

GUIDELINES FOR POLICY
720.01: PRIVATE SCHOOL LICENSURE IN ALABAMA

I. Definitions

- A. **Academic Fraud** – Courses offered are insufficient in quality, content or administration to achieve the stated or implied educational objective. Persons offering such courses who know or reasonably should know that said courses cannot achieve the stated or implied educational objective shall be considered to be involved in academic fraud.
- B. Act - 1980 Ala. Acts 80-272, *Code of Alabama* Title 16, Chapter 46 (1975) Alabama Private School License Law, Act 2002 Ala. Acts 2002-528.
- C. Administrator or Director - An administrative officer in charge of the operation of a postsecondary school or unit thereof.
- D. **Agent or Representative** – Salesperson who presents materials, sells courses, or solicits students for enrollment therefore in this state outside the boundaries of the school facilities.
- E. Brochure - A one-page, double- or triple-folded leaflet containing an outline of information in the catalog/bulletin and designed as a promotional or advertising publication.
- F. Catalog - A booklet, pamphlet, or series of monographs designed to explain the school operations, offerings, and requirements to prospective and enrolled students. The term is sometimes used synonymously with bulletin.
- G. **Church School** – A school operated by a local church, group of churches, denominations, and/or association of churches on a nonprofit basis.
- H. Clock Hour - A period of sixty (60) minutes, with a minimum of fifty (50) minutes of instruction.
- I. Courses - Any outline or plan of study, or portion of a plan or program of instruction involving the imparting of knowledge, skills, or attitudes for the purpose of preparing the individual for gainful employment in an occupation or vocation, whether conducted in person, by mail, or by any other method.
- J. **Credit Hour** - A credit in a school or college, usually representing one hour of class per week for one term.
- K. Curriculum - A group of organized programs.

- L. Deferral - To defer a license or permit application means to postpone issuance or denial thereof pending submission of required materials necessary for compliance with State Board of Education Policy.
- M. Denial - Denying a license means that issuance of a license shall be refused either upon initial application or upon application for renewal.
- N. Department - The Alabama Department of Postsecondary Education.
- O. Domiciled- The location where an individual, partnership, or corporation establishes permanent residence as per legal obligations plus physical presence of a principal place of business.
- P. Economic Fraud – The sale of courses or programs of study which an institution is unable or unwilling to provide as advertised or described because of inadequate financial stability, facilities, instructional staff, or commitment to honor written or verbal contracts made with students. Included is the solicitation of students for enrollment through intentional deception or misrepresentation of facts and the use of advertising which is known to be false, inaccurate, or misleading. Failure to properly administer student cancellation and refund policies according to appropriate regulations or agreements made with students shall also constitute economic fraud.
- Q. Externship/Clinical - Practical, off-campus training involving direct and indirect supervision.
- R. Instruction Site - A classroom, facility or learning environment that is used to conduct educational programs in accordance with the license issued to the private school but is not co-located with the school's principal base of operation; provided that all records are maintained at the principal base of operation.
- S. Laboratory - Application of theory through learner-centered training with an instructor present, supplemented by out-of-class assignments and application of accumulated knowledge demonstrated by a student through work on projects completed during the period of enrollment and requiring no regular supervision by an instructor.
- T. Lecture - Presentation of theory and information by an instructor in a classroom setting or its equivalent.
- U. License – A private school license identifying the name and location of the school and establishing the courses which may be offered thereunder.
- V. Online Instruction - Online education refers to any form of learning/teaching that takes place via a computer network. Online instruction takes place in the context of distance education, i.e., settings in which learners and teachers are located in different places and all or most interaction takes place via a network.

- W. Permit – A pocket card issued to a representative providing identification as an authorized agent of a school.
- X. Prepaid Tuition Liability - The amount of money collected by a school from students for registration, tuition, supplies, and other fees subjects to refund as determined by the cancellation and refund policy.
- Y. Principal Base of Operations – A school which has established a main campus in Alabama. Administrative and managerial support and physical plant facilities are maintained continuously in this location. Franchises chartered independently of parent corporations may be accorded this status provided they comply with the residency requirements.
- Z. Private School – Operation of either profit or nonprofit entities as opposed to publicly owned or operated schools.
- AA. Probation - Licenses and Agent’s Permits found in violation of State Board of Education Policy 720.01 shall be placed on probation pending correction of the infraction. Each probationary warning will specify the corrective action required, but will not otherwise impair the authority granted therein.
- BB. Program - A combination of subjects or courses pursued at a school that ~~is~~ are generally accepted as necessary to meet requirements for a predetermined educational, professional, or vocational objective.
- CC. Revocation - To revoke a license means that a school must cease to advertise, enroll students, or teach classes.
- DD. Resident Private School – A school which is domiciled within Alabama and has established for a period of three years permanent administrative and management facilities in this state.
- EE. Seminar - A small group of advanced students engaged in original research or intensive study under the guidance of an instructor that meets regularly with the group to discuss reports and findings. A course of study that is pursued by the group or a scheduled meeting of such a group.
- FF. School - Any person, group of people, institution, establishment, agency, or organization offering or administering a plan, course, or program of instruction for the purpose of preparing individuals for gainful employment in an occupation or vocation, whether conducted in person, by mail, or by any other method.
- GG. Performance Surety Bond - A performance bond is a bond provided by each school for the purpose of providing indemnification to identified, enrolled students suffering loss as a result of economic and/or academic fraud or

misrepresentation used in procuring enrollment in and/or administering a program of study.

