

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: State College System Board of Directors TITLE NUMBER: 131

RULE TYPE: Legislative; CITE AUTHORITY WV Code 18B-3-5

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: 3

TITLE OF RULE BEING PROPOSED: Proprietary Correspondence, Business, Occupational, and Trade Schools

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 18, 1994 AT 5:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Dr. James W. Rowley
Interim Chancellor
State College System of WV
1018 Kanawha Blvd., East
Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Marie Carter
Marie Carter

Assistant to the Chancellor

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

b.20

DEPARTMENT OF EDUCATION AND THE ARTS
Office of the Secretary

State Capitol Bldg. 1, R-151
Charleston, West Virginia 25305
Telephone: (304) 558-2440
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Gaston Caperton
Governor

Barbara Harmon-Schamberger
Cabinet Secretary

August 22, 1994

The Honorable Ken Hechler
Secretary of State
State Capitol Building
Charleston, WV 25305

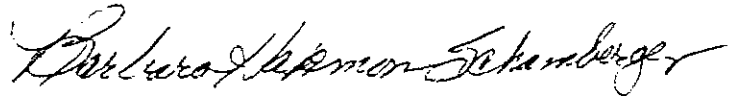
Dear Secretary Hechler,

I hereby grant consent as required pursuant to WV Code §5F-2-2 for the promulgation of the following legislative rule of the State College System Board of Directors:

Title 131, Series 3: Proprietary Correspondence, Business, Occupational
and Trade Schools

A copy of the rule is attached.

Sincerely,



Barbara Harmon-Schamberger
Secretary

BHS:mc

Attachment

cc: Dr. James Rowley
Dr. John Thralls

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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**TITLE 131
LEGISLATIVE RULE
STATE COLLEGE SYSTEM OF WEST VIRGINIA
BOARD OF DIRECTORS
SERIES 3**

Summary. Series 3 responds to legislation which was enacted during the 1992 legislative session, and amended during the 1994 session, requiring the State College System Board to promulgate a rule regarding the issuance of permits to correspondence, business, occupational and trade schools. It grants to the State College System Board the authority to issue permits and monitor the operations of these schools. The rule describes guidelines under which these schools may obtain a permit to solicit students or operate a school in the State of West Virginia. Additionally, the rule formulates and describes guidelines regarding areas such as school closings, student enrollment contracts, student complaint procedures, refund policies, advertising and withdrawal of approval to operate.

**TITLE 131
LEGISLATIVE RULE
STATE COLLEGE SYSTEM OF WEST VIRGINIA
BOARD OF DIRECTORS
SERIES 3**

**TITLE: PROPRIETARY CORRESPONDENCE, BUSINESS,
OCCUPATIONAL, and TRADE SCHOOLS**

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**TITLE 131
LEGISLATIVE RULE
STATE COLLEGE SYSTEM OF WEST VIRGINIA
BOARD OF DIRECTORS
SERIES 3**

**TITLE: PROPRIETARY CORRESPONDENCE, BUSINESS,
 OCCUPATIONAL, and TRADE SCHOOLS**

SECTION 1. GENERAL

- 1.1 Scope - Rule regarding the issuance, renewal, and revocation of permits to proprietary correspondence, business, occupational, and trade schools.
- 1.2 Authority - West Virginia Code § 18B-3-5
- 1.3 Filing Date -
- 1.4 Effective Date -

SECTION 2. DEFINITIONS

- 2.1 Accredited School A school that is accredited by a regional or national accrediting agency that is approved by the United States Department of Education.
- 2.2 Associate Degree Degree authorized by the State College System Board of Directors that may be awarded by proprietary schools pursuant to a program of not less than two (2) academic years.
- 2.3 Board The State College System of West Virginia Board of Directors.
- 2.4 Campus A permanent facility where instruction takes place or a facility where courses are taught for more than ten (10) days per calendar year.
- 2.5 Chancellor The Chancellor of the State College System Board of Directors or his or her designee.

