

IC 21-18.5

ARTICLE 18.5. ADMINISTRATION OF HIGHER EDUCATION FINANCIAL AID AND POSTSECONDARY CREDIT BEARING PROPRIETARY EDUCATIONAL INSTITUTION ACCREDITATION

IC 21-18.5-1

Chapter 1. General Provisions

IC 21-18.5-1-1

Rights, duties, and obligations under contracts entered into before July 1, 2012

Sec. 1. (a) As used in this section, "contract" refers to a contract or guarantee entered into by the state student assistance commission (before its abolishment on July 1, 2012) or by the state student assistance commission (as it existed before the enactment of P.L.128-1990).

(b) After June 30, 2012, a contract entered into by the state student assistance commission (before its abolishment on July 1, 2012) or by the state student assistance commission (as it existed before the enactment of P.L.128-1990) is a contract of the commission for higher education established by IC 21-18-2-1.

(c) The:

- (1) amendments made by P.L.128-1990; and
- (2) repeal of IC 21-11 and addition of this article by P.L.107-2012;

do not affect the rights, duties, or obligations of the commission for higher education established by IC 21-18-2-1 or a person who before July 1, 2012, had a contract with the state student assistance commission (before its abolishment on July 1, 2012) or with the state student assistance commission (as it existed before the enactment of P.L.128-1990).

(d) A person or the commission for higher education established by IC 21-18-2-1 may enforce a right or compel performance of a duty with respect to a contract as if:

- (1) P.L.128-1990; and
- (2) the repeal of IC 21-11 and conforming amendments made to IC 21-7 through IC 21-17 by P.L.107-2012;

had not been enacted.

As added by P.L.107-2012, SEC.58. Amended by P.L.13-2013, SEC.59.

IC 21-18.5-1-2

Transfer of responsibilities from state student assistance commission to commission for higher education

Sec. 2. (a) The state student assistance commission established by IC 21-11-2-1 (before its repeal) is abolished.

(b) The following are transferred on July 1, 2012, from the state student assistance commission to the commission for higher

education established by IC 21-18-2-1:

- (1) All real and personal property of the state student assistance commission.
- (2) All powers, duties, assets, and liabilities of the state student assistance commission.
- (3) All appropriations to the state student assistance commission.

(c) All rules or policies that were adopted by the state student assistance commission before July 1, 2012, shall be treated as though the rules were adopted by the commission for higher education established by IC 21-18-2-1 until the commission for higher education adopts new rules or policies.

(d) After June 30, 2012, a reference to the state student assistance commission in a statute or rule shall be treated as a reference to the commission for higher education established by IC 21-18-2-1.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-1-3

Treatment of references relating to proprietary education

Sec. 3. After June 30, 2012, any reference to the Indiana commission for postsecondary proprietary education or the Indiana commission on proprietary education in any statute or rule shall be treated as a reference to the:

- (1) board for proprietary education established by IC 21-18.5-5-1 if the reference pertains to a postsecondary credit bearing proprietary educational institution; or
- (2) state workforce innovation council established by IC 22-4-18.1-3 if the reference pertains to a postsecondary proprietary educational institution (as defined in IC 22-4.1-21-9).

As added by P.L.107-2012, SEC.58.

IC 21-18.5-1-4

Rights, duties, and obligations under contracts entered into before July 1, 2012, relating to proprietary educational institutions

Sec. 4. (a) Changes made by P.L.218-1987 do not affect:

- (1) rights or liabilities accrued;
- (2) penalties incurred;
- (3) crimes committed; or
- (4) proceedings begun;

before July 1, 1987. These rights, liabilities, penalties, crimes, and proceedings continue and shall be imposed and enforced under prior law as if P.L.218-1987 had not been enacted.

(b) The abolishment of the Indiana commission on proprietary education on July 1, 2012, by P.L.107-2012 does not affect:

- (1) rights or liabilities accrued;
- (2) penalties incurred;
- (3) crimes committed; or
- (4) proceedings begun;

before July 1, 2012, that pertain to a postsecondary credit bearing

proprietary educational institution. These rights, liabilities, penalties, crimes, and proceedings continue and shall be imposed and enforced by the board for proprietary education established by IC 21-18.5-5-1.

(c) The abolishment of the Indiana commission on proprietary education on July 1, 2012, by P.L.107-2012 does not affect:

- (1) rights or liabilities accrued;
- (2) penalties incurred;
- (3) crimes committed; or
- (4) proceedings begun;

before July 1, 2012, that pertain to a postsecondary proprietary educational institution (as defined in IC 22-4.1-21-9). These rights, liabilities, penalties, crimes, and proceedings continue and shall be imposed and enforced by the state workforce innovation council established under IC 22-4-18.1-3.

As added by P.L.107-2012, SEC.58. Amended by P.L.13-2013, SEC.60.

IC 21-18.5-1-5

Transfer of responsibilities relating to proprietary education

Sec. 5. (a) The Indiana commission on proprietary education is abolished on July 1, 2012.

