

CHAPTER 141

PRIVATE CAREER SCHOOLS

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141.21 DEFINITIONS.

[For text of subd 1, see M.S.2006]

Subd. 1a. **Office of Higher Education or office.** “Office of Higher Education” or “office” means the Minnesota Office of Higher Education.

[For text of subds 3 and 4, see M.S.2006]

Subd. 5. **School.** “School” means any person, within or outside the state, who maintains, advertises, administers, solicits for, or conducts any program at less than an associate degree level and is not registered as a private institution under sections 136A.61 to 136A.71 and is not specifically exempted by section 141.35 or 141.37. School also means any person, within or outside the state, who maintains, advertises, administers, solicits for, or conducts any program at less than an associate degree level, is not registered as a private institution pursuant to sections 136A.61 to 136A.71, and uses the term, “college,” “institute,” “academy,” or “university” in its name.

[For text of subds 6 to 11, see M.S.2006]

History: 2007 c 144 art 3 s 16,17

141.25 LICENSURE.

Subdivision 1. **Required.** A school must not maintain, advertise, solicit for, administer, or conduct any program in Minnesota without first obtaining a license from the office.

[For text of subds 2 to 4, see M.S.2006]

Subd. 5. **Bond.** (a) No license shall be issued to any school which maintains, conducts, solicits for, or advertises within the state of Minnesota any program, unless the applicant files with the office a continuous corporate surety bond written by a company authorized to do business in Minnesota conditioned upon the faithful performance of all contracts and agreements with students made by the applicant.

(b) The amount of the surety bond shall be ten percent of the preceding year’s gross income from student tuition, fees, and other required institutional charges, but in no event less than \$10,000 nor greater than \$250,000, except that a school may deposit a greater amount at its own discretion. A school in each annual application for licensure must compute the amount of the surety bond and verify that the amount of the surety bond complies with this subdivision, unless the school maintains a surety bond equal to at least \$250,000. A school that operates at two or more locations may combine gross income from student tuition, fees, and other required institutional charges for all locations for the purpose of determining the annual surety bond requirement. The gross tuition and fees used to determine the amount of the surety bond required for a school having a license for the sole purpose of recruiting students in Minnesota shall be only that paid to the school by the students recruited from Minnesota.

(c) The bond shall run to the state of Minnesota and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is canceled for breach of any contract or agreement made by the applicant with any student. The

aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the principal sum deposited by the school under paragraph (b). The surety of any bond may cancel it upon giving 60 days' notice in writing to the office and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation.

(d) In lieu of bond, the applicant may deposit with the commissioner of finance a sum equal to the amount of the required surety bond in cash, or securities as may be legally purchased by savings banks or for trust funds in an aggregate market value equal to the amount of the required surety bond.

(e) Failure of a school to post and maintain the required surety bond or deposit under paragraph (d) shall result in denial, suspension, or revocation of the school's license.

[For text of subd 6, see M.S.2006]

Subd. 7. Minimum standards. A license shall be issued if the office first determines:

(1) that the applicant has a sound financial condition with sufficient resources available to:

(i) meet the school's financial obligations;

(ii) refund all tuition and other charges, within a reasonable period of time, in the event of dissolution of the school or in the event of any justifiable claims for refund against the school by the student body;

(iii) provide adequate service to its students and prospective students; and

(iv) maintain and support the school;

(2) that the applicant has satisfactory facilities with sufficient tools and equipment and the necessary number of work stations to prepare adequately the students currently enrolled, and those proposed to be enrolled;

(3) that the applicant employs a sufficient number of qualified teaching personnel to provide the educational programs contemplated;

(4) that the school has an organizational framework with administrative and instructional personnel to provide the programs and services it intends to offer;

(5) that the premises and conditions under which the students work and study are sanitary, healthful, and safe, according to modern standards;

(6) that the quality and content of each occupational course or program of study provides education and adequate preparation to enrolled students for entry level positions in the occupation for which prepared;

(7) that the living quarters which are owned, maintained, recommended, or approved by the applicant for students are sanitary and safe;

(8) that the contract or enrollment agreement used by the school complies with the provisions in section 141.265;

(9) that contracts and agreements do not contain a wage assignment provision or a confession of judgment clause; and

(10) that there has been no adjudication of fraud or misrepresentation in any criminal, civil, or administrative proceeding in any jurisdiction against the school or its owner, officers, agents, or sponsoring organization.