- 2.6 Correspondence School A for-profit educational organization which, for a consideration, profit, or tuition, teaches or instructs in any subject that prepares an individual for employment solely through the medium of correspondence between the student and the school by which the school transmits to or exchanges matter with the student via printed material, video tapes, cassette tapes, telecommunications, or other means.
- 2.7 Financially Sound A current ratio of at least 1:1 regarding total current assets compared to total current liabilities, positive total equity, and current year profitability.
- 2.8 Immediate Family Spouse, parent, sibling, child, or grandchild.
- 2.9 Ownership Change When the change of ownership results in a change in control of the school outside the immediate family. The sale or transfer of ownership interest to a current stockholder of the corporation as a result of the death of an owner is not considered a change in ownership for the purposes of this rule.
- 2.10 Person Any individual, group of individuals, partnership, association, organization, business, trust, corporation, or other business entity.
- 2.11 Proprietary Business Occupational or Trade School A for-profit institution or organization, no matter how titled, maintaining or conducting classes for a consideration, remuneration, or tuition, designed to prepare an individual for employment.
- 2.12 Representative A person employed by a school, whether such school is located within or outside of the State of West Virginia, to act as an agent, solicitor, procurer, broker, or independent contractor to produce students or enrollees for any such school by solicitation in any form at any place in the State of West Virginia.

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|------|------------------------------|--|
| 2.13 | Specialized Associate Degree | Degree authorized by the State College System Board of Directors that may be awarded by proprietary schools pursuant to a degree program of not less than two (2) academic years. |
| 2.14 | State | The State of West Virginia. |
| 2.15 | Terms | Regularly established divisions of the academic school year, each with an established starting and ending date, which are normally referred to as modules, quarters, trimesters, or semesters. |

SECTION 3. EXEMPTIONS

- 3.1 For the purpose of this rule, the following are not defined as a correspondence, business, occupational, or trade school:
- 3.1.1 Any school or organization that is licensed or approved for a permit to offer education or training from any other statutory licensing or accrediting agency pursuant to statutes of the West Virginia Code other than 18B-3-5.
 - 3.1.2 Any school whose courses of instruction offered are solely for the purpose of teaching preparation of tax returns.
 - 3.1.3 Any school conducted by any person, firm, corporation, or other organization solely on a contractual basis where obtaining a permit is not a condition of the contract and no individual person is charged tuition and no advertisement of courses takes place.
 - 3.1.4 Any corporate training or apprenticeship program conducted by a company, union, or other organization having students enrolled in training or educational programs for which tuition and/or fees are not charged.
 - 3.1.5 Schools that offer courses which are conducted solely for personal development or information and do not represent themselves as preparing an individual for a career or occupation.
 - 3.1.6 Tutorial instruction given in a private home or elsewhere as supplemental to regular classes for students enrolled in public or private schools.

- 3.1.7 Those schools or organizations which offer instruction or training on a contractual basis with private or governmental organizations and/or have students enrolled in courses or programs of instruction for which they are not charged tuition and/or fees.
- 3.1.8 Non-profit independent colleges or universities that are accredited by a regional accrediting agency recognized by the United States Department of Education.
- 3.1.9 Those public colleges, universities, and schools under the jurisdiction of the State College System of West Virginia, the University System of West Virginia, or the West Virginia Board of Education.

SECTION 4. APPLICATION for PERMIT

- 4.1 Unless exempted as defined in Section 3 of this rule, no person or corporation shall solicit students or operate any correspondence, business, occupational, trade school, or branch campus in the state without first applying for or obtaining a permit to do so, issued by the board. A permit shall be issued authorizing the solicitation of students or authorizing the operation of a school if all conditions of the laws and regulations of the state pertaining to correspondence, business, occupational, and trade schools are met.
- 4.2 If a person or corporation, as defined in Section 2 of this rule, wishes to operate or continue to operate a school or branch campus or to solicit students in the state, that person or corporation shall submit an original application for a permit to do so on forms provided by the Chancellor.
- 4.3 As a condition of the issuance of a permit, a school shall submit with the application:
 - 4.3.1 A copy of the curriculum and description of courses for each program being offered;
 - 4.3.2 A copy of the student enrollment contract;
 - 4.3.3 A copy of the school's tuition refund policy and schedule;
 - 4.3.4 A fully executed surety bond in the appropriate amount;
 - 4.3.5 The appropriate permit fee;

