

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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JUL 7 12 13 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Office of the Attorney General TITLE NUMBER: 142
RULE TYPE: Legislative; CITE AUTHORITY W. Va. Code Section 46A-6-103
46A-7-102(1)(e)
AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 29

TITLE OF RULE BEING PROPOSED: Legislative Rule Pertaining to The
Prevention of Unfair or Deceptive Acts or Practices by
Private Proprietary Institutions

DATE OF PUBLIC HEARING: 8/10/94 TIME: 9:00 a.m.

LOCATION OF PUBLIC HEARING: Charleston Civic Center, West Virginia Room 105
200 Civic Center Drive
Charleston, West Virginia 25301

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

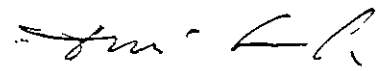
COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Tom Rodd, Director
Consumer Protection Division

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

812 Quarrier Street
Charleston, WV 25301

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL


Authorized Signature

5-86

**TITLE 142
LEGISLATIVE RULE
ATTORNEY GENERAL**

**SERIES 29
LEGISLATIVE RULE PERTAINING TO THE
PREVENTION OF UNFAIR OR DECEPTIVE ACTS OR
PRACTICES BY PRIVATE PROPRIETARY INSTITUTIONS**

STATEMENT OF CIRCUMSTANCES

A major problem in the State of West Virginia in recent years has been correspondence schools, who solicit students in West Virginia. These schools routinely misrepresent the services that they can provide, use deceptive sales practices, and fail to provide refunds upon cancellation of the course. The Proposed legislative rule would provide needed regulation in these areas.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Legislative Rule Pertaining to the Prevention of Unfair or Deceptive

Rule Title: Acts or Practices by Private Proprietary Institutions

Type of Rule: x Legislative Interpretive Procedural

Agency Office of the Attorney General Consumer Protection Division

Address 812 Quarrier Street, 6th Floor

Charleston, West Virginia 25301

1. Effect of Proposed Rule *Not Applicable*

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

No cost to State or local government.

3. Objectives of these rules:

Promotion of Consumer Protection

Rule Title: Legislative Rule Pertaining to the Prevention of Unfair or Deceptive Acts or Practices by Private Proprietary Institutions

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Will promote private adjudication of consumer issues, reducing burden on state regulations.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

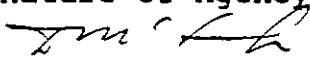
Will promote consumer confidence and assist responsible businesses, leading to job growth.

C. Economic Impact on Citizens/Public at Large.

Will assist consumers and businesses with certainty in consumer law, promoting sustainable and responsible business development.

Date: 6/30/94

Signature of Agency Head or Authorized Representative



**TITLE 142
LEGISLATIVE RULE
ATTORNEY GENERAL**

**SERIES 29
LEGISLATIVE RULE PERTAINING TO THE
PREVENTION OF UNFAIR OR DECEPTIVE ACTS OR
PRACTICES BY PRIVATE PROPRIETARY INSTITUTIONS**

BRIEF SUMMARY

The proposed rule governing private proprietary institutions would cover practices of these businesses from advertising to writing refunds of cancellations.

The proposed rule would make it an unfair or deceptive act or practice for the school to misrepresent or suppress the essential facts concerning its accreditation, the transfer of course credits earned at the institution to any other institution, and matters for which a student is qualified upon successful completion of the course. The proposed rule would also make it an unfair or deceptive act or practice to make misleading statements about the nature of the financial charges, and misrepresentations regarding one employability of its graduates. The proposed rule would also cover misrepresentation of facilities and deceptive sales practices such as deceptively designating sales representatives as registrars, counselors or advisers, when these people do not have such training or experience, using misrepresentations about its school or course and recruiting students, and implying courses are provided at a reduced price when such is not the case.

The proposed rule would also make it an unfair or deceptive act or practice for the proprietary institutions to fail to outline the obligations of both the school and the student, and to fail to provide certain disclosures in enrollment agreements. The proposed rule would also governing refund policies, and makes it an unfair or deceptive act or practice not to follow federal regulations regarding financial aid.