(b) Unless otherwise specified in a memorandum of understanding described in subsection (e), the following are transferred on July 1, 2012, from the Indiana commission on proprietary education to the commission for higher education established by IC 21-18-2-1:

- (1) All real and personal property of the Indiana commission on proprietary education.
- (2) All assets and liabilities of the Indiana commission on proprietary education.
- (3) All appropriations to the Indiana commission on proprietary education.

(c) All powers and duties of the Indiana commission on proprietary education before its abolishment pertaining to the accreditation of a postsecondary credit bearing proprietary educational institution are transferred to the board for proprietary education established by IC 21-18.5-5-1.

(d) All powers and duties of the Indiana commission on proprietary education before its abolishment pertaining to the accreditation of a postsecondary proprietary educational institution (as defined in IC 22-4.1-21-9) are transferred to the state workforce innovation council established by IC 22-4-18.1-3.

(e) The commission for higher education established by IC 21-18-2-1 may enter into a memorandum of understanding with the state workforce innovation council established by IC 22-4-18.1-3 to implement the transition of the responsibilities and obligations of the Indiana commission on proprietary education before its abolishment to the commission for higher education and the state workforce innovation council.

(f) Rules that were adopted by the Indiana commission on proprietary education before July 1, 2012, shall be treated as though

the rules were adopted by the state workforce innovation council established by IC 22-4-18.1-3 until the state workforce innovation council or the department of workforce development adopts rules under IC 4-22-2 to implement IC 22-4.1-21.

(g) An accreditation granted or a permit issued under IC 21-17-3 by the Indiana commission on proprietary education before July 1, 2012, shall be treated after June 30, 2012, as an authorization granted by the:

(1) board for proprietary education established by IC 21-18.5-5-1 if the accreditation pertains to a postsecondary credit bearing proprietary educational institution (as defined in IC 21-18.5-2-12); or

(2) department of workforce development if the accreditation pertains to a postsecondary proprietary educational institution (as defined in IC 22-4.1-21-9).

(h) An accreditation granted or a permit issued before May 15, 2013, under IC 21-17-3 (repealed):

(1) by the board for proprietary education established by IC 21-18.5-5-1 shall be treated as an authorization granted by the board for proprietary education; and

(2) by the state workforce innovation council shall be treated as an authorization granted by the department of workforce development.

(i) Proceedings pending before the Indiana commission on proprietary education on July 1, 2012, shall be transferred from the Indiana commission on proprietary education to:

(1) the board for proprietary education established by IC 21-18.5-5-1 for a proceeding pertaining to a postsecondary credit bearing proprietary educational institution (as defined in IC 21-18.5-2-12); or

(2) the state workforce innovation council if the proceeding pertains to a postsecondary proprietary educational institution (as defined in IC 22-4.1-21-9).

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.3.

IC 21-18.5-2
Chapter 2. Definitions

IC 21-18.5-2-1
Definitions

Sec. 1. Unless otherwise provided, the definitions in this chapter apply throughout this article.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-2-2

Repealed

(Repealed by P.L.273-2013, SEC.4.)

IC 21-18.5-2-3

"Agent"

Sec. 3. "Agent", for purposes of IC 21-18.5-6, means a person who:

(1) enrolls or seeks to enroll a resident of Indiana through:

(A) personal contact;

(B) telephone;

(C) advertisement;

(D) letter; or

(E) publications;

in a course offered by a postsecondary credit bearing proprietary educational institution; or

(2) otherwise holds the person out to the residents of Indiana as representing a postsecondary credit bearing proprietary educational institution.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-2-4

Repealed

(Repealed by P.L.273-2013, SEC.5.)

IC 21-18.5-2-5

"Application"

Sec. 5. "Application", for purposes of IC 21-18.5-6, means a written request for authorization on forms supplied by the board for proprietary education.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.6.

IC 21-18.5-2-5.5

"Authorization"

Sec. 5.5. "Authorization", for purposes of IC 21-18.5-6, means certification of a status of approval or authorization by the board for proprietary education to conduct business as a postsecondary credit bearing proprietary educational institution.

As added by P.L.273-2013, SEC.7.

IC 21-18.5-2-6

"Caretaker relative"

Sec. 6. "Caretaker relative" means a relative by blood or law who lives with a minor and exercises parental responsibility, care, and control over the minor in the absence of the minor's parent.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-2-7

"Commission"

Sec. 7. "Commission" means the commission for higher education established by IC 21-18-2-1.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-2-8

"Course"

Sec. 8. "Course", for purposes of IC 21-18.5-6, means a plan or program of instruction or training, whether conducted in person, by mail, or by any other method.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-2-9

"Enrollment"

Sec. 9. "Enrollment" means the establishment and maintenance of an individual's status as an undergraduate student in a postsecondary credit bearing proprietary educational institution.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-2-10

"Higher education award"

Sec. 10. "Higher education award" means a monetary award.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-2-11

"Person"

Sec. 11. "Person", for purposes of IC 21-18.5-6, means an individual, a partnership, a limited liability company, an association, a corporation, a joint venture, a trust, a receiver, or a trustee in bankruptcy.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-2-12

"Postsecondary credit bearing proprietary educational institution"

Sec. 12. (a) "Postsecondary credit bearing proprietary educational institution" means a degree granting and credit bearing institution that provides instructional or educational services or training, whether onsite, online, or through any combination of these or other instructional modalities, and is accredited by an accrediting agency recognized by the United States Department of Education or is seeking and progressing toward accreditation by an accrediting agency recognized by the United States Department of Education.

