area. The additional space is strictly for classroom and laboratory training. Because of the close proximity of the separate classroom to the original school facility, all administrative and support services to students are provided at the originally approved school facility.

According to **Section 13B.01.01.04E(3) of COMAR:**

*A school shall submit to the Secretary an application for approval of the use of a separate classroom on forms and in a format provided by the Secretary at least 30 days before the proposed use of the classroom or classrooms.*

**Appendix 5** is the approval procedure for either a separate classroom location or a change of location. The information which must be submitted to the Commission ensures that the facility both complies with the Code of Maryland Regulations and the local codes for fire, health, and zoning. Schools are to submit a local occupancy permit, and documentation of satisfactory inspections by the fire and health department. In Montgomery County, the school is also to provide a Private Educational Institution License.

3. **Approval of a Change of Location:** **Section 13B.01.01.04E(4) of the Code of Maryland Regulations** states:

*A school shall submit to the Secretary an application for approval for a change of location of an approved school on forms and in a format provided by the Secretary at least 60 days before the proposed use of the new location.*

**Appendix 5** is the approval procedure for either a change of location or separate classroom location. The information which must be submitted to the Commission ensures that the facility both complies with the Code of Maryland Regulations and the local codes for fire, health, and zoning. Schools are to submit a local occupancy permit, and documentation of satisfactory inspections by the fire and health department. In Montgomery County, the school is also to provide a Private Educational Institution License.

**D. Approval of a New Program:**

The Maryland Higher Education Commission has the responsibility to review program proposals for all sectors of higher education in Maryland. The Maryland Higher Education Commission has delegated to the Secretary of Higher Education the responsibility and authority to act on its behalf on program proposals and modifications submitted by Maryland's private career schools. **Section 11-206 of the Education Article of the Annotated Code of Maryland** contains the following provisions with respect to the program review process for private career schools:

- 1 A private career school may not implement a program without the prior approval of the Commission.

- 2 Complete program applications will be reviewed within a 60-DAY time frame. If the Commission fails to act on a completed proposal within the prescribed time frame, the program will be deemed approved without any further action of the Commission.
- 3 If the Commission disapproves a program proposal, the Commission is required to provide the applicant a written explanation of the reasons for the disapproval.
- 4 After revising a program proposal to address the Commission's reasons for disapproval, the applicant may submit the revised proposal to the Commission for approval, thereby triggering a new 60-DAY time frame for Commission action. Commission staff will expedite as much as possible the review of a resubmitted program proposal.

The offering of an unapproved program is a violation of **Section 11-107(b) of the Annotated Code of Maryland** which states:

*The Secretary may require any private career school offering unapproved programs to refund all tuition and fees paid by students who enrolled in such programs, and may revoke the certificate of approval of any private career school that fails to make a required refund within the time frame specified by the Secretary.*

**Appendix 6** is the form to be used when submitting a new program proposal.

As a result of statutory changes in 1999, interim approval for new programs will no longer be provided to private career schools. The 90-day interim approval option that previously was available to schools will not be permitted under the newly enacted 60-day program approval time frame nor will it be necessary as a result of the shortened approval process.

#### **E. Approval of Program Modification(s):**

The Commission also has statutory authority regarding modifications made to existing programs. The initial program approval process includes a comprehensive review of the program proposal, from entrance requirements to completion criteria. Modifications to an approved program alter that which has been deemed to be an educationally sound vocational offering. Therefore, modifications to approved programs also require review and approval.

**Section 13B.01.01.05A(2) (a) of the Code of Maryland Regulations** requires that the institution notify the Secretary at least 60 days before implementation of any modification(s) to an approved program.

**Appendix 7** is the form to be used to propose modifications(s) to an existing program. The Application for Approval of a Modification to an Approved Program Offered by a Private Career School (**Appendix 7**) provides a format for the institution to describe the proposed changes.