FILED

TITLE 142
LEGISLATIVE RULE
ATTORNEY GENERAL

JUL 7 12 13 PM '94

SERIES 29

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

LEGISLATIVE RULE PERTAINING TO THE
PREVENTION OF UNFAIR OR DECEPTIVE ACTS OR
PRACTICES BY PRIVATE PROPRIETARY INSTITUTIONS

SECTION 1: GENERAL

1.1 Rule Designation - This rule is legislative.

1.2 Scope.-- This proposed legislative rule covers certain unfair or deceptive acts or practices by private proprietary institutions wherever located.

1.3 Authority.-- W. Va. Code 46A-6-103 and W. Va. Code 46A-7-102(e).

1.4 Filing date.--

1.5 Effective Date.--

1.6 Repeal of Former Rule - Not applicable.

1.7 Penalties - Except as otherwise indicated, a violation of this rule constitutes a violation of the West Virginia Consumer Credit and Protection Act, W. Va. Code 46A-1-101 et. seq.

1.9 Severability - If, for any reason, any section, subsection, sentence, clause, phrase, or provision of this rule or the application thereto to any person or circumstance is held unconstitutional or invalid, such constitutionality or invalidity shall not affect other sections, subsections, sentences, clauses, phrases, or provisions or its application to any other person or circumstance, and to this end each and every section, subsection, sentence, clause, phrase, or provision of this rule is hereby declared severable.

SECTION 2: DEFINITIONS

2.1 "Private proprietary educational institution" or "privately vocational institution" means any facility operated for profit and offering courses, whether denominated career college, business college, or otherwise; or any seller of course therefor.

2.2 "For profit" shall include any facility designed to pay a financial reward to the owner or owners. It shall also include any facility designed as non-profit in which a principal owner or person related to a principal owner is an officer or major salaried official or employee of the facility.

2.3 "Course" means a formally organized, structured series of meetings open to the general public or a portion thereof for which a fee is charged with the intent of imparting information or understanding at a level appropriate to a post-secondary or secondary audience. It does not include courses given by a school operating under a license granted under Chapter 30 of the West Virginia Code which are relevant to the subject area of the licensure or four year colleges authorized to grant bachelor arts degrees.

2.4 "Financial aid" means any aid received from Basic Educational Opportunity Grant Program, the Guaranteed Student Loan Program, Pell Grants, or any other loan provided or arranged for by the institution.

SECTION 3: COURSE SOLICITATION AND CONDUCT

3.1 Misrepresentation It shall be an unfair and deceptive act or practice for an seller, person, or institution to engage in the use or employment by any person of any deception, fraud, false pretense, false promise or mis-statement, or the concealment, suppression or omission of any material fact with the intent that another rely thereon whether or not any person have in fact been misled, deceived or damaged thereby. Without limiting the generality of the foregoing, the following are deemed to be misrepresentation:

3.1.1. Nature of Educational Program.

Misrepresentation by an institution of the nature of an educational program includes, but is not limited to, false, erroneous, or misleading statements or suppression of essential facts concerning:

3.1.1.1. The particular type(s), specific source(s), nature and extent of accreditation. (If it is represented that the course is approved, the nature, extent, and purpose must be disclosed.)

3.1.1.2. Whether a student may transfer course credits earned at the institution to any other institution.

3.1.1.3. Whether successful completion of a course of instruction qualifies a student for:

3.1.1.3.1. Acceptance into a labor union or similar organization.

3.1.1.3.2. Receipt of a local, state, or federal license or nongovernmental certification required as a precondition for employment or to perform certain functions.

3.1.1.4. Whether its courses are recommended:

3.1.1.4.1. By vocational counselors, high schools, or employment agencies.

3.1.1.4.2. By government for government employment.

3.1.1.5. The size, location, facilities, or equipment of an institution.

3.1.1.6. The nature, age, and availability of the institution's training devices or equipment and their appropriateness to the employment objectives that it states its programs are designed to meet.

3.1.1.7. The number, availability, and qualifications, including the training and experience, of the institution's faculty and other personnel.

3.1.1.8. The availability of part-time employment or other forms of financial assistance.

3.1.1.9. The nature and availability of any tutorial or specialized instruction, guidance, and counseling, or other supplementary assistance the institution will provide its students before, during, or after the completion of a course.