- (b) The term does not include the following:
- (1) An Indiana state educational institution or another Indiana educational institution established by law and financed in whole or in part by public funds.
 - (2) A postsecondary proprietary educational institution approved or regulated by any other state regulatory board, agency, or commission other than the board for proprietary education.
 - (3) An elementary or secondary school attended by students in kindergarten or grades 1 through 12 and supported in whole or in part by private tuition payments.
 - (4) Any educational institution or educational training that:
 - (A) is maintained or given by an employer or a group of employers, without charge, for employees or for individuals the employer anticipates employing;
 - (B) is maintained or given by a labor organization, without charge, for its members or apprentices;
 - (C) offers exclusively instruction that is clearly self-improvement, motivational, or avocational in intent (including instruction in dance, music, or self-defense, and private tutoring); or
 - (D) is a Montessori or nursery school.
 - (5) A privately endowed two (2) or four (4) year degree granting institution that is regionally accredited and whose principal campus is located in Indiana.
 - (6) Out-of-state public and nonprofit degree granting institutions offering instructional or educational services or training in Indiana.
 - (7) A religious institution that offers educational instruction or an educational program of a clearly religious nature.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.8.

IC 21-18.5-3

Chapter 3. State Financial Aid

IC 21-18.5-3-1

Administration of state financial aid by commission

Sec. 1. The commission, under IC 21-18-6-1, shall administer the following:

- (1) This article.
- (2) IC 21-12.
- (3) IC 21-13.
- (4) IC 21-14.
- (5) IC 21-16.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-4

Chapter 4. Administration of Awards

IC 21-18.5-4-1

Purpose

Sec. 1. The purposes of this chapter are:

- (1) to increase the opportunity to receive a higher education for every person who resides in Indiana and who, though being highly qualified and desiring to receive a higher education, is deterred by financial considerations; and
- (2) to accomplish the goal described in subdivision (1) by establishing a system of state higher education awards that will assist individuals in selecting and attending a qualified public or private postsecondary educational institution or a postsecondary credit bearing proprietary educational institution.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-4-2

Equal opportunity for awards

Sec. 2. The commission shall exercise its functions under this chapter without regard to an applicant's race, creed, sex, color, national origin, or ancestry.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-4-3

Duties

Sec. 3. For purposes of administering this chapter, the commission shall do the following:

- (1) Prepare and supervise the issuance of public information concerning this chapter, IC 21-12-2, IC 21-12-3, IC 21-12-4, and IC 21-12-5.
- (2) Prescribe the form and regulate the submission of applications for higher education awards and the commission's programs.
- (3) Conduct conferences and interviews with applicants as appropriate.
- (4) Determine the eligibility of applicants.
- (5) Select qualified applicants.
- (6) Determine annually the maximum higher education award (IC 21-12-3) and freedom of choice award (IC 21-12-4), subject to approval by the budget agency with review by the budget committee.
- (7) Determine the respective amounts of, and award, the appropriate higher education awards, grants, and scholarships.
- (8) Determine eligibility for, and award, annual renewals of higher education awards, grants, and scholarships.
- (9) Act as the designated state agency for participation in any federal program for reinsurance of student loans.
- (10) Receive federal funds made available to the commission for awards, grants, and scholarships, and disburse these funds

in the manner prescribed by federal law.

(11) One (1) time every year, submit a report to the legislative council that provides data and statistical information regarding the number of individuals who received assistance under IC 21-12-6 and IC 21-12-6.5. The report made to the legislative council must be in an electronic format under IC 5-14-6.

(12) One (1) time every year, submit a report to the budget committee that provides data and statistical information regarding the number of individuals who received assistance under IC 21-12, IC 21-13, and IC 21-14.

(13) Administer and determine the eligibility of applicants for, and award amounts under, the teacher loan repayment program established under IC 21-13-10.

As added by P.L.107-2012, SEC.58. Amended by P.L.46-2014, SEC.5.

IC 21-18.5-4-4

Additional powers and duties of the commission

Sec. 4. For purposes of administering this chapter, the commission may do the following:

(1) Accept gifts, grants, devises, or bequests to provide grants, awards, scholarships, loans, or other forms of financial aid to students attending approved postsecondary educational institutions.

(2) Enter into contracts, subject to IC 4-13-2, that the commission determines are necessary to carry out the commission's functions.

(3) Provide administrative or technical assistance to other governmental or nongovernmental entities if the provision of this assistance will increase the number and value of grants, awards, scholarships, or loans available to students attending approved postsecondary educational institutions.

