

MARYLAND HIGHER EDUCATION COMMISSION

CODE OF MARYLAND REGULATIONS

13B.01.01

Minimum Requirements for Private Career Schools

As amended through  
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This document contains a chapter of the Code of Maryland Regulations and has been prepared by the Maryland Higher Education Commission for the convenience of those persons served by the Commission. The official regulations published by the Division of State Documents, Office of the Secretary of State, are found at <http://www.dsd.state.md.us/comar/>. The official regulations should be consulted and are controlling in the event of any conflict between those regulations and this document.

**TITLE 13B**

**MARYLAND HIGHER EDUCATION COMMISSION**

**SUBTITLE 01 NONPUBLIC SCHOOLS**

**Chapter 01 Minimum Requirements for Private Career Schools**

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## TITLE 13B

### MARYLAND HIGHER EDUCATION COMMISSION

#### SUBTITLE 01 NONPUBLIC SCHOOLS

##### Chapter 01 Minimum Requirements for Private Career Schools

###### *13B.01.01.01*

###### **.01 Purpose.**

A. The purpose of this chapter is to provide minimum requirements for the operation of private career schools in Maryland. All private career schools shall comply with Regulations .01—.20 of this chapter. A school offering a program in whole or part by distance education also shall comply with Regulations .21—.27 of this chapter.

B. Before issuing a certificate of approval or renewal of approval to operate a private career school, the Maryland Higher Education Commission is to be satisfied that the school is in compliance with these minimum requirements.

C. The State recognizes the special nature of the private career school sector of postsecondary education which provides a diversity of programs in occupational and technical fields. The diversity of programs is both desirable and essential in serving the wide range of occupational interests of public constituencies. The presence of these institutions promotes a competitive spirit which can enhance the quality of education. The sector broadens access by providing an element of choice, making available to students a range of educational opportunities within the scope of the students' talents and aspirations.

###### *13B.01.01.02*

###### **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Additional location" means a separate facility of an approved school, not in close proximity to the approved school.

(2) "Advertising" means any statement of the school in writing or otherwise, through any media, which is intended to induce an individual to seek admission to or otherwise engage in any contract of admission to the school.

(3) "Applicant" means the individual or individuals, firm, company, corporation, or other organization that is the owner or owners of a school proposed for approval. In the

case of an application by a subsidiary of a corporation, "applicant" includes the parent corporation.

(4) "Application fee" means a fee paid by a prospective student to a school to indicate good faith in making application for acceptance.

(5) "Attendance" means:

(a) The time a student is physically present for the delivery of instruction required for the residency requirement or externship portion of a program; or

(b) The active participation of a student in distance education as documented by the submission by the student of lesson assignments required for program completion.

(6) "Bona fide" means made in good faith, without fraud or deceit, and legally valid.

(7) "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.

(8) "Combined program" means a program that includes distance education and a residency requirement.

(9) "Commission" means the Maryland Higher Education Commission.

(10) "Course" means a portion of a program of study covering specific subject matter.

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

(12) Distance Education.

(a) "Distance education" means the formal education process in which the delivery of instruction occurs beyond a school's walls since the student and instructor are in different places.

(b) Distance education may include:

(i) A variety of communication methods for delivering instruction to students; and

(ii) Instruction delivered in real time (synchronous) or delayed (asynchronous).

(13) "Enrollment of a school" means the number of students who are enrolled in a school at the beginning of a given instructional period.

(14) "Enrollment of a student" means the signing of a contractual agreement by a student to attend a private career school.

(15) "Externship" means training, including but not limited to a supervised work experience or practicum, which is an integral part of an approved program and which is conducted off the premises of the school's approved facility.

(16) "Institution of higher education" means an institution of postsecondary education that generally limits enrollment to graduates of secondary schools, and awards degrees at either the associate, baccalaureate, or graduate level.

(17) "Instruction" means any method or procedure used to impart knowledge or develop skills.

(18) "Instructor-student ratio" means the number of instructors responsible for the instruction or supervision of a group of students in relation to the number of students enrolled in the group.

(19) "Last date of attendance" means:

(a) The last date the student attended scheduled instruction required for the residency requirement of a program; or

(b) The last date the student submitted a lesson assignment required for a program or portion of a program delivered by distance education.

(20) "Official leave of absence" means any leave of absence granted by a school under the terms set out in Regulation .09M of this chapter.

(21) "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 semiskilled workers or technicians in recognized occupations or in new and emerging occupations.

(22) "Program" means a group of courses or a course of study organized to develop a specific knowledge of vocational skills for the purpose of training, retraining, or upgrading individuals for gainful employment.

(23) "Registration fee" means a fee paid at the time of registration to cover the costs of registration.

(24) "Residency requirement" means a mandatory portion of an instructional program that a student is required to take at the school, in the presence of and offered by a qualified instructor of the school offering the program of training and awarding the certification of competence.

(25) "Sales representative" means any person who contacts individuals or groups for the specific purpose of recruiting students for enrollment in the school.

(26) "Scholarship" means a specific gift of money or other grant or gift to help defray the cost of a student's education.

(27) "School" means a private career school.

(28) "Secretary" means the Secretary of Higher Education or the Secretary's designee.

(29) "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.

(30) "Space requirements" means net assignable square feet within buildings available for instruction after deducting noninstructional areas such as corridors, stairways, offices, and lavatories.

(31) "Student" means an individual enrolled in a private career school.

*13B.01.01.03*

**.03 Scope, Applicability, and Exemption.**

A. These regulations apply to all private career schools that require a certificate of approval to commence or continue to operate, do business, or function in the State.

B. These regulations do not apply to:

(1) A program delivered entirely by distance education to a single individual at a Maryland location by a person, firm, corporation, or other organization that operates all aspects of the business outside of Maryland, including but not limited to, the origination, transmission, and administration of the distance education program from outside of Maryland;

(2) Continuing education activities involving courses, seminars, workshops, and demonstrations that provide instruction or knowledge for the purpose of maintaining professional or occupational competence, licensure, or certification;

(3) Refresher or continuing education instruction sponsored by a professional group for the exclusive use and benefit of the members of that professional group;

(4) Instruction conducted by a person, firm, corporation, or other organization exclusively for its own employees;

(5) Apprenticeship as registered with the Maryland Department of Labor, Licensing, and Regulation;

(6) Instruction provided by an individual instructor who goes to various places to offer instruction to not more than one individual; or

(7) A religious educational institution that certifies, in accordance with Chapter .04 of Subtitle .02 of this title, that the institution:

(i) Is founded and operated by a church or other religious institution or organization of churches or religious institutions as an integral part of the religious ministry of that institution or organization;

(ii) Offers sectarian instruction only designed for and aimed at persons who hold or seek to learn particular religious faiths or beliefs of religious institutions or religious organizations, and provides only educational programs for religious vocations; and

(iii) States on the certificate or diploma the religious nature of the award; and

(8) A church or other religious institution offering a postsecondary instructional program leading to a certificate or diploma only if designed for and aimed at persons who hold or seek to learn the particular religious faith or beliefs of that church or religious institution, and providing only educational programs for religious purposes.

#### C. Exemption.

(1) A person providing training or instruction that is within the scope of §B of this regulation may be granted an exemption by the Secretary. A person seeking an exemption shall file documentation as required by the Secretary.

(2) Each exemption is subject to review on a periodic basis or on receipt of a complaint by the Secretary who may require the person holding the exemption to provide further supporting documentation as determined necessary by the Secretary. A person holding an exemption shall comply with the Secretary's request for documentation.