3.1.1.10. The nature of any prerequisites established for enrollment in any course.

3.1.1.11. The nature of any prerequisites established for enrollment of a course.

3.1.2. Nature of Financial Charges.

Misrepresentation of the nature of its financial charges includes, but is not limited to, false, erroneous, or misleading statements or suppression of essential facts concerning:

3.1.2.1. Offers of scholarships to pay all or part of a course charge, unless a scholarship is actually used to reduce tuition charges made known to the student in advance. The charges made known to the student in advance are the charges applied to all students not receiving a scholarship.

3.1.2.2. Whether a particular charge is the customary charge at the institution for a course.

3.1.2. Employment or Opportunity for Graduates.

Misrepresentation by an institution regarding the employability of its graduates includes, but is not limited to, false, erroneous, or misleading statements:

3.1.2.1. That the institution is connected with any organization or is an employment agency providing authorized training leading directly to employment.

3.1.2.2. That the institution maintains a placement service for graduates or will otherwise secure or assist its graduates to obtain employment, unless it provides the student with a clear and accurate description of the extent and nature of this service or assistance.

3.1.2.3. Concerning government job market statistics in relation to the potential placement of its graduates.

3.1.2.4. That has the tendency or capacity to mislead or deceive students, prospective students, or the public regarding actual or probable employment or opportunities in any vocational or field of activity.

3.1.4. Correspondence or Home Study.

If any institution conducts its instruction wholly or partially by correspondence or home study, it shall be an unfair and deceptive act or practice to fail to give a clear and conspicuous disclosure that it is a correspondence or home study school; an institution which offers both resident and correspondence or home study instruction shall clearly and conspicuously identify in all advertisements and promotional materials, except in those pertaining solely to its resident program, the programs or courses to be offered in whole or in part by correspondence or home study.

3.1.5. Misrepresentation of Facilities, Services, Qualifications of Instructors, and Status.

An institution shall not misrepresent directly or indirectly in its advertising, promotional materials, or in any manner the size, location, facilities, or equipment of its school or the number of educational qualifications of its faculty and other personnel. Illustratively, an institution shall not:

3.1.5.1. Use or make reference to fictional organization divisions or position titles or make any representation which has the tendency or capacity to mislead or deceive students or prospective students, as to the size or importance of the school, its divisions, faculty, personnel, or officials, or in any other material respect.

3.1.5.2. Represent that the school owns, operates, or supervises a dormitory, eating, or other living accommodations unless such is the fact.

3.1.5.3. Falsely or deceptively represents the location or locations at which its courses will be conducted.

3.1.5.4. Misrepresent the nature, or efficacy, of its courses, training devices, methods or equipment or the number, qualifications, training, or experience of its faculty or personnel, whether by means of endorsements or otherwise.

3.1.5.5. Falsely represent that it will provide or arrange for part or full-time employment while the student is undergoing instruction, or misrepresent in any manner, directly or by implication, the availability of such employment or any other form of financial assistance.

3.1.5.6. Deceptively represent the nature of any relationship which the school or any of its officers, employees, or instructors may have with the U.S. government or any of its agencies or any agency of a state or local government, or that by virtue of such a relationship or any prior relationship its students will receive preferred consideration in obtaining employment with such a government or any of its agencies.

3.1.5.7. Represent directly or indirectly that certain individuals or classes of individuals are bona fide working members of its faculty, or are members of its advisory board, or have played an active part in the preparation of its instruction materials, unless such is the fact, or misrepresent in any manner, directly or by implication, the extent or nature of the association of any person with the school or the courses offered.

3.1.5.8. Misrepresent the nature and extent of any personal instruction, guidance, assistance, or other attention it will provide for its students either during a course or after completion of a course.

3.1.5.9. An institution shall not misrepresent directly or indirectly that it is a non-profit organization, or that it is affiliated with or otherwise connected with a public or private religious or charitable organization.

3.1.6. Deceptive Use of Diplomas.

An institution shall not issue a degree, diploma, certificate of completion, or any document of similar import, which misrepresents directly or indirectly, the subject matter, substance or content of the course of study or any other material fact concerning the course for which it was awarded or the accomplishments of the student to whom it was awarded.

3.2. Deceptive Sales Practices

3.2.1. In obtaining leads to prospective students, an institution shall not use advertisements or promotional material which is classified, designated or captioned, "Men wanted to train for ***", "Help Wanted", "Employment", "Business Opportunities" or by words or terms similar import, so as to represent directly or by implication that employment is being offered.

