

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representative Newman**

A Bill

ACT 1213 OF 1995
HOUSE BILL 1976

For An Act To Be Entitled

8 "AN ACT TO AMEND SUBCHAPTER 6 OF CHAPTER 51 OF TITLE 6 OF
9 THE ARKANSAS CODE RELATING TO THE LICENSURE AND REGULATION
10 OF PRIVATE RESIDENT AND CORRESPONDENCE SCHOOLS; AND FOR
11 OTHER PURPOSES."

Subtitle

14 "LICENSURE AND REGULATION OF PRIVATE
15 RESIDENT AND CORRESPONDENCE SCHOOLS."

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19 SECTION 1. Subchapter 6 of Chapter 51 of Title 6 of the Arkansas Code
20 is amended to read as follows:

21 "6-51-601. Legislative intent.

22 (a) The General Assembly is aware of the fact that:

23 (1) Many private career schools offering resident or
24 correspondence programs in the State of Arkansas have contributed extensively
25 to the well-being of the individuals and the business and industrial
26 establishments which have benefited from such training; and

27 (2) There is a need for protection of the consumer and the
28 ethical private career school operator.

29 (b) The General Assembly determines that the establishment of
30 reasonable standards and licensing requirements for resident or correspondence
31 schools, their program offerings and their instructors, and admissions
32 representatives in the manner provided in this chapter is essential in the
33 public interest and in furtherance of the purposes stated above.

34 6-51-602. Definitions.

35 As used in this chapter, unless the context otherwise requires:

36 (1) Student, enrollee, trainee, or pupil means a person seeking

1 to enroll or who has been enrolled or who is sought for enrollment or is
2 seeking training and/or instruction in a school as defined in this chapter;

3 (2) School means any person, firm, partnership, association,
4 corporation or other form of business organization seeking to do business or
5 offering in the State of Arkansas such resident or correspondence training
6 that leads to or enhances occupational qualifications, whether or not the
7 institution is subject to Arkansas Code 6-61-301. School shall also mean any
8 firm, partnership, association, corporation, or other form of business
9 organization which offers instruction in flight or ground school to student
10 fliers or mechanics. School shall also mean any firm, partnership,
11 association, corporation, or other form of business organization which offers
12 training as preparation for passing exams which may lead to employment.

13 School shall also mean any firm, partnership, association, corporation, or
14 other form of business organization which offers driver education training;

15 (3) Board means the State Board of Private Career Education;

16 (4) Director means the authorized representative of the State Board
17 of Private Career Education for the purpose of administering the provisions of
18 this chapter;

19 (5) Program of Study means an organized unit of courses or an
20 individual course in which instruction is offered;

21 (6) Admissions representative means a person who executes an
22 enrollment agreement and who receives compensation for the primary duties of
23 encouraging prospective students to enroll for training in a program of study
24 offered by a school covered under provisions of this chapter;

25 (7) Resident school means any school in which all programs of study
26 are conducted in resident classrooms or held in public meeting facilities;

27 (8) Correspondence school means any school in which all programs of
28 study are conducted by correspondence;

29 (9) Combination school means any school in which programs of study
30 are conducted by both correspondence and resident training;

31 (10) Extension course site means a location away from the school
32 whereby a specialized course or courses are conducted one (1) or more times
33 during the licensure period;

34 (11) Satellite school means a location within the State of Arkansas
35 away from the school where programs of study are offered on a regular

1 continuing basis by Arkansas schools;

2 (12) Private Career Education Arbitration Panel means the
3 three-person panel established for the purpose of arbitrating student and
4 school grievances.

5 6-51-603. Exemptions.