(3) On review by the Secretary, if a person providing training or instruction no longer qualifies for an exemption, the Secretary shall withdraw the exemption and as required by law, the person shall cease operation, and may file an application for approval to operate a private career school.

*13B.01.01.04*

#### **.04 School Approval Process.**

##### A. Delegation to Secretary on Approvals.



(1) 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.

(2) The Secretary shall prepare and present a report to the Commission summarizing actions taken under this delegation since the last report.

#### B. Initial Approval to Operate.

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

(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;

(c) A projection of anticipated revenues and expenditures for the proposed school for the first year of operation;

(d) A nonrefundable application fee in the amount of:

(i) \$300 for schools seeking approval for up to three programs; or

(ii) \$300 plus \$100 for each program over three, for schools seeking approval for more than three programs; and

(e) A plan for maintaining the proposed school as a workplace and educational institution free of drug and alcohol abuse.

(3) Completed Application. Within 30 days of receipt of the application, the Secretary shall inform the applicant whether the application is complete or not complete. If the application is not complete, it shall be returned to the applicant. The applicant may resubmit a completed application.

#### (4) On-Site Visit.

(a) A detailed review of the school's proposed program or programs and operation shall be made by an on-site visit by staff of the Maryland Higher Education Commission or by an individual or a team authorized by the Secretary to assess and recommend whether the Commission should issue a certificate of approval to the school.

(b) In the case of an applicant who has not previously been approved to operate a private career school in Maryland but who operates a private career school outside Maryland, the Secretary:

(i) Shall request information on the approval status of the applicant from the responsible postsecondary approval agency having proper jurisdiction over the out-of-State school.

(ii) May require an on-site visit by the staff of the Maryland Higher Education Commission be made to the out-of-State school. The staff member or members making the visit shall file a report with the Secretary concerning the extent to which the out-of-State school visited is in compliance with these minimum requirements. The applicant shall bear the cost of the on-site visit.

(5) Initial approval to operate a school may not be given until all required local, State, and federal approvals are obtained.

(6) Financial Requirement.

(a) Before receiving initial approval, each school shall make a payment to the Guaranty Student Tuition Fund in accord with the schedule in Regulation .18E(4) of this chapter.

(b) 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.

(7) Certificate of Approval.

(a) Advisory Council.

(i) The Secretary shall appoint an advisory council to review all new school applications and make recommendations to the Secretary before a school is given initial approval to operate.

(ii) The Secretary may refer issues related to new program applications and program modifications to the Advisory Council for its review, comment, or recommendation.

(iii) A member of the Advisory Council may not participate in the voting on any issue which may present a conflict of interest for that member. When an issue which presents a conflict of interest for a member is to be voted upon, that member shall exit the room, and the member's departure shall be noted in the minutes.

(b) If the Secretary is satisfied, based on all the information available to the Secretary, that the minimum requirements set forth in these 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.

(c) The Secretary may accept, as appropriate, the findings of an agency or department of the State that has concurrent approval authority over a school if that agency's standards are substantially similar to these minimum requirements.

(d) 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 any 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.

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

(9) If the Secretary has not provided the applicant with either a certificate of approval or a notice of deficiencies within 6 months of the receipt by the Commission of that applicant's completed application, the applicant may request within 20 days a hearing before the Commission to determine if the certificate of approval should be issued. The hearing before the Commission shall be conducted in accordance with the Administrative Procedure Act, State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 13B.04.01.

(10) An applicant may not advertise a program or school, enroll students, or solicit enrollments in any way until approval to operate is granted by the Secretary.

(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.

(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.

### C. Renewal of Approval to Operate.

(1) At least 6 months before the expiration of a school's approval to operate, the school shall make application for a renewal of approval to operate on forms provided by the Secretary. The application shall be accompanied by a self-evaluation of the school in a format provided by the Secretary, and by additional information as may be required by the Secretary.

(2) On-Site Visit. A detailed review of the school's programs and operation shall be made by an on-site visit by staff of the Maryland Higher Education Commission or by a team authorized by the Secretary to assess and recommend whether the Commission should renew the authority of the school to operate.

(3) Financial Statement. An application for renewal of approval to operate shall be accompanied by a financial statement reviewed by a certified public accountant which provides a detailed and accurate picture of the financial status of the school.

(4) Drug-Free Workplace. An application for renewal to operate shall include a plan for maintaining a workplace and educational institution free of drug and alcohol abuse.

(5) A certificate of approval may be issued by the Secretary for a period not to exceed 5 years. If the certificate of approval is issued for less than a 5-year period, the Secretary shall specify what actions or steps the school shall be required to take to attain a certificate of approval for a 5-year period. Failure to meet specified requirements within the time allotted by the Secretary constitutes a violation of these regulations. An approval issued before the effective date of these regulations remains valid for the period set by the Secretary at the time of issuance, provided that no provisions of these regulations are violated.

(6) Financial Requirement. 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.

(7) The Secretary may accept, as appropriate, the findings of an agency or department of the State that has concurrent approval authority over a school if that agency's standards are substantially similar to these minimum requirements.

### D. Change of Ownership.

(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 is automatically revoked.

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

(5) Financial Requirement. The Secretary may require a 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.

#### E. New Locations — Additional Locations and Changes in Location.

(1) Instruction may not begin at an additional location, additional separate classroom, or changed location before the Secretary approves the location.

(2) Additional Locations. An additional location of an approved school shall be approved pursuant to §B of this regulation for initial approval for 3 years, and shall meet all requirements for initial approval, including the financial requirement.

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

(4) Change of Location. 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.

#### (5) Satellite Classrooms.

(a) In this subsection, “satellite classroom” means an additional instructional space geographically separated from a real estate school’s approved location.

(b) A real estate school approved to offer a real estate salesperson pre-licensing program may establish one or more satellite classrooms to offer its approved program in the approved manner with qualified instructors without the prior approval of the Secretary.

(c) A satellite classroom shall be:

(i) Located only in an established real estate office or other recognized place of business conducive to classroom instruction; and

(ii) Used only for the purpose of instruction.

(d) Each real estate school establishing a satellite classroom shall:

(i) Maintain a complete list of all satellite classrooms, identifying each classroom by business name and address;

(ii) Submit the complete list with the school's annual report each year, stating whether the satellite classroom was used during the reporting year;

(iii) Limit total student enrollment at its approved location and all satellite classrooms to the maximum enrollment approved by the Secretary; and

(iv) Maintain all student records from its satellite classrooms at the school's approved location.

*13B.01.01.05*

**.05 Program Approval Process.**

**A. Approval of New Programs/Program Modifications.**

**(1) Approval of New Programs.**

(a) Application for approval to offer a new program shall be made to the Secretary on an application form provided by the Secretary and accompanied by additional academic and financial information as may be required.

(b) Completed Application. Within 15 days of receipt of the application, the Secretary shall inform the applicant whether the application is complete or not complete. If the application is not complete, it shall be returned to the applicant. The applicant may resubmit a complete application.

(c) Applications for new program approval shall report the program in clock hours. The application shall state whether the program is to be offered by clock hours or credit hours.

(d) Applications for new program approval shall include a description of job opportunities that are available to persons who complete the proposed program and shall provide evidence of market demand.

(e) A school may not advertise, promote, enroll students for, or offer a new program until the Secretary has approved the new program.

(f) If the Secretary fails to act on an application for program approval within 60 days of receiving a completed application, the program is considered approved.

(2) Program Modifications.

(a) A school shall notify the Secretary of proposed modifications to approved programs at least 60 days before the proposed date of implementation on a form provided by the Secretary.

(b) Substantial modifications to approved programs shall be approved by the Secretary before implementation, and 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 or satisfactory completion, or both;

(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.