3.2.2. An institution shall not deceptively designate or refer to its sales representatives as "registrars", "counselors", "advisors", or by words of similar import or misrepresent in any other manner, the titles, qualifications, training, experience, or status of its salesmen, agents, employees, or other representatives.

3.2.3. The advertising or promotional materials of any institution which are used to provide leads to prospective students shall include the full name and address of the school (a local address is permissible to the case of a multi-locational school) and disclose the fact that it is a school if such is not apparent from its name. In addition, a person who responds to such an advertisement or promotional material shall not be visited by a salesman unless the advertisement or material contains a clear and conspicuous disclosure that a salesman may call or unless consent to such a visit is first obtained by mail or telephone.

3.2.4. In obtaining leads to prospective students, an institution shall not represent that it is conducting a talent representation is accompanied by a clear and conspicuous disclosure of the institution's name and address and the fact that it is a school if such is not apparent from its name. An industry member which conducts a talent hunt, contest, or similar test among prospective students should keep accurate records concerning the results thereof.

3.2.5. An institution shall not represent directly or indirectly in advertising or otherwise that a course or courses may be taken for a specified price, or at a saving, or at a reduced price, when such is not the fact; or otherwise deceive students or prospective students with respect to the cost of a course or equipment, books, or supplies associated therewith or furnish any means or instrumentality by which others engaged in obtaining enrollment may make such representations. As an illustration of the conduct prohibited, an institution shall not represent:

3.2.5.1. That veterans or other stated classes of persons may be enrolled at a reduced or special rate unless such is the fact.

3.2.5.2. That a specific amount is its usual and customary price for a course unless such amount is the price at which the course has been usually and customarily sold in the recent regular course of business.

3.2.5.3. That any saving is afforded in the price of a course from the institution's regular price unless the price at which the course has been usually and customarily sold in the recent regular course of business.

3.2.5.4. That books, training materials, or training aids are furnished at reduced prices unless the prices therefor have been reduced from the prices at which they were usually and customarily sold by the institution in the recent and regular course of business.

3.2.6. An institution shall not misrepresent the total cost of the course to a prospective student.

3.3. Course Terms and Conditions Generally

3.3.1. Registration Fee.

It shall be an unfair and deceptive act or practice for a school to charge a registration fee greater than 10 percent of the tuition for the entire course or one hundred dollars (\$100.00), whichever is greater.

3.3.2. Terms of Correspondence Course.

It shall be an unfair and deceptive act or practice for:

3.3.2.1. Combination correspondence and campus courses not to be priced separately. Refund and cancellation clauses shall apply to each individually.

3.3.2.2. The total cost of the correspondence portion of a contract or a contract that is entirely by correspondence to exceed the total of the reasonable store purchase price of the materials, the registration fee as hereinbefore set fourth, and a grading fee in an amount not to exceed one hundred dollars.

3.3.2.3. The contract term of a correspondence course, a portion of a correspondence course, or a combination course of which a portion is by correspondence to exceed ten months. Any contract in violation of this section is void.

3.3.2.4. The solicitor's commission arising out of a correspondence course contract to exceed the greater of 25 percent of the course cost or one hundred dollars.

3.3.3. Enrollment Agreements.

It shall be an unfair and deceptive act or practice for:

3.3.3.1. The enrollment agreement to fail to clearly outline the obligations of both the school and the student.

3.3.3.2. The school to fail to deliver a completed copy to the student prior to the consummation of the transaction.

3.3.3.3. The school to fail to fully inform the student as to the nature of the obligation the student is entering into and as to the responsibilities and rights of the student under the enrollment agreement before signing it.

3.3.3.4. An enrollment agreement to fail to conspicuously disclose:

3.3.3.4.1. The "cash price."

3.3.3.4.2. Other charges and fees.

3.3.3.4.3. The "finance charge," if any.

3.3.3.4.4. The "total of payments," using said terms.

3.3.4. Admission Policies and Practices.

It shall be an unfair and deceptive act or practice for:

3.3.4.1. A school to fail to determine with reasonable certainty that each applicant for enrollment is fully informed as to the nature of the course desired and as to what training the applicant can reasonably be expected to accomplish.