6 The following are exempt from licensure under this chapter:

7 (1) Private institutions exclusively offering instruction at any or all
8 levels from preschool through twelfth grade;

9 (2) Schools established by laws of Arkansas, governed by Arkansas
10 boards and permitted to operate for the sole purpose of providing specific
11 training normally required to qualify persons for occupational licensure by
12 state boards or commissions, which determine education and other standards for
13 licensure and operation of such schools;

14 (3) State colleges and universities coordinated by the State Board of
15 Higher Education;

16 (4) Programs of study offered by institutions or individuals for
17 personal improvement, avocational or recreational, if designated through media
18 or other sources, as not for the purpose of enhancing an occupational
19 objective;

20 (5) Schools operated solely to provide programs of study in theology,
21 divinity, religious education, and ministerial training;

22 (6) A training program offered or sponsored by an employer for training
23 and preparation of its own employees and for which no tuition fee is charged
24 the employee;

25 (7) A program of study sponsored by a recognized trade, business, or
26 professional organization for instruction of the members of the organization
27 with a closed membership and for which no fee is charged the member;

28 (8) A school or educational institution supported by state or local
29 government taxation;

30 (9) Flight instructors licensed under appropriate Federal Aviation
31 Administration regulations and offering only training for a private pilots
32 license.

33 (10) Schools covered by Arkansas Code 6-61-301(a)(3) and exempted from
34 6-51-101 et seq.

35 (11) Training offered by other Arkansas state agencies, boards, or

1 commissions.

2 (12) Training offered on military bases where a majority of the
3 students enrolled are active or retired military personnel or their
4 dependents.

5 6-51-604. Notice of possible violations - Response - Injunctions.

6 (a) Whenever the board or director acting for the board has probable
7 cause to believe that a person, agent, group, or entity has committed any acts
8 that would be in violation of this chapter, such as fraud, misrepresentation,
9 or unethical practices, the board or director acting for the board shall first
10 give notice in writing by certified mail or in person, to the agency, or
11 entity affected.

12 (b) The person, agent, or entity will have ten (10) days in which to
13 respond to the notice of violation unless the board or the director acting for
14 the board deems an emergency exists, in which case the entity will have up to
15 twenty-four (24) hours in which to respond.

16 (c) If action on the part of the person, agent, or entity in response
17 to notice is to seek to eliminate the violation, a further extension of time
18 may be granted by the director acting for the board. Otherwise, the board may
19 order a cease and desist of such acts after a formal hearing or the Board or
20 the director shall have the duty to request the Attorney General or district
21 prosecuting attorney in the county where the offense was committed to seek in
22 a court of competent jurisdiction an injunction restraining the commission of
23 such acts.

24 6-51-605. State Board of Private Career Education.

25 (a) The Governor shall appoint a board of seven (7) members who shall
26 serve for a term of seven (7) years. The Governor shall make appointments or
27 reappointments to the board to provide membership of three (3) persons
28 associated with schools and four (4) persons from the general public. The
29 Director of Higher Education and the Vocational and Technical Education
30 Division or their designees shall serve as nonvoting, ex officio members of
31 the State Board of Private Career Education.

32 (b) The board shall have the power to elect the necessary officers,
33 acting by and through the director, shall have the sole authority to approve
34 all schools offering programs of study leading to or enhancing an occupational
35 objective, to administer and enforce this chapter, and to issue licenses to

1 schools which have met the standards set forth, for the purposes of this
2 chapter, by the State Board of Private Career Education, including, but not
3 limited to, programs of study, adequate facilities, financial stability,
4 qualified personnel, and legitimate operating practices.

5 (c) Upon approval by the board, any such school may issue certificates
6 or diplomas.

7 (d) The board, acting by and through the director, shall formulate the
8 criteria and the standards evolved for the approval of such licensed schools,
9 provide for adequate investigation of all schools applying for a license,
10 issue licenses to those applicants meeting the standards fixed by the board,
11 and maintain a list of schools approved under the provisions of this chapter.

12 (e) The board, acting by and through the director, shall formulate the
13 standards evolved thereunder for the approval of admissions representatives of
14 such licensed schools and issue licenses to those applicants meeting the
15 standards fixed by the board.

16 (f) The board shall promulgate standards, rules, and regulations to be
17 prescribed for the administration of this chapter and the management and
18 operation of the schools and admissions representatives subject to the
19 provisions hereof.

20 (g) The board shall participate in the hearings provided schools and
21 admissions representatives in case of revocation or denial of licensure.

22 (h) Official meetings of the board may be called by the chairman as
23 necessary, but meetings shall be held at least four (4) times a year.

24 (i) A minimum of four (4) favorable votes by the board members at an
25 official meeting is required for adoption of a recommendation.

