



TO: Adult Career and Continuing Education Services (ACCES)

FROM: Kevin G. Smith 

SUBJECT: Bureau of Proprietary School Supervision (BPSS) Update

DATE: June 16, 2014

AUTHORIZATION(S):


SUMMARY

Issue for Discussion

To provide the Board of Regents with an update on the impact of the new legislation that went into effect on December 15, 2012.

Reason(s) for Consideration

For Information

Proposed Handling

This item will come before the Regents ACCES Committee at its June 2014 meeting for discussion.

Procedural History

The Board of Regents supported statutory changes that modernized New York's Proprietary School law for the first time in decades. Before the current law was enacted in December, 2012, Education Law (Sections 5001-5010) pertaining to non-degree proprietary schools had not been substantially amended since 1990. Changes in the industry made the old law increasingly less responsive to the needs of the students, schools and NYSED staff that oversee this sector. The new law was written to address these concerns and focused on consumer information and protection. Proprietary schools are businesses that offer tuition-based, post-secondary career educational services. Accordingly, they must offer a product that meets the agreed upon expectations of the student, reflect current career standards and maintain sound fiscal and business practices.

To assure that schools are and remain viable the law requires them to be licensed to operate, that each course curriculum is reviewed and approved, all teachers are licensed to teach specific approved curricula, school personnel are properly trained and licensed and the attendance records and enrollment agreements are consistent with the courses being offered. Prior to the new law being enacted conditions had become outdated and difficult to manage.

Prior to 2012 Legislation

- When an unlicensed school was found, the owner was forced to close due to illegal operation while waiting for license application to be approved. A potentially viable business would not be able to operate for up to a year or more.
- There were three levels of financial statements accepted—compiled, reviewed, and audited. There was little financial integrity to the compiled and reviewed statements.
- License application fee was set at \$250 over 50 years ago. This encouraged frivolous applications, and owners who lacked business plans and financial viability.
- Fines were no longer in keeping with the higher cost of tuition. Some of the smaller fines were no longer a deterrent and were regarded by the schools as the cost of doing business.
- Used decades-old COBOL system that was essentially an index system that required back up from paper files.
- BPSS struggled with a lean staff, and lacked key personnel to perform critical tasks. Over 150 pending school applications were aging with insufficient staff to process the applications.
- Most schools went through the teacher licensing process when a new teacher was hired. This resulted in a long wait time, and the occurrence of unlicensed teachers. This also affected employability for the teachers.
- All personnel applications were processed without performing background checks.

Since the implementation of the statutory change in December 2012, BPSS has implemented significant improvement in practice and results. The law targeted several areas of concern that, if improved, would lead to greater transparency and improved consumer information and protection. Issues such as: unlicensed schools, financial stability, adequate fiscal and human resources, more appropriate fees and fines and a full and current data system were among those addressed. While there is still room for improvement, NYSED has begun to position itself to provide better service and oversight of this sector.

After 2012 Legislation

- An unlicensed school has the option of applying for candidacy status which allows the school up to 18 months to perfect the school application. The business will be able to continue operation. The students will receive disclosure about the lack of BPSS protection. Ten candidate schools are in the process, with a few close to licensure.
- Most schools will be required to submit an annual audit. This will ensure more protection to students from sudden closures and substandard instruction. The Tuition Retirement Account (TRA) will be less at risk when deficiencies are noted, with schools being required to improve their financial condition or face possible license revocation. This more expensive requirement for fiscal reporting is expected to reduce further the number of smaller schools which may not be able to afford this professionally prepared statement.
- Increased license application fee from \$250 to \$5,000. All fees have been increased significantly which support a more robust staff and the on-going web-based computer build. Fewer but more viable applications are being received.
- The higher fines are getting attention in the field, acting as a deterrent. The higher fines also better support students who are protected by the TRA. Tuition has increased substantially over the past 25 years, and the higher fines will protect the students. The TRA has been well over its minimum balance for several years.
- The launch of the new web-based system, designed and built by internal SED Information Technology staff, is expected to launch in September of this year. It will vastly improve customer service in terms of information availability and the processing of all applications.
- BPSS has backfilled most positions vacated through promotion or retirement. Several positions have been added to assist with all aspects of the operation, which has resulted in improved processing and attention to areas long neglected. An educational supervisor is focusing on making BPSS more efficient and consistent. A new evaluator has recently been added to enforce financial oversight of the schools, and violators are being identified for further action. An additional attorney was added, which is doubling our enforcement actions. Eighty pending school applications, which were not able to complete the process, were closed due to licensing staff efforts. Thirty-nine new schools have been licensed since January 2013, a 50 percent increase. Since August 2013, 50 existing schools have had their licenses renewed, with 95 remaining in renewal status.
- Teachers are now licensed independently and are not tied to a specific school. This enables them to teach more easily at additional schools or move to another school without having to go through the approval process. Schools favor this change as they can get a licensed teacher into the classroom more readily than before.

- Background checks through LexisNexis are being done, resulting in the denial of applications due to undisclosed criminal records. Additional funding has allowed the Bureau to engage this new service, which results in increased student protection.

The proposed federal guidelines regarding gainful employment have the potential to close many of the Title IV eligible schools in this sector. Approximately 90 schools are currently eligible, with the majority licensed cosmetology schools. Items considered are three-year default rate, loan debt, cost of yearly repayment, annual earnings 18 months post-graduation, and cost of yearly repayment in relation to disposable income. The resulting ratios are the determinants for continued eligibility by program.

Recommendation

- Continued focus on the renewal of expired school licenses, with an expectation to reduce the current applications by 50 percent by year end.
- Bring all financial matters into compliance, including financial statement submission and payment of tuition assessment.
- Create new report from data collected from the new computer system, which will consist of enrollments, dropped students, graduates, and placements for licensed schools.
- Provide technical assistance to the schools in the form of a July Refresher Directors' Course and a much-needed ESL Directors' Course.

Attachment

ATTACHMENT

BPSS does not oversee New York's 43 proprietary colleges. This responsibility lies with SED's Office of Higher Education (OHE). See below for a comparison of proprietary schools and proprietary colleges.

Proprietary Schools vs. Proprietary Colleges

	Proprietary Schools	Proprietary Colleges
Number	420	43
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