- 4.3.6 A list of all official representatives of the school who will be soliciting students;
 - 4.3.7 A written plan designed to ensure the right of the students to complete the course of instruction in which the student is enrolled, in the event the school desires to close or change location; and
 - 4.3.8 If accredited, the letter of accreditation status from the accrediting agency.
- 4.4 In addition, as a condition of the issuance of a permit for all new applicants, a representative of the board will make an on-site visit to the school location to confirm its readiness for operation by determining:
- 4.4.1 That adequate facilities are available and ready for occupancy.
 - 4.4.2 That all instructional equipment, books, supplies and personnel are in place and ready for operation.
- 4.5 Any person or organization submitting an initial application for a permit to operate a school in this state shall provide:
- 4.5.1 A listing of the individual's or organization's prior school operation history in this or other states.
 - 4.5.2 Information detailing the involvement in any school that lost its accreditation, lost its authorization to operate because of violation of state or federal laws, was terminated from participation in the federal financial aid programs, or closed without arranging a teach-out for students or arranging refunds.
 - 4.5.3 Proof at the time of filing an application that adequate facilities are available and ready for occupancy and that all instructional equipment, books, supplies, and personnel are in place and ready for operation and verified by an on-site committee.
- 4.6 As a condition of permit renewal, all schools shall make annual reports to the Chancellor on forms furnished by the Chancellor.
- 4.7 In addition to the requirements set forth above, all out-of-state schools shall annually provide evidence of authority to operate or accreditation by the regulatory agency of each state in which the school is located or conducts business.

- 4.8 A permit shall be valid for one year corresponding to the effective date of the surety bond as required herein.
- 4.9 Any information of a confidential or proprietary nature provided to the Board by a school for the purpose of obtaining or renewing a permit, and exempted from public disclosure pursuant to the terms of West Virginia Code § 29B-1-4, shall not be disclosed for any purposes inconsistent with this rule or statute.

SECTION 5. PERMIT APPLICATION FEE

- 5.1 Any person or corporation applying for a permit to solicit students or operate a for-profit school or branch campus in the state shall submit an initial application fee in the amount of two thousand dollars (\$2,000) with the application.
- 5.2 Any person or corporation applying for renewal of a permit shall submit an annual fee of five hundred dollars (\$500) with the renewal application for each campus operated by the school.
- 5.3 Any person or corporation not submitting a permit renewal application and surety bond within sixty (60) days of the effective date of the surety bond shall be subject to the regulations pertaining to an initial application.

SECTION 6. SURETY BOND REQUIREMENTS

- 6.1 A school located in the state shall submit with its initial or renewal application, the original fully executed, continuous surety bond written by a company authorized to do business in the state in the sum of fifty thousand dollars (\$50,000).
- 6.2 However, any school which has its physical facilities located in the state and has operated in the state under the present ownership, or ownership within the immediate family, for at least ten (10) years as of June 10, 1994, is required to submit with its renewal application the original copy of a fully executed continuous surety bond written by a company authorized to do business in the state in the sum of thirty-five thousand dollars (\$35,000).
- 6.3 Schools having branch campuses within the state shall provide one fully executed surety bond in the appropriate amount providing coverage for all campuses.

- 6.4 In the event of notice of cancellation of the surety bond by a bonding company, the school shall furnish a fully executed replacement to the Chancellor within sixty (60) days of the school's receipt of the notice of cancellation. But in no event may a school solicit or enroll new students until the appropriate surety bond is in effect.
- 6.5 The termination of a school's surety bond coverage shall be grounds for revocation of its permit if the school fails to replace the bond within the required time.
- 6.6 A school whose physical facilities are located outside the state, and which applies for a permit to solicit students in the state, shall submit a fully executed surety bond in the sum of fifty thousand dollars (\$50,000).
- 6.7 Any school that has its accreditation terminated for cause, or if the school's institutional eligibility under the Higher Education Act of 1965, as amended, is terminated for cause, the board after reviewing documentation as to the above, may increase the bond requirement to one hundred fifty thousand dollars (\$150,000).
- 6.8 If a school's continued financial viability as an ongoing concern is in doubt, the board may require that audited financial statements, in accordance with the standards of the American Institute of Certified Public Accountants, be submitted for review. If the school is found not to be financially sound, as defined in Section 2 of this rule, the board may require a surety bond in an amount necessary to protect the financial obligation legally due enrolled students, but may not exceed four hundred thousand dollars (\$400,000).
- 6.9 Confidentiality Statement - any financial information submitted to the Chancellor by a proprietary institution covered under this rule shall be used only for purposes of this rule.

