

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

A Bill

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
31 correspondence schools, their program offerings and their instructors, and
32 admissions representatives in the manner provided in this chapter is
33 essential in the public interest and in furtherance of the purposes stated
34 above.

35 6-51-602. Definitions.

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

2 (1) Student, enrollee, trainee, or pupil means a person
3 seeking to enroll or who has been enrolled or who is sought for enrollment or
4 is seeking training and/or instruction in a school as defined in this
5 chapter; (2) School means any person, firm, partnership,

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

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

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

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

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

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

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

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

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

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

1 (11) Satellite school means a location within the State of Arkansas
2 away from the school where programs of study are offered on a regular
3 continuing basis by Arkansas schools;

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

7 6-51-603. Exemptions.

8 The following are exempt from licensure under this chapter:

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

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

16 (3) State colleges and universities coordinated by the State Board of
17 Higher Education;

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

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

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

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

30 (8) A school or educational institution supported by state or local
31 government taxation;

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

35 (10) Schools covered by Arkansas Code 6-61-301(a)(3) and exempted from

1 6-51-101 et seq.

2 (11) Training offered by other Arkansas state agencies, boards, or
3 commissions.

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

7 6-51-604. Notice of possible violations - Response - Injunctions.

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

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

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

26 6-51-605. State Board of Private Career Education.

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

34 (b) The board shall have the power to elect the necessary officers,
35 acting by and through the director, shall have the sole authority to approve

1 all schools offering programs of study leading to or enhancing an
2 occupational objective, to administer and enforce this chapter, and to issue
3 licenses to schools which have met the standards set forth, for the purposes
4 of this chapter, by the State Board of Private Career Education, including,
5 but not limited to, programs of study, adequate facilities, financial
6 stability, qualified personnel, and legitimate operating practices.

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

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

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

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

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

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

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

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

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

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

1 (m) The board shall annually require background investigations for all
2 partners or shareholders with ten percent (10%) or more ownership interest in
3 a school. The Arkansas State Police shall be authorized to conduct background
4 investigations for applicants that have executed the appropriate release, and
5 said background shall consist of whether the applicant has been convicted in
6 any jurisdiction of a felony, Class A misdemeanor, or a crime involving an
7 act of violence. The Arkansas State Police shall be authorized to disseminate
8 said background information to the State Board of Private Career Education.

9 6-51-606. School license generally.

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

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

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

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

34 (e) After a license is issued to any school by the board on the basis
35 of its application, it shall be the responsibility of the school to notify

1 immediately the board of any changes in the ownership, administration,
2 location, faculty, or programs of study on the forms and in the manner
3 prescribed by the board.

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

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

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

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

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

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

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

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

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

33 (8) The licensee has been found by the board or a court of law
34 to have perpetrated fraud or deceit in advertising of the school or programs
35 of study or in presenting to prospective students information relating to the

1 school, programs of study, employment opportunities, or opportunities for
2 enrollment in institutions of higher education; or,

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (3) The licensee closes a school without first completing the
2 training of all students currently enrolled and/or failing to make tuition
3 refunds to students and/or their lenders.

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

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

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

20 6-51-607. Student Protection Trust Fund.

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

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

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

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

1 fund shall be credited to the fund.

2 (e) With the approval of the board, the director may use any amounts
3 in the fund, including accumulated interest, to:

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

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

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

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

16 (a) travel expenses; and

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

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

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

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

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

30 (3) Provide staff assistance.

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

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

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

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

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

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

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

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

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

19 6-51-609. Admissions Representatives license generally.

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

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

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

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

35 (c) An admissions representative_s license shall be automatically

1 cancelled when the license of the school represented by the admissions
2 representative is suspended or revoked for any reason or the school closes.

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

4 (1) Be at least eighteen (18) years of age;

5 (2) Be a high school graduate or hold a Graduate Equivalent
6 Degree;

7 (3) Not have been convicted in any jurisdiction of a felony,
8 Class A misdemeanor, or a crime involving an act of violence for which a
9 pardon has not been granted;

10 (4) Be a citizen of the United States;

11 (5) Not have been discharged from the armed services of the
12 United States under other than honorable conditions; and

13 (6) Be in compliance with any other reasonable qualifications
14 that the board may fix by rule.

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

22 6-51-610. Fees.

23 (a) The board shall set fees for schools and admissions
24 representatives.

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

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

32 6-51-611. License renewal.