(c) The Secretary shall notify the school whether the proposed modification is a substantial modification requiring approval.

(d) If the Secretary deems the modification to be substantial, the school shall apply for approval of the program modification in accordance with forms provided by the Secretary.

(e) A school may not advertise, promote, enroll students for, or offer a substantially modified program without the prior approval of the Secretary.

(f) If the Secretary fails to act on an application for a program modification within 60 days of receiving a completed application, the program modification is considered approved.

B. Appeal Procedure.

(1) In the event of an appeal of the Secretary's denial of approval for a new program or substantial modification of a program, the following procedures shall be followed:

(a) A letter of appeal from the chief executive officer of the appealing party shall be received by the Secretary within 30 days of receipt of the official notice of the Secretary's decision;

(b) At that time, the appealing party shall submit its full rationale in support of the appeal to the Commission, including:

(i) A summary of the justification for a review of the Secretary's decision, and

(ii) Any relevant supporting evidence; and

(c) Following receipt of the letter of appeal together with any relevant supporting evidence submitted under §B(1)(b) of this regulation, the appeal will be placed on the agenda for the next regularly scheduled meeting of the Education Policy Committee, or the Finance Policy Committee, or the full Commission, except upon request by the appealing party and proof of compelling circumstances, the Commission or committee may schedule a hearing prior to its next regularly scheduled meeting.

(2) Testimony at Hearing.

(a) The Secretary shall designate a staff representative who shall have 15 minutes to present oral testimony in support of the Secretary's decision.

(b) The school shall designate a representative who shall have 15 minutes to present oral testimony in support of the school's appeal.

(c) The staff representative may have 10 minutes to present rebuttal testimony upon completion of the school's testimony.

(d) The school may have 10 minutes to present rebuttal testimony upon completion of the staff representative's rebuttal.

(3) Testimony shall be directly related to the reasons for the Secretary's denial. In the appeal process, a school shall present only that information, data, facts, and materials which clarify material contained in the original proposal and relate to the basis on which the program was denied.

(4) At the hearing, either party may present a written summary of the oral presentation, including relevant documents. Documentation provided by the school shall be directly related to the deficiencies noted by the Secretary.

(5) The committee or Commission may ask questions of either party. Other testimony is not permitted, including testimony from other parties in support of or in opposition to the appeal.

(6) Recommendation to the Commission When Hearing is Conducted by Committee.

(a) Upon completion of the testimony, the committee shall adjourn to executive session to discuss the testimony received at the hearing, as well as any relevant documentation submitted by either party.



(b) After deliberation, but not later than 5 working days after the hearing, the committee shall make a written recommendation to the Commission.

(7) Commission Action.

(a) At the next scheduled meeting of the Commission, the Commission shall receive and act upon a report from the chairman of the committee on the appeal. The report shall include the committee's recommendations and rationale for the recommendations.

(b) After an advance written request to the Chairman of the Commission, the chairman may permit a school to present a statement in support of or in opposition to the recommendation of the committee.

(c) The decision of the Commission is final and not subject to further review or appeal.

(8) Procedure When Hearing Is Conducted by the Commission.

(a) Upon completion of the testimony, the Commission shall adjourn to executive session to discuss the testimony received at the hearing, as well as any relevant documentation submitted by either party.

(b) After deliberation, but not later than 5 working days after the hearing, the Commission shall send a final written decision to the appealing party.

(c) The decision of the Commission is final and not subject to further review or appeal.

*13B.01.01.06*

**.06 School Reports.**

A. 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.

B. Reporting to Other State Agencies. The Secretary may waive part or all of the requirements in §A of this regulation, if it is determined that the same information is being collected by another State agency and is available to the Maryland Higher Education Commission from that State agency upon request.

C. Government and Accreditation Reports.

(1) An approved school shall file with the Secretary, within 5 days of receipt by the school, any reports or notices from government agencies, accreditation agencies, or other entities or organizations which notify the school of any actual or potential adverse actions to be taken against the school, including but not limited to:

- (a) Citations of deficiencies;
- (b) Requests for, or notices of, hearings;
- (c) Suspension or revocation of approval or accreditation;
- (d) Changes in financial aid eligibility;
- (e) Show cause orders;
- (f) Notification of penalties, fines, liens, judgments, or levies to collect judgments or liens; or
- (g) Other disciplinary or punitive actions.

(2) Accreditation reports received by the school shall be available to the Secretary upon request.

*13B.01.01.07*

**.07 Organization and Administration.**

A. The organization of a school shall be designed to accomplish the school's objectives as stated in its application for certification of approval.

B. The owner, director, and employees of an applicant for approval or of a school shall have a demonstrated history of ethical personal and professional practices. The school shall be administered in conformity with generally accepted educational, professional, and ethical standards.

C. The owner of a school that closes may not subsequently own, operate, or finance a school, unless the Secretary determines that all required fines and student tuition refunds were paid by the closed school.

D. At the time of initial approval and renewal of approval, the school shall submit to the Secretary, on forms provided by the Secretary, such information as the Secretary may require on the education, training, and experience of its administrative, marketing and sales, supervisory, and instructional staff. These forms shall be maintained at the school for each new and continuing employee.

E. Director.

(1) To assure proper supervision, a full-time responsible administrative employee or officer of the school, who is the director or the director's designee, shall be present when the school is in operation. The director and any designee shall be under the direct supervision and control of the school's owner. The extent of the authority and responsibilities of the director shall be clearly stated in the application for approval. Lack of sufficient authority for effective management on the part of the director is considered

sufficient reason for denying an application for approval or for revoking a certificate of approval.

(2) The minimum qualifications for a director of a school are 4 years of experience in the area in which training is offered or completion of a standard 4-year college or technical program and 2 years of experience in the area. The Secretary may waive this requirement if it is determined that the minimum qualifications for a director have been met through other specific qualifications. If the school offers instruction in an area in which the director is not qualified, another staff member shall have the qualifications stated above. A director or principal whose qualifications were approved before the effective date of these regulations is considered as having met these requirements.

F. The administrative staff shall be organized in a structure that is appropriate to the size and purpose of the school. The duties and responsibilities shall be defined and stated clearly in the application and the administrative policies of the school.

G. The director of a school proposed for approval shall demonstrate administrative capability before a certificate of approval is issued.

H. The school's administrative and instructional staff shall be of sufficient size, organization, and quality to perform the duties and responsibilities required of the school and shall be appropriate for the size and purpose of the school.

I. Administrative staff shall be qualified by appropriate training and experience to perform their responsibilities.

*13B.01.01.08*

#### **.08 Admission and Recruitment.**

A. Admission Requirements. 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 school shall strictly adhere to the approved admissions requirements and policies. A prospective student may not begin training in a program until all entrance requirements have been fulfilled. A school shall maintain documentation indicating that all admissions requirements have been met.

B. A school may not admit students to a program preparing students for licensed occupations whom the school knows, or by the exercise of reasonable diligence should know, would be ineligible to obtain licensure in the occupation for which they are being trained.

C. Sales Representatives and Recruitment.

(1) Sales representatives of schools shall be at least 18 years old and selected primarily on the basis of ability and integrity. Each representative shall be given adequate training so as to be knowledgeable of school policies and procedures. The school shall be responsible for any statements or commitments made by its representatives and employees to students or prospective students.

(2) A school shall permit recruitment only by persons who are under the direct control of the school and adhere to the policies and procedures of the school. The school may not contract with a third party for the recruitment of students.

(3) Tuition discounts, premiums, or financial inducements for enrollment may not be offered to prospective students.