3.3.4.2. A school to fail to have establish the qualifications which an enrollee must have to enable successful assimilation of the training to be furnished or to fail to determine, with reasonable certainty in advance of acceptance of the enrollment, that the applicant has proper qualifications to take the training and be accepted into employment in the area of training. In any case where a school enrolls a person who does not meet accepted admission qualifications, it shall have written records of the reasons why the student was permitted to enroll, and be prepared to justify its action in accepting the enrollment.

3.3.4.3. A school to enroll an applicant who has a handicap, physical or otherwise, which could reasonably prevent use of the knowledge or skill gained from the training desired for successful on-the-job performance after completion of the course.

3.3.4.4. A school to accept an enrollment from a person of compulsory school age, or one attending a school of elementary or secondary level, unless it has

established through contact with properly reasonable parties that pursuit of the course would not be detrimental to the student's regular school work.

3.3.5. Right to Cancel or Withdraw from a correspondence or combination course.

It shall be an unfair and deceptive act or practice for a institution to fail to permit a student to withdraw in accord with the following: A buyer of a correspondence or a combination correspondence and campus course may cancel and terminate such contract any time by notifying in writing (by first class mail) or in person of such cancellation. No particular form is required and a nonappearance at the first day of the campus portion, extended failure to respond to correspondence, or other clear indication of nonparticipation shall be deemed to be a withdrawal.

3.4. Deceptive or Unfair Collection and Credit Practices

An institution shall not use any deceptive representations or deceptive means to collect or attempt to collect tuition or other charges from its students.

3.5. Affirmative Disclosure Prior to Enrollment

It shall be an unfair and deceptive act or practice for a seller or institution, before obtaining the signature of a prospective student or of his parent or guardian on an enrollment contract or other contract, to fail to furnish in writing to that person or persons the following information:

3.5.1. The institution's policy and regulations relative to make-up work, delay or delinquency in meeting course requirements, and standards required of the student for achieving satisfactory progress, including class attendance if applicable.

3.5.2. If the institution recommends, suggests, or requires that the student have or secure any additional texts, equipment, or materials other than usual student supplies such as paper and pencils, or utilize any supplementary services offered by the member, and the cost thereof is not included in the contract price of the course, an itemized list of such items and services showing the price thereof.

3.5.3. In the case of courses to be taught in residence, a description of the school's physical facilities, and equipment to be used in teaching the class, and the usual class size.

3.5.4. If the institution represents that it offers a placement service to its graduates or will otherwise secure or assist them to find employment, a detailed and explicit description of the extent and nature of this service or assistance.

3.5.5. Its graduation rate for the course or courses that is the subject of the enrollment contract prior to enrollment in the following manner:

3.5.5.1. For residence courses with fixed class schedules, the school shall disclose these figures for the most recent two calendar years; the number of students; the number and percentage of students who graduated; and the number and percentage of students who failed to complete.

3.5.5.2. For correspondence or combination courses, the school shall disclose these figures for individuals who became students during the school's most recent three calendar years: the number of students; the number and percentage of those students who graduated; the number and percentage of those students who failed to complete during that time; and the number and percentage of those students who remained actively enrolled at the end of that time.

3.5.6. Any other material facts concerning the school and the program of instruction or course which are reasonably likely to affect the decision of the student to enroll therein.

3.6 Unqualified Students

It shall be an unfair and deceptive act or practice to induce the enrollment or retention of a student for any course of instruction or training for a job or position for which the school knows or has reason to know the student is unfit by reason of educational or physical disqualification, or other material disqualification.

SECTION 4: FINANCING STANDARDS

4.1. Purpose

This section establishes rules that apply to institutions that offer or participate in any type of financial aid.

4.2. Compliance with Other Rules

It shall be an unfair and deceptive act or practice to fail to comply with any rules regarding federal financial aid programs contained in 34 C.F.R. Part 668 (General Provisions for Student Assistance Programs), 34 C.F.R. Part 682 (Federal Family Education Loan Program), 34 C.F.R. Part 685 (Federal Quest Student Program), and 34 C.F.R. Part 690 (Pell Grant Program), and successor regulations.

4.3. Financial Assistance Information

It shall be an unfair and deceptive act or practice for the institution to fail to describe the rights and responsibilities of students receiving any financial assistance, including assistance under the Pell Grant, Supplemental Educational Opportunity Grant, State Student Incentive Grant, National Direct Student Loan, and Parent Loans for Undergraduate Students Programs. This description shall include specific information regarding:

4.3.1. Criteria for continued student eligibility under each program.

4.3.2. Standards which the student must maintain in order to be considered to be making satisfactory academic progress in his or her course of study for the purpose of receiving financial assistance payments.

