



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

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

**FROM:** Kevin G. Smith *[Signature]*

**SUBJECT:** Bureau of Proprietary School Supervision Update

**DATE:** March 9, 2015

**AUTHORIZATION(S):** *Elizabeth R Berlin*

## **SUMMARY**

### **Issue for Discussion**

The impact of recent provisions in New York State statute and Federal Law pertaining to consumer protection, ability-to-benefit test, and gainful employment requirement.

### **Reason(s) for Consideration**

For Information.

### **Proposed Handling**

This item will come before the Board of Regents ACCES Committee at its March 2015 meeting.

### **Procedural History**

In December 2012 sections 5001-5010 of the Education Law, as it pertains to the oversight of non-degree proprietary schools, were updated, resulting in (1) the elimination of the school categories which were no longer applicable, (2) the creation of Candidacy status to allow existing businesses to operate while becoming licensed, (3) more stringent financial reporting, (4) and increase in fees to be consistent with other state practices.

### **Background Information**

Bureau of Proprietary School Supervision (BPSS) is responsible for overseeing 408 non-degree granting proprietary schools in New York State attended by an estimated 180,000 students annually. Additionally 45 schools are pending licensure.

During the year 2013, these schools collected \$500 million in tuition. BPSS' oversight covers every aspect of a school's operation, including teacher licensing, curriculum review, facilities approval, and fiscal monitoring. BPSS has a staff of 28 split between a central office in Albany and a satellite office in New York City. This is an increase of seven staff members in the last two years.

BPSS is also responsible for ensuring the protection of student's rights as they access proprietary schools. This includes a rigorous complaint process, investigation of schools and legal action, when necessary. In 2014, BPSS processed 416 complaints and facilitated the return of over \$1.4 million to students adversely affected by school closings.

A new data system, which will facilitate the work of BPSS in its statutory and regulatory oversight of the schools, is near completion. The improvements brought about by this system will result in a computerized paperless process which will enable BPSS to expedite information on school approvals, available programs, and school closings to students, teachers, school administrators and the general public. It will also allow for a more effective and efficient processing of licensing applications.

It is important to note that BPSS does not have oversight of the 43 degree-granting Proprietary Colleges. This responsibility lies with State Education Department's (SED) Office of Higher Education (OHE).

### **Impact of Federal Legislation**

The term, ability to benefit or ATB, refers to the process by which a student who does not possess a high school diploma or equivalency, can participate, after successfully completing an entrance test, in some vocational training programs. The ATB offered these students an opportunity for advanced training and skill development leading to increased economic advancement.

In 2012, The Higher Education Act of 1965, as amended, ruled to eliminate Title IV eligibility to ATB students. However, in 2015, the Continuing Resolution Omnibus Spending Bill restored ATB tests for Title IV for "eligible career pathways," retroactive to July 2014. This action comes with additional conditions that support student success. These career programs must now include student educational counseling and services, along with a concurrent adult education program to prepare them to take TASC (high school equivalency exam). There is also a new focus on linking career programs to local economic needs to ensure that training is relevant to the occupation.

Although the federal guidelines have yet to be issued, we believe NYS is in good standing in that all BPSS programs are currently required to be specific to an occupation, consistent with proposed federal requirements.

The Higher Education Act of 1965, as amended, also included the concept of "gainful employment." In order to receive federal student aid, the law requires that most for-profit programs, regardless of credential level, and most non-degree programs at non-profit and public institutions, including community colleges, prepare students for

gainful employment in a recognized occupation. It is important to note that this rule is applied to individual programs, not the entire roster of a school's offerings.

The rules on Gainful Employment (GE) are particularly challenging to the entire proprietary school sector. There are two components for GE— accountability and transparency. Accountability focuses on programs providing affordable training leading to living-wage jobs. Those programs that result in low-earning potential and high debt are likely to be targeted for removal from Title IV eligibility. Transparency requires institutions to provide important consumer information, such as cost of program, average earnings at graduation, length of program, and placement rate.

The impact of the GE guidelines on BPSS-regulated schools could be drastic as some schools have continued to offer programs for which there is no longer a great demand. However, the new ATB requirements with regard to career programs relationship to local occupation demand will help diminish this trend.

### **Recommendations**

BPSS will compile current statistics, due in April, from licensed schools regarding enrollment, graduation, and placement data. The data system module is being developed and will allow for this compilation. Individual school reports will also be processed to produce useable data.

BPSS will continue to monitor schools for financial viability issues to circumvent sudden school closures. Candidate schools will also be evaluated to ensure that they are in compliance with the requirements and that each school is actively working toward full licensure.

BPSS will continue to monitor the USDE's actions with regard to ability-to-benefit students and gainful employment. The Bureau is working closely with school owners and consultants so that the most up-to-date information is available and schools have incorporated it into their planning.