HH. Suspension - To suspend a school license and/or Agent's Permit means to place limitations upon the authority vested therein. Holders of suspended licenses may be prohibited from enrolling students, collecting fees or tuition, teaching classes, and/or advertising. A suspended license and/or Agent's Permit may be revoked if noted deficiencies are not corrected by the stated suspense date.

II. Exemptions

A. Notwithstanding its exempt status, each private school which closes shall comply with the requirements for repository of records in accordance with this policy.

B. Each exempt school may request to be licensed without surety bond in accordance with *Code of Alabama* §16-46-3.

C. Each school which claims an exempt eligibility must file a request for a *Certificate of Exemption*. Requests for *Certificates of Exemption* shall be filed with the Alabama Department of Postsecondary Education and shall include a current copy of the school catalog and, from the following, the appropriate supporting documentation:

1. Copy of nonprofit charter of incorporation or documentary evidence establishing parochial or religious affiliation and an official catalog listing only sectarian courses or programs of study.
2. Policy statement of the firm which limits enrollment in courses offered only to currently employed persons or labor unions and trade association training programs with membership prerequisites for enrollment. United States Department of Labor, Bureau of Apprenticeship Training Approval may establish exemption of apprenticeship and other on-the-job training programs.
3. Copy of the charter or articles of incorporation with by-laws establishing a nonprofit mode of operation.
4. Statement on letterhead of professional, business, or trade organization that enrollment in seminars or short courses is limited to members thereof. Each private school offering similar public ~~programs~~ seminars shall provide documentary evidence that a majority of enrolled students over the five years preceding the date of application for exemption have had at least half of their tuition and fees paid by their employers.

5. Copy of appropriate license, certificate, or approval by the state board, commission, or agency, and/or listing in the current directory or such regulatory agency.
6. Copy of the accreditation grant from an accrediting commission or agency recognized by the U.S. Department of Education. The status of accreditation shall be validated annually.

III. Licensing a Private School

A. General License Rules

1. Application for a Private School License shall be made on forms supplied by the Alabama Department of Postsecondary Education and shall include information and materials as specified by Policy 720.01 and these guidelines.
2. Any license applied for shall be granted, deferred, or denied within thirty (30) days of the receipt by the Department of all material required for consideration of application. The school shall be notified by the Department of an incomplete application.
3. Each private school license shall be valid for two years from the date of issue and shall be publicly displayed on the premises where the school operates ~~in the State of Alabama~~.
4. Any license issued may be placed on probation, suspension or revocation if the holder of the license solicits or enrolls students or administers instruction through fraud, deception, or misrepresentation.
5. Any license conditioned by an expired **performance** surety bond shall be suspended for thirty (30) days from the date of the expiration and thereafter may be revoked unless the **performance** surety bond is restored. The license shall be suspended / revoked by the Department and the private school shall be notified once the bonding company notifies the Alabama Department of Postsecondary Education of bond cancellation.
6. Any license shall be denied, deferred, suspended, or revoked if required information or materials ~~is are~~ not provided ~~to the Department upon request in a timely manner~~. The Department reserves the right to provide information pertaining to these actions ~~available~~ to the public and local media.
7. Each school that undergoes transfer of ownership shall notify the Department, ~~at least 30 calendar days before the change~~, in order that a review by the Department may be conducted to determine compliance with

Code of Alabama Title 16, Chapter 46 (1975) and State Board of Education Policy 720.01. A license shall not be transferred to new ownership. ~~Financial stability of the new ownership must be established as specified by this policy. The new owner is required to apply to the Department for a new private school license.~~

8. No private school shall seek reimbursement from any student for any charges on any enrollment contract if such school was not the holder of a license as required by *the Code of Alabama* §§16-46-5(a) and 16-46-6(a) (1975), at the time that such school or its agent entered the contract.
9. No licensed private school, no public school, and no college or university subject to the State Board of Education shall accept **transfer** credits from a school which was not exempted, entitled to an exemption, or licensed as required under the provisions of *the Code of Alabama* Title 16, Chapter 46 (1975) when educational credentials were conferred.
 - a. Each school or course/program domiciled outside the State of Alabama shall designate a State Agent who is a resident of Alabama to service all complaints against the school. ~~The resident agent is required to have an Agent's Permit which is issued by the Department.~~
 - b. Private schools that cease operation shall, within ten (10) calendar days of closing:
 - 1) Notify the Chancellor of the **Alabama** Department of Postsecondary Education of the action by letter and/or facsimile;
 - 2) Submit a list to the Chancellor of the **Alabama** Department of Postsecondary Education containing the name, home address, telephone number, and course/program of each student **actively** enrolled in the school on the **effective closure date of the school** ~~date the school closed~~; and
 - 3) Submit a written plan to the Chancellor of the **Alabama** Department of Postsecondary Education explaining in detail:
 - a. how the school will arrange for the continued education of students currently enrolled;
 - b. how tuition refunds will be handled;

- c. how other contractual agreements with students will be resolved; and
 - d. where student records will be stored along with procedures for public access of these records.
- 4) Each school shall comply with all local, state, and federal laws and regulations.
 - 5) The institution, institution's owners, governing board members and administrators shall possess sound reputations and show a record of integrity and ethical conduct in their professional activities, business operations and relations. The Chief Executive Officer (CEO) and institution administrators possess appropriate qualifications and experience for their positions and have demonstrated the ability to direct institutional operations successfully. The governing board members are knowledgeable and experienced in one or more aspects of educational administration, finance, teaching/learning and distance study.