26 (j) Expenses of board members may be reimbursed for travel and/or other
27 expenses incurred in connection with official business.

28 (k) The board may adopt and use a seal, which may be used for the
29 authentication of the acts of the board.

30 (l) The board shall employ a director who reports to the board.
31 Provisions will be made for a retirement plan for the staff with a state
32 contribution and board-approved investment option in the same manner as
33 provided in § 24-7-901 et seq.

34 (m) The board shall annually require background investigations for all
35 partners or shareholders with ten percent (10%) or more ownership interest in

1 a school. The Arkansas State Police shall be authorized to conduct background
2 investigations for applicants that have executed the appropriate release, and
3 said background shall consist of whether the applicant has been convicted in
4 any jurisdiction of a felony, Class A misdemeanor, or a crime involving an act
5 of violence. The Arkansas State Police shall be authorized to disseminate said
6 background information to the State Board of Private Career Education.

7 6-51-606. School license generally.

8 (a) No persons shall operate, conduct, maintain, or offer to operate in
9 this state a school as defined herein, or solicit the enrollment of students
10 residing in the state, unless a license is first secured from the board issued
11 in accordance with the provisions of this chapter and the rules and
12 regulations promulgated by the board.

13 (b) Application for a license shall be filed in the manner and upon the
14 forms prescribed and furnished by the director for that purpose. The
15 application shall be signed by the applicant and properly verified and shall
16 contain such information as may apply to the type and kind of school,
17 satellite school, or extension course site for which a license is sought.

18 (c) Any license issued shall be restricted to the programs of study
19 specifically indicated in the application for a license. The holder of a
20 license shall present a supplementary application for approval of additional
21 programs of study. The license shall remain the property of the State of
22 Arkansas and shall be returned to the director upon cause.

23 (d) If the board, acting by and through the director, after evaluating
24 the school as to kind and type is unable to make a determination regarding
25 initial approval of a licensure application within sixty (60) days of receipt
26 of the application and required documentation, it shall issue a temporary
27 license valid for a period of not more than six (6) months pending an
28 investigation. If the investigation of the school does not reveal anything
29 justifying revoking, or denying reissue, of the temporary license, a license
30 will be issued that will continue in force until the time of such expiration
31 as a regular license.

32 (e) After a license is issued to any school by the board on the basis
33 of its application, it shall be the responsibility of the school to notify
34 immediately the board of any changes in the ownership, administration,
35 location, faculty, or programs of study on the forms and in the manner

1 prescribed by the board.

2 (f) In the event of the sale of such school, the license granted to the
3 original owner or operators shall not be transferable to the new ownership or
4 operators, but application for a new license must be made and approved prior
5 to the new ownership taking over operation of the school.

6 (g) The board shall have the power to deny issuing a new or renewing
7 license, to revoke an existing license or to place a licensee on probation if
8 in its discretion it determines that:

9 (1) The licensee has violated any of the provisions of this
10 chapter or any of the rules and regulations of the board; or,

11 (2) The applicant or licensee has knowingly presented to the
12 board incomplete or misleading information relating to licensure; or,

13 (3) The applicant or licensee has pleaded guilty, entered a plea
14 of nolo contendere or has been found guilty of a crime constituting a felony
15 by a judge or jury in any state or federal court; or,

16 (4) The applicant or licensee has intentionally failed or refused
17 to permit the board or its representatives to inspect the school or classes or
18 has intentionally failed or refused to make available to the board, at any
19 time when requested to do so, full information pertaining to any or all items
20 of information contained in an application for license or pertaining to the
21 operation of the school; or,

22 (5) The applicant has failed or refused to submit to the board an
23 application for license or renewal in the manner and on the forms prescribed;
24 or,

25 (6) A licensed admissions representative has failed or refused to
26 display or produce his or her license when requested to do so by prospective
27 students or designated officials of the board; or,

28 (7) The applicant or licensee has failed to provide or maintain
29 premises, equipment, materials, supplies, or conditions in accordance with
30 minimum standards as established by rules and regulations; or,