(4) Sue and be sued in the name of the commission.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-4-5

Procedures concerning gifts; grants; devices and bequests

Sec. 5. For purposes of administering this chapter, if the commission receives an offer of a gift, grant, devise, or bequest, the commission may accept a stipulation on the use of the donated funds. In this case, before September 1, 2014, IC 21-12-3-11 (higher education award) and IC 21-12-4-4 (freedom of choice grant), or, after August 31, 2014, the requirements under IC 21-12-1.7-3 concerning higher education awards and freedom of choice grants, do not apply. Before accepting a gift, grant, devise, or bequest, the commission shall determine that the purposes for which the donor proposes to provide funds are:

(1) lawful;

(2) in the state's best interests; and

(3) generally consistent with the commission's programs and

purposes.

If the commission agrees to a stipulation on the use of donated funds, the commission and the donor, subject to approval by the budget agency and the governor or the governor's designee, shall execute an agreement.

As added by P.L.107-2012, SEC.58. Amended by P.L.281-2013, SEC.34.

IC 21-18.5-4-6

Administrative and technical assistance

Sec. 6. (a) This section applies if the commission agrees to provide administrative or technical assistance to other governmental or nongovernmental entities to increase the number and value of grants, awards, scholarships, or loans available to students attending approved postsecondary educational institutions.

(b) The commission and the party to whom the assistance is to be provided shall execute an agreement specifying:

- (1) the assistance that is to be provided; and
- (2) the charges, if any, that are to be assessed by the commission for providing the assistance.

The commission may waive charges for administrative or technical assistance under this section if the commission determines that a waiver is in the best interest of the state. An agreement to provide assistance must be approved by the budget agency and the governor or the governor's designee.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-4-7

Audit of records

Sec. 7. The commission may, subject to written advance notice, inspect and audit the records of a postsecondary credit bearing proprietary educational institution concerning a student grant awarded under IC 21-12 or IC 21-13.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-4-8

Determination of residency

Sec. 8. (a) This section applies to a person:

- (1) who is a student;
- (2) who is a graduate of a high school located in Indiana or a recipient of the state of Indiana general educational development (GED) diploma under IC 20-10.1-12.1 (before its repeal), IC 20-20-6 (before its repeal), or IC 22-4.1-18;
- (3) who, on the date that eligibility is determined by the commission, has resided in Indiana with a caretaker relative who has been a resident of Indiana for at least four (4) years; and
- (4) whose legal parent:
 - (A) is currently; and
 - (B) has been for at least three (3) consecutive years;

a resident of Indiana.

(b) In determining the eligibility of a person to receive financial aid administered by the commission under any law, the commission shall use the residence or domicile of the person's caretaker relative to determine the person's residence or domicile.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-4-8.5

Disqualification of student for state aid or grants

Sec. 8.5. (a) This section does not apply to a student who:

(1) receives a graduation waiver under IC 20-32-4-4; and

(2) receives a general diploma by satisfying the conditions set forth in IC 20-32-4-4, including, with respect to IC 20-32-4-4(6), the condition set forth in IC 20-32-4-4(6)(B);

if the student has an individualized education program under IC 20-35-7.

(b) Except as provided in subsection (a), this section applies to a student who receives a graduation waiver under IC 20-32-4-4 after June 30, 2014.

(c) Notwithstanding any other law, and except as provided in subsection (e), a student who:

(1) receives a graduation waiver under IC 20-32-4-4; and

(2) receives a general diploma by satisfying the conditions set forth in IC 20-32-4-4, including, with respect to IC 20-32-4-4(6), the condition set forth in IC 20-32-4-4(6)(B);

is disqualified from receiving state scholarships, grants, or assistance administered by the commission unless the student passes a college and career readiness exam described in IC 20-32-9-3.

(d) The college and career readiness exam taken by a student under subsection (c) shall be administered by the secondary school that granted the student the graduation waiver. The cost of the exam shall be paid by the department.

(e) A student described in subsection (c) is not disqualified from receiving state scholarships, grants, or assistance administered by the commission for credit bearing degree seeking courses, as mutually defined by the commission and the postsecondary educational institution offering the course.

As added by P.L.268-2013, SEC.11.

IC 21-18.5-4-9

Rules

Sec. 9. The commission shall adopt rules under IC 4-22-2:

(1) to develop standards that govern the denial of assistance to higher education award applicants and recipients under IC 21-12-3-13;

(2) to implement IC 21-12-6, including:

(A) rules regarding the establishment of appeals procedures for individuals who become disqualified from the program under IC 21-12-6-9;

(B) notwithstanding IC 21-12-6-5, rules that may include

students who are in grades other than grade 6, 7, or 8 as eligible students; and

(C) rules that allow a student described in IC 21-12-6-5(b) to become an eligible student while the student is in high school, if the student agrees to comply with the requirements set forth in IC 21-12-6-5(a)(4)(B) through IC 21-12-6-5(a)(4)(D) for not less than six (6) months after graduating from high school;

(3) to implement IC 21-13-2; and

(4) to implement:

(A) IC 21-12-7; and

(B) IC 21-14-5.