10. Each licensed school is required to notify the Department within 30 days of any change within the structure of the school including but not limited to accreditation, Board of Trustees, bankruptcy, closure, faculty, staff and curriculum.

B. License Application Procedures

1. Initial License Procedure

- a. A private school requesting a license to operate in Alabama will be supplied these guidelines and required forms for submitting applications to ~~the~~ Private School Licensing, Alabama Department of Postsecondary Education, Post Office Box 302130, Montgomery, Alabama 36130-2130.
- b. Application forms must be completed and all materials and forms requested by the Department shall be provided. The Department shall notify the school of an incomplete application and approval thereof shall be deferred until the application is complete.
- c. Each private school domiciled in the State of Alabama will be visited with or without prior notification by an official of the Alabama Department of Postsecondary Education to determine compliance with State Board of Education Policy. No onsite visit

will be scheduled until all required forms / documents have been received by the Department.

2. Renewal License Procedure

- a. Each school will be notified by the Alabama Department of Postsecondary Education by mail of the requirements for renewal and will be supplied the necessary forms for renewal action not less than sixty (60) days prior to license expiration date. An annual review of each school licensed under the Code of Alabama Title 16, Chapter 46 (1975) may be made at the time of license renewal to determine whether operating conditions meet the requirements for continued operation. ~~Reviews of schools may be scheduled in advance at the convenience of the school.~~
- b. All renewal materials and related information requested by the Department must be completed and received before a satisfactory review can be accomplished. All required application materials must be supplied not later than thirty (30) days prior to expiration or the license and/or Agent's Permit shall be placed on probation. Any private school license or Agent's Permit conditioned by an expired performance surety bond shall be suspended for thirty (30) days and thereafter may be revoked unless the performance surety bond is restored and evidence of restoration is supplied to the Department. An expired license and/or Agent's Permit may be reinstated upon submission of all application materials and fees required of initial applicants.

3. License and Permit, Application and Surety Bond Forms

Form	Name	Use
PS-1	Application for License	Initial and Annual
PS-2	Private School Performance Bond	School Surety
PS-3	Personal Data	Personal Credentials
PS-4	Application for Agent's Permit	Initial and Annual
PS-5	Curriculum Outline	Identification of Courses
PS-6	Private School License	Authority to Operate
PS-7	Certification of Exemption	Status of Exemption
PS-8	Agent's Permit	Agent's Pocket Card

4. License Fees (U.S. Currency)

- a. Application materials for an initial license and for license renewal shall be accompanied by a fee in accordance with the Private School License Fee Schedule as established by the State Board of

Education. The fee schedule may be revised. Effective ~~July 1, 2004~~ October 1, 2008 the fee schedule is as follows:

1. The initial and annual private school license fees are one-half of one percent of the actual ~~or expected~~ gross income, but not less than \$2,500. Gross annual income is computed after a normal tax accounting year. Any tuition earned for licensed programs during that twelve-month period shall be included as the gross annual income. The only expense that can be deducted from gross tuition is refunds made to students. For out-of-state institutions licensed to offer their program(s) to residents of the State, gross income means that income generated from students enrolled in the State. Accurate documentation should be provided at the time of the initial or renewal application.
2. Amendment of license to move an existing location or instructional site: \$60
3. Amendment of license for each additional program/degree or site: one-half of one percent of the projected additional gross tuition income for the first year, but not less than \$100 per program/degree. For out-of-state institutions licensed to offer program(s) to residents of the State, gross income means that income generated from students enrolled in the State.
4. Re-issuance of license for program name change or institution name change (change in ownership is not included see Section III. 6.): \$30
5. Initial and renewal of agent permit: \$50
6. Re-issuance of agent permit: \$10
7. Transcript request fee \$10
8. All fees shall be submitted at the time of application and are nonrefundable.
9. The Alabama Department of Postsecondary Education may assess a fine for failure to respond in a timely manner to a request from the Department for information or for repeat violations involving deceptive trade or sales practices or advertising. In assessing a fine, the Department must consider the nature of the violation and whether the institution has a history of infractions. Fines may not exceed one thousand dollars (\$1,000) per year, and if the institution does not pay the fine within 30 days of written notification by the Department, late fees may be assessed ~~as described in~~

~~this sections, or the Department may proceed with revocation of the license.~~

10. All fees shall be paid by check or money order payable to the “Alabama Department of Postsecondary Education” or by credit cards via the Alabama College System website. All fees collected will be used solely for the Private School License Division.
11. The Department may periodically adjust fees based on the consumer price index or other appropriate indicator.

1. ~~For institutions with total program tuition of \$750 or more, the following fees will apply:~~

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Initial License (Two year)	\$2,500
Renewal License (Two year)	\$1,500
License Application Fee	\$ 25
Initial Agent Permit (Two year)	\$ 100
Renewal Agent Permit (Two year)	\$ 50
Student Transcript Fee	\$ 10

2. ~~For institutions with total program tuition less than \$750 for all programs offered, the following fees will apply:~~

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Initial License (Two year)	\$1,000
Renewal License (Two year)	\$ 500
License Application Fee	\$ 25
Initial Agent Permit (Two year)	\$ 50
Renewal Agent Permit (Two year)	\$ 25
Student Transcript Fee	\$ 10

- b. A school found to be operating without the license required by *the Code of Alabama* §16-46-5 and State Board of Education Policy 720.01 shall be required to bring ~~their licensure to current status~~ **the school into Private School Licensure compliance**. To obtain a current status the school shall be required to file all appropriate documents and fees for an initial license and all appropriate renewal fees for the years the school has been operating without a private school license. If the private school license is granted, the school’s license status will be considered current.