[For text of subd 8, see M.S.2006]

Subd. 9. Catalog, brochure, or electronic display. Before a license is issued to a school, the school shall furnish to the office a catalog, brochure, or electronic display including:

(1) identifying data, such as volume number and date of publication;

(2) name and address of the school and its governing body and officials;

(3) a calendar of the school showing legal holidays, beginning and ending dates of each course quarter, term, or semester, and other important dates;

(4) the school policy and regulations on enrollment including dates and specific entrance requirements for each program;

(5) the school policy and regulations about leave, absences, class cuts, make-up work, tardiness, and interruptions for unsatisfactory attendance;

(6) the school policy and regulations about standards of progress for the student including the grading system of the school, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, a description of any probationary period allowed by the school, and conditions of reenrollment for those dismissed for unsatisfactory progress;

(7) the school policy and regulations about student conduct and conditions for dismissal for unsatisfactory conduct;

(8) a detailed schedule of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;

(9) the school policy and regulations, including an explanation of section 141.271, about refunding tuition, fees, and other charges if the student does not enter the program, withdraws from the program, or the program is discontinued;

(10) a description of the available facilities and equipment;

(11) a course outline syllabus for each course offered showing course objectives, subjects or units in the course, type of work or skill to be learned, and approximate time, hours, or credits to be spent on each subject or unit;

(12) the school policy and regulations about granting credit for previous education and preparation;

(13) a notice to students relating to the transferability of any credits earned at the school to other institutions;

(14) a procedure for investigating and resolving student complaints; and

(15) the name and address of the Minnesota Office of Higher Education.

A school that is exclusively a distance education school is exempt from clauses (3) and (5).

Subd. 10. Placement records. (a) Before a license is reissued to a school that offers, advertises or implies a placement service, the school shall file with the office for the past year and thereafter at reasonable intervals determined by the office, a certified copy of the school's placement record, containing a list of graduates, a description of their jobs, names of their employers, and other information as the office may prescribe.

(b) Each school that offers a placement service shall furnish to each prospective student, upon request, prior to enrollment, written information concerning the percentage of the previous year's graduates who were placed in the occupation for which prepared or in related employment.

Subd. 12. Permanent records. A school licensed under this chapter and located in Minnesota shall maintain a permanent record for each student for 50 years from the last date of the student's attendance. A school licensed under this chapter and offering distance instruction to a student located in Minnesota shall maintain a permanent record for each Minnesota student for 50 years from the last date of the student's attendance. Records include school transcripts, documents, and files containing student data about academic credits earned, courses completed, grades awarded, degrees awarded, and periods of attendance. To preserve permanent records, a school shall submit a plan that meets the following requirements:

(1) at least one copy of the records must be held in a secure, fireproof depository;

(2) an appropriate official must be designated to provide a student with copies of records or a transcript upon request;

(3) an alternative method, approved by the office, of complying with clauses (1) and (2) must be established if the school ceases to exist; and

(4) a continuous surety bond must be filed with the office in an amount not to exceed \$20,000 if the school has no binding agreement approved by the office, for preserving student records. The bond shall run to the state of Minnesota.

History: 2007 c 144 art 3 s 18–23

141.255 FEES.

[For text of subd 1, see M.S.2006]

Subd. 2. Renewal licensure fee; late fee. (a) The office processing fee for a renewal license application is:

(1) for a category A school, as determined by the office, the fee is \$865 if the school offers one program or \$1,150 if the school offers two or more programs; and

(2) for a category B or C school, as determined by the office, the fee is \$430 if the school offers one program or \$575 if the school offers two or more programs.

(b) If a license renewal application is not received by the office by the close of business at least 60 days before the expiration of the current license, a late fee of \$100 per business day, not to exceed \$3,000, shall be assessed.

[For text of subds 3 to 10, see M.S.2006]

History: 2007 c 144 art 3 s 24

141.265 INFORMATION TO STUDENTS.

[For text of subd 1, see M.S.2006]

Subd. 2. Contract information. A contract or enrollment agreement used by a school must include at least the following:

(1) the name and address of the school, clearly stated;

(2) a clear and conspicuous disclosure that the agreement is a legally binding instrument upon written acceptance of the student by the school unless canceled under section 141.271;

(3) the school's cancellation and refund policy that shall be clearly and conspicuously entitled "Buyer's Right to Cancel";

(4) a clear statement of total cost of the program including tuition and all other charges;

(5) the name and description of the program, including the number of hours or credits of classroom instruction, or distance instruction, that shall be included; and

(6) a clear and conspicuous explanation of the form and means of notice the student should use in the event the student elects to cancel the contract or sale, the effective date of cancellation, and the name and address of the seller to which the notice should be sent or delivered.

The contract or enrollment agreement must not include a wage assignment provision or a confession of judgment clause.

[For text of subd 3, see M.S.2006]

History: 2007 c 144 art 3 s 25

141.271 REFUNDS.

[For text of subds 1 to 9, see M.S.2006]

Subd. 10. Cancellation occurrence. Written notice of cancellation shall take place on the date the letter of cancellation is postmarked or, in the cases where the notice is hand carried, it shall occur on the date the notice is delivered to the school. If a student has not attended class for a period of 21 consecutive days without contacting the school to indicate an intent to

continue in school or otherwise making arrangements concerning the absence, the student is considered to have withdrawn from school for all purposes as of the student's last documented date of attendance.

[For text of subd 11, see M.S.2006]

Subd. 12. Instrument not to be negotiated. A school shall not negotiate any promissory instrument received as payment of tuition or other charge prior to completion of 50 percent of the program, except that prior to that time, instruments may be transferred by assignment to purchasers who shall be subject to all defenses available against the school named as payee.