31 (8) The licensee has been found by the board or a court of law to
32 have perpetrated fraud or deceit in advertising of the school or programs of
33 study or in presenting to prospective students information relating to the
34 school, programs of study, employment opportunities, or opportunities for
35 enrollment in institutions of higher education; or,

1 (9) The licensee has in its employ admissions representatives who
2 have not been licensed but are actively engaged in the practice of attempting
3 to enroll students; or,

4 (10) The licensee has failed to provide and maintain standards of
5 instruction or qualified administrative, supervisory, or instructional staff
6 as established by rules and regulations; or,

7 (11) The applicant or licensee is unable to provide and maintain
8 financial resources in sufficient amount to equip and maintain the school or
9 classes; or,

10 (12) The licensee has moved the school into new premises or
11 facilities without first notifying the director; or,

12 (13) The licensee has offered training or instruction in programs
13 of study which have not been approved and authorized in accordance with rules
14 and regulations; or,

15 (14) A licensed admissions representative has solicited
16 prospective students to enroll in a school which has not been licensed by the
17 board or which is not listed on his/her license; or,

18 (15) There was a change in the ownership of the school without
19 proper notification to and approval from the board; or,

20 (16) The licensee has failed to notify the director or to provide
21 written documentation as to the cause that the license of a school has been
22 suspended or revoked or the school has been placed on probation or a show
23 cause issued in another state or by another regulatory agency; or,

24 (17) The licensee has failed to notify the director of legal
25 actions initiated by or against the school; or,

26 (18) The licensee fails to make tuition refunds to the student
27 and/or their lenders in compliance with current regulations.

28 (h) The board shall have the power to revoke a license if in its
29 discretion it determines that:

30 (1) The licensee fails to cure a deficiency leading to a license
31 probation within the time as may be reasonably prescribed by the board; or,

32 (2) The licensee while on probation has been found by the board
33 to have incurred an additional infraction of this chapter; or,

34 (3) The licensee closes a school without first completing the
35 training of all students currently enrolled and/or failing to make tuition

1 refunds to students and/or their lenders.

2 (i) Unless directed to do so by court order, the board shall not for a
3 period of five (5) years following revocation, reinstate the license of a
4 school or allow an owner of any such school to seek licensure of another
5 school. Upon expiration of licensure status, the school must apply for an
6 original license in accordance with the provisions of this chapter.

7 (j) Upon closure of a school located in Arkansas and licensed under any
8 provision of this chapter, whether for license revocation or any other cause,
9 all student records, academic and financial aid, for the previous ten years of
10 the schools operation must be delivered to the director. Delivered records
11 shall be arranged in alphabetical order and stored in boxes. The director
12 shall be responsible for the proper security, storage, and maintenance of all
13 such records.

14 (k) No school shall incorporate the name university unless they are
15 seeking to offer both undergraduate and graduate programs through the
16 Institutional and Program Certification of the Arkansas Department of Higher
17 Education.

18 6-51-607. Student Protection Trust Fund.

19 (a) Each school licensed under this chapter shall pay annually a fee to
20 be set by the board. The fee shall be based on the enrollment of Arkansas
21 residents in the preceding twelve (12) months of July 1 through June 30 and be
22 set at such amount as the board deems necessary to establish the fund and to
23 reestablish the fund as necessary.

24 (b) The fee will be deposited in a trust fund in the State Treasury to
25 be called the Private Career School Student Protection Trust Fund.

26 (c) The fee will not be levied, if on May 30 of any year, the balance
27 of the fund exceeds five hundred thousand dollars (\$500,000). However,
28 regardless of the balance in the fund, a fee, as set by the board, will be
29 assessed newly licensed schools. Newly licensed schools will pay for a number
30 of years equal to the number of years paid by schools licensed on September 1,
31 1989.

32 (d) The assets of the fund may be invested and reinvested as the board
33 may determine. Any interest income, or dividends from the investment of the
34 fund shall be credited to the fund.