5. Financial Stability and School Surety

- a. Prior to issuance of a license pursuant to *the Code of Alabama* Title 16, Chapter 46 (1975) each private school shall submit to the

Alabama Department of Postsecondary Education evidence that it is financially capable of fulfilling its commitments for education. Financial stability shall be established by a review of each school's financial statement and any other evidence of fiscal responsibility requested by the Department. Financial stability of separate locations shall be provided through the principal base of operations. ~~Unaudited financial statements are acceptable if prepared by a Certified Public Accountant or an accountant who uses an accepted accounting procedure and provides details that assure financial stability.~~ Audited financial statements shall be required to be accompanied by ~~when financial stability is questioned by the Department~~ the most current federal income tax return ~~should be presented to the Department for review.~~

- b. Each ~~degree granting institution school~~ not exempted by State Board of Education Policy 720.01 shall be required to provide a school ~~performance~~ surety bond in the amount of ~~twenty~~ fifty thousand dollars (~~\$20,000.00~~ 50,000 in U.S. Currency) in the form acceptable to the ~~Alabama~~ Department of Postsecondary Education and made payable to the Alabama Department of Postsecondary Education. ~~Each non-degree granting school not exempted by State Board of Education Policy 720.01 shall be required to provide a school performance surety bond in the amount of twenty thousand dollars (\$20,000 in U.S. Currency) in the form acceptable to the Alabama Department of Postsecondary Education and made payable to the Alabama Department of Postsecondary Education.~~
- c. Where branches or secondary locations are licensed separately, the surety must be conditioned ~~and sufficient~~ to cover all locations.
- d. Acceptable sureties shall be limited to surety bonds obtained for school surety using Form PS-2. Sureties must be continuous and shall be for the purpose of assuring performance of agreements or contracts with students. Refunds due to students shall be calculated on the basis of the ~~schools published~~ cancellation and refund policy.
- e. Each private school license conditioned by a ~~performance~~ surety bond under notice of cancellation by the bonding agent shall be suspended and thereafter revoked upon the effective date of said cancellation unless another surety bond is acquired. Each private school license conditioned by a ~~performance~~ surety bond allowed to expire shall be suspended by the Department upon notice to the private school for thirty (30) days and thereafter revoked unless the surety bond is restored.

- f. School surety bonds may be extended annually upon receipt of a continuation certificate issued by the bonding company to the **State Alabama** Department of Postsecondary Education.

IV. Minimum School Rules

- A. School Purpose and Objectives. Each private school's purpose and objectives shall be stated in the catalog, bulletin, or brochure of the institution.

- B. The Educational Program

- ~~1.~~ Each course, the curriculum, and instruction provided by each private school shall be consistent in quality and content with recognized school standards **as** determined by the Department ~~of Postsecondary Education.~~
- ~~2.~~ Each private school shall offer ~~only the~~ courses approved by the **Alabama** Department of Postsecondary Education. Any proposed changes **to the degree or objective including courses required, hours or credits required and/or pre-requisites must be approved by the Department before the school initiates the proposed change. Changes at the course syllabus level do not require Department approval. subsequently made in the courses outlined shall be approved by the Department of Postsecondary Education before initiation of the proposed changes.**
- 3. No private school shall sell, award, grant, or confer any earned or honorary degree, diploma, or certificate unless prior permission has been granted in writing by the Chancellor, **of the Alabama** Department of Postsecondary Education.
 - a. Certificate and diploma programs may be offered in clock or credit hours as follows:
 - 1. one quarter hour is defined as 10 clock hours of lecture, 20 clock hours of laboratory, or 30 clock hours of clinical/externship;
 - 2. one semester hour is defined as 15 clock hours of lecture, 30 clock hours of laboratory, or 45 clock hours of clinical/externship; and
 - 3. a balance should be maintained between lecture, laboratory, and clinical/externship experience

appropriate to the specific programs and the needs of the student.

- b. Associate Degree programs shall consist of at least 60 semester or 90 quarter hours;
4. All private degree granting post-secondary educational institutions are required to be accredited by an accrediting institution recognized by the United States Department of Education or be a candidate for accreditation or ~~otherwise~~ in the application process for accreditation as determined and monitored by the Department. This requirement becomes effective beginning October 1, 2008 for all degree granting institutions applying for new or renewal application. The *Code of Alabama* § 16-46-3 (1975) (a) (7) and (9) lists exemptions to this requirement as follows:

(7) Any private school conducting resident courses whose principal base of operation is within the State of Alabama which has been in continuous operation for 20 years or more as of **April 29, 1980, and** held accreditation as of that date by an accrediting agency recognized by the United States Department of Education.

(9) Any proprietary postsecondary institution conducting resident courses that has been in operation within Alabama for at least five years as of **July 1, 2004, and** that is accredited by an accrediting agency recognized by the United States Department of Education shall be accorded the following provision: Upon proof of such accreditation, such schools shall be issued a license and representative permits **after required fees are paid** to the Alabama Department of Postsecondary Education. ~~The requisite shall satisfy the minimum standards of this chapter.~~

Any changes to the status of accreditation are expected to be reported to the Department within 30 calendar days of the change.

C. Organization, Administration, and Fiscal Responsibility

1. The school should be organized according to academic and/or functional patterns to permit effective and orderly academic and business management.
2. ~~Institutions that are affiliated with the school applying for an initial or renewal application must also be licensed by the Alabama Department of Postsecondary Education.~~ Schools that are applying for a Private School License or Renewal License which share affiliation with other institutions are required to be licensed. Therefore, the applicant school

and the affiliate institution must be licensed by the Alabama Department of Postsecondary Education.