33 (a) Licenses shall be renewable annually.

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

35 (c) Application for renewal of school license is to be provided in the

1 form and manner prescribed by the board. The school and its programs of
2 study, facilities, faculty, and all other operations must meet the minimum
3 standards as established by rules and regulations.

4 (d) An application for renewal of an admissions representative_s
5 license shall be made on the forms and in the manner prescribed by the board.
6 6-51-612. Penalty for operating school, etc., without license.

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

16 6-51-613. Contracts and promissory notes of unlicensed schools void -
17 Recovery of tuition.

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

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

33 6-51-614. Denial, probation, or revocation of school license - Review.

34 (a) The board, acting by and through the director, shall have the
35 authority to refuse to issue a school license, place on probation, or revoke

1 a school license theretofore.

2 (b) Any school dissatisfied with the decision to refuse to license, to
3 revoke, or to suspend a license may seek judicial review provided the school
4 files notice of appeal in Pulaski County Circuit Court within fifteen (15)
5 calendar days immediately following date of notification of this action by
6 the director.

7 6-51-615. Denial or suspension of admissions representative_s license -
8 Review - Penalty.

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

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

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

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

25 6-51-616. Student grievance procedure.

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

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

32 (2) An admissions representative_s misrepresentations in
33 enrolling the student.

34 (b) All complaints shall be investigated and attempts shall be made to
35 resolve them informally. If an informal resolution cannot be achieved, the

1 aggrieved party may request a formal hearing to be held before the private
2 career education arbitration panel.

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

5 (d) The request for arbitration must be in writing and filed with the
6 director within one (1) year of completion of or withdrawal from the school.

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

9 (f) The ruling of the arbitration panel shall be binding upon the
10 parties.

11 (g) The aggrieved party may appeal the decision of the arbitration
12 panel to the Pulaski County Circuit Court for review. Notice of appeal must
13 be filed within fifteen (15) days of the decision of the arbitration panel
14 with the Clerk of the Pulaski County Circuit Court.

15 6-51-617. Private career education arbitration panel.

16 (a) The private career education arbitration panel as referenced in 6-
17 51-617, shall represent the sole authority to resolve disputes between a
18 student and schools as to grievances relating to:

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

21 (2) An admissions representative's misrepresentations in
22 enrolling the student.

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

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

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

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

33 (3) Hear and receive evidence and examine witnesses at the
34 arbitration proceeding before rendering a decision. In conducting the
35 arbitration proceeding, the panel shall not be limited by the rules of

1 evidence in receiving testimony relevant to the dispute;

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

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

6 6-51-618. Fines.

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

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

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

17 (d) No penalty imposed by the board may exceed one thousand dollars
18 (\$1,000) per violation. The power and authority of the board to impose these
19 penalties shall not be affected by any other civil or criminal proceeding
20 concerning the same violation.

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

25 6-51-619. Subpoenas and subpoenas duces tecum.

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

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

32 (c) (1) Service of a subpoena shall be as provided by law for the
33 service of subpoenas in civil cases in the circuit courts of this state, and
34 the fees and mileage of officers serving the subpoenas and of witnesses
35 appearing in answer to the subpoenas shall be the same as provided by law for

1 proceedings in civil cases in the circuit courts of this state.

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

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

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

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

15 6-51-620. Bond.

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

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

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

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

26 (2) the failure or neglect of the school to faithfully perform
27 all agreements, express or otherwise, with the student, enrollee, one (1) or
28 both of the parents of the student or enrollee, or a guardian of the student
29 or enrollee as represented by the application for licensure and the materials
30 submitted in support of that application; or

31 (3) an admissions representative_s misrepresentation in
32 procuring the student_s enrollment.

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

35 (e) A surety on that bond may be released after the surety has made a

1 written notice of at least thirty (30) days before the release. However, a
2 surety may not be released from the bond unless all sureties on the bond are
3 released.

4 (f) The license shall be suspended when that school is no longer
5 covered by a surety bond meeting the required amount. The board shall notify
6 the school in writing at least ten (10) days prior to release of the surety
7 or sureties that the license is suspended until another surety bond is filed
8 in the manner and amount required under this chapter.

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

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

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

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

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

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

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

34

35 SECTION 2. Nothing in this act shall be construed to effect the

1 responsibilities of the State Board of Higher Education as defined in
2 Arkansas Code 6-61-301.

3

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

7

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

13

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

16

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

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