



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY,  
NY 12234

**TO:** Adult Career and Continuing Education Services  
(ACCES) Committee

**FROM:** Kevin G. Smith

**SUBJECT:** Bureau of Proprietary Schools Supervision

**DATE:** March 1, 2011

**STRATEGIC GOAL:** 1, 2, 3

**AUTHORIZATION(S):**

### **SUMMARY**

#### **Issue for Discussion**

The purpose of this item is to begin discussion, with the ACCES Committee, of the status of the Bureau of Proprietary School Supervision (BPSS).

#### **Reason for Consideration**

The information provided will help in understanding the challenges and accomplishments of the Department's Bureau of Proprietary School Supervision (BPSS) within ACCESS.

#### **Proposed Handling**

This item will come before the Regents ACCES Committee at its March 2011 meeting for discussion.

#### **Procedural History**

The Education Law (Sections 5001-5010) pertaining to non-degree proprietary schools was last amended substantially in 1990. Since then, the number of these schools has increased and their nature has changed. A bill was

introduced in 2008 and again in 2009 to assist the Department in keeping pace with these changes.

### Background Information

ACCES' BPSS is responsible for overseeing New York State's 497 licensed non-degree granting proprietary schools attended by an estimated 200,000 students annually. There are currently another 125 schools pending licensure. During the 2010 year, tuition collections for these schools are estimated at \$600 – \$750 million. BPSS does not oversee New York's 40 proprietary colleges. That responsibility lies with SED's Office of Higher Ed. See Attachment A for a comparison of proprietary schools and proprietary colleges.

### **BPSS Funding and Operations**

BPSS' oversight is carried out by a staff of 21 split between a central office in Albany and a satellite office in New York City, where the majority of the State's proprietary schools are located, with an annual operating budget of about \$3 million.

Two revenue accounts support BPSS activities. The Supervision Account (SA) funds operations and the Tuition Reimbursement Account (TRA) provides refunds to eligible students of proprietary schools. The accounts were created under the applicable provisions of Article 101 (Sections 5001 to 5010) of the Education Law and State Finance Law (Section 97-hh). Additional authority is provided through Part 126 of the Commissioner's Regulations.

Both accounts derive most of their revenue from statutory assessments placed on licensed schools. Additional revenue is received from fees and fines. All licensing fees collected by BPSS are deposited into the SA. All fines imposed and collected by BPSS through its disciplinary authority are deposited directly into the TRA. The TRA also accrues interest.

The TRA was established for the protection of students. Its sole use is for refunds to students who attended licensed schools and filed BPSS substantiated complaints with the Commissioner. Since 1995, students have benefited from almost \$7 million in refunds from the TRA.

### **Scope of BPSS Responsibilities**

BPSS' oversight focuses on prevention and protection --- licensing up front and protection of students' financial interest in the event of substandard conditions or school closure subsequent to license approval.

Operating responsibilities are distributed among staff members who are generally assigned to one of three teams that mirror BPSS' major responsibilities -- Licensing, Education and Curriculum, and Investigations.

The **Licensing Team** reviews for approval, all new school applications. All aspects of a school are examined, including facilities, school forms (e.g., school catalogs and student contracts), curriculum, personnel, financial viability, and school ownership. Related reviews are conducted when a school moves, changes ownership or applies for renewal. Licensed school personnel, reviewed and approved by the Licensing Team in accordance with statutory minimum standards include teachers, school directors and admissions agents.

The **Education and Curriculum Team** in conjunction with experienced curriculum experts reviews all courses and curricula for relevancy to the job market and assurance that course graduates will be eligible and suitable for entry-level positions in the field. Such reviews are completed at license application and renewal.

In addition to often daily contact with the schools, the team's educators conduct on-site visits to provide technical assistance and review compliance with requirements. The Team may also visit classes to assess the educational program and atmosphere for learning.

The **Investigations Team** is responsible for the student complaint system. When a complaint is received, an assigned Investigator performs a school inspection to determine its validity. BPSS also may use investigative "operatives" who pose as students to verify allegations received. The Investigations Team includes a Senior Attorney who is responsible for seeking restitution and ensuring subsequent compliance by violators.

BPSS' intervention is particularly crucial in the event of a school closure. With its primary objective of protecting the students, BPSS may take action to:

- Locate other schools where the students can complete their studies;
- Ensure that students receive full refunds to which they are entitled;
- Negotiate with others for applicable financial relief for students such as USDOE for loan forgiveness;
- Process student applications for refunds from the TRA when no other avenue exists to make the students whole; and
- Take possession of school records to preserve students' ability to maintain hours already completed and/or to pursue future educational opportunities.