(4) Financial inducements, not to exceed \$50 in value, may be paid to students or graduates for enrollment referrals. Premiums or incentives may not be paid or distributed until the referred person begins training.

D. Enrollment of a School. The enrollment of a school as of the first day of an instructional period shall strictly comply with the school's approved enrollment limitations. The school shall strictly adhere to enrollment limitations specified in the approval throughout the instructional period.

E. The individual classroom limitations and student-instructor ratio shall comply strictly with the school's approved limitations.

*13B.01.01.09*

**.09 Instructional Programs.**

A. Hours.

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

(2) Clock Hours. Schools that are authorized to measure instructional time in clock hours shall report the total number of clock hours and the number of weeks for each program and the component courses. A school shall adopt a consistent measurement of clock hours for which 1 clock hour equates to a minimum of 50 minutes of actual instructional time per each 60-minute hour.

(3) Credit Hours.

(a) Each school using credit hours shall use either semester hours or quarter hours.

(b) Schools that are authorized to measure instructional time in credit hours are required to convert clock hours to credit hours using a consistent formula.

(c) In converting clock hours to credit hours, the school may use either the following formula or a formula required by the U.S. Department of Education:

(i) One semester credit hour is the equivalent of 15 hours of classroom contact when the lecture instruction method is employed. Each hour of classroom instruction shall be at least 50 minutes in length.

(ii) One semester credit hour is the equivalent of 30 hours of laboratory contact when the supervised laboratory method of instruction is employed. Each hour of laboratory instruction shall be at least 50 minutes in length.

(iii) One semester credit hour is the equivalent of 45 hours of instructional situations such as shop, practica, and internships. Each hour of these instructional situations shall be at least 50 minutes in length.

(iv) One quarter hour of credit is the equivalent of 2/3 of the contact hours required for 1 semester hour of credit. Therefore, one quarter hour of credit is equivalent to 10 contact hours of classroom instruction, 20 contact hours of laboratory instruction, and 30 contact hours in instructional situations such as shop, practica, and internships. A school shall have 3 academic terms in each calendar year in order to measure instructional time in quarter hours.

(v) In converting clock hours to credit hours a school shall adopt a consistent measurement of clock hours for all programs and their component courses.

(vi) A school shall adopt a consistent measurement of credit hours using either semester or quarter hour credits for all programs and their component courses.

B. Program length and content shall be appropriate to provide the training necessary to achieve the stated occupational objectives of the program as approved. The length of the training period may not be longer than professional good practice requires to provide a student with the required skills, and arrange for the acquiring of job knowledge, technical information, and other facts which the student will need to learn in order to become competent in the occupation for which the student is being trained.

C. Each school shall state in its catalog that credits earned are for determining progress toward program completion only, and that credits are not necessarily transferable to another private career school or to a collegiate institution.

D. Time for laboratory instruction shall be stated in terms of clock hours. Laboratory instruction shall be integrated with theory in accordance with sound educational practice and as approved by the Secretary.

E. Each program shall be structured and coherent and have clearly delineated objectives as well as stated student learning outcomes.

F. In order to be graduated from a program, a student shall have a minimum attendance rate of 80 percent of the total program.

G. Each program shall contain a residency requirement sufficient to assure competence in the area in which the student is being trained.

H. A school shall strictly enforce written policies of attendance and academic progress that are reviewed and approved by the Secretary before implementation. The attendance and academic progress policies shall specify the actions the school shall take if a student fails to achieve the school's minimum standards of attendance and academic progress.

I. A school shall maintain documentation in each student's file to demonstrate compliance with the school's approved policies of attendance and academic progress.

J. Training shall be conducted in conformity with generally accepted educational, professional, and ethical standards.

K. A school shall demonstrate that each of its approved programs provides quality training and 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 whether each of its programs is in compliance with this regulation.

L. Externships.

(1) A school shall maintain, for each program which includes an externship component, agreements which provide a sufficient number of externship sites to accommodate the maximum number of students approved to be enrolled in all sessions of the program that are scheduled for externship at the same time.

(2) Each externship agreement shall clearly delineate the roles and responsibilities of both the school and the externship training site regarding insurance coverage for students as well as the monitoring and evaluation of students during their externship.

(3) Students assigned to externship sites shall be under the direct supervision of a fully qualified practitioner and under the direction of school faculty. The externship shall provide an educationally sound practicum experience which complements and augments the classroom component of the approved program.

M. Leaves of Absence.

(1) Official leaves of absence may be granted by a school only under a written leave policy that is published in the school's catalog. The policy shall require a student to provide a written, signed, and dated request for a leave of absence. The school shall document the leave of absence in the student's file, report the student's last date of attendance as the start of the leave, record the reason for the leave, and specify, with the consent of the student, an end date for the leave of absence.

(2) The school shall grant a leave of absence in accordance with sound educational practice. There shall be space and resources available for the student to resume instruction upon the conclusion of the leave of absence. There shall also be a reasonable expectation that the student will return to the school and complete the program successfully. If a student does not resume attendance at the school on or before the end of the leave of absence, the school shall treat the student as a withdrawal in accordance with Regulation .12M(3) of this chapter.

(3) Additional charges may not be imposed upon the student related to an official leave of absence. Any effects on student loan repayment terms, including possible exhaustion of available grace periods, shall be explained to the student before a leave of

absence is granted. Evidence of compliance shall be maintained by the school as part of the student's permanent record.

(4) In total, a student may not be granted cumulative leave from the school for more than 180 days.

*13B.01.01.10*

**.10 Instructional Staff.**

A. School staff should be adequately trained in their various fields, and there should be satisfactory evidence of continuing professional competence. Instructors shall have a minimum of 2 years of successful practical experience in the occupation or subject or its equivalent in formal training beyond the standard learning period recognized for the trade or occupation that they are to teach. Instructors shall demonstrate up-to-date knowledge and continuing study of the field they are teaching.

B. Instructors shall possess, and have maintained for a minimum of 2 years, at least the level of licensure, certification, or credential for which the program they are instructing prepares graduates.

C. The qualifications of the instructional staff shall be documented in their personnel files, including but not limited to evidence of formal educational attainment, certificates and degrees earned, and relevant experience.

D. There shall be at least one instructor present in each separate area where training is being conducted.

E. During the period an instructor is scheduled to train students, an instructor's responsibilities shall be limited to instructing, monitoring students' attendance and academic progress, and otherwise assisting students. Except under extraordinary circumstances, an instructor may not perform non-training-related functions including, but not limited to, admissions and collections during the hours the instructor is scheduled to train students.

F. Clinical or laboratory assistants and other aides to instructors shall work at all times under the direct supervision of a qualified instructor and may not independently instruct or train students.

G. The teaching load for faculty shall be in accord with sound educational practice.

H. The instructor-student ratios shall be in accord with sound educational practice.

*13B.01.01.11*

**.11 Student Records.**

A. The school shall maintain adequate permanent student records which include:

- (1) Evidence of compliance with the school's admissions requirements;
- (2) Credit granted for previous experience or training;
- (3) Dates of admission, start dates, and withdrawal or completion dates;
- (4) Reasons for withdrawals when known;
- (5) Daily attendance;
- (6) Student transcripts indicating achievements; and
- (7) Tuition and financial aid records, when applicable.

B. 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.

C. 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.

D. 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.

E. 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.

F. A certificate of successful completion shall be issued to a student at the time of graduation, provided that the student has satisfied all graduation requirements and financial obligations to the school. A statement of attendance and achievement shall be issued, upon request of the student, if withdrawal occurs before completion or graduation, provided the student has satisfied all obligations to the school.