35 (e) With the approval of the board, the director may use any amounts in

1 the fund, including accumulated interest, to:

2 (1) Pay claims filed by students when a school becomes insolvent
3 or ceases to operate without offering a complete program of study;

4 (2) Pay expenses incurred by a school that are directly related
5 to educating a student placed in the school under this subchapter, including
6 the applicable tuition for the period of time for which the student has paid
7 tuition;

8 (3) Reimburse the Private Career Education Fund for expenses
9 directly associated with the storage and maintenance of academic and financial
10 aid records of those students adversely affected by school closings;

11 (4) Reimburse the Private Career Education Fund for
12 administrative cost due to school closings, including but not limited to:

13 (a) travel expenses; and

14 (b) the employment of temporary personnel to assist with
15 transport and organization of student records.

16 (5) Provided further, that reimbursement for the expenses
17 incurred in (e)(4) shall not exceed five thousand dollars (\$5,000) per school
18 closing.

19 (f) Any amounts in the fund above the required five hundred thousand
20 dollars (\$500,000) may be used with the approval of the board to:

21 (1) Fund educational seminars and other forms of educational
22 projects for the use and benefit of licensed school administrators, faculty,
23 staff, or admissions representatives; or

24 (2) Provide for travel expenses and registration fees to send
25 staff or board members to accrediting meetings, seminars, or meetings relating
26 to the school sector; or

27 (3) Provide staff assistance.

28 (g) (1) If a school closes, the director shall attempt to place each
29 student of the school in another school.

30 (2) If the student cannot be placed in another school, the
31 student's tuition for which education has not been received may be refunded on
32 a pro rata basis in the manner prescribed by the board.

33 (3) If another school assumes responsibility for the closed
34 school's students with no significant changes in the quality of training, a
35 student is not entitled to a refund under this section.

1 (4) Attorney's fees, court costs, or damages may not be paid from
2 the Private Career School Student Protection Trust Fund.

3 6-51-608. Extension course sites and satellite schools - Additional
4 school license.

5 (a) (1) Any school licensed under this chapter shall make application
6 to the board to offer a course or courses at an extension course site or
7 satellite school.

8 (2) The school shall submit a separate additional license fee
9 with the licensure application for each extension course site or satellite
10 school.

11 (3) The courses, facilities, faculty, and all other operations of
12 the extension course site or satellite school must meet minimum standards as
13 established by rules and regulations.

14 (b) The school will be assessed a fee as set by the board to be
15 deposited in the Private Career School Student Protection Trust Fund.

16 6-51-609. Admissions Representatives license generally.

17 (a) No person representing a resident, correspondence, or combination
18 school shall solicit or sell in Arkansas any program of study for
19 consideration or remuneration unless the admissions representative first
20 secures a license from the director. A license issued by the director shall be
21 subject to ratification by the board.

22 (b) (1) The license shall be on a form of such size as to be
23 displayed for examination by each prospective student contacted by the
24 admissions representative for enrollment or recruitment purposes.

25 (2) The license shall bear a recent photograph of the admissions
26 representative, admissions representative_s name, the name and address of the
27 licensed school to be represented, and the valid period of the admissions
28 representative license which will indicate the expiration date.

29 (3) The license shall be endorsed by the chairman of the board.
30 The license shall remain the property of the State of Arkansas and shall be
31 returned to the director upon cause.

32 (c) An admissions representative_s license shall be automatically
33 cancelled when the license of the school represented by the admissions
34 representative is suspended or revoked for any reason or the school closes.

35 (d) An applicant for an admissions representative_s license must:

- 1 (1) Be at least eighteen (18) years of age;
- 2 (2) Be a high school graduate or hold a Graduate Equivalent
3 Degree;
- 4 (3) Not have been convicted in any jurisdiction of a felony,
5 Class A misdemeanor, or a crime involving an act of violence for which a
6 pardon has not been granted;
- 7 (4) Be a citizen of the United States;
- 8 (5) Not have been discharged from the armed services of the
9 United States under other than honorable conditions; and
- 10 (6) Be in compliance with any other reasonable qualifications
11 that the board may fix by rule.

12 (e) The Arkansas State Police shall be authorized to conduct background
13 investigations for applicants that have executed the appropriate release, and
14 said background shall consist of whether the applicant has been convicted in
15 any jurisdiction of a felony, Class A misdemeanor, or a crime involving an act
16 of violence. The Arkansas State Police shall be authorized to disseminate said
17 background information to the State Board of Private Career Education.

18 6-51-610. Fees.

