

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))  
14 **DE Admin. Code** 282

### FINAL

#### Regulatory Implementing Order

#### 282 Private Business and Trade Schools

##### I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** 282 Private Business and Trade Schools to reflect that the surety bond requirement by the private business or trade school was changed from \$5,000 to \$25,000. This change is based on passage of House Bill 168 from the 144<sup>th</sup> General Assembly and is reflected in 14 **Del. C.** Chapter 85.

This regulation change is exempt from the APA process because the change is based on a change in Delaware Code, Title 14, Chapter 85.

##### II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 282 Private Business and Trade Schools in order to align this regulation with State statute .

##### III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 282 Private Business and Trade Schools. Therefore, pursuant to 14 **Del.C.**, Chapter 85, 14 **DE Admin. Code** 282 Private Business and Trade Schools attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 282 Private Business and Trade School hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

##### IV. Text and Citation

The text of 14 **DE Admin. Code** 282 Private Business and Trade School amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 282 Private Business and Trade School in the *Administrative Code of Regulations* for the Department of Education.

##### V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** , Chapter 85 on November 16, 2007. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED** the 16th day of November 2007.

#### DEPARTMENT OF EDUCATION

Valerie A. Woodruff, Secretary of Education

Approved this 16<sup>th</sup> day of November 2007.

## **State Board of Education**

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## **282 Private Business and Trade Schools**

### **1.0 Definitions. For purposes of this regulation**

"Agent" has the same meaning as in 14 Del.C. §8501(4).

"Agent Card" shall mean the pocket card provided for in 14 Del.C. §8510.

"Department" means the Delaware Department of Education.

"Private Business and Trade School" has the same meaning as in 14 Del.C. §8501(1).

### **2.0 General Provisions**

2.1 The distinguishing characteristic of a private business or trade school shall be the potential for wage earning by its graduates.

2.2 Private business and trade schools shall include:

2.2.1 Correspondence school courses offered as post high school courses in trade or business subjects; and

2.2.2 Programs that may also be available as high school introductory courses in trade or business subjects, without regard for the age or the prior educational attainment of the student.

2.3 A private business and trade school which actively seeks enrollees from the State of Delaware, or which sends an agent or agents into the State of Delaware to solicit enrollees, shall ensure that each of its agents maintains a current agent permit issued by the Department.

2.4 The term agent shall include individuals who solicit enrollees in Delaware even though the institution the agent represents does not conduct classes within the State of Delaware.

2.5 All advertising by a private business and trade school shall be in accordance with the statutes, rules and regulations for advertising administered and supervised by the Department of Justice Consumer Protection Division.

2.6 14 DE Admin. Code 225 Prohibition of Discrimination shall apply to all private business and trade schools and agents approved by the Department.

### **3.0 Certificates of Approval**

3.1 Applications for an initial certificate of approval to conduct a private business and trade school, and for annual renewal of such certificates, shall be made on forms approved by the Department and include such information and fees as required by the Department. Applications are not considered complete until all required information and fees are received by the Department.

3.2 A private business and trade school offering more than one program of instruction must have each program approved by the Department.

3.3 The Department may conduct an on site evaluation of any applicant for a certificate of approval or for renewal of a certificate of approval. The Secretary of Education may waive an on site evaluation if the applicant is accredited by a regional or national accrediting association recognized by the Department, or is certified to conduct a similar program or school by the state education agency of another state with comparable standards for such schools.

3.4 If a private business and trade school makes any material change in its operation, such as, but not limited to, corporate structure or financial structure, the school shall notify the Department of the change within thirty days. The school shall also identify the change in its next renewal application.

3.5 The fees charged as filing and renewal fees are not refundable.

3.6 For purposes for this section, the following definitions shall apply: first calendar quarter, January 1st through March 31st; second calendar quarter, April 1st through June 30; third calendar quarter, July 1st through September 30th; and fourth calendar quarter, October 1st through December 31st.

3.6.1 Any current and valid Certificate of Approval with an expiration date of December 31, 2005, shall automatically be extended to the end of the calendar quarter in which the private business and trade school was originally granted its Certificate of Approval, conditioned on the school providing the Department with evidence of continuation of surety bond at least through the extension period.

3.6.2 Beginning with the fourth quarter of 2005, a private business and trade school will be required to renew its certification by the end of the calendar quarter in which the Department originally granted its Certificate of Approval.

3.6.3 Private business and trade schools with multiple campuses may request the Department to renew all campuses on a single renewal date based on initial approval of any one of the campuses.

#### **4.0 Agent Permits**

4.1 Applications for an initial agent permit, and for renewal of such permits, shall be made on forms approved by the Department and include such information and fees as required by the Department. Applications are not considered complete until all required information and fees are received by the Department.