G. For a student who has left the school, it shall be clearly stated in the student's record whether the student has successfully completed a program, has withdrawn, or has been terminated by the school, and the date of the action.

H. Student records, as well as all other records of the school, shall be open for inspection at any reasonable time by the Secretary.

I. Discontinuation of Operation by a School.



(1) Before a 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.

*13B.01.01.12*

#### **.12 Tuition, Fees, Enrollment Contracts, Refunds.**

A. A school shall publish in its catalog its schedule of tuition and fees and methods of payment. The school may not deviate from its published tuition and fees and methods of payment.

B. A school shall furnish a student with information regarding the cost of the necessary books, supplies, and materials. The school shall indicate clearly these costs and any extra fees which are in addition to tuition. The books, supplies, and other materials that the student purchases shall become the property of the student.

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. A school may not enroll or charge a student for multiple programs without approval from the Secretary.

F. If a school provides placement services, these services shall be free of charge to students or graduates. This requirement may be waived only after written justification has been submitted to and approved by the Secretary.

G. 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.

H. A school may not charge a withdrawal fee.

I. If a school closes or discontinues a course or program, the school shall refund to each currently enrolled student monies paid by the student for tuitions and fees and monies for which the student is liable for tuitions and fees.

J. With the approval of the Secretary, a school which closes or discontinues a course or program, instead of refunding monies to a student, may arrange for that student to complete his or her educational program at another approved school offering a similar program. It is the student's option to receive the refund or to accept the transfer to another school.

K. Seven-Day Cancellation Period.

(1) All fees paid by a student shall be refunded if the student chooses not to enroll in or to withdraw from a school within 7 calendar days after having signed a contract. If the student chooses not to enroll after the 7-day cancellation period, but before the first day of instruction, the school may retain the application fee or registration fee, or both. After the 7-day cancellation period, the refund policy given in §L(1) of this regulation shall be followed.

(2) The availability of a 7-day cancellation period shall be published in the catalog, on the school's application forms, and in the enrollment contract.

L. If, after the 7-day cancellation period expires, a student withdraws after instruction begins, refunds shall be based on the total contract price for the course or program and shall include all fees, except the registration, application, or enrollment fee and any charges for materials, supplies, or books which have been purchased by, and are the property of, the student.

M. Minimum Refund.

(1) The minimum refund that a school shall pay a student who withdraws or is terminated after the 7-day cancellation period has expired and after instruction has begun, is as follows:

Proportion of Total Course or Program Taught by Date of Withdrawal	Tuition Refund
Less than 10%	90% refund
10% up to but not including 20%	80% refund
20% up to but not including 30%	60% refund
30% up to but not including 40%	40% refund
40% up to 50%	20% refund
More than 50%	No refund

(2) A refund due a student shall be based on the date of withdrawal or termination and paid within 60 days from the date of withdrawal or termination.

(3) In the case of an official leave of absence, if a student fails to return to training by the end of the leave of absence, a refund due a student shall be based on the date of withdrawal or termination and paid within 60 days of the scheduled last day of the leave of absence.

N. A school's refund policy shall conform to these regulations.

O. A school's approved refund policy shall be disclosed on the school's student enrollment contract, on application forms, and in the catalog.

P. A school shall maintain documentation to verify that a refund has been made.

*13B.01.01.13*

**.13 Financial Aid and Scholarships.**

A. Financial aid and scholarships to students may be offered only on the following bases and in accordance with State and federal requirements:

(1) A school may grant bona fide loans to worthy and needy students;

(2) Financial aid, such as work or service scholarships, may be granted, provided the duties performed are bona fide and the remuneration paid is not in excess of current local rates for comparable service;

(3) Scholarship programs shall be submitted to the Secretary for review and approval before their implementation.

B. Funded scholarships, from sources other than the current operating budget of the school, may be granted upon the following conditions:

(1) The value, number, and source of these scholarships shall be described in the school catalog;

(2) The scholarships shall be applied for in writing by scholarship candidates and awarded by the head of the school, or the school's executive committee, on a truly competitive or merit basis.

C. Default Management Plan. Schools whose students are eligible to participate in federal or State student loan programs shall have a default management plan to promote the prevention or reduction of student defaults on federal or State student loans.

D. Student Loans and Financial Aid.

(1) Student loans or other financial aid funds received from federal, State, or local governments or administered under the Federal Student Financial Assistance Programs governed by Title IV of the Higher Education Act of 1965, 20 U.S.C. 1070 et seq., as amended, shall be collected and applied in the manner dictated by the applicable federal, State, or local statutes and regulations.

(2) Student loans or other financial aid funds received from private entities including, but not limited to, banks, financing companies, credit card companies, and other lending sources shall be collected or disbursed in the following manner:

(a) Loans or other financing payments for amounts not greater than \$5,000 may be disbursed as a single disbursement, regardless of program length;

(b) Loans or other financing payments for amounts greater than \$5,000 for a program that is less than 6 months shall have at least two equal disbursements as follows:

(i) 1/2 of the amount released initially; and

(ii) The remainder released halfway through the length of the program;

(c) Loans or other financing payments for amounts greater than \$5,000 for a program that is at least 6 months but less than 12 months shall have at least three equal disbursements as follows:

(i) 1/3 of the amount released initially;

(ii) The second disbursement released 1/3 of the way through the program; and

(iii) The remainder released 2/3 of the way through the length of the program; and

(d) Loans or other financing payments for amounts greater than \$5,000 for a program that is at least 12 months in length shall have at least four equal disbursements as follows:

- (i) 1/4 of the amount released initially;
- (ii) The second disbursement released 1/4 of the way through the program;
- (iii) The third disbursement released halfway through the program; and
- (iv) The remainder released 3/4 of the way through the program.

(3) A school may not enter into any contract or agreement with, or receive any money from, private entities including, but not limited to, banks, financing companies, credit card companies, and any other private lending sources, unless the private entity has a disbursement policy that, at a minimum, meets the requirements of §D(2) of this regulation.

*13B.01.01.14*

#### **.14 Procedure for Student Grievances.**

A. The school shall develop a statement of student rights, privileges, and responsibilities of students and make this statement available to students through the catalog, student handbook, or other appropriate publication.

B. The school shall publish a student grievance procedure in its catalog, student handbook, or other appropriate publication.

C. If a student has exhausted a school's grievance procedure and still claims to be aggrieved, the school shall inform the student of his or her right to appeal to the Secretary.

D. The Secretary may investigate written complaints involving potential violations of these regulations with both the student and officials of the school. The Secretary shall report the findings of the investigation to the student and the school's owner or chief operator.

*13B.01.01.15*

#### **.15 Catalog and Official Advertising.**

A. 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, and shall state the estimated length of each of the school's programs and courses in clock hours, credit hours if applicable, weeks, and months.

B. The catalog of each school shall clearly disclose, in a form and manner prescribed by the Secretary, that students and prospective students may contact the Commission to obtain information regarding each approved program.

C. A school shall provide a current catalog to the Secretary.

D. The school shall refrain from exaggeration and misrepresentation of any kind in its advertising, through its field representatives, or through any other agency.

E. A school may not use blind advertisements to solicit prospective students, advertise in the help wanted columns in newspapers or other publications, or recruit students through blind advertisements in any other media. All advertising shall be done in the name under which the school has been approved by the Maryland Higher Education Commission. The school may advertise "Approved by the Maryland Higher Education Commission".

F. Students may appear in school advertising, provided that the school obtains their prior written consent.

G. A school may advertise that it is endorsed by manufacturers, business firms, organizations, or individuals engaged in the line of work for which it trains, only if it can present written evidence of the endorsement or endorsements. The date of these endorsements shall be included in the advertising matter.