SECTION 7. MAINTENANCE of RECORDS

- 7.1 A school shall store records at a central location and have them available for inspection by a representative of the board.
- 7.2 A school shall maintain academic records suitable for transcript purposes for all students for fifty (50) calendar years after the student has departed from the school, or who becomes 65 years of age, and include as the minimum:
 - 7.2.1 The name and address of the school;

- 7.2.2 The full name and address of the student;
 - 7.2.3 The dates of attendance;
 - 7.2.4 The course of instruction or subject;
 - 7.2.5 The amount of credit, if any;
 - 7.2.6 The grade for each subject; and
 - 7.2.7 A statement of graduation or completion.
- 7.3 A school shall develop and enforce security measures to protect student records from damage or destruction for the required period of time.

SECTION 8. CHANGE of SCHOOL OWNERSHIP

- 8.1 A school must notify the Chancellor at least thirty (30) days in advance of the change of ownership or control. Within thirty (30) days of such notification, the Chancellor will notify the school of permit status.
- 8.2 When a school is located in the state and has a change of ownership, and if the new ownership is outside of the immediate family of the previous owner, the school may continue to operate under the present permit. However, the school shall submit to the Chancellor the following:
- 8.2.1 A fully executed surety bond in the amount of fifty-thousand dollars (\$50,000).
 - 8.2.2 The names, addresses and corporate titles of all persons or other entities having a financial interest in the school, and the name and addresses of any other schools in which these persons or entities have or have had a financial interest.
 - 8.2.3 A revised listing of all programs to be offered if changes were made with new ownership; and
 - 8.2.4 An application for each representative of the school who will be soliciting students.
- 8.3 If the school is located outside the state, the school must show evidence of compliance with the laws and regulations in the state where the school is located. In addition, the school must submit the following:

- 8.3.1 A fully executed surety bond in the amount of fifty thousand dollars (\$50,000);
- 8.3.2 An application for each representative of the school that will be soliciting students in West Virginia;
- 8.3.3 A revised listing of all programs to be offered if changes are made with new ownership; and
- 8.3.4 The names, addresses, and corporate titles of all persons or other entities having a financial interest in the school.

SECTION 9. SCHOOL CLOSING

- 9.1 A school which is closing, either voluntarily or involuntarily, shall:
 - 9.1.1 Inform the Chancellor of this action immediately by certified mail;
 - 9.1.2 Supply the Chancellor with the name, address, and telephone number of the person responsible for closing arrangements;
 - 9.1.3 Supply the Chancellor with the name, address, telephone number, and the course of study for each student who has not completed his or her course of study;
 - 9.1.4 Supply the Chancellor with information on the amount of class time left for each student to complete the course along with the amount of entitled refund, if any, for which each student is eligible if the school fails to deliver the instruction for which the student had contracted;
 - 9.1.5 Inform currently enrolled students by written notice of the procedures they are to follow to secure refunds or to continue their education and supply the Chancellor with a copy of this notice; and
 - 9.1.6 Inform the Chancellor of plans to store the permanent student records and the procedure to obtain copies.

