# 05-071 DEPARTMENT OF EDUCATION

Chapter 147: RULES FOR THE LICENSING OF PRIVATELY OWNED BUSINESS, TRADE AND TECHNICAL SCHOOLS - PROPRIETARY SCHOOLS

SUMMARY: Rule #05-071 CMR 147 details the criteria to be met by any privately owned business, trade and technical school to obtain a license to do business in the State of Maine

1. Definitions

A. "Commissioner" means the Commissioner of the Department of Education.

B. "Person" includes a person, partnership, association or corporation, but does not include any public agency, offering a program or course of instruction in Maine.

C. Proprietary school" means (1) any private postsecondary school in this State offering a program or course of instruction conducted for the purpose of teaching any trade or any industrial, occupational, vocational, business or technical skill except those that are exempt under section 2, and (2) any private postsecondary school as described in paragraph (1) located out of State which hires or authorizes solicitors or agents to recruit students or to promote the school or its program within this State.

2. Exemptions

All proprietary schools as defined in 1, B shall be licensed except the following:

A. Educational programs offered by any non-profit corporation;

B. Institutions whose course(s) are avocational, cultural, or recreational in nature and do not advertise the instruction as conveying employable or marketable skills;

C. Commercial driver schools which are licensed by the Board of Commercial Driver Education under 32 MRSA c. 95;

D. Educational programs related to the real estate professions which are subject to approval by the Maine Real Estate Commission under 32 MRSA c. 59;

E. Educational programs offered by any professional or trade association primarily for the benefit of its own members;

F. Any institution authorized by the laws of this State to grant a degree;

G. Any course of instruction or training sponsored by a company for the education and training of its own employees, and the training or instruction is not the primary activity of the company;

H. Schools of cosmetology and barbering licensed under 20-A MRSA § 9505.

3. Initial Licensing

A. The application for a license shall be made on forms provided by the Commissioner and shall be accompanied by a fee of $100, except as provided in 20-A MRSA 8 9505 for schools of barbering and cosmetology, and a surety bond in the penal sum of $10,000. The application shall be submitted at least 45 days prior to the expected date of licensing.

1. The following supporting documents shall accompany the application:

a. Certification from the state fire marshal, and state health department that the school plant adheres to the regulations as established by these agencies;

b. Statements relative to the financial stability of the school;

c. Evidence of any accreditation or approval granted the school by any recognized agency or association;

d. A copy of the school's calendar for a complete year, showing school semesters or terms and normal enrollment dates;

e. A copy of the school's curriculum showing the content of the subjects taught, the type of work or skills to be learned, equipment and instructional materials and library resources,

f. A copy of each form used for record maintenance purposes;

g. A copy of all catalogs, print, advertisements, promotional material, circulars, enrollment or application blanks and contract forms;

h. A list of all solicitors authorized by the school to recruit in Maine (if an out-of-state school);

i. A copy of the school's refund policy.

2. License approval shall be based upon a review of the materials submitted under the standards set forth in section 6. The initial licensing process shall include an on-site evaluation when appropriate.

4. License Renewal

A. The application for a license renewal shall be made on forms furnished by the Commissioner and shall be accompanied by a fee of $50, except as provided in 20-A MRSA § 9505 for schools of barbering and cosmetology.

1. Information pertaining to changes in courses, publications, financial stability, accreditation, refund policies and solicitors since the date of last approval shall be submitted with the renewal application. The renewal licensing process may include an on-site evaluation when appropriate.

2. Certification from the state fire marshal, and the state health department that the school continues to meet the regulations as established by these agencies shall be submitted every fourth year from the date of initial approval.

B. All standards for an initial license as specified in section 6 must continue to be met.

5. License Expiration

A license is valid for the calendar year in which it is issued. All licenses shall expire on December 31.

6. Standards for Initial License

A. School Name

The private business, vocational, and technical school shall not use the words "Maine" or "State of Maine" or any title or name commonly accepted as descriptive of collegiate or university institutions.

B. Personnel

1. Each school shall be supervised by an administrative employee or officer of the school. If the school is a branch of a school that has its principal location outside of Maine, there shall be an agent, director or solicitor whose designation, responsibilities, and extent of authority shall be clearly stated in the application for a license.