19 (a) The board shall set fees for schools and admissions
20 representatives.

21 (b) The fees collected under this chapter, except fees collected for
22 the Private Career School Student Protection Trust Fund shall be deposited in
23 the State Treasury as special revenues credited to the Private Career
24 Education Fund.

25 (c) No license fee shall be refunded in the event of school or
26 admissions representative_s license suspension, revocation, denial, or request
27 for withdrawal of application by school.

28 6-51-611. License renewal.

29 (a) Licenses shall be renewable annually.

30 (b) The licensing period shall be determined by the board.

31 (c) Application for renewal of school license is to be provided in the
32 form and manner prescribed by the board. The school and its programs of study,
33 facilities, faculty, and all other operations must meet the minimum standards
34 as established by rules and regulations.

35 (d) An application for renewal of an admissions representative_s

1 license shall be made on the forms and in the manner prescribed by the board.

2 6-51-612. Penalty for operating school, etc., without license.

3 Any person, admissions representative, each member of any association of
4 persons, or each officer of any corporation who opens and conducts a school,
5 satellite school, or extension course site, as defined in this chapter, or an
6 out-of-state school which offers to sell a program of study in Arkansas
7 without first having obtained a license herein required, shall be guilty of a
8 misdemeanor punishable by a fine of not less than one thousand dollars
9 (\$1,000) nor more than five thousand dollars (\$5,000), or thirty (30) days'
10 imprisonment, or both, at the discretion of the court. Each day said school
11 continues to be open and operate shall constitute a separate offense.

12 6-51-613. Contracts and promissory notes of unlicensed schools void -
13 Recovery of tuition.

14 (a) All contracts entered into with students or prospective students by
15 schools, satellite schools, extension course sites, or admissions
16 representatives as defined in this chapter, and all promissory notes or other
17 evidence of indebtedness taken in lieu of cash payments by such schools shall
18 be null and void unless the schools and admissions representatives are
19 licensed at the time such evidence of indebtedness is entered into as required
20 by this chapter.

21 (b) Any person shall have the right to recover moneys paid for
22 enrollment in such unlicensed school by petition to the chancery court from
23 the district in which such person resides; provided that, upon recommendation
24 of the director, the Attorney General may file, on behalf of Arkansas
25 residents contracting with any unlicensed school, an action to recover any
26 tuition funds paid by Arkansas residents to any unlicensed school, which
27 recovery, after costs of litigation, shall be held for the use and benefit of
28 persons having paid such moneys.

29 6-51-614. Denial, probation, or revocation of school license - Review.

30 (a) The board, acting by and through the director, shall have the
31 authority to refuse to issue a school license, place on probation, or revoke a
32 school license theretofore.

33 (b) Any school dissatisfied with the decision to refuse to license, to
34 revoke, or to suspend a license may seek judicial review provided the school
35 files notice of appeal in Pulaski County Circuit Court within fifteen (15)

1 calendar days immediately following date of notification of this action by the
2 director.

3 6-51-615. Denial or suspension of admissions representative_s license -
4 Review - Penalty.

5 (a) No person shall be granted an admissions representative_s license
6 if upon investigation the applicant is found not to meet the requirements for
7 an admissions representative under this chapter.

8 (b) The director, upon receipt of information considered dependable
9 which indicates fraud, misrepresentation, or unethical practices on the part
10 of an applicant, may deny issuance of a license applied for or suspend
11 immediately a license already issued pending a review by the board.

12 (c) Any applicant dissatisfied with the decision to refuse, suspend, or
13 revoke a license may seek judicial review provided the applicant files notice
14 of appeal in the Pulaski County Circuit Court within fifteen (15) calendar
15 days immediately following date of notification of action by the director.

16 (d) Any person violating the provisions of this chapter shall be guilty
17 of a misdemeanor and shall, upon conviction, be fined not more than five
18 hundred dollars (\$500) or be imprisoned in the county jail not more than three
19 (3) months, or both.

20 6-51-616. Student grievance procedure.