H. Training for positions or careers shall be advertised only if a school is approved to offer instruction in programs which will enable the student to meet the requirements for those positions or careers.

I. An organization may not be known or advertised as a school, conservatory, academy, or institute except with the approval of the Secretary. A school may not be known or advertised as a university or college. This does not affect organizations operating in this State as schools, universities, colleges, conservatories, academies, or institutes before June 1, 1947.

J. Illustrations in all advertising shall relate solely to the particular school that has been approved or be clearly designated otherwise.

K. Information provided by a school to students and prospective students regarding the performance of the school's approved programs shall be complete, verifiable, and consistent with the program performance information required to be reported by the school in its most recent annual report to the Secretary. For purposes of this section, program performance information includes, but is not limited to, data pertaining to each program's enrollment, completion, withdrawal, placement, and rate of passage on any applicable licensing examination.

L. With the prior approval of the Secretary, instead of providing the program information identified in §K of this regulation, a school shall provide to students and prospective students program performance information required by the federal government to be disclosed by the school if the Secretary determines that this information is substantially similar to the data required under §K of this regulation.

M. Employment opportunities shall be represented by the school orally or in writing consistent with actual current data for the relevant job market. Direct or implied guaranteeing of positions is a violation of these regulations. The school may mention the number of positions and the specific positions in which graduates of the school have been placed. Validated placement statistics shall be provided to students or prospective students on request to substantiate employment claims made by the school.

N. Probable earnings in the field for which a school trains shall be represented consistent with actual current data for the relevant job market. To feature only top salaries earned by a few workers in a particular field is a violation. A validated range of possible earnings shall be provided by the school to students or prospective students upon request.

*13B.01.01.16*

#### **.16 Facilities and Equipment.**

A. A school shall comply with all State and local laws, ordinances, and requirements including those for fire, health, and zoning. It is the responsibility of the school to secure and document that the required State and local approvals have been granted.

B. A facility and the space provided for required instructional purposes shall be safe and sanitary and conform to standards of sound educational practice. Adequate classroom space shall be provided which is used exclusively for instruction during periods of instruction and which is conducive to learning. Space in square footage per student shall be provided in accord with sound educational practice and as required by the school's training program.

C. Each approved program shall have equipment which is adequate in quantity, quality, and variety for the maximum number of students approved to be enrolled.

*13B.01.01.17*

#### **.17 Finances.**

A. A school shall be operated in accordance with sound principles of financial management.

B. A school shall maintain financial resources adequate for the satisfactory conduct of the school.

C. A school shall maintain adequate financial records to indicate accurately the school's cash receipts, disbursements, assets, liabilities, and capital. The financial records as well as all other records of the school shall be open for inspection at any reasonable time by the Secretary.

D. The accounts of the school shall be maintained in accordance with generally accepted accounting practices and procedures.

E. The Secretary may request an audited financial statement by an applicant or an approved school.

F. The existence of an unsatisfied judgment or a lien, whether the lien is a judgment lien or a statutory lien, against a school is a violation of these regulations and is sufficient cause to deny or revoke a school's certificate of approval if the lien or judgment threatens the financial or operational viability of a school.

G. Public liability insurance, property damage insurance, and workers' compensation insurance in the amounts required by the Secretary shall be carried by the school with a company approved by the Insurance Commissioner of the State. Evidence of insurance shall be submitted to the Secretary.

H. Without specific approval of the Secretary, other business may not be conducted on the school premises, nor may the school offer to the public any other services.

I. Fees or other charges for the services or products of students or instructors may be collected when, in the judgment of the Secretary, the fees or charges are necessary to facilitate adequate practice in the area for which training is being offered.

*13B.01.01.18*

**.18 Guaranty Student Tuition Fund.**

A. In this regulation, the following terms have the meanings indicated:

(1) "Adjusted gross tuition" means all fees received on a cash or accrual accounting method basis for all instructional programs or courses, except the registration, application, and enrollment fees and charges for materials, supplies, and books which have been purchased by, and are the property of, the student, less refunds paid to students.

(2) "Assessment year" means a 12-month period from July 1 to June 30.

(3) "Fund" means Guaranty Student Tuition Fund.

(4) "Lender" means:

(a) A national or state-chartered bank, a mutual savings bank, a savings and loan association, or a credit union that is subject to examination and supervision in its capacity as a lender by an agency of the United States or of the state in which its principal place of operation is established;

(b) A pension fund that is subject to examination and supervision by an agency of the United States or a state;

(c) An insurance company that is subject to examination and supervision by an agency of the United States or a state;



(d) In any state, a single agency of the state or a single private nonprofit agency designated by the state; or

(e) For purposes only of purchasing and holding loans made by other lenders, the Student Loan Marketing Association or an agency of any state functioning as a secondary market.

B. The Commission shall create and provide for a Guaranty Student Tuition Fund.

C. 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.

D. Each private career school approved to operate by the Secretary shall pay into the Fund the amount required by this regulation.

E. Payment into the Fund.

(1) An applicant school receiving initial approval shall make an initial payment of \$2,500 into the Fund before a certificate of approval is issued.

(2) Approved Schools.

(a) Except as provided in §E(4) of this regulation, an approved school in operation during an assessment year shall make a payment into the Fund following the end of the assessment year in the amount of:

(i) .12 percent of the school's adjusted gross tuition, beginning with the assessment year that begins on July 1, 2011;

(ii) .165 percent of the school's adjusted gross tuition, beginning with the assessment year that begins on July 1, 2012;

(iii) .21 percent of the school's adjusted gross tuition, beginning with the assessment year that begins on July 1, 2013; and

(iv) .25 percent of the school's adjusted gross tuition, beginning with the assessment year that begins on July 1, 2014, and for each assessment year that follows.

(b) The minimum amount of the annual payment into the Fund is \$250, to be paid by a school whether or not the school charges tuition.

(c) The payment shall be made to the Commission with the school's annual report for that year.

(3) If the Secretary authorizes the operation of a school upon a change in ownership, the school shall make a payment into the Fund without regard to payments previously made by the school or its predecessor, under the following conditions:

(a) If a school has been operating for less than 1 assessment year, under its new ownership, the school shall make a payment into the Fund as an applicant school under §E(2) of this regulation; and

(b) If a school has been operating for at least 1 assessment year, under its new ownership, the school shall pay into the Fund as an approved school under §E(2) of this regulation for the last assessment year of operation under the old ownership, and the payment shall be due before approval to operate under new ownership is granted.

(4) An accounting shall be made at the end of each assessment year. If at the end of any assessment year, the accounting indicates that the Fund contains \$2,000,000 or more, then during the next assessment year an assessment may not be made against the schools.

(5) If the moneys in the Fund are insufficient to satisfy duly authorized claims, the Secretary may reassess the approved schools as necessary, in addition to the annual assessment, and the approved schools shall pay the additional amounts assessed.

(6) The Secretary may not issue a certificate of approval to, and may revoke any certificate of approval previously issued to, a school that fails to pay an annual fee or reassessment to the Fund.

F. The Secretary has 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.

G. A claimant or other person does not have any right in the Fund as beneficiary or otherwise.

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

(1) Amounts 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 a school;

(4) Amounts of reimbursement of claims in the past;

(5) Availability to the claimant of a transfer program.