3. All degree granting and non-degree granting institutions must provide Articles of Incorporation or partnership agreements, corporate by-laws, franchise agreements and/or purchase agreements with other universities and successor institutions if applicable. If the applicant is a “foreign” corporation (not domiciled in AL), a copy of authority from the Alabama Secretary of State to transact business in Alabama as a foreign corporation is required.
4. The school must be financially secure as specified in (III) (4) (a) through (d) of these Guidelines and capable of fulfilling its commitments for training and/or occupational objectives.
5. Financial records shall be maintained by each private school to provide management of the institution according to ~~accounting procedures accepted by the Department~~ Generally Accepted Accounting Principles (GAAP).

D. Essential Documents - The following items shall be maintained currently and accurately at all times by each licensed private school at each location ~~or instructional site~~:

1. A course outline or syllabus for each ~~licensed~~ course or program of study;
2. Copies of each current catalog, bulletin, or brochure, promotional material and advertisement;
3. Each student’s permanent record showing admission date(s), attendance, transcript of academic progress, tuition payments, financial aid, termination, or completion;
4. Each student’s application for admission showing name, address, age, date enrolled, and other pertinent information with documents supporting accomplishment of prerequisites ~~established for each course~~;
5. Each student’s enrollment agreement or contract;
6. A copy of the certificate of completion, diploma, or transcript of credits for each student completing a course or program of study; and
7. Personal data of each administrator, director, supervisor, instructor, and agent of the school to include a copy of certificates of completion,

diplomas, and transcripts of relevant educational and/or occupational experiences. This personal information shall be supplied to the Department ~~of Postsecondary Education~~ before or upon initial employment on Form PS-4.

- E. Student Records - Each student's record shall be made available upon request of the student to prospective employers and other duly authorized persons. Safeguards shall be provided to protect the student records from damage, loss, or compromise by unauthorized persons as mandated by federal and state statutes.
- F. Instructional Staff - Adequate instructional personnel shall exist to ensure that the educational objectives of each course are achieved.
 - 1. ~~Instruction~~ Instructors and ~~administrators~~ supervisors shall have the educational background and experience necessary to successfully fulfill the educational objectives of the assigned course or program of study. Educational background and/or experience must be submitted on Form PS-4.
 - 2. Credential requirements for instructional staff generally parallel those required in similar public instructional programs and those approved by the State of Alabama Board of Education. A high school diploma or equivalent and appropriate work experiences for occupational education are acceptable. Occupations requiring licensure or certification must be taught by persons holding appropriate credentials.
 - 3. An instructor shall teach only in the specialization for which he/she is credentialed / licensed.
- G. Administrative and Supervisory Staff –
 - 1. Administrative and supervisory persons shall be available in numbers adequate to provide administrative, managerial, and supervisory support to achieve the stated objectives of the school.
 - 2. The institution's owners and directors are appropriately experienced and educated and are of good reputation and character. Site directors should be credentialed at the same level as the highest degree conferred at the site. Chief Academic Officers (those who choose faculty) must be credentialed at the same level as required for faculty. Exceptions must be documented and approved by the State of Alabama Board of Education. All administrative officers must possess credentials, experience and/or demonstrated competence appropriate to their areas of responsibility. The effectiveness of all administrators

must be evaluated periodically. A person is considered to be of good reputation if

- (1) The person has no felony convictions related to the operation of a school, and the person has been rehabilitated from any other felony convictions;
- (2) The person has no convictions involving crimes of moral turpitude;
- (3) Within the last ten years, the person has never been successfully sued for fraud or deceptive trade practice;
- (4) The person is not a plaintiff or defendant in litigation that carries a significant risk to the ability of the institution to continue operation;
- (5) The person does not own a school currently violating legal requirements; has never owned a school with habitual violations; or has never owned a school that closed with violations including, but not limited to unpaid refunds; or
- (6) The person has not knowingly falsified or withheld information from representatives of the State of Alabama Board of Education.

H. Instructional Resources and Materials

1. References appropriate to the courses offered shall exist in adequate numbers in a library or resource room to support academic preparation at the academic or occupational level for each course offered.
2. Each private school shall provide facilities, equipment, tools, machines, instructional aids, and materials in adequate quantity, quality, and variety to meet the educational needs according to the stated objectives of each course.

I. School Policies - All policies shall be written and available for review. Failure to adhere to written policies may constitute the basis for declaring academic and/or economic fraud as defined in *the Code of Alabama* §16-46-1(7) and (8) (1975).

1. The policy on registration, tuition, fees, and charges must be clearly stated in each school catalog, bulletin, or brochure.
 - a. Students shall be provided a detailed description of items constituting the tuition and each fee paid to include the total cost of a course or program of instruction. ~~Costs of extended enrollment shall be provided, if applicable.~~