As added by P.L.107-2012, SEC.58. Amended by P.L.205-2013, SEC.331.

IC 21-18.5-4-10

Additional rulemaking authority

Sec. 10. The commission may:

(1) make rules necessary to carry out its functions under this chapter;

(2) appoint advisory boards it considers necessary to carry out its responsibilities under this chapter;

(3) adopt rules under IC 4-22-2 to implement IC 21-14-5; and

(4) adopt rules under IC 4-22-2 and internal policy to effectuate the purposes of IC 21-16-4.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-4-11

Development of training programs

Sec. 11. The commission may cooperate in developing training programs concerning grant program requirements with the:

(1) board for proprietary education; or

(2) state workforce innovation council.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-5

Chapter 5. Board for Proprietary Education

IC 21-18.5-5-1

Establishment of board for proprietary education

Sec. 1. The board for proprietary education is established.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-5-2

Member

Sec. 2. (a) The board for proprietary education consists of the following seven (7) members:

- (1) The state superintendent or the superintendent's designee.
- (2) The executive officer of the commission for higher education or the executive officer's designee.
- (3) Five (5) members appointed by the governor.

(b) The members appointed by the governor under subsection (a) serve for a term of four (4) years.

(c) Not more than three (3) of the members appointed by the governor may be members of the same political party.

(d) Of the five (5) members appointed by the governor:

- (1) one (1) must have been engaged for a period of at least five (5) years immediately preceding appointment in an executive or a managerial position in a postsecondary proprietary educational institution subject to IC 21-18.5-6;
- (2) one (1) must have been engaged in administering or managing an industrial employee training program for a period of at least five (5) years immediately preceding appointment; and
- (3) three (3) must be representatives of the public at large who are not representatives of the types of postsecondary credit bearing proprietary educational institutions to be authorized.

For purposes of subdivision (3), an elected or appointed state or local official or a member of a private or public school may not be appointed as a representative of the public at large.

(e) An appointment to fill a vacancy occurring on the board for proprietary education is for the unexpired term.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.9.

IC 21-18.5-5-3

Member salary and benefits

Sec. 3. (a) A member of the board for proprietary education who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the board for proprietary education who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-5-4

Officers; rulemaking; meetings

Sec. 4. (a) The board for proprietary education may select officers from the board for proprietary education's membership as the board for proprietary education considers necessary.

(b) The board for proprietary education may adopt reasonable rules under IC 4-22-2 to implement this chapter and IC 21-18.5-6.

(c) The board for proprietary education:

(1) may meet as necessary upon call of the chairperson; and

(2) shall meet at least four (4) times a year.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-5-5

Executive director

Sec. 5. An associate commissioner of the commission (as defined in IC 21-18.5-2-7) shall serve as the executive director of the board for proprietary education.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6

Chapter 6. Postsecondary Credit Bearing Proprietary Educational Institution Accreditation

IC 21-18.5-6-1

Purpose

Sec. 1. The general assembly recognizes that the private school is an essential part of the educational system. It is the purpose of this chapter to protect students, educational institutions, the general public, and honest and ethical operators of private schools from dishonest and unethical practices.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-2

Authorization required; exception for religious institution

Sec. 2. A person may not do business as a postsecondary credit bearing proprietary educational institution in Indiana without having obtained authorization by the board for proprietary education under this chapter, except for a religious institution that offers educational instruction or an educational program of a clearly religious nature.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.10.

IC 21-18.5-6-2.5

Accreditation required; exception for religious institution

Sec. 2.5. A person may not do business as a degree granting institution in Indiana unless:

- (1) the institution is accredited by an accrediting agency recognized by the United States Department of Education or is seeking and progressing toward accreditation by an accrediting agency recognized by the United States Department of Education; or
- (2) the institution is a religious institution that offers educational instruction or an educational program of a clearly religious nature.

As added by P.L.273-2013, SEC.11.

IC 21-18.5-6-3

Applications; fee

Sec. 3. Applications for authorization under this chapter must be filed with the board for proprietary education and accompanied by an application fee of at least one hundred dollars (\$100) for processing the application and evaluating the postsecondary credit bearing proprietary educational institution.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.12.

IC 21-18.5-6-4

Applications; contents

Sec. 4. An application for authorization under this chapter must

include at least the following information:

- (1) The name and address of the postsecondary credit bearing proprietary educational institution and the institution's officers.
- (2) The places where the courses are to be provided.
- (3) The types of courses to be offered, the form of instruction to be followed with the class, shop, or laboratory, and the hours required for each curriculum.
- (4) The form of certificate, diploma, or degree to be awarded.
- (5) A statement of the postsecondary credit bearing proprietary educational institution's finances.
- (6) A description of the postsecondary credit bearing proprietary educational institution's physical facilities, including classrooms, laboratories, library, machinery, and equipment.
- (7) An explicit statement of policy with reference to:
 - (A) solicitation of students;
 - (B) payment and amount of student fees; and
 - (C) conditions under which students are entitled to a refund in part or in full of fees paid, including a statement concerning the existence of the career college student assurance fund established under section 6 of this chapter.
- (8) Provisions for liability insurance of students.
- (9) Maximum student-teacher ratio to be maintained.
- (10) Minimum requirements for instructional staff.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.13.