2. Instructor qualifications will depend upon the kind of instruction offered. This item will be considered on an individual basis for each school. However, all instructors shall meet one of the following two requirements as applicable:

a. an instructor shall hold all licenses, certificates and ratings which shall be necessary for the instructor to instruct in the field in which he/she is employed;

b. an instructor shall have completed an extensive training program or have adequate experience commensurate with the area in which he/she offers instruction.

C. Enrollment Requirement and Agreement

1. Prior to enrollment, the school shall furnish to each student a copy of the school bulletins and course outlines, schedule of tuition, fees, and other charges, refund policy, enrollment contract, and regulations pertaining to absences, grading policies, and rules of operation and conduct.

2. The school shall use an enrollment agreement (student contract) which shall contain:

a. pertinent information on the name and length of the course or program of instruction, the tuition and other costs, and the methods of payment;

b. the beginning and approximate completion date of the program;

c. a statement of the registration fee and the refund policy in the event a student does not start the course or discontinues prior to completion.

D. Tuition, Fees, and Other Charges

1. Tuition, fees, and all other charges shall be stated in the school's application for license and in the school bulletin, enrollment agreement, or application for enrollment.

2. Students shall not be held liable for any tuition, fees, or other charges not previously identified in the application or school catalog and submitted to the Commissioner.

3. The registration fee shall not exceed 15 percent of the total tuition for the course or program of instruction or $150 whichever is the lesser amount.

E. Refund Policy

1. Each school shall establish and include with the license application a policy for the refund of the unused portion of tuition, fees, and other charges in the event the student fails to enter the course or withdraws, or is terminated therefrom at any time prior to completion.,

2. In the case of a student who requests cancellation and/or refund within three (3) business days after signing of the contract, the school shall cancel the application and refund in full all monies paid to the school by the student.

3. In the case of a student whose enrollment application is rejected by the school, the school shall refund in full all monies paid to the school by the student. However, the school may retain a portion of the application fee not to exceed twenty five ($25) dollars.

4. In cases of termination or withdrawal after classes commence, the school may retain the registration fee (not to exceed $150) and other charges as specified in the refund policy.

5. If a student has paid any tuition, fees, or other charges for enrollment periods or programs which extend beyond one school year, 12 calendar months, then any payments which do not apply to the school year when the student withdraws or terminates shall be refunded in full to the student.

6. Refunds shall be made within thirty days after the effective date of withdrawal or termination.

F. School Records

1. The school shall make available the records and necessary data required for a license for evaluation by the Commissioner.

2. The school shall make available the individual student records to the student who requests to review his/her academic/attendance records.

3. The school shall retain all student academic/attendance records for at least seven (7) years. These records shall be available at all times to the Commissioner.

4. Any school located within Maine that ceases to operate shall forward the student academic/attendance records to the Commissioner.

G. Advertising

1. All advertising shall be based upon fact and be devoid of any statement which misleads or tends to mislead the public.

2. All advertising and promotional literature used by a school must clearly indicate that training or education, and not employment, is being offered.

3. Schools using classified columns of newspapers or other publications to solicit students must use only such columns as are headed by “Education,” “Schools,” “Instruction,” or a similarly titled classification.

4. Statements, direct or implied, assuring or guaranteeing jobs or memberships in unions or other organizations as a result of completing a course or program of instruction shall not be used.

5. Schools shall not publish in their bulletins or other promotional literature, instructional material not included in their application for a license.

6. Any advertising of the price of tuition must state the exact name of the course immediately followed by the number of instructional hours of the course. When the cost of tuition is advertised, the cost of tools, supplies, and all other charges shall be included in the advertising.

7. Illustrations in bulletins, circulars, or advertisements shall relate solely to the school being advertised. In the case of a school that operates two or more separate facilities, all illustrations shall clearly indicate which facility is shown.

8. No statement or representation shall be made that students will be guaranteed employment while enrolled in the school or that employment will be guaranteed for students after graduation, nor shall any school or representative falsely represent opportunities for employment upon completion of any course of study.