SECTION 10. STUDENT ENROLLMENT CONTRACT

- 10.1 Each school shall utilize a written enrollment contract which specifies both the school's and student's legal rights and obligations. The agreement may incorporate into the contract by reference information in the school's catalog; student handbook, or other school publication without printing such

information or publication in the contract itself. The enrollment contract must contain, but is not limited to, the following:

- 10.1.1. The name and address of the school;
 - 10.1.2. The name of the course of study or program, including the number of credit or clock hours of classroom instruction, home study lessons, or other study units required;
 - 10.1.3. The total cost of the course or program for which the student is obligated under the contract including tuition, fees, books, and any other charges the student will incur shall be clearly stated;
 - 10.1.4. The school's cancellation and refund policy, including an explanation of the procedures a student will follow to cancel the contract or enrollment agreement; and
 - 10.1.5. The signature of the student applicant, a parent or other sponsor if the student is under the age of eighteen (18), and the appropriate school officials, plus the date signed.
- 10.2. An application for admission is not to be construed as binding on the student, therefore limiting total student financial obligation to the payment of an application fee.
- 10.3. The school shall provide the student with a copy of the completed enrollment agreement that is signed and dated.
- 10.4. Notwithstanding the above requirements, the enrollment agreement of a school shall be deemed to meet all requirements if:
- 10.4.1. The school's physical facilities are located within the state;
 - 10.4.2. The school has been under permit since July 1, 1979, under continuous ownership within the same immediate family; and
 - 10.4.3. The school is accredited by an appropriate nationally recognized accrediting agency approved by the United States Department of Education.

SECTION 11. CANCELLATION and REFUND POLICIES

- 11.1 To obtain a permit, a school shall have a cancellation and refund policy that incorporates the following provisions:
- 11.1.1 Refund policy relative to the unused portion of tuition, fees, and other charges if the student does not enroll in the school, withdraws, or is dismissed.
 - 11.1.2 All fees and payments remitted to a school by a prospective student shall be refunded, minus any stated application fee not to exceed fifty dollars (\$50), if the student is not admitted due to ineligibility.
 - 11.1.3 An admitted student applicant may cancel, by written notice, his or her enrollment any time prior to the first class day of the session for which the application was made, and the school shall refund all tuition paid by the student minus an application fee not to exceed fifty dollars (\$50.)
 - 11.1.4 For the purposes of refund calculations, an individual's status as a student shall be considered terminated by the school not later than seven (7) calendar days after the last day on which the student actually attended the school. Termination may be effected earlier by proper notification. A home study program of instruction shall be terminated if a school does not receive a lesson or an appropriate response from the student within six months after receipt of the last lesson, and the date of withdrawal shall be the date of the last lesson received. The date of withdrawal initiated by a student shall be the date a letter is postmarked or proper notification is given. The school shall provide a receipt for each letter or withdrawal notice received.
 - 11.1.5 Schools are required to submit refunds to individuals or the appropriate agency within thirty (30) days after receipt of a proper notification of termination from a student.
 - 11.1.6 The student refund policy for withdrawals and terminations for schools not accredited by a national accrediting agency recognized by the United States Department of Education must at a minimum comply with the following:

- 11.1.6.1 A student who begins a term and withdraws after completing up to one (1) week or ten percent (10%) of the term is entitled to a refund of ninety percent (90%) of the charges less the application fee.
 - 11.1.6.2 A student who begins a term and withdraws after completing more than ten percent (10%) through twenty-five percent (25%) of the term is entitled to a refund of seventy-five percent (75%) of the charges less the application fee.
 - 11.1.6.3 A student who withdraws after completing more than twenty-five percent (25%) through fifty percent (50%) of the term is entitled to a refund of fifty percent (50%) of the charges less the application fee.
 - 11.1.6.4 A student who withdraws after completing more than fifty percent (50%) of the term is not entitled to a refund.
- 11.2 Refunds shall be calculated for a specific term as defined in Section 2 of this rule, not the total cost of the program, except in those programs that are of sixteen (16) weeks or less in duration. The student's financial commitment shall not be for more than one term at any given time.
- 11.3 Those schools that are accredited by an appropriate nationally recognized accrediting agency approved by the United States Department of Education, may use the accrediting agency's refund policy to meet the requirements of this section.
- 11.4 Those schools having their physical facilities located outside West Virginia must comply with the cancellation and refund policies of their home state. If there is no state cancellation and refund policy in their home state, Section 11 of this policy must be followed.

SECTION 12. ADVERTISING

- 12.1 Each school and its representatives shall not make or cause to be made any oral, written, or visual presentation in connection with the offering or publicizing of a subject or course of instruction which is false or misleading.