It is important to note that many of the programs offered by non-degree proprietary schools are in fast-growing high demand fields that are often still developing. In addition, many fields of study receive no oversight by any regulatory body other than BPSS. BPSS oversight can give assurance to the public that future practitioners have attended licensed schools.

## Partnerships

To increase effectiveness and leverage resources, BPSS has established relationships with several professional partners. On the national level, these include: The National Association of State Administrators and Supervisors of Private Schools (NASASPS); National Accrediting Agencies; Department of Homeland Security (DHS), and USDOE. Positive outcomes of these relationships include:

- NASASPS' insight into regulatory best practices which have been incorporated into BPSS' current legislative proposal;
- Inclusion in site visits by national or regional accrediting agencies whose approval is necessary for a school to receive federal Title IV funding;
- DHS involvement in reviewing schools, especially those for English as a Second Language (ESL), considered potential entry points for terrorists into the US; and
- USDOE loan forgiveness for eligible students of schools that close.

New York State collaborations include:

- A current effort with the Department of Corrections and the Department of State toward licensing correctional institutions and their training programs to enable inmates to train and test in Barbering and Cosmetology, and thereby become ready and eligible for employment on release;
- A joint Consumer Protection Board / BPSS Public Information Campaign to warn students about attending unlicensed schools.

Finally, several federal and State entities that provide funding for proprietary schools or their students rely on BPSS monitoring, including:

- USDOE relies on states to ensure that programs are offered as approved;
- Veterans' Administration requires BPSS approval for all non-degree programs for veterans;
- Higher Education Services Corp (HESC) relies on BPSS to ensure that schools meet requirements for TAP eligibility and to protect students who participate in federal Title IV;
- ACCES-VR consumers are not allowed to attend career and trade schools unless the schools are licensed by BPSS; and
- NYC Department of Small Business Services (DSBS), which distributes federal WIA funds, requires proprietary schools to be licensed in order to receive funding.

## Significant Accomplishments

- Since January 2009, the number of licensed proprietary schools has increased by 70, an increase of 12 percent. At the same time, the number of BPSS staff has remained virtually un-changed.
- BPSS is successfully changing its focus from regulation to technical assistance. The results can be seen in the decrease in schools closing, from 26 in 2006 to 13 in 2010 and the decline in the number of students accessing the TRA, from 93 in 2006 to 16 in 2010.

The amount of refunds has also decreased from about \$473,000 in 2006 to nearly \$333,000 in 2010. In addition, the proportion of refunds paid from the TRA has declined remarkably from 52% in 2006 to 27% in 2010.

- During the 2006-2010 period, more than 58 percent of student complaints were decided in favor of the student; four percent in favor of the school. Another nine percent were referred to another agency; eleven percent were abandoned by the student and 18 percent were unsubstantiated or rejected. When compared with results from the previous 11-year period, decisions in every category show positive change.
- Semi-annually all BPSS teams share their expertise and knowledge with a mandatory three-day workshop for all newly licensed school directors. The workshops provide valuable technical assistance to the new directors, provide opportunities for networking, and generate good will for BPSS.

## 2011 Legislation

SED submitted our proposal to the Legislature on February 9, 2011. This legislation will:

### Enhance Oversight Capacity

- Update 25 year-old computer system to provide better monitoring
- Permit enhanced financial reviews and expand use of investigative tools
- Establish candidate schools, allowing them to operate while coming into compliance

### Better Protect Students

- Improve consumer information
- Expedite student assistance when a school closes
- More quickly engage a “teach out” school if a school closes
- Make additional student expenses eligible for reimbursement when a school closes

### Leverage Increased Fees

- Adjust fees to support of the most comprehensive oversight in the nation
- Provide resources to respond to this expanding higher education sector
- Allow work with schools in financial distress, preventing closures and protecting the Tuition Reimbursement Account

### **Next Steps**

The Department continues to advocate for the 2011 legislation discussed above and work toward upgrading our current 25 year old computer system.

**ATTACHMENT A**

**Proprietary Schools vs. Proprietary Colleges**

	<b>Proprietary Schools</b>	<b>Proprietary Colleges</b>
Number	497	40
Degree-Granting Status	Non-Degree	Degree
Department Oversight	ACCES – BPSS	OHE
Statutory / Regulatory Authority	Education Law, Sections 5001-5010 and Part 126 of the Regulations	Education Law, Sections 210 and 214 – 219 and Part 50 of the Regulations
Outside Oversight	Some oversight provided by various trade accrediting groups	Some oversight by various accrediting groups
Partners	Coalition of NYS Career Schools, NYS Beauty School Association	Association of Proprietary Colleges