IC 21-18.5-6-5

Curriculum catalog and promotional brochure; contents

Sec. 5. The board for proprietary education shall require each postsecondary credit bearing proprietary educational institution to include in each curriculum catalog and promotional brochure the following:

- (1) A statement indicating that the postsecondary credit bearing proprietary educational institution is authorized by the board for proprietary education under this chapter.
- (2) The board for proprietary education's mailing address and telephone number.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.14.

IC 21-18.5-6-6

Career college student assurance fund; administration

Sec. 6. (a) The career college student assurance fund is established to provide indemnification to a student or an enrollee of a postsecondary credit bearing proprietary educational institution who suffers loss or damage as a result of:

- (1) the failure or neglect of the postsecondary credit bearing proprietary educational institution to faithfully perform all agreements, express or otherwise, with the student, enrollee,

one (1) or both of the parents of the student or enrollee, or a guardian of the student or enrollee as represented by the application for the institution's authorization and the materials submitted in support of that application;

(2) the failure or neglect of the postsecondary credit bearing proprietary educational institution to maintain and operate a course or courses of instruction or study in compliance with the standards of this chapter; or

(3) an agent's misrepresentation in procuring the student's enrollment.

(b) The board for proprietary education shall administer the fund.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains available to be used for providing money for reimbursements allowed under this chapter.

(f) Upon the fund acquiring fifty thousand dollars (\$50,000), the balance in the fund must not become less than fifty thousand dollars (\$50,000). If:

(1) a claim against the fund is filed that would, if paid in full, require the balance of the fund to become less than fifty thousand dollars (\$50,000); and

(2) the board for proprietary education determines that the student is eligible for a reimbursement under the fund;

the board for proprietary education shall prorate the amount of the reimbursement to ensure that the balance of the fund does not become less than fifty thousand dollars (\$50,000), and the student is entitled to receive that balance of the student's claim from the fund as money becomes available in the fund from contributions to the fund required under this chapter.

(g) The board for proprietary education shall ensure that all outstanding claim amounts described in subsection (f) are paid as money in the fund becomes available in the chronological order of the outstanding claims.

(h) A claim against the fund may not be construed to be a debt of the state.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.15.

IC 21-18.5-6-7

Quarterly contributions to fund; determination

Sec. 7. (a) Except as otherwise provided in this section, each postsecondary credit bearing proprietary educational institution shall make quarterly contributions to the fund. The quarters begin January 1, April 1, July 1, and October 1.

(b) For each quarter, each postsecondary credit bearing proprietary educational institution shall make a contribution equal to

the STEP THREE amount derived under the following formula:

STEP ONE: Determine the total amount of tuition and fees earned during the quarter.

STEP TWO: Multiply the STEP ONE amount by one-tenth of one percent (0.1%).

STEP THREE: Add the STEP TWO amount and sixty dollars (\$60).

(c) After June 30, 2012, upon the career college student assurance fund achieving at least an initial balance of five hundred thousand dollars (\$500,000), a postsecondary credit bearing proprietary educational institution that contributes to the career college student assurance fund when the initial quarterly contribution is required under this chapter after the fund's establishment is not required to make contributions to the fund.

(d) The board for proprietary education shall determine the number of quarterly contributions required for the career college student assurance fund to initially accumulate five hundred thousand dollars (\$500,000).

(e) Except as provided in subsections (a), (b), and (f), a postsecondary credit bearing proprietary educational institution that begins making contributions to the career college student assurance fund after the initial quarterly contribution as required under this section shall make contributions to the fund for the same number of quarters as determined by the board for proprietary education under subsection (d).

(f) If, after a career college student assurance fund acquires five hundred thousand dollars (\$500,000), the balance in the fund becomes less than two hundred fifty thousand dollars (\$250,000), all postsecondary credit bearing proprietary educational institutions not required to make contributions to the career college student assurance fund as described in subsection (c) or (e) shall make contributions to the career college student assurance fund for the number of quarters necessary for the fund to accumulate five hundred thousand dollars (\$500,000).

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-8

Investigation

Sec. 8. (a) Upon receipt of an application for authorization under this chapter, the board for proprietary education shall make an investigation to determine the accuracy of the statements in the application to determine if the postsecondary credit bearing proprietary educational institution meets the minimum standards for authorization.

(b) During the investigation under subsection (a), the board for proprietary education may grant a temporary status of authorization. The temporary status of authorization is sufficient to meet the requirements of this chapter until a determination on authorization is made.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013,

SEC.16.