- b. A schedule listing each fee and charge shall be submitted to the Department ~~of Postsecondary Education~~ and may not be altered until permission is granted by the Department.
 - c. Terms of payment and the total amount **paid** must be disclosed in each student's enrollment agreement or contract.
 - d. The tuition, fees, and charges must be realistic in **accordance to industry standard** terms of the services provided and be applied uniformly to students within the same school and class.
2. The policies on course cancellation, tuition fees, and refund must be clearly stated in each private school catalog, bulletin, or brochure. Students may cancel enrollment at any time complying with the notification procedures established by the school. Refunds of unearned prepaid tuition, fees, and other charges shall be made in the following manner within thirty (30) days of termination:
 - a. If cancellation occurs within seventy-two (72) hours of enrollment date, all money paid by the prospective student shall be refunded.
 - b. If cancellation occurs after seventy-two (72) hours of enrollment date, but before classes begin or correspondence materials are delivered, a refund shall be made of all money paid except the registration fee.
 - c. If cancellation occurs after classes begin or after shipment of correspondence materials, a pro rata refund will be made of all unearned prepaid tuition, fees, and charges for books and supplies not issued to the student. Once books and supplies are issued and received by students, these become the property of students and refunds may be made only at the discretion of the private school.
 - d. A full refund is due students whose contracted educational services are denied by the school as a result of economic or academic fraud as defined in **the Code of Alabama** §16-46-1(7) and (8) (1975).
3. Each school shall publish **guidelines for** student behavior and disciplinary **policies** in the catalog, bulletin, or brochure.
4. Each school shall publish a grievance policy in its catalog, bulletin, or brochure.
5. Each school shall publish academic **policies** and the procedures used to evaluate academic achievement and the grading system in the catalog, bulletin, or brochure. A procedure must be identified and used to

J. Site and Facilities

1. The site and facilities selected for the private school shall provide adequate and appropriate space to accommodate the proposed instructional program and to provide program support services as necessary. All local codes or zoning ordinances must be satisfied and a copy of such permit or license supplied to the Department of ~~Postsecondary Education~~ prior to licensure.
2. Facilities and fixed equipment shall conform to the safety and health requirement of city, county, state, and federal agencies.

K. Admission and Student Services

1. Recruitment programs shall be conducted within the provisions established by this policy.
2. Admission procedures shall be published in the catalog, bulletin, and brochure specifically establishing prerequisites for entry.
3. Each private school is required to utilize a student enrollment agreement or contract for courses or programs of study. The enrollment agreement or contract shall set forth clearly all conditions for enrollment in and completion of courses of instruction, itemized costs, terms of payment, and other conditions the school may desire to establish. A copy of the duly signed contract with all attachments shall be provided to each enrolled student. Enrollment by minor shall be co-signed by an adult.
4. Each private school shall adequately maintain and service student academic, attendance, financial aid and personal data records as required in ~~the~~ *Code of Alabama* §16-46-5(i)(3) (1975).
5. Financial aid program administration must comply with the regulations of appropriate private, state, or federal agencies.

- L. Catalog, Bulletin, or Brochure - A current catalog, bulletin, or brochure shall be included with the application for a license. The document must be published in sufficient quantities for distribution to all enrollees and regulatory authorities. The school catalog, bulletin, or brochure shall include the following information:

1. Identifying data such as volume number and date of publication;
2. Name, address, and telephone number of the school. If separate campuses exist, the catalog shall list the address and telephone number of each; ~~branch in Alabama where the program is provided;~~
3. Ownership of the private school;
4. Names of the governing body members, officials, and faculty of the school, indicating position held and appropriate educational and/or occupational credentials of each person;
5. ~~A~~ historical statement establishing the origin of the school;
6. Accreditation, licenses, endorsements, or affiliations in the format prescribed by the appropriate accrediting commission or other agency;
7. A clear and concise statement of the objectives of the school;
8. Mode of operation or procedures used by the school in achieving the stated objectives;
9. Admission requirements and procedures with required documentation for entry;
10. Credentials awarded and graduation or completion requirements;
11. Facilities and/or equipment available to support courses or programs of study;
12. School calendar and legal holidays;
13. Basis for awarding academic credit by quarter hours, semester hours, or clock hours, and procedures for awarding credit for prior education and/or experience;
14. Academic policy including ~~charges~~ grading system, progress report, and procedures for evaluating student achievement of stated objectives;
15. Tuition and fee policy including charges for ~~each~~ fees, books, laboratories, and supplies;
16. Cancellation and refund policy;
17. Student disciplinary policy to include conditions of forced withdrawal;

18. Housing facilities and policy, if applicable;
19. Attendance policy;
20. Student grievance policy;
21. Curriculum outline of each program and/or course. List titles, objectives, and major subject outlines or description of each course giving units of measurement in credit prepared for brochure, the above may be in abbreviated form. Course prerequisites shall be clearly stated.

M. Annual Report Card Requirement-Each institution is required to report to the State of Alabama Board of Education on November 1st of each year an annual student enrollment and performance data for the previous fiscal year, October 1 through September 30. Annual Report Card information will be available to all institutions currently holding a private school license by July 15th of each year on the Alabama College System website. The Alabama Department of Postsecondary will publish a state-wide annual report card by January 1st of each year beginning January 1, 2009.

V. Publicizing the Private School

- A. Publicity by a school shall be based upon relevant facts and supporting evidence maintained in a file and stored in the school.
- B. No private school shall advertise, claim, nor make guarantees of any kind by direct statement or implication that it will train students in any given length of time.
- C. Advertising shall emphasize the educational or occupational program offered rather than the potential earnings or employee benefits generally available to the successfully employed person. Statements of facts regarding earnings or employee benefits must reflect those normally available to persons who enter employment at the purported level of training rather than benefits granted **only** after extensive experience or further education.
- D. A school shall advertise only as a school and under the school name licensed by the Department. It shall not advertise in conjunction with any other business or establishment or use an emblem or logo associated with another business.
- E. Publicity of school license shall not imply endorsement by the Alabama Department of Postsecondary Education of any course, person, or institution offering, conducting or otherwise administering the same.