[For text of subs 13 and 14, see M.S.2006]

History: 2007 c 144 art 3 s 26,27

141.28 PROHIBITIONS.

Subdivision 1. Disclosure required. A school, agent, or solicitor may represent in advertisements and shall disclose in catalogues, applications, and enrollment materials that the school is duly licensed by the state by prominently displaying the following statement: "(Name of school) is licensed as a private career school with the Minnesota Office of Higher Education pursuant to Minnesota Statutes, sections 141.21 to 141.32. Licensure is not an endorsement of the institution. Credits earned at the institution may not transfer to all other institutions."

[For text of subs 2 to 6, see M.S.2006]

History: 2007 c 144 art 3 s 28

141.32 PENALTY.

The director may assess fines for violations of a provision of this chapter. Each day's failure to comply with this chapter shall be a separate violation and fines shall not exceed \$500 per day per violation. Amounts received under this section must be deposited in the special revenue fund and are appropriated to the Office of Higher Education for the purposes of this chapter.

History: 2007 c 144 art 3 s 29

141.35 EXEMPTIONS.

Sections 141.21 to 141.32 shall not apply to the following:

- (1) public postsecondary institutions;
- (2) postsecondary institutions registered under sections 136A.615 to 136A.71;
- (3) schools of nursing accredited by the state Board of Nursing or an equivalent public board of another state or foreign country;
- (4) private schools complying with the requirements of section 120A.22, subdivision 4;
- (5) courses taught to students in a valid apprenticeship program taught by or required by a trade union;
- (6) schools exclusively engaged in training physically or mentally disabled persons for the state of Minnesota;
- (7) schools licensed by boards authorized under Minnesota law to issue licenses;
- (8) schools and educational programs, or training programs, contracted for by persons, firms, corporations, government agencies, or associations, for the training of their own employees, for which no fee is charged the employee;
- (9) schools engaged exclusively in the teaching of purely avocational, recreational, or remedial subjects as determined by the office;

(10) classes, courses, or programs conducted by a bona fide trade, professional, or fraternal organization, solely for that organization's membership;

(11) programs in the fine arts provided by organizations exempt from taxation under section 290.05 and registered with the attorney general under chapter 309. For the purposes of this clause, "fine arts" means activities resulting in artistic creation or artistic performance of works of the imagination which are engaged in for the primary purpose of creative expression rather than commercial sale or employment. In making this determination the office may seek the advice and recommendation of the Minnesota Board of the Arts;

(12) classes, courses, or programs intended to fulfill the continuing education requirements for licensure or certification in a profession, that have been approved by a legislatively or judicially established board or agency responsible for regulating the practice of the profession, and that are offered exclusively to an individual practicing the profession;

(13) classes, courses, or programs intended to prepare students to sit for undergraduate, graduate, postgraduate, or occupational licensing and occupational entrance examinations;

(14) classes, courses, or programs providing 16 or fewer clock hours of instruction that are not part of the curriculum for an occupation or entry level employment;

(15) classes, courses, or programs providing instruction in personal development, modeling, or acting;

(16) training or instructional programs, in which one instructor teaches an individual student, that are not part of the curriculum for an occupation or are not intended to prepare a person for entry level employment; and

(17) schools with no physical presence in Minnesota, as determined by the office, engaged exclusively in offering distance instruction that are located in and regulated by other states or jurisdictions.

History: 2007 c 144 art 3 s 30

141.37 EXEMPTION; RELIGIOUS SCHOOLS.

Subdivision 1. **Exemption.** Any school or any department or branch of a school:

(1) which is substantially owned, operated, or supported by a bona fide church or religious organization;

(2) whose programs are primarily designed for, aimed at, and attended by persons who sincerely hold or seek to learn the particular religious faith or beliefs of that church or religious organization; and

(3) whose programs are primarily intended to prepare its students to become ministers of, to enter into some other vocation closely related to, or to conduct their lives in consonance with the particular faith of that church or religious organization, is exempt from the provisions of sections 141.21 to 141.32.

Subd. 2. **Limitations.** (a) An exemption shall not extend to any school, department or branch of a school, or program of a school which through advertisements or solicitations represents to any students or prospective students that the school, its aims, goals, missions, purposes, or programs are different from those described in subdivision 1.

(b) An exemption shall not extend to any school which represents to any student or prospective student that the major purpose of its programs is to:

(1) prepare the student for a vocation not closely related to that particular religious faith; or

(2) provide the student with a general educational program recognized by other schools or the broader educational, business, or social community as being substantially equivalent to the educational programs offered by schools or departments or branches of schools which are not religious in nature and are not exempt from chapter 141 and from rules adopted under this chapter.

Subd. 3. **Scope.** Nothing in this chapter or the rules adopted under it shall be interpreted as permitting the office to determine the truth or falsity of any particular set of religious beliefs.

Subd. 4. **Descriptive language required.** Any certificate, diploma, degree, or other formal recognition awarded upon completion of any religiously exempt program shall include such descriptive language as to make the religious nature of the award clear.

History: *2007 c 144 art 3 s 31*