I. Claims shall be filed with the Secretary on forms prescribed by the Secretary within 3 years of the Secretary's determination of a school's failure to perform faithfully any agreement or contract with the students or to comply with any provision of these regulations or of Education Article, Title 11, Annotated Code of Maryland. Claims filed after that are not considered, unless the Secretary determines that there are extenuating circumstances which justify or excuse the late filing. The Secretary may cause to be made such investigation of a claim as the Secretary deems appropriate. The Secretary's determination, without further investigation, may be based upon information contained in the records of the Commission.

J. The Secretary's determination concerning payment of a claim shall be in writing and mailed to the student and shall become final 30 days after the date of the Secretary's determination unless the student, within the 30-day period, files with the Secretary a written request for reconsideration. The written request shall contain all the evidence which supports the request for reconsideration. Evidence furnished in support of a request for reconsideration shall be subject to the authority of the Secretary to exclude irrelevant or other inappropriate evidence. The decision of the Secretary is final.

K. The Secretary shall administer the Fund upon the following basis:

(1) Payment into the Fund shall be made in the form of a check made payable to the Guaranty Student Tuition Fund;

(2) Payments into the Fund shall be maintained by the State Comptroller who shall deposit and invest the assets of the Fund, and all interest or other return on the Fund shall be credited to the Fund;

(3) A penalty assessed against a private career school shall be deposited into the Fund;

(4) The assets of the Fund may not be expended for any purpose other than those specified under §C of this regulation;

(5) 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.

L. The Commission is subrogated to and may enforce the claim of any student to the extent of any actual or authorized reimbursement from the Fund.

M. When a claim is allowed, the Secretary, as agent for the Fund, shall be subrogated in writing to the amount of the claim, and the Secretary is authorized to take all steps necessary to perfect the subrogation rights before payment of the claim. If payment of a school's obligation is made from the Fund, the Secretary shall seek repayment of the sums from the school or such other persons or entities as may be responsible for the school's obligations. This provision is enforced through the Office of the Attorney General.

N. Advisory Council.

(1) The Secretary shall appoint an advisory council to whom the Secretary may refer matters pertaining to the Guaranty Student Tuition Fund.

(2) The advisory council shall meet periodically for the purpose of reviewing matters pertaining to the Fund that are referred by the Secretary for the council's consideration and advice.

*13B.01.01.19*

**19. Reserved.**

*13B.01.01.20*

**.20 Sanctions.**

A. The Secretary shall deny approval to or withdraw the approval of a school found to be in violation of these regulations or of the Education Article, Title 11, Annotated Code of Maryland.

B. A school's authority to operate becomes void if instruction does not begin within 6 months from the date of approval.

C. A school's authority to operate becomes void if all instruction is discontinued unless the Secretary determines there are extenuating circumstances which justify or excuse the discontinuation of instruction.

D. A school's authority to offer a program becomes void if instruction in that program does not occur for a period of 1 year, unless the Secretary determines there are extenuating circumstances that justify or excuse a school's failure to offer that program.

E. The Secretary may withdraw approval from any school found to be in violation of any commitment made to the Commission as a prerequisite to the obtaining or maintaining of a certificate of approval in its application for approval of the school or of a program, or for failing to report changes in operating circumstances as required in these regulations.

F. The Secretary shall deny approval to or withdraw approval from any school found to have provided the Maryland Higher Education Commission with false or misleading information.

G. Sanctions.

(1) Notice.

(a) If the Secretary believes that a private career school does not meet the conditions or standards established by these regulations, or the conditions or standards on which its certificate of approval or any other approval issued by the Commission or the Secretary was based, the Secretary shall give the school written notice as set forth in this section specifying the deficiencies believed to exist.

(b) The notice shall specify the alleged deficiencies and direct the school to correct them within a period of not less than 30 days.

(c) If the school requests a hearing within 20 days of the notice, the Commission shall hold a hearing on the matter. The hearing before the Commission shall be conducted in accordance with the Administrative Procedure Act, State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 13B.04.01.

(d) If a hearing is timely requested, subject to §G(6) of this regulation, action on the notice of deficiencies shall be stayed until a determination is made after the hearing.

(e) If a hearing is timely requested, action on any approval request by a school issued a notice of deficiencies may be stayed until a determination is made after the hearing.

(2) If a hearing is not requested within the specified time period, or if the notice of deficiencies is upheld in whole or in part after a hearing, the Commission may reprimand the school or suspend or revoke the school's certificate of approval or any other approval issued by the Commission or Secretary.

(3) Instead of, or in addition to, reprimanding a private career school, or suspending or revoking an approval issued to the school, the Secretary 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.

(4) In imposing any sanctions under this section, the Secretary shall consider one or more of the following:

(a) The seriousness of the deficiency;

(b) The harm caused by the deficiency including, but not limited to, the number of individuals affected and the degree to which they were harmed;

(c) 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;

(d) 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 Secretary;

(e) Other pertinent circumstances.

(5) The amount of a penalty imposed by the Secretary is determined by the criteria listed in §G(4) of this regulation, and is subject to the following limitations:

(a) The penalty may not be less than \$100 per day per violation; and

(b) The total penalty may not exceed \$5,000 per violation.

(6) Judicial Remedies.

(a) The Secretary may seek an injunction or other judicial remedy at any time following written notice of the deficiencies and before the Commission's final decision, if the Secretary determines that the public interest requires enforcement of the provisions of Education Article, Title 11, Annotated Code of Maryland, or any applicable regulations.

(b) If a court grants relief before a hearing that was requested on a timely basis, the Commission shall schedule a hearing in regard to the notice of deficiencies within 2 weeks of the issuance of the court's order, unless the school requests a delay. The hearing before the Commission shall be conducted in accordance with the Administrative Procedure Act, State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 13B.04.01.

(7) Judicial Review.

(a) A school that is aggrieved by an order of the Secretary or Commission has the right to judicial review provided by State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

(b) The decision of the Commission shall be presumed correct and the school has the burden of proving otherwise.

(c) The Commission shall be a party to the proceeding.

(8) Summary Order to Revoke or Suspend Certificate of Approval.

(a) The Commission may summarily order the revocation or suspension of a certificate of approval of a private career school if:

(i) The school's owner or director, or a person in whose name the approval is issued, is convicted of a crime of moral turpitude or a crime relating to the operation of the school if the conviction is final and the period of appeal has expired; or

(ii) An agency that exercises concurrent authority over the private career school has revoked any approval to operate required by law if the revocation is final and the period of appeal has expired.

(b) The Commission may summarily order a revocation or suspension of a certificate of approval of a private career school under §G(8)(a) of this regulation only if it gives the school:

(i) Prior oral or written notice of the proposed revocation or suspension, and a brief, informal opportunity for response;

(ii) Prior or prompt subsequent written notice of the revocation or suspension and the findings on which the revocation or suspension is based; and

(iii) After the revocation or suspension is effective, an opportunity to be heard promptly before the Commission or the Commission's designee.

(c) In any hearing held on the grounds for revocation under §G(8)(a) of this regulation, the Commission may limit the issues to be determined to whether the alleged:

(i) Conviction in fact occurred; or

(ii) Revocation under §G(8)(a)(ii) of this regulation in fact occurred.

(d) Notwithstanding §G(8)(c) of this regulation, in any hearing held on the ground for revocation under §G(8)(a) of this regulation, a private career school may present matters in mitigation of the offense alleged by the Commission.

*13B.01.01.21*

### **.21 Interactive Distance Education by Private Career Schools—Approval.**

A. A school offering a program in whole or in part by distance education shall comply with:

(1) Regulations .21—.27 of this chapter; and

(2) Unless otherwise specified, all other regulations of this chapter.

B. A school shall obtain approval from the Secretary using distance education as a mode of instructional delivery for a program.