- F. Each private school subject to the provisions of **the Code of Alabama** Title 16, Chapter 46 (1975) and State Board of Education Policy 720.01 shall not commence advertising in any manner, **including but not limited to a website**, or form until after the date a private school license is issued by the Alabama Department of Postsecondary Education. **If a Private School License is revoked all publicity and advertising, including but not limited to the website, should cease immediately.**
- G. No private school may advertise that it is endorsed by manufacturers, business establishments, other institutions, or organizations until and unless prior written evidence of this fact is submitted to the Alabama Department of Postsecondary Education and written approval is granted by the Department.
- H. Claims to accreditation status or recognition by appropriate accrediting agencies shall be supported by documentary evidence and shall be publicized in the phraseology prescribed by such authority.
- I. A file shall be maintained by each private school of all promotional materials, bulletins, brochures, contacts, agreements, and forms used to publicize the private school courses.

VI. Agent's Permits

- A. No person, except those representing schools exempted or entitled to exemption in **the Code of Alabama** §16-46-3 (1975), shall present materials, sell courses, or solicit students for enrollment outside the boundaries of the licensed school facilities unless an Agent's Permit is first secured by the school from the **Alabama** Department of Postsecondary Education.
- B. The application for each **an** Agent's Permit shall be submitted to the **Alabama** Department of Postsecondary Education on Form PS-5 and shall be accompanied by a fee of fifty dollars (\$50.00 in U.S. Currency) in the form of a cashier's check or money order made payable to the Alabama Department of Postsecondary Education and **an agent** surety bond of two thousand five hundred dollars (\$2,500.00 in U.S. Currency). Such **agent** surety bonds shall be continuous and shall be conditioned to provide indemnification to any student suffering loss as a result of **any** fraud or misrepresentation. **used in procuring the enrollment.** The **agent** surety bond shall be supplied by the private school as a blanket surety covering each agent in the amount of two thousand five hundred dollars (\$2,500.00 in U.S. Currency **per agent**) made payable to the Alabama Department of Postsecondary Education.
- C. Each Agent's Permit shall be valid for a period of two years from the date issued and shall be renewed according to Section III.B.4. Of these Guidelines.

- D. Upon satisfactory review of an agent's credentials, the **Alabama** Department of Postsecondary Education shall issue to the private school **an agent** permit within thirty (30) days of receipt of all required materials. A pocket card will **be** issued giving the agent's name and address, the name and address of the employing school, and certifying that the person whose name and photo appear on the card is an authorized agent of the school. Each agent must have the permit in possession when representing the school. The private school shall be notified of incomplete applications. All required renewal materials shall be supplied to the Alabama Department of Postsecondary Education thirty (30) days prior to the expiration date. Expired permits may be reinstated upon submission of all application materials and fees required of initial applicants.
- E. One complimentary Agent's Permit shall be issued without fee or surety requirements to an owner or administrator of each licensed school identified as a principal base of operation. Application for a complimentary Agent's Permit shall be made on Form PS-5.
- F. Schools utilizing agents shall provide indemnification to each student suffering loss as a result of any economic or academic fraud or misrepresentation by said agents in procuring enrollment according to **the Code of Alabama §16-46-6(c) (1975)**.
- G. No person shall be issued an Agent's Permit to represent any private school until it has been determined by the Department **of Postsecondary Education** the school has qualified for a license and a license has been issued.
- H. An Agent's Permit shall be placed on probation, suspended, or revoked by the Department if the holder solicits or enrolls students through fraud, deception, or misrepresentation. Each Agent's Permit, conditioned by expired surety bond, shall be suspended by the Department for thirty (30) days and thereafter revoked if surety bond is not restored.
- I. No persons or private school shall seek reimbursement from any student for any charge(s) on any enrollment contract secured by an agent of the private school if the agent soliciting the students or selling the course(s) was not a holder of an Agent's Permit at the time of presentation.
- J. The issuance of an Agent's Permit shall not be deemed to constitute endorsement or recommendation **by the Department** of any course, person, or institution.
- K. Each Agent's Permit which is revoked by the Department or whose employment is terminated prior to the expiration date shall be returned to the Department **of Postsecondary Education** by the licensed school.

- L. The Department may refuse to issue a permit to an applicant if he/she has pleaded guilty to or been convicted of a felony or a crime of moral turpitude under the laws of this or any other state.
- VII. Enforcement Proceeding - Pursuant to **the Code of Alabama** §16-47-8 (1975), the Department may institute such action of law or in equity as may be necessary to enforce the provisions of **the Code of Alabama** Title 16, Chapter 46 (1975) or State Board of Education Policy 720.01 and associated Guidelines.
- VIII. Appeals Procedures - Any person or school aggrieved by the actions of the Alabama Department of Postsecondary Education with respect to exemption, issuance, denial, deferral, probation, suspension, or revocation of a license or permit provided for **by the Code of Alabama** §§16-46-3, 16-46-5, and 16-46-6 (1975) and State Board Policy 720.01 may file a petition for review with the Alabama State Board of Education. The petition shall be filed with the Chancellor, **of the Alabama** Department of Postsecondary Education within thirty (30) calendar days after the person or school has been served a notice of proposed action.
- A. Notice of Actions
 - 1. A proposed action against a person or school shall be initiated by service of a written notice of the proposed action.
 - 2. The notice shall contain:
 - a. a statement of the nature of the action;
 - b. a statement of the legal authority and jurisdiction under which the action is made;
 - c. a reference to the particular sections of statutes and rules involved; and
 - d. a short and plain statement of the reasons for the proposed action. If the Department is unable to state the reasons in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon **application appeal** by the person or school, hereinafter designated respondent, a more definite statement shall be furnished **by the Department**.
 - B. Service of Notice - The notice may be served in any of the following ways;
 - 1. personal service;

2. regular mail; or
3. certified mail, return receipt requested.