12.2 In its advertising, a school shall:

- 12.2.1 Limit reference to its authority to operate to "Permit to Operate Issued by the State College System of West Virginia Board of Directors";
- 12.2.2 Disclose that it is a home study school if it provides such instruction;
- 12.2.3 Advertise starting salaries of its former students only if these claims can be documented for the most recent twelve- (12) month period preceding the advertisement.

12.3 In its advertising, a school shall not:

- 12.3.1 Advertise that it is "supervised," "recommended," "endorsed," "approved," or "accredited" by the board;
- 12.3.2 Describe its courses of instruction and subjects in a misleading manner.
- 12.3.3 Use photographs or other illustrations in ways which misrepresent the size and location of the school, its equipment, and facilities for the career for which the student is being trained;
- 12.3.4 Represent that it is endorsed by or affiliated with a college or university, unless such statements can be documented;
- 12.3.5 Advertise the transferability of its credits to specific colleges and universities unless it has written evidence on file of current acceptability of such credits from said colleges or universities;
- 12.3.6 Falsely advertise that it is endorsed by manufacturers, business establishments, or organizations engaged in the line of work for which the school gives training;
- 12.3.7 Advertise accredited status unless such status has been received from an accrediting body currently listed as recognized by the United States Department of Education and such accrediting body must be named if used in any advertisement or promotional material;

- 12.3.8 Advertise as an employment agency, or under the same or similar name as such an agency, or advertise training courses in the "Help Wanted" section of any newspaper;
 - 12.3.9 Advertise any tuition, fees, or other charges in amounts other than those currently on file in the Chancellor's Office or advertise them without showing the total costs;
 - 12.3.10 Falsely imply a guarantee of job placement or employment at a certain wage; or
 - 12.3.11 Use endorsement, commendations, or recommendations by students without their written consent.
- 12.4 A school eligible to offer a course of instruction or program leading to an associate degree or specialized associate degree shall, in any advertisement, promotional material, or the school catalogue refer to this degree designation as an "Associate Degree" or a "Specialized Associate Degree."
- 12.5 Those schools that are accredited by an appropriate nationally recognized accrediting agency approved by the United States Department of Education may adhere to the accrediting agency's criteria pertaining to advertising to satisfy the requirements of this section. However, in the event that a particular area of this section is not addressed by accrediting agency criteria, the provisions of this section must be followed.

SECTION 13. STUDENT COMPLAINTS

- 13.1 A school shall resolve student complaints promptly and fairly and shall not subject a student to punitive action as a result of a written complaint having been filed with the school or Chancellor.
- 13.2 The school shall have written procedures that describe in detail how a student may register a complaint, and how the school will investigate and attempt to resolve the complaint.
- 13.3 The school shall provide all enrolled students with a written copy of the student complaint procedures and make prospective students aware that such procedures exist and provide copies upon request.
- 13.4 Each school that is being investigated, as a result of a written student complaint, will be notified by the Chancellor that such an investigation is being conducted and shall be informed of the nature of the complaint.

- 13.5 The school being investigated must respond to any inquiry by the Chancellor relating to the investigation within ten (10) working days of its receipt of the inquiry.
- 13.6 Any school refusing to cooperate with an investigation of a written student complaint by the Chancellor or any other governmental agency shall have its permit to operate or solicit students in West Virginia revoked.
- 13.7 The Chancellor, upon completion of the investigation of a written student complaint, will supply the school by certified mail with a written report of the findings and any proposed corrective action. The school will have twenty (20) working days to reply to the Chancellor before any action may be taken.
- 13.8 The school has a right to request a hearing regarding any findings or action proposed by the Chancellor resulting from an investigation involving student complaints.
- 13.9 The Chancellor may forward any information pertaining to a written complaint found to have merit involving student financial aid to the United States Department of Education.