4.3.3. Criteria by which the student who has failed to maintain satisfactory academic progress may re-establish his or her eligibility for financial assistance payments.

4.3.4. The method by which financial assistance payments will be made to the student and the frequency of such payments.

4.3.5. The terms of any loan received by a student as part of the student's financial assistance package, a sample loan repayment schedule for sample loans, and the necessity for repaying loans.

4.3.6. The general conditions and terms applicable to any employment provided to a student as part of the student's financial assistance package.

4.4. Institutional Information

4.4.1. It shall be an unfair and deceptive act or practice to fail to make available the following institutional information:

4.4.1.1. The information that the institution must publish and make readily available to current and prospective students shall include, but is not limited to, information on the following subjects:

4.4.1.1.1. The cost of attending the institution, including: tuition and fees charged to full-time and part-time students; estimates of necessary books and supplies; estimates of typical charges for room and board; transportation costs for commuting students living on or off campus; and any additional cost of a program in which the student is enrolled or expresses a specific interest.

4.4.1.1.2. A statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of costs paid to the institution.

4.4.1.1.3. A statement to the institution's policies regarding any refund due to the Title IV student assistance programs.

4.4.1.1.4. The academic program of the institution, including: the current degree programs and other educational and training programs; the instructional, laboratory, and other physical facilities which relate to the academic program; and the institution's faculty and other instructional personnel.

4.4.1.1.5. The names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs and the documents describing that activity may be reviewed under paragraph (b) of this section.

4.4.1.1.6. A description of any special facilities and services available to handicapped students.

4.4.1.1.7. A discussion of whether instructional or other physical facilities are readily accessible by handicapped students.

4.4.1.2. The institution shall make available for review to any current or prospective student, upon request, a copy of the documents describing the institution's accreditation, approval or licensing.

4.5. Misrepresentation

In connection with any financial aid, it shall be an unfair and deceptive act or practice to:

4.5.1. Misrepresent to any student or prospective student that the financial aid will cover the entire cost for schooling.

4.5.2. Misrepresent to any student or prospective student that the financial aid will be available to pay miscellaneous personal expenses.

4.5.3. Misrepresent to any student or prospective student that the financial will not have to be repaid by the student and/or that another source will repay the financial aid.

4.5.4. Misrepresent to a student or a prospective student that the financial covers the cost of necessary textbooks to be used for classes.

4.5.5. Misrepresent to a student or a prospective student that the financial aid covers all expenses, including expenses for books, equipment, and other necessary items or fees.

4.6. Refunds

4.6.1. General. It shall be an unfair and deceptive act or practice to fail to comply with the following refund practices:

4.6.1.1. An institution shall have a fair and equitable refund policy under which it will make a refund of unearned tuition, fees, and room and board charges to a student who does not complete the academic period for which the loan was intended, or does not complete the academic period for which the loan was made.

4.6.1.2. The institution shall state its refund policy clearly in writing. The institution shall include in its refund policy the procedure a student would follow to obtain a refund.

4.6.1.3. The school shall provide the written statement containing its refund policy to a prospective student prior to the student's acceptance for initial enrollment. The school shall also make its refund policy known to currently enrolled students. If the school changes its refund policy, the school shall ensure that all students are made aware of the new policy.

4.6.1.4. The institution shall publish a current schedule of all student charges, a statement of the purpose for such charges, and related refund policies, and have them readily available free of charge to current and prospective students.

4.6.1.5. The institution shall clearly designate all optional charges as "optional" in all published schedules and related materials. Charges that are mandatory and charges that are optional must be plainly differentiated in all printed materials.

4.6.1.6. The institution shall clearly identify charges and deposits that are non-refundable as "non-refundable" on all published schedules.

4.6.1.7. The institution shall refund housing rental charges, less a deposit, so long as written notification of cancellation is made prior to a well-publicized date that provides reasonable opportunity to make the space available to other students.

4.6.1.8. The institution shall refund board charges in full, if written notification is made prior to a well-publicized date that falls on or before the beginning of the term of the contract. Subsequent board charges should be refunded on a pro-rata basis.

4.6.1.9. The institution shall assess no penalty charges where the institution, as opposed to the student, is in the error. The institution shall make refunds in cases where the institution has assessed charges in error.