The Secretary will inform the institution if the changes are substantial and hence whether the completion of an Application for Approval of a Substantial Modification to an Approved Program Offered by a Private Career School would be required. If the changes are not substantial, the Secretary will direct Commission staff to document the institution's file so that the record reflects the current description of the program which incorporates the modifications. If the modifications are determined to be substantial, an Application for Approval of a Substantial Modification to an Approved Program Offered by Private Career School would need to be submitted (**Appendix 8**).

A substantial modification is defined in **Section 13B.01.01.05A(2)(b) of the Code of Maryland Regulations**.

*Substantial modifications may include, but are not limited to:*

- i. an increase or decrease in the number of hours required in the program;*
- ii. a redistribution of the hours of a program;*
- iii. a change in program objectives;*
- iv. changes in the requirements for admission and/or satisfactory completion;*
- v. changes in the sequence of instructional hours;*
- vi. changes in program title; and*
- vii. changes in the credential awarded upon completion of the program.*

**F. Institutional Credit Hour/Clock Hour Approval:**

As indicated in the Code of Maryland Regulations, private career schools may seek approval to measure their programs in either clock hours or credit hours. **Section 13B.01.01.09A** states:

*(1) A school may measure instructional times of programs and courses in either clock hours or credit hours with the approval of the Secretary of Higher Education.*

To facilitate the transfer of credits between institutions of higher education, private career schools may be approved as credit hour institutions. Private career schools may define their programs in terms of credit hours and thereby adopt a common classification system which is understood and recognized by institutions of higher education. This facilitates the evaluation of courses by other educational institutions and therefore encourages articulation.

To be eligible to obtain approval as a credit hour institution, a private career school must meet the criteria listed below. The Secretary will consider all relevant factors, including those stated below, to determine whether a private career school may be approved as a credit hour institution which may define its programs in credit hours.

- a Programs at the private career school are transferable to degree granting institutions as evidenced by:
  - 1 Graduates being awarded credit at degree granting institutions for programs completed at the private career school.
  - 2 An executed articulation agreement between the private career school seeking credit hour approval and a degree granting institution.
- b The program is otherwise designed and configured for easy transferability to institutions of higher education. This includes but is not limited to the following:
  - 1 Programs are comprised of courses which have explicit objectives and for which individual student grades are assigned.
  - 2 Programs are scheduled utilizing units of measurement common to degree granting institutions; i.e., quarters, semesters, terms.

- 3 Programs are designed to enable whole credits to be awarded to component courses. When the required formula for converting clock hours to credit hours is applied, courses are awarded whole credits and not fractions of a credit.

This credit hour approval policy is designed to balance the interest of students, prospective students, the general public, and private career schools. It is also intended to promote articulation and facilitate the transfer of credits between institutions of higher education. This policy applies to all schools seeking approval by the Commission.

## V. DOCUMENTS AND RECORDS REQUIRED OF PRIVATE CAREER SCHOOLS

The following documents are required of private career schools that operate in Maryland:

- School Catalog
- Enrollment Agreement
- Permanent Student Records (to include: student's transcript and financial account)
- Annual Report

### A. School Catalog:

Section 13B.01.01.15A of the Code of Maryland Regulations states:

*Each school shall have a catalog that shall be given to all students at the time of enrollment. The catalog shall describe comprehensively the school's facilities, educational offerings, activities, policies, and other information prescribed by the Secretary. The catalog shall state the estimated length of each of the school's programs and courses in clock hours, weeks and months.*

Each edition of the school catalog must meet the minimum standards identified on the catalog checklist. (See **Appendix 9**.)