C. A new school applicant shall seek and obtain approval to operate a private career school in accordance with Regulation .04 of this chapter before offering a program delivered in whole or part by distance education.

D. An approved school shall seek and obtain approval for a new program in accordance with Regulation .05A(1) of this chapter before offering either:

(1) A new program in whole or part by distance education; or

(2) An approved program in whole or part by distance education.

E. An approved school shall seek and obtain approval for a substantial program modification in accordance with Regulation .05B(2) of this chapter before modifying an approved program offered in whole or in part by distance education.

*13B.01.01.22*

## **.22 Interactive Distance Education by Private Career Schools—Curriculum and Instruction.**

A. A school shall utilize appropriate instructional delivery methods and technology to meet the objectives of a program, conform with generally accepted educational, professional, and ethical standards, and comply with the following conditions:

(1) The objectives of the program shall be reasonably attainable and be of a nature that they can be achieved through distance education;

(2) The learning objectives shall, if appropriate to the nature and type of the program, be comparable to similar programs that are not delivered by distance education;

(3) Learning outcomes promised to students shall be achievable with the technology utilized;

(4) Resident training shall supplement the instruction delivered by distance education if necessary to attain the stated educational objectives;

(5) A program delivered by distance education shall be coherent and complete; and

(6) A school shall demonstrate that the clock hours required and awarded are appropriate for the program or portion of the program delivered by distance education.

B. A program shall provide for real-time or delayed interaction between faculty and students, and comply with the following conditions:

(1) Interactive instructions shall be an integral, pervasive, and integrated feature of a program or portion of a program delivered by distance education;



(2) Distance education shall employ interactive, electronically communicated methods for delivering instruction to students;

(3) Instructor-to-student interactions shall be critical components in any learning experience, and schools shall plan for and include timely accessibility of faculty as well as the appropriate interactivity for their instruction; and

(4) A school shall utilize appropriate and effective instructional materials and teaching methods to ensure the active involvement of students.

C. A program of study shall be developed by a team of qualified faculty, administrators, and technologists.

D. Qualified faculty shall provide appropriate oversight of the program offered, which shall comply with the following conditions:

(1) A school shall employ instructors who have the technical skills to teach in a distance education environment and meet the other qualifications for instructors identified in Regulation .10A of this chapter;

(2) The qualifications of instructional staff shall be documented in their personnel files including, but not limited to, evidence of appropriate training or experience in distance education instruction, other relevant experience, and formal educational attainment including certificates and degrees earned; and

(3) Technically, academically, and experientially qualified faculty shall oversee the instruction, evaluation, and grading requirements of the distance education training.

E. Distance education shall be conducted in conformity with generally accepted educational, professional, and ethical standards.

*13B.01.01.23*

**.23 Interactive Distance Education by Private Career Schools—Faculty Support.**

A. A school shall provide faculty support services specifically related to teaching by distance education.

B. A school shall provide training for faculty who use technology in instruction.

*13B.01.01.24*

**.24 Interactive Distance Education by Private Career Schools—Students and Student Services.**

A. Accepted students shall have the documented background, knowledge, and technical skills needed to undertake the program. A school shall assess whether students have the skills and competencies to succeed in a distance-learning environment before their enrollment in the program. A prospective student may not begin

training in a program until all entrance requirements have been fulfilled. A school shall maintain documentation indicating that all admissions requirements have been met by such admitted student.

B. If an admissions test is required, it shall be administered in a manner that verifies the student's identity.

C. Advertising, recruiting, and admissions materials shall clearly and accurately represent the program and the services available. A school shall provide students with clear, complete, and timely information on the curriculum, program requirements, nature of faculty/student interaction, assumptions about technology competence and skills, technical equipment requirements, availability of academic support services and financial aid resources, and costs and payment policies.

D. A program shall ensure that appropriate learning resources for instruction delivered by distance education are available to students, including the following:

(1) A school shall provide students with the information and training needed to function in a distance education environment;

(2) A school shall support students with help and guidance on how to best learn through distance education and offer the resources to serve students in a timely manner if technical difficulties arise;

(3) Outside resources, electronic databases, and other library access features shall be readily available to students, and the curriculum shall actively encourage students to use these resources to acquire knowledge and skills; and

(4) Adequate, appropriate, and functional equipment, supplies, and furnishings required to provide effective education and training services shall be readily available for instructor or student use.

E. Enrolled students shall have reasonable and adequate access to the range of student services to support their learning. This includes providing academic counseling, financial advising, and placement assistance for students enrolled in programs delivered by distance education.

F. A school shall provide adequately for the reliability, privacy, safety, and security of student information and student financial transactions.

*13B.01.01.25*

**.25 Interactive Distance Education by Private Career Schools—Evaluation and Assessment.**

A. A school shall provide for frequent assessment and documentation of student achievement in each course and at the completion of the program, which comply with the following:

(1) Examinations and other evaluative techniques shall adequately measure mastery of stated learning objectives;

(2) Adequate provisions and safeguards to ensure the security and integrity of student testing and evaluation shall be used;

(3) Adequate provisions to authenticate the identity of students taking tests or being evaluated shall be used;

(4) Requirements for successful completion of distance education courses and programs shall be similar to those of resident programs; and

(5) Documentation shall be maintained in each student's file to demonstrate compliance with the school's approved policies of attendance and academic progress.

B. A school shall demonstrate the educational effectiveness of distance education including assessments of student learning outcomes and student retention.

*13B.01.01.26*

**.26 Interactive Distance Education by Private Career Schools—Commitment to Support.**

A. A school shall demonstrate a commitment to ongoing support, both financial and technical, and to a continuation of the program for a period sufficient to enable a student to complete a program.

B. A school shall forward a financial guarantee in the form of a performance bond or an irrevocable letter of credit that is sufficient to cover the tuition liability of a program delivered in part or whole by distance education. 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 shall be forwarded to the Secretary of Higher Education.

*13B.01.01.27*

**.27 Interactive Distance Education by Private Career Schools—Tuition, Fees, Refunds.**

A. For a combined program, the tuition price for the distance education portion and the tuition price for the resident portion shall be separately stated on the enrollment agreement. The total of the two shall be the total tuition charge.

B. For the resident portion of a combined program, charges shall be assessed only after a student attends the first resident class session.

C. Minimum Refund.

(1) For the resident portion of a combined program, the minimum refund that a school shall pay a student who withdraws or is terminated after the 7-day cancellation period has expired and after instruction has begun is identified in Regulation .12M of this chapter.

(2) For a program or portion of a program delivered by distance education, the minimum refunds that a school shall pay a student who withdraws or is terminated after the 7-day cancellation period has expired and after instruction has begun are as provided in §C(3)—(5) of this regulation and are not as provided in Regulation .12M of this chapter.

(3) A prorated refund shall be made based on the proportion of the program completed by the student. The proportion of the program completed shall be the percentage of submitted lesson assignments completed by the student compared to the total number of lesson assignments in the program or portion of the program delivered by distance education.

(4) A refund due a student shall be based on the date of withdrawal or termination and paid within 60 days from the date of withdrawal or termination. In accordance with Regulation .02B(11) of this chapter, the student's last date of attendance is the date of withdrawal or termination.

(5) In the case of an official leave of absence, if a student fails to return to training by the end of the leave of absence, a refund due a student shall be based on the date of withdrawal or termination and paid within 60 days of the scheduled last date of the leave of absence.

D. A school's approved refund policy shall:

(1) Conform to this regulation; and

(2) Be disclosed on the school's enrollment contract, on application forms, and in the catalog.

E. A school shall maintain documentation to verify that a refund has been made.