C. Petition for Review

1. An aggrieved person or school may request a hearing to review a proposed action. The request shall be:
 - a. made in writing;
 - b. addressed to the Chancellor, **Alabama** Department of Postsecondary Education; and
 - c. received by the Chancellor, **Alabama** Department of Postsecondary Education within thirty (30) calendar days of the date of receipt of notice of the proposed action.
2. Failure to request a hearing within the above time frame shall constitute a waiver of the opportunity for a hearing and shall cause the matter to be submitted to the Chancellor, **Alabama** Department of Postsecondary Education for final action without any action by the State Board of Education.
3. If a hearing is requested within the above time frame, the State Board of Education authorizes the Chancellor, **Alabama** Department of Postsecondary Education to appoint a hearing officer to conduct a hearing.

D. Conduct of Hearing

1. In the conduct of a hearing, a hearing officer shall have the authority to:
 - a. establish a date, time and place for the hearing;
 - b. maintain order;
 - c. make a record of the proceedings;
 - d. establish reasonable time limits for the conduct of proceeding;
 - e. rule on the admissibility of evidence;

- f. hold a prehearing conference, if necessary, to clarify the matters in dispute; establish the order of presentation; allow for the exchange of exhibits and names of witnesses; establish time limits for the exchange of exhibits and names of witnesses; and
 - g. enter an order on any other matter which would effectuate the conduct of the hearing.
 - 2. The hearing shall be open to the public.
 - 3. A respondent may be represented by counsel at his/her own expense.
 - E. Settlement - Informal dispositions may be made of any matter set for hearing by stipulation, agreed settlement, consent order or default or by another method agreed upon by the parties in writing.
 - F. Record of Proceedings
 - 1. The record of a hearing shall include:
 - a. the notice of proposed action;
 - b. the request for a hearing;
 - c. all evidence received during the hearing;
 - d. a transcript of the proceedings;
 - e. a statement of all matters officially noticed;
 - f. all questions and offers of proof, objections and rulings thereon;
 - g. the written recommendation of the hearing officer; and
 - h. the final order of the Chancellor, **Alabama** Department of Postsecondary Education.
 - 2. Oral proceedings shall be recorded by a qualified shorthand reporter. Oral proceedings shall be transcribed at the request of any party with the expense of transcription borne by the requesting party. The record of oral proceedings shall be maintained by the **Alabama** Department of Postsecondary Education for five (5) years from the date of entry of the final order.

- G. Rules of Evidence - The rules of evidence as provided in *the Code of Alabama* §41-22-13 (1975) shall apply to all hearings conducted under these rules.
- H. Final Order
1. Upon completion of a hearing, the hearing officer shall prepare and submit to the Chancellor, *Alabama* Department of Postsecondary Education a proposed order. The proposed order shall include a statement of facts found by the hearing officer, a recitation of the application of the facts found to the applicable statutes and regulations, and a recommendation as to the appropriate disposition of the matter. The proposed order along with the record shall be submitted to the Chancellor, *Alabama* Department of Postsecondary Education within thirty (30) days after the hearing is concluded. By agreement, the parties may waive or extend the thirty (30) day time period.
 2. Within ten (10) days after receipt of the proposed order, the Chancellor, *Alabama* Department of Postsecondary Education shall serve by certified mail the same on the parties. By agreement, the parties may waive or extend the ten (10) day time period.
 3. Within ten (10) days of receipt of the proposed order, each party may file written exceptions and briefs, not to exceed ten (10) typewritten, double-spaced pages and a request for oral argument that shall be mailed to the Chancellor, *Alabama* Department of Postsecondary Education unless exceptions are filed.
 4. If oral argument is requested, the same shall be scheduled at the discretion of the State Board of Education, but shall not exceed ten (10) minutes per party.
 5. The State Board of Education shall issue a final order no later than sixty (60) days after either the review of written exceptions and briefs or completion of oral arguments. By agreement, the parties may waive or extend the sixty (60) days after either the review or written exceptions and briefs or completion of oral arguments. By agreement, the parties may waive or extend the sixty (60) day time period.
- I. Judicial Review - A person or school who has exhausted all administrative remedies available and who is aggrieved by a final order or the State Board of Education may seek judicial review pursuant to the provisions of *the Code of Alabama* §16-46-9 (1975).

- IX. Violations and Penalties - It shall be unlawful for any person to violate any provisions of **the Code of Alabama** Title 16, Chapter 46 (1975). Any person required by **the Code of Alabama** Title 16, Chapter 46 (1975) to have a license or permit who shall do in Alabama any business of the nature described in **the Code of Alabama** Title 16, Chapter 46 (1975) without first obtaining a license or permit as required of him/her by **the Code of Alabama** Title 16, Chapter 46 shall be punished by a fine of not more than five hundred dollars (\$500.00 in U.S. Currency) or a term of imprisonment not to exceed six months, or both. Each day's violation of **the Code of Alabama** Title 16, Chapter 46 (1975) shall constitute a separate offense. All fines shall be deposited in the State Treasury to the credit of the Alabama Department of Postsecondary Education to be expended by a voucher approved by the Chancellor of the **Alabama** Department of Postsecondary Education to administer **the Code of Alabama** Title 16, Chapter 46 (1975).