### B. Enrollment Agreement:

Sections 13B.01.01.12C-E of the Code of Maryland Regulations states:

- C. *Forms for enrollment contracts, bona fide loans, and payment plans for student charges shall be sent to the Secretary for approval at least 60 days before their use. The Secretary shall make every effort to expedite approval in a minimum time period. Each student shall receive a completed copy of the enrollment contract signed by the student, the student's legal guardian if the student is under 18 years old, and an official of the school. The student shall also receive any other documents pertaining to the student's commitment to enroll.*
- D. *An enrollment contract shall specify all terms and conditions relating to the entire length and total cost of the program as well as other information the Secretary may require.*
- E. *A student's total program shall be established and fixed in the enrollment contract at the time of initial enrollment. Enrollment contracts may be extended or modified only with the written consent of both the student and the school.*

In addition, **Sections 13B.01.01.12G and H of the Code of Maryland Regulation** relate to any fees charged by the school and disclosed in the enrollment agreement:

*The registration, application, or enrollment fee charged may not exceed cumulatively 10 percent of the total contract price of a course or program, or \$150, whichever is less. Other mandatory fees charged shall be requested by a school and approved by the Secretary before implementation. Within 30 days of the school's submission of all*

*required information, the Secretary shall take an approval action regarding the school's request for other mandatory fees.*

*A school may not charge a withdrawal fee.*

The enrollment contract must meet the minimum standards identified on the enrollment agreement checklist. (See **Appendix 10.**) The enrollment history of the student becomes a part of the student's permanent record and must be available for Commission review.

**C. Permanent Student Records:**

**Section 13B.01.01.11A of the Code of Maryland Regulations** states:

*The school shall maintain adequate permanent student records which include evidence of compliance with the school's admissions requirements; credit granted for previous experience or training; dates of admission, start dates, and withdrawal or completion dates; reasons for withdrawals when known; daily attendance; student transcripts indicating achievements; and tuition and financial aid records, when applicable.*

In addition, **Section 13B.01.01.11E of the Code of Maryland Regulations** states:

*A school shall maintain an accurate, complete, and current record of a student's financial account in a form and manner approved by the Secretary.*

At a minimum, a student's permanent records consist of the following documents that must be maintained in a form and manner approved by the Secretary:

1. Transcript that records a student's academic achievement and daily attendance; and
2. Record of the student's financial account.

Checklists that identify the minimum items to be included on the transcript and financial account card appear as **Appendices 11 and 12.**

Student records must be maintained and retained in accordance with Maryland regulations. **Sections 13B.01.01.11B-D of COMAR** state:

*A school shall maintain all records of a student for at least 5 years after a student either terminates training or graduates. After that, a school is only required to maintain the student records identified in A of this regulation in a form and manner approved by the Secretary.*

*A school shall document in each student's individual file all changes to a student's status at the time the changes occur. Changes to a student's status include, but are not limited to, initial enrollment, award of previous credit, changes in schedule, changes in enrollment, leave of absence, probation, counseling, withdrawal, termination, graduation, or completion but ineligible for graduation.*

*A school shall maintain accurate and complete records of a student's academic achievement and daily attendance. On a regular basis, which is at least every grading period, the school shall record this information on an approved permanent record form which is maintained in the student's individual file.*

Hard copy permanent records for each student must be updated no later than at the conclusion of each grading period. The permanent records or transcripts of students who leave school for any reason (withdrawal, termination, completion) must be updated and completed at the time of separation.

Further, the permanent student record must document a student who is on an approved leave of absence. The leave of absence policy must be stated in the school's catalog and must comply with all federal and state guidelines. *[See catalog checklist, Appendix 9.]*

If the student does not return from the approved leave of absence or exceeds the time allowance for the leave of absence, the student's permanent record must document the action taken to terminate the student.

The school is responsible for maintaining a hard copy of a permanent student record card or transcript for each current and former student. In addition, the school is to maintain tuition and financial records for each student. These records are to include a student account card or ledger sheet which reports the training costs charged, the dates and amounts of payments, and the balance. The student's financial records must also clearly state any tuition refund due, the calculation of such refund, and proof that the refund was made.

