

Section 16-46-5**License for operation of schools; fees; financial stability.**

(a) No proprietary postsecondary school, except those enumerated in Section 16-46-3, shall operate within this state unless the school first secures a license from the Alabama Department of Postsecondary Education, regardless of whether the school enrolls Alabama students or has a physical presence within the State of Alabama. Procedures for licensing and bonding of schools operating courses in separate locations shall be established in the rules and regulations pursuant to Section 16-46-7.

(b) No K-12 school, except those enumerated in Section 16-46-3, shall operate within this state unless the school first secures a license from the Alabama State Department of Education. Procedures for licensing and bonding of schools operating courses in separate locations shall be established in the rules and regulations pursuant to Section 16-46-7.

(c) Upon satisfactory review of a school, the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, shall issue a license to be publicly displayed on the premises where the school operates.

(d) The application for a license for a K-12 school shall be made on forms furnished by the Alabama State Department of Education. Application for a license for a proprietary postsecondary institution shall be made on forms furnished by the Alabama Department of Postsecondary Education.

(e) The State Board of Education shall promulgate a schedule of licensing fees, which may be revised from time to time upon reasonable notice at the discretion of the board. All licensing fees collected from postsecondary institutions shall be deposited in the State Treasury to the credit of the private school licensing section in the Alabama Department of Postsecondary Education. Licensing fees collected from K-12 schools shall be deposited in the State Treasury to the credit of the Alabama State Department of Education.

(f) All K-12 schools except those enumerated in Section 16-46-3 shall be required to establish financial stability by a surety acceptable to the Alabama State Department of Education in the penal sum of not more than \$10,000.00. The sum required to provide prepaid tuition liability shall be established by the Alabama State Department of Education by appropriate regulation pursuant to Section 16-46-7. All proprietary postsecondary institutions, except those enumerated in Section 16-46-3, shall be required to establish financial stability by surety acceptable to the Alabama Department of Postsecondary Education in the penal sum of not more than twenty thousand dollars (\$20,000). The sum required to provide prepaid tuition liability shall be established by the Alabama Department of Postsecondary Education by appropriate regulation pursuant to Section 16-46-7. Financial stability for separate locations shall be provided through the principal base of operations. Such surety 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 his or her enrollment in and/or administering a course covered by this chapter for the purpose of assuring due and faithful performance of agreements or contracts with students.

(g) A license shall be valid for two years from the date on which it was issued.

(h) Regardless of the number of years that a surety is in force, the aggregate liability thereon shall in no event exceed the penal sum of the surety accepted by either the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate. The surety may cancel the same

upon giving 30 days' notice in writing to the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

(i) Application for a license shall also be accompanied by a financial statement acceptable to the State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, and a copy of the current catalog, brochure, or bulletin of the school, which shall include all of the following:

(1) Identifying data such as volume number, date, and publication.

(2) Name, address, and telephone of the school and its governing body, officials, and faculty.

(3) A clear and concise statement of the objectives of the training given by the school.

(4) The exact manner in which the stated objectives are to be attained.

(5) A tuition and refund policy which is in compliance with the appropriate regulation pursuant to Section 16-46-7.

(6) A grievance policy which directs aggrieved students to first attempt to resolve complaints through the appropriate school officials. Student grievances not resolved by the school shall be referred to the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate.

(7) Such other reasonable information as the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, may impose.

(j) Upon receipt of the required information, the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, may issue a license provided the institution is complying with all of the following standards:

(1) The courses, curriculum, and instructions of such school are consistent, in quality and content, with recognized educational standards as determined by the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate.

(2) There is available to the school adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(3) Adequate records as determined by the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, are kept to show attendance and student progress. Records shall be available upon request of the student to be furnished prospective employers and other interested parties.

(4) The school is financially sound and capable of fulfilling its commitments for training.

(5) Schools or courses domiciled outside Alabama shall designate a state agent who is a resident of this state to service all complaints against the school.

(6) A student enrollment agreement or contract shall be utilized to set forth clearly all conditions for enrollment in and completion of courses of instruction, itemized course cost, terms of payment, and

other conditions the school may desire to establish. Conditions for forced withdrawal for academic or disciplinary reasons shall be stated. Contracts establishing installment payments with interest charges shall be in compliance with Alabama statutes regarding lending and usury and shall be certified by the Alabama State Banking Department.

(7) The school shall comply with all local, state, and federal laws and regulations.

(k) Any license applied for pursuant to this section shall be granted, deferred, or denied within 30 days of the receipt of the application therefor by either the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate.

(l) The Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, may invoke negative actions against any license issued if the holder of the license solicits or enrolls students or administers instructions through fraud, deception, or misrepresentation. Negative actions shall include probation, suspension, and/or revocation.

(m) The fact that a surety is in force pursuant to this section shall not limit nor impair any right of recovery otherwise available under law, nor shall the amount of such surety be relevant in determining the amount of damages or other relief to which any plaintiff may be entitled.

(n) No recovery against any student shall be had on any contract if such school was not the holder of a license as required by this section at the time that such school or its representative negotiated the contract for or sold such course.

(o) Schools which undergo transfer of ownership shall be reviewed to determine that minimum standards remain in effect. The license may not be transferred to new ownership. Financial stability of the new ownership shall be established.

(p) The issuance of a license pursuant to this section shall represent authority to operate an educational institution in Alabama. Licensure may not be advertised as an endorsement or recommendation, but it implies compliance with the laws of Alabama. Advertising may indicate only that the school is licensed by the state.

(Acts 1971, 3rd Ex. Sess., No. 87, p. 4299, §6; Acts 1980, No. 80-272, p. 349, §1; Act 2004-282, p. 388, §1.)