IC 21-18.5-6-9

Inspection fee

Sec. 9. The cost of performing a team onsite investigation for purposes of section 8 of this chapter shall be paid by the applicant postsecondary credit bearing proprietary educational institution. However, the total cost of an inspection, including room, board, and mileage that does not require travel outside Indiana, may not exceed one thousand dollars (\$1,000) for any one (1) postsecondary credit bearing proprietary educational institution.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-10

Student records; contents; surrender to board for proprietary education

Sec. 10. (a) A postsecondary credit bearing proprietary educational institution shall maintain at least the following records for each student:

- (1) The program in which the student enrolls.
- (2) The length of the program.
- (3) The date of the student's initial enrollment in the program.
- (4) A transcript of the student's academic progress.
- (5) The amount of the student's tuition and fees.
- (6) A copy of the enrollment agreement.

(b) Upon the request of the board for proprietary education, a postsecondary credit bearing proprietary educational institution shall submit the records described in subsection (a) to the board for proprietary education.

(c) If a postsecondary credit bearing proprietary educational institution ceases operation, the postsecondary credit bearing proprietary educational institution shall submit the records described in subsection (a) to the commission on public records not later than thirty (30) days after the institution ceases to operate.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-11

Authorization standards

Sec. 11. Full authorization under this chapter may not be issued unless and until the board for proprietary education finds that the postsecondary credit bearing proprietary educational institution meets minimum standards that are appropriate to that type or class of postsecondary credit bearing proprietary educational institution, including the following minimum standards:

- (1) The postsecondary credit bearing proprietary educational institution has a sound financial structure with sufficient resources for continued support.
- (2) The postsecondary credit bearing proprietary educational institution has satisfactory training or educational facilities with sufficient tools, supplies, or equipment and the necessary

number of work stations or classrooms to adequately train, instruct, or educate the number of students enrolled or proposed to be enrolled.

(3) The postsecondary credit bearing proprietary educational institution has an adequate number of qualified instructors or teachers, sufficiently trained by experience or education, to give the instruction, education, or training contemplated.

(4) The advertising and representations made on behalf of the postsecondary credit bearing proprietary educational institution to prospective students are truthful and free from misrepresentation or fraud.

(5) The charge made for the training, instruction, or education is clearly stated and based upon the services rendered.

(6) The premises and conditions under which the students work and study are sanitary, healthful, and safe according to modern standards.

(7) The postsecondary credit bearing proprietary educational institution has and follows a refund policy approved by the board for proprietary education.

(8) The owner or chief administrator of the postsecondary credit bearing proprietary educational institution is subject to a background check by the board for proprietary education and has not been convicted of a felony.

(9) The owner or chief administrator of the postsecondary credit bearing proprietary educational institution has not been the owner or chief administrator of a postsecondary credit bearing proprietary educational institution that has had its authorization revoked or has been closed involuntarily in the five (5) year period preceding the application for authorization. However, if the owner or chief administrator of the postsecondary credit bearing proprietary educational institution has been the owner or chief administrator of a postsecondary credit bearing proprietary educational institution that has had its authorization revoked or has been closed involuntarily more than five (5) years before the application for authorization, the board for proprietary education may issue full authorization at the board for proprietary education's discretion.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.17.

IC 21-18.5-6-12

Issuance of authorization

Sec. 12. (a) After an investigation and a finding that the information in the application is true and that the postsecondary credit bearing proprietary educational institution meets the minimum standards, the board for proprietary education shall issue an authorization to the postsecondary credit bearing proprietary educational institution upon payment of an additional fee of at least twenty-five dollars (\$25). An applicant's market research may not be considered or required by the board for proprietary education as a

condition for authorizing or renewing the accreditation of or for authorization of the programs of a postsecondary credit bearing proprietary educational institution.

(b) The board for proprietary education may waive inspection of a postsecondary credit bearing proprietary educational institution that has been authorized by an accrediting agency recognized by the United States Department of Education whose standards are approved by the board for proprietary education as meeting or exceeding the requirements of this chapter.

(c) A valid license, authorization to operate, or other form of authorization issued to a postsecondary credit bearing proprietary educational institution by another state may be accepted, instead of inspection, if:

(1) the requirements of that state meet or exceed the requirements of this chapter; and

(2) the other state will, in turn, extend reciprocity to postsecondary credit bearing proprietary educational institutions authorized by the board for proprietary education.

(d) The board for proprietary education may join interstate reciprocity agreements and authorize an institution to operate in Indiana, if the:

(1) institution; and

(2) state in which both the institution's:

(A) principal campus is located; and

(B) institutional accreditation is provided;

are members of the interstate reciprocity agreement.

(e) An authorization issued under this section expires one (1) year following the authorization's issuance.

(f) An authorized postsecondary credit bearing proprietary educational institution may renew the institution's authorization annually upon:

(1) the payment of a fee of at least twenty-five dollars (\$25); and

(2) continued compliance with this chapter.

As added by P.L.107-2012, SEC.58. Amended by P.L.13-2013, SEC.61; P.L.273-2013, SEC.18.