**Sections 13B.01.01.11I(1-3) of COMAR state:**

***I. Discontinuation of Operation by a School.***

- (1) Before any school operating in this State discontinues operation, its chief administrative officer shall file with the Secretary the original or legible copies of all essential records of the academic achievements of all former students of the school and records of the financial obligations incurred for educational purposes of current students at the time of closure.***
- (2) The records filed with the Secretary in E of this regulation shall include:***
  - (a) The academic record of each former student, including credit granted for previous experience or training;***
  - (b) Dates of admission, start dates, and withdrawal or completion dates;***
  - (c) Reasons for withdrawals when known;***
  - (d) Daily attendance; and***
  - (e) Student transcripts indicating achievements.***
- (3) All students' tuition payment records for the 3 years before the school's closing shall be forwarded to the Secretary. The Secretary may waive this requirement if it is determined that the records are being adequately maintained by another State agency.***

When a private career school closes, the Commission by law becomes custodian of the student records. Former students of closed schools who wish to further their education or pursue job opportunities are able to obtain the necessary transcripts by contacting the Commission.

Tuition payment records for the students of closed schools must be provided to the Commission for use in determining possible refunds due as well as evaluating potential claims against the Guaranty Student Tuition Fund.

**D. Annual Report:**

**Section 13B.01.01.06A of the Code of Maryland Regulations** states:

*Annual School Report. An approved school is required to submit an annual report each year on forms and on a schedule provided by the Secretary. This report covers the fiscal and managerial aspects of the school's operation and other information as required by the Secretary.*

The Annual Report packet will be provided to schools with specific instructions for the submission of the required materials. It is the school's responsibility to adhere to the deadlines for the submission of the data. Failure to provide the data or to comply with the given time frames are violations of the regulations and could jeopardize the school's authority to operate.

## VI. PROGRAM QUALITY INDICATORS

### A. **Minimum Program Performance Standards** (Minimum Standards of Completion/ Graduation, Placement and Passage on any Applicable Licensing Examination):

As defined in both statute and regulation, the purpose of private career schools is to provide training for gainful employment. In keeping with this definition, **Section 13B.01.01.09K of the Code of Maryland Regulations (COMAR)** states:

*A school shall demonstrate that each of its approved programs provides quality training that leads to the training-related employment of program graduates. The Secretary shall identify indicators, including minimum program performance standards, to be used by a school to demonstrate that each of its programs is in compliance with this regulation.*

Another basic expectation of the regulations governing private career schools is that a school will admit to training only students who can expect to successfully complete their training. **Section 13B.01.01.08A of COMAR** states, in part:

*Schools shall have admission requirements for each program so that each student admitted to a program may expect to be able to complete the program successfully.*

The following principles underlie the policies outlined below: All private career schools are expected to strive for the highest possible program completion and job placement rates for all of their approved programs. In accordance with this principle, there must be for each approved program minimum performance standards including minimum rates of successful completion/graduation, placement in training-related employment, and passage on any applicable licensing examination.

Therefore, the minimum performance standards for program completion, job placement, and passage on any applicable licensing examination are as follows:

1. **Minimum Standards for Program Completion/Graduation**
  - **A program of less than 600 hours shall have a successful completion or graduation rate of at least 50 percent.**
  - **A program of at least 600 hours shall have a successful completion or graduation rate of at least 33 percent.**
2. **Minimum Standards for Placement or Passage on any Licensure Examination**
  - **A program that prepares students for licensed occupations shall have a passage rate for program graduates taking the applicable State or federal licensing examination of at least 33 percent.**
  - **A program that prepares students for non-licensed occupations shall have at least a 33 percent rate of placement in training-related employment.**

**B. Evaluation Process:**

On an annual basis, required program performance data submitted by each school as part of its annual report to the Secretary will be evaluated for compliance with the standards identified above. If any program is determined to be below the minimum standards for completion/graduation, placement and/or passage rate on the applicable licensing examination, the school will be required to develop and implement a plan of corrective action approved by the Secretary. The corrective action plan will be considered to be successful if the program meets the minimum performance criteria when it is reevaluated with the submittal of the following year's annual report.