21 (a) Any student may file a written complaint, with the director, on the
22 forms prescribed and furnished by the director for that purpose, if the
23 student has reason to believe they are suffering loss or damage resulting
24 from:

25 (1) The failure of a school to perform agreements made with the
26 student; or

27 (2) An admissions representative_s misrepresentations in
28 enrolling the student.

29 (b) All complaints shall be investigated and attempts shall be made to
30 resolve them informally. If an informal resolution cannot be achieved, the
31 aggrieved party may request a formal hearing to be held before the private
32 career education arbitration panel.

33 (c) The aggrieved party may not pursue arbitration before the
34 arbitration panel if legal action has been filed.

35 (d) The request for arbitration must be in writing and filed with the

1 director within one (1) year of completion of or withdrawal from the school.

2 (e) The written request for arbitration must name the parties involved
3 and specific facts giving rise to the dispute.

4 (f) The ruling of the arbitration panel shall be binding upon the
5 parties.

6 (g) The aggrieved party may appeal the decision of the arbitration
7 panel to the Pulaski County Circuit Court for review. Notice of appeal must be
8 filed within fifteen (15) days of the decision of the arbitration panel with
9 the Clerk of the Pulaski County Circuit Court.

10 6-51-617. Private career education arbitration panel.

11 (a) The private career education arbitration panel as referenced in 6-
12 51-617, shall represent the sole authority to resolve disputes between a
13 student and schools as to grievances relating to:

14 (1) The failure of the school to perform agreements made with the
15 student; or

16 (2) An admissions representative's misrepresentations in
17 enrolling the student.

18 (b) The state board of private career education shall appoint the
19 arbitration panel which shall be comprised of three (3) members. One (1)
20 member shall be from the school sector and two (2) members shall be from the
21 general public. No member of the arbitration panel may serve for hearings
22 which involve the members' school.

23 (c) In resolving disputes, the arbitration panel shall:

24 (1) Conduct the arbitration proceeding within fifteen (15) days
25 after the request unless both of the parties agree to an extension of time;

26 (2) Be exempt from judicial redress for failure to exercise skill
27 or care in the performance of its duties;

28 (3) Hear and receive evidence and examine witnesses at the
29 arbitration proceeding before rendering a decision. In conducting the
30 arbitration proceeding, the panel shall not be limited by the rules of
31 evidence in receiving testimony relevant to the dispute;

32 (4) Have the power to issue subpoenas for evidence and witnesses
33 in order to resolve the dispute before the panel;

34 (5) Render a binding decision upon the parties by a vote of not
35 less than a simple majority.

1 6-51-618. Fines.

2 (a) Whenever the Board of Private Career education finds that a school
3 is guilty of a violation of this chapter or the rules and regulations of the
4 board it shall have the power and authority to impose a penalty on the school.

5 (b) Upon imposition of a penalty the board shall have the power and
6 authority to require that the school pay a penalty to the board with regard to
7 the violation with the sanction that the license may be suspended until the
8 penalty is paid.

9 (c) Prior to the imposition of any penalty, the board shall hold an
10 investigation and hearing after notice to the school.

11 (d) No penalty imposed by the board may exceed one thousand dollars
12 (\$1,000) per violation. The power and authority of the board to impose these
13 penalties shall not be affected by any other civil or criminal proceeding
14 concerning the same violation.

15 (e) Any school dissatisfied with the penalties imposed may seek
16 judicial review provided the school files notice of appeal in Pulaski County
17 Circuit Court within fifteen (15) calendar days immediately following date of
18 notification of this action by the director.

19 6-51-619. Subpoenas and subpoenas duces tecum.

20 (a) The Arkansas State Board of Private Career Education shall have the
21 power to issue subpoenas and subpoenas duces tecum in connection with both its
22 investigations and hearings.

23 (b) A subpoena duces tecum may require any book, writing, document, or
24 other paper or thing which is germane to an investigation or hearing conducted
25 by board.

26 (c) (1) Service of a subpoena shall be as provided by law for the
27 service of subpoenas in civil cases in the circuit courts of this state, and
28 the fees and mileage of officers serving the subpoenas and of witnesses
29 appearing in answer to the subpoenas shall be the same as provided by law for
30 proceedings in civil cases in the circuit courts of this state.

31 (2) (A) The board shall issue a subpoena or subpoena duces
32 tecum upon the request of any party to a hearing before the board.