SECTION 14. WARNING, SUSPENSION, WITHDRAWAL, or REVOCATION of ACCREDITATION, LICENSE, and/or APPROVAL to OPERATE

- 14.1 A school shall provide the Chancellor with a copy of any notice of warning, suspension, revocation, or other adverse action received from any national, regional, or state accrediting and/or approval agency or the U.S. Department of Education within fifteen (15) days of receipt of such notice. The school shall at the same time inform the Chancellor in writing of activities being taken to correct the deficiencies.
- 14.2 The board may for good cause, suspend, withdraw, or revoke the authorization of proprietary schools to operate a school within the state or to solicit students within the state. Good cause shall consist of:
 - 14.2.1 Loss of accreditation by a nationally or regionally recognized accrediting agency;
 - 14.2.2- Cancellation of the school's bond by the bonding company and failure to secure a replacement in accordance with this rule;

- 14.2.3 Proof that the school has engaged in conduct prohibited by this rule and has failed to take corrective action within the required time;
 - 14.2.4 Proof of general inadequacy of the instruction offered by the school, resulting in the inability of a substantial number of enrollees to obtain or retain employment because of such inadequate training;
 - 14.2.5 Closure of the school without adequately providing for the completion of students' classes or course work, or without refunding students' unearned tuition;
 - 14.2.6 Conviction of the owner of a school for a felony involving moral turpitude or crime involving administration of the school or involving Federal Student Assistance programs; or
 - 14.2.7 Refusal to cooperate with an investigation pursuant to Section 13 of this rule.
- 14.3 Upon receipt by the Chancellor of information constituting any of the above grounds for suspension, withdrawal, revocation, or other adverse action, the Chancellor may notify the school and its owner in writing of his/her intent to recommend suspension, withdrawal, revocation, or other adverse action and the grounds for such recommendation.
- 14.3.1 The owner of the school may, within ten (10) days of receipt of such notice, request a hearing upon the recommended action. Such hearing, if requested, shall be commenced within twenty (20) work days of such request at the Chancellor's Office or at such other location convenient to the parties and witnesses as may be designated by the Chancellor.
 - 14.3.2 The hearing shall be conducted by the Chancellor of the State College System or the Chancellor's designee, pursuant to the procedures set forth in Chapter 29A, Article 5 of the Code of West Virginia.
 - 14.3.3 The Chancellor or the Chancellor's designee may continue the hearing at the request of the school for good cause shown. Continuances shall not be granted as a matter of right.
 - 14.3.4 If the owner of the school does not request a hearing within the requisite time period, the recommendation of the

Chancellor shall be deemed unchallenged by the school and reported to the board for final action.

- 14.4 At the hearing, the grounds for suspension, withdrawal, or revocation of authorization to operate the school or other adverse action must be established by clear and convincing evidence.
 - 14.4.1 The owner of the school or its manager or designated representative may appear to defend the interests of the school, may present witnesses and evidence on behalf of the school, and may cross-examine witnesses against the school. The school may retain legal counsel to represent its interests at the hearing.
 - 14.4.2 The board does not have the power to issue subpoenas, but the Chancellor or the school may request the appearance of witnesses at the hearing, who shall be notified of such request by the Chancellor or the Chancellor's designee with the date, time, and location of the hearing in writing.
 - 14.4.3 The rules of evidence shall not strictly apply and evidence may be admitted if it is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Objections to evidence offered by either party shall be ruled upon by the Chancellor or the Chancellor's designee who conducts the hearing.
 - 14.4.4 The hearing shall be recorded by mechanical means or by a certified court reporter retained by the Chancellor.
- 14.5 The Chancellor shall make written findings of fact and conclusions of law as to whether or not the school or its representative has committed acts in violation of the law or these rules which would justify the suspension, withdrawal, or revocation of its authorization to operate. Such findings and conclusions shall be reported to the board, and a copy of same shall be provided to the school on the same date it is filed with the board and placed upon its agenda for action.
- 14.6 The board shall act upon the report at its next regularly scheduled business meeting to accept or reject the findings of the Chancellor or the Chancellor's designee, and to suspend, withdraw, or revoke the authority of the school or its representative to operate and/or solicit students within the state. Notification of the board's action shall be given to the school and/or its representative in writing within two (2) business days following such action

of the board, by certified mail or by personal delivery. For good cause shown in the minutes of the board, action upon the Chancellor's report may be deferred to a date not later than the next regularly scheduled business meeting of the board.

- 14.7 A school or its representative may appeal an adverse action of the board to a court of competent jurisdiction within the time period specified by state law.