9. Schools wishing to include in advertising that they are licensed by the State shall be limited to the use of the words "Licensed by the State of Maine Department of Education.”

7. Action on Application: Suspension or Revocation

The Commissioner may deny an initial or renewal application for a license if the standards set forth in sections 3, 4 and 6 are not met. The licensee shall also comply with these standards on a continuing basis during the term of the annual license. The licensee's failure to at all times comply with these standards shall constitute grounds for suspension or revocation of the license. In addition, an application may be denied and an existing license may be revoked or suspended if for financial or other reasons it appears unlikely that the applicant or licensee will be able to deliver instruction as described in its catalogs, promotional materials, circulars, enrollment or application blanks and contract forms.

(Note: The issuance, renewal, nonrenewal, suspension and revocation of licenses are addressed in 4 M.R.S.A § 1151 et seq. and 5 M.R.S.A. § 8001 et seq.)

8. Change in Accreditation Status

A school shall promptly notify the Commissioner of any change in its accreditation status.

9. Complaints: Processing of Complaints

A. Investigations

The Department shall cause to be investigated all complaints of noncompliance with the rules. Complaints shall be addressed to the Department in writing with specific facts and allegations and signed by the complainant. The school shall be notified of any complaints which are to be investigated.

B. Dismissal

If, upon investigation, the Department concludes that there is no reasonable evidence of non-compliance with the requirements of this rule, it shall dismiss that complaint and notify both the school and the complainant of its action.

C. Further Action

If upon preliminary investigation, the Department determines that there is reasonable evidence of non-compliance with the rule, the Department shall take further action. This may include but is not limited to:

1. Further investigation by staff or agents of the Department;

2. Referral of investigation to other authorities;

3. Holding a fact-finding hearing which shall not be an adjudicatory hearing;

4. Holding a meeting with school officials.

10. Change of Ownership

A. Nontransferability

Licenses issued to a person pursuant to this Chapter are not transferable. Prior to the effective date of any of the transactions specified in subsections B - D below, the new owner must have applied for and received a license in order for operation of an existing school to continue.

B. Sole Proprietors

Licenses issued to a sole proprietor shall become void upon the voluntary or involuntary sale or transfer to any other person of the school or any ownership interest in the school other than a bona fide mortgage or security interest.

A sole proprietor shall notify the Commissioner of any impending sale or transfer within the scope of this subsection at least 45 days prior to the effective date of the transaction.

C. Partnerships

1. Licenses issued to a partnership shall become void upon:

a. the voluntary or involuntary sale or transfer to any other person of the school or any ownership interest in the school other than a bona fide mortgage or security interest; or

b. any change in the composition of the partnership other than the reallocation of the ownership interests of the existing partners or the withdrawal of a partner.

2. A partnership shall notify the Commissioner of any impending sale, transfer or change in composition within the scope of this subsection at least 45 days prior to the effective date of the transaction.

D. Corporations

1. An initial or renewal license issued to a corporation shall become void upon:

a. the voluntary or involuntary sale or transfer to any other person of the school or any ownership interest in the school other than a bona fide mortgage or security interest;

b. any change in ownership of the corporation's stock other than

(a) the sale or transfer of stock among existing shareholders or

(b) the sale or transfer of stock in publicly traded companies; or

c. the issuance of additional stock in a company that is not publicly traded to a person who is not a current shareholder.

2. A corporation shall notify the Commissioner of any sale, transfer, change in stock ownership or new issue within the scope of this subsection at least 45 days prior to the effective date of the transaction.

11. School Closing

If the school cancels the program or courses for which it is licensed to offer in Maine and ceases operation for whatever reason, officials shall notify the Commissioner and all enrolled students at least 30 days prior to the date of the scheduled cessation of the school's activities. All refunds which are due students under the school's published refund policy shall be made during this 30 day period.

12. Violations

Any violation of this Chapter shall be handled under the provisions set forth in Title 20-A MRSA § 9503, 5 9506 and 8 9507.

STATUTORY AUTHORITY: 20-A MRSA, Chapter 323

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