4.2 An agent representing more than one private business and trade school must apply for separate permits for each such school.

4.3 Agents shall apply to renew their permit(s) each year at the same time that the school or schools the agent represents make application to renew their respective certificates of approval. In the case of a school not conducting classes in Delaware, but sending agents into Delaware, the application for an agent permit must be accompanied by a notarized verification of employment from the school represented and must be received by the Department on or before the expiration of the current permit. No permit shall be issued for a period of more than twelve calendar months.

4.4 No agent shall solicit Delaware enrollees on behalf of the private business and trade school represented until the Department issues the appropriate agent card.

4.5 The lapse, suspension, revocation, or non renewal of a private business and trade school certificate of approval for any cause shall terminate all agent permits for that institution.

4.6 A school shall report the discharge or resignation of any agent to the Department within thirty days.

4.7 The fee for the agent permit will be waived for the owner or chief executive officer of a private business and trade school who also serves as its agent. Each such individual must still apply for and obtain the agent permit. Any additional agents must obtain permits as otherwise described.

4.8 The fees charged as filing and renewal fees are not refundable.

#### **5.0 Complaints**

5.1 Each private business and trade school shall adopt a policy and procedures to address complaints by its students. The school catalogue shall contain its complaint policy and procedures or a reference to where the policy and procedures can be obtained.

5.2 In addition to the complaint procedures adopted by a private business and trade school for its students, the Department will investigate complaints by any person alleging facts that, if true, would constitute grounds for refusing or revoking a certificate of approval or an agent permit. In either event, the Department will notify the complainant of its conclusions and provide the complainant with a copy of the school or agent's initial response, if any.

5.2.1 Such complaints must be in writing and verified by the signature of the person making the complaint. Oral, anonymous or unsigned complaints will not be investigated.

5.2.2 A copy of the written complaint will be provided to the affected private business and trade school or agent for their written response. The Department may require that the complainant provide written permission for the Department to forward the complaint to the school or agent.

5.2.2.1 If, after reviewing the school or agent's response, the Department concludes that there is insufficient evidence to believe that the school or agent has violated applicable law or a standard, rule or regulation of the Department, the Department may close the complaint without further investigation. In such case, the Department will notify the complainant and the school or agent of this conclusion and provide the complainant with a copy of the school or agent's response.

5.2.2.2 If, after reviewing the school or agent response, the Department concludes that there is sufficient evidence to believe that the school or agent has violated applicable law or a

standard, rule or regulation of the Department, the Department may continue its investigation or begin revocation or other action against the school or agent as the Department determines appropriate. The Department may also continue its investigation or begin revocation or other action if the school or agent fails to respond to a complaint within the time established by the Department.

5.3 The Department may also investigate circumstances that would constitute grounds for refusing or revoking a certificate of approval or an agent permit on its own initiative.

## **6.0 Denials and Revocations of Certificates and Permits**

6.1 In view of an apparent conflict between the statutory statement in 14 **Del.C.** §8516 (for any combination of the following) and 14 **Del.C.** §8517 (for any cause enumerated in §8516), the Department interprets and shall administer §8516 to mean that a certificate of approval or an agent permit may be denied or revoked for any one or combination of the causes identified in that Section.

## **7.0 Bonds**

7.1 Applications for an initial certificate of approval or renewal of certificates shall include evidence that the required surety bond is valid from the date of the complete application through the new certificate of approval expiration date.

7.2 The amount of the surety bond required of a school shall be determined as provided in 14 **Del.C.** §8505(b). In no event shall a bond be for less than ~~\$5,000~~ \$25,000 per calendar year.

7.3 The Department interprets and shall administer the phrase fail to provide the services called for in a contract or agreement with a student, as used in 14 **Del.C.** §8523 to mean failure to substantially provide the essential services."

### **7.4 Forfeiture**

7.4.1 In the event a surety bond is forfeited, the Department shall notify the students identified on the last available school roster of their right to submit a claim for reimbursement. Such students shall have thirty days from the date they are notified by the Department to submit a claim for reimbursement. Claims received more than thirty days after the Departments notification shall not be considered.

7.4.2 Other students wishing to submit a claim for reimbursement must contact the Department within thirty days of the schools closing to submit their claim for reimbursement. Claims received more than thirty days after the schools closing shall not be considered.

7.4.3 Claims for reimbursement shall be submitted and documented as directed by the Department. The Department shall consider only appropriately documented claims in distributing the proceeds of any surety bond.

**4 DE Reg. 986 (12/1/00)**

**9 DE Reg. 967 (12/1/05)**

**11 DE Reg. 737 (12/01/07) (Final)**