If the corrective actions of a school fail to bring the program's rate of completion/graduation, placement, and/or passage on the licensing examination into compliance with minimum standards as reflected in the school's next annual report, a notice of deficiency will be issued to the school. As in the case of all notices of deficiencies, the school will be afforded the opportunity either to take corrective action as prescribed by the Secretary, or to dispute the Secretary's findings through a formal hearing process.

## VII. GUARANTY STUDENT TUITION FUND

### A. Statutory Authority:

The Guaranty Student Tuition Fund is established by **Section 11-203 (d) of the Education Article of the Annotated Code of Maryland**. The law states:

*Guaranty fund for private career schools -- (1) By rule and regulation, the Commission may create and provide for the operation of a guaranty fund for private career schools.*

*(2)(i) The Fund shall be used:*

- 1. To reimburse any student at a private career school who is entitled to a refund of tuition and fees because the institution has failed to perform faithfully any agreement or contract with the student or failed to comply with any provision of this article; or*
- 2. For any other function directly related to the original purpose of the fund deemed appropriate by the Secretary.*

*(3)(i) Each private career school that is required to obtain a certificate of approval shall pay an annual fee into the fund.*

*(ii) The Commission shall determine the amount of the fee based on the probable amount of money needed for the fund for each fiscal year. If the moneys in the guaranty fund are insufficient to satisfy duly authorized claims, the participating institutions may be reassessed and shall pay the additional amounts required.*

*(iii) The Commission may not issue a certificate of approval to, and shall revoke any certificate of approval previously issued to, an institution that fails to pay any annual fee or reassessment.*

### B. Policies and Procedures Regarding the Guaranty Student Tuition Fund:

The regulations which implement the law and establish the structure for the Fund appear in **Section 13B.01.01.18 of the Code of Maryland Regulations (COMAR)**. As stated in **Section 13B.01.01.18C of the COMAR**:

*The purpose of the Fund is to:*

*(1) Reimburse a student who is entitled to a refund of tuition and fees because the institution has failed to:*

*(a) Perform faithfully an agreement or contract with the student, or*

*(b) Comply with any provision of Education Article, Title 11, Annotated Code of Maryland, or COMAR Title 13B; or*

*(2) Perform any other function directly related to the original purpose of the Fund considered appropriate by the Secretary.*

Eligible students may submit a claim against the Fund using the Guaranty Student Tuition Fund Claim Form. A SAMPLE appears as **APPENDIX 13**.

In evaluating claims, the Commission staff will review both the documentation provided by the student as part of the claim form and the documents provided by the school to ascertain the accuracy of the claims.

**SECTION 13B.01.01.18H of COMAR** outlines the areas of consideration in the payment of the claim. This Section states:

*Claims against the Fund may be paid in whole or in part, taking into consideration the:*

- (1) Amount available and likely to become available to the Fund for payments of claims;*
- (2) Size and number of claims likely to be presented in the future;*
- (3) Size and number of claims caused by the cessation of operation of an institution;*
- (4) Amounts of reimbursement of claims in the past;*
- (5) Availability to the claimant of a transfer program.*

The Fund resources will be allocated to claims related to the costs of tuition and related fees only. The registration, application and enrollment fees and the charges for books and materials are not subject to reimbursement from the Fund resources. If the student's financial aid package included funds for such items as living expenses and transportation, the student remains solely liable for that portion of his/her debt.

The Fund resources will be used to reimburse the moneys paid directly by the student for tuition and related fees. If the student's financial aid package included loans (Stafford, SLS, Perkins Loans), **Section 13B.01.01.18K(5) of COMAR** states that payment will be made to the lender. This Section states:

*In the case of a student who was a recipient of a loan to attend a school which closes, payment from the Fund shall first be made to the lender of financial aid funds to that student, to repay the student's indebtedness to the lender for that portion of the indebtedness that pertains to tuition and fees.*

The information concerning the claim process should be provided to students as part of the package prepared by the Commission staff when a school closes.

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