33 (B) The fees and mileage of the officers serving the
34 subpoena and of the witness shall be paid by the party at whose request a
35 witness is subpoenaed.

1 (d) (1) In the event a person shall have been served with a subpoena
2 or subpoena duces tecum as herein provided and fails to comply therewith, the
3 board may apply to the circuit court of the county in which board is
4 conducting its investigation or hearing for an order causing the arrest of the
5 person and directing that the person be brought before the court.

6 (2) The court shall have the power to punish the disobedient
7 person for contempt as provided by law in the trial of civil cases in the
8 circuit courts of this state.

9 6-51-620. Bond.

10 (a) Each school licensed under this chapter shall annually submit a
11 surety bond. The surety bond shall be submitted to the board on or before the
12 expiration date of the bond.

13 (b) The bond shall be for the period during which the license is
14 issued.

15 (c) The surety bond shall be conditioned to provide indemnification to
16 any student or enrollee who suffers loss or damage as a result of:

17 (1) a violation of a provision of this chapter or any rule or
18 regulation of this board by the school or its officers, admissions
19 representatives, or employees; or

20 (2) the failure or neglect of the school to faithfully perform
21 all agreements, express or otherwise, with the student, enrollee, one (1) or
22 both of the parents of the student or enrollee, or a guardian of the student
23 or enrollee as represented by the application for licensure and the materials
24 submitted in support of that application; or

25 (3) an admissions representative_s misrepresentation in procuring
26 the student_s enrollment.

27 (d) Any student of a school in violation of 6-51-620(c) may bring an
28 action in the circuit court of the proper county to execute against the bond.

29 (e) A surety on that bond may be released after the surety has made a
30 written notice of at least thirty (30) days before the release. However, a
31 surety may not be released from the bond unless all sureties on the bond are
32 released.

33 (f) The license shall be suspended when that school is no longer
34 covered by a surety bond meeting the required amount. The board shall notify
35 the school in writing at least ten (10) days prior to release of the surety or

1 sureties that the license is suspended until another surety bond is filed in
2 the manner and amount required under this chapter.

3 (g) The bond shall be based on gross tuition meaning the total amount
4 collected by a school during the most recently completed 12 months fiscal
5 year, reduced only by the amount of refunds paid during the fiscal year, for
6 tuition, application fees, registration fees, and those other fees deemed
7 appropriate by rule and regulation of the board; provided however, that for a
8 school located outside of this state which is authorized to recruit in this
9 state gross tuition means only the amount of such tuition and fees collected
10 from residents of this state.

11 (h) The board shall determine the sum of each surety bond based upon
12 the following guidelines:

13 (1) except as provided in Section 6-51-620(h) (2) and (3) a school
14 shall procure a bond equal to ten percent (10%) of the gross tuition with a
15 minimum bond amount of five thousand dollars (\$5,000) and a maximum bond
16 amount of seventy-five thousand dollars (\$75,000).

17 (2) Schools that have no gross tuition charges assessed for the
18 previous year shall secure a surety bond in the amount of five thousand
19 dollars (\$5,000).

20 (3) Schools that have a total cost per program of \$3,000 or less
21 shall not be required to have a bond.

22 (i) The bond shall be a surety bond issued by a company authorized to
23 do business in the state. The bond shall be to the state to be used for
24 payment of a tuition refund due to a student or potential student.

25 (j) A surety bond is not required for licensees currently approved by
26 the State Board of private Career Education and that maintain continuous
27 licensure."

28

29 SECTION 2. Nothing in this act shall be construed to effect the
30 responsibilities of the State Board of Higher Education as defined in Arkansas
31 Code 6-61-301.

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33 SECTION 3. All provisions of this act of a general and permanent nature
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
35 Revision Commission shall incorporate the same in the Code.

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SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 6. EMERGENCY. It is hereby found and determined by the General Assembly that minimum standards must be provided for the operation of all schools offering programs of study to residents of the State of Arkansas; that there will continue to be a need to provide adequate protection and safeguards for reputable private career school operators and the public; that such provision should be enacted immediately; and that this act would so provide. Therefore an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: 4-11-95

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