4.6.1.10. The institution shall not advise students that any notifications of withdrawal or cancellation and requests for refund must be in writing and addressed to any designated institutional officer.

4.6.1.11. The institution shall pay or credit refunds due on a timely basis.

4.6.1.12. The institution shall publicize, as a part of their dissemination of information on charges and refunds, that an appeals process exists for students or parents who feel that individual circumstances warrant exceptions from published policy. The informational materials shall include the name, title, and address of the official responsible.

4.6.2. Refund Policy - Campus Only Schools.

4.6.2.1. A campus school shall refund 100 percent of the tuition and all other fees less the registration fee, if cancellation occurs prior to or on the first day of classes.

4.6.2.2. A campus school shall refund at least 75 percent of all charges less the registration fee if withdrawal occurs any time during the first one-fourth of the academic period.

4.6.2.3. A campus school shall refund at least 50 percent of all charges less the registration fee if withdrawal occurs any time during the first one-half of the academic period.

4.6.2.4. A campus school shall refund at least 25 percent of all charges less the registration fee if withdrawal occurs any time during the first three-fourths of the academic period.

4.6.2.5. A campus school need not refund any of the tuition charge if withdrawal occurs during the last one-quarter of the academic period.

4.6.3. Refund Policy - Correspondence and Combination Schools.

4.6.3.1. Once a student has canceled or withdrawn from correspondence or a combination (correspondence and campus) school during the correspondence portion or prior to or on the first day of campus class, the school shall cancel all financial obligation for goods or service not received. The refund shall be: the full amount of any campus portion of the course, plus the full amount of the correspondence portion of the course, less the reasonable store purchase price of unreturned correspondence course materials received, the registration fee, and a pro-rata portion of the grading fee, computed as that portion of the lessons graded and returned to the student as compared to the total number of course lessons. There shall be a rebuttable presumption in the absence of evidence to the contrary that the reasonable store purchase price of such materials shall be seven dollars (\$7.00) for each paperback and fifteen dollars (\$15.00) for each hardback book received.

4.6.4. Determining the Date of a Student's Withdrawal.

4.6.4.1. Purpose. This section establishes rules for how an institution must determine the date (to include the day, month, and, year) on which a student withdraws from the school for the purpose of calculating the amount of a refund due to a student, and reporting that the student has left the school.

4.6.4.2. The Withdrawal Date. The institution shall establish the date of a student's withdraw as follows:

4.6.4.2.1. Generally, the student's withdrawal date is the earlier of: the date the student notifies the school of his or her withdrawal; or the date the school determines that a student has withdrawn.

4.6.4.2.2. If the student is enrolled in a program of study by correspondence, the student's withdrawal date is normally 60 days after the due date of a required lesson that the student failed to submit in accordance with the schedule for lessons established by the institution. However, if the student establishes in writing, within the 60-day period, a desire to continue in the program and an understanding that the required lessons must be submitted on time, the institution may grant that student a restoration to in-school status.

4.6.4.3. Leaves of Absence. A student who is absent from school and who has been granted a leave of absence by the institution, in accordance with this paragraph, is not considered to have withdrawn from school for purposes of this section. An institution may grant a leave of absence to a student provided that the student has made a written request to be granted a leave of absence, and the leave of absence involves no additional charges by the school to the student.

4.6.5. Timely Payment of a Refund.

An institution shall pay each refund that is due in accordance with the following:

4.6.5.1. Within 10 days after the date of the student's withdrawal from the school. In the case of a student who does not return to school at the expiration of an approved leave of absence, within 40 days after the last day of that

leave of absence.

4.6.5.2. Transition requirements. In the event of an institution's closure, termination, or suspension of operations, or change in ownership, the institution or its successors shall make provision for compliance with the requirements of this section with regard to students who obtained loans for period of attendance at the school prior to the institution's change in status.

4.6.5.3. If an institution stops providing educational services or loses its certification during an academic period, it shall refund all tuition and fees paid for that academic period.

4.7. Compliance with Loan and Grant Regulations

It shall be an unfair and deceptive act or practice for an institution participating in federal financial aid to fail to comply with rules regarding federal financial aid programs and lenders, financiers, assignees and guarantors shall comply with the Federal Holder Rule 16 C.F.R.