IC 21-18.5-6-13

Revocation

Sec. 13. Authorization may be revoked by the board for proprietary education:

(1) for cause upon notice and an opportunity for a hearing before the board for proprietary education; and

(2) for the authorized postsecondary credit bearing proprietary educational institution failing to make the appropriate quarterly contributions to the career college student assurance fund not later than forty-five (45) days after the end of a quarter.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.19.

IC 21-18.5-6-14

Hearing

Sec. 14. (a) A postsecondary credit bearing proprietary educational institution, after notification that the institution's authorization has been refused, revoked, or suspended, may apply for a hearing before the board for proprietary education concerning the institution's qualifications. The application for a hearing must be filed in writing with the board for proprietary education not more than thirty (30) days after receipt of notice of the denial, revocation, or suspension.

(b) The board for proprietary education shall give a hearing promptly and with not less than ten (10) days notice of the date, time, and place. The postsecondary credit bearing proprietary educational institution is entitled to be represented by counsel and to offer oral and documentary evidence relevant to the issue.

(c) Not more than fifteen (15) days after a hearing, the board for proprietary education shall make written findings of fact, a written decision, and a written order based solely on the evidence submitted at the hearing, either granting or denying authorization to the postsecondary credit bearing proprietary educational institution.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.20.

IC 21-18.5-6-15

Suspension

Sec. 15. A postsecondary credit bearing proprietary educational institution's authorization shall be suspended at any time if the authorized postsecondary credit bearing proprietary educational institution denies enrollment to a student or makes a distinction or classification of students on the basis of race, color, or creed.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.21.

IC 21-18.5-6-16

Representations

Sec. 16. A person may not do the following:

(1) Make, or cause to be made, a statement or representation, oral, written, or visual, in connection with the offering or publicizing of a course, if the person knows or should reasonably know the statement or representation is false, deceptive, substantially inaccurate, or misleading.

(2) Promise or guarantee employment to a student or prospective student using information, training, or skill purported to be provided or otherwise enhanced by a course, unless the person offers the student or prospective student a bona fide contract of employment agreeing to employ the student or prospective student for a period of at least ninety (90) days in a business or other enterprise regularly conducted by the person in which that information, training, or skill is a normal condition of employment.

- (3) Do an act that constitutes part of the conduct of administration of a course if the person knows, or should reasonably know, that the course is being carried on by the use of fraud, deception, or other misrepresentation.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-17

Liability of institution as principal

Sec. 17. A postsecondary credit bearing proprietary educational institution is liable for the actions of the institution's agents.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.22.

IC 21-18.5-6-18

Repealed

(Repealed by P.L.273-2013, SEC.23.)

IC 21-18.5-6-19

Remedy; damages or other relief

Sec. 19. The fact that the career college student assurance fund exists does not limit or impair a right of recovery and the amount of damages or other relief to which a plaintiff may be entitled.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-20

Claims against balance of career college student assurance fund; determination; priorities

Sec. 20. (a) This section applies to claims against the balance of the career college student assurance fund.

(b) A student or enrollee of a postsecondary credit bearing proprietary educational institution who believes that the student or enrollee has suffered loss or damage resulting from any of the occurrences described in section 6(a) of this chapter may file a claim with the board for proprietary education against the balance of the fund.

(c) A claim under this section is limited to a refund of the claimant's applicable tuition and fees.

(d) All claims must be filed not later than five (5) years after the occurrence resulting in the loss or damage to the claimant occurs.

(e) Upon the filing of a claim under this section, the board for proprietary education shall review the records submitted by the appropriate postsecondary credit bearing proprietary educational institution described under section 12 of this chapter and shall investigate the claim.

(f) Upon a determination by the board for proprietary education that a claimant shall be reimbursed under the career college student assurance fund, the board for proprietary education shall prioritize the reimbursements under the following guidelines:

- (1) A student's educational loan balances.
- (2) Federal grant repayment obligations of the student.

(3) Other expenses paid directly by the student.
As added by P.L.107-2012, SEC.58. Amended by P.L.13-2013, SEC.62.

IC 21-18.5-6-21

Remedy; void contracts

Sec. 21. An obligation, negotiable or nonnegotiable, providing for payment for a course or courses of instruction is void if the postsecondary credit bearing proprietary educational institution is not authorized to operate in Indiana.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.24.

IC 21-18.5-6-22

Misrepresentation

Sec. 22. The issuance of authorization may not be considered to constitute endorsement of a course, a person, or an institution. A representation to the contrary is a misrepresentation.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.25.

IC 21-18.5-6-22.5

Deceptive acts

Sec. 22.5. A person who knowingly and intentionally violates section 16 or 22 of this chapter commits a deceptive act that is actionable by the attorney general under IC 24-5-0.5 and is subject to the penalties and remedies available to the attorney general under IC 24-5-0.5.

As added by P.L.273-2013, SEC.26.

IC 21-18.5-6-23

Relief; injunction

Sec. 23. The prosecuting attorney of the county in which an offense under this chapter occurred shall, at the request of the board for proprietary education or on the prosecuting attorney's own motion, bring any appropriate action, including a mandatory and prohibitive injunction.

As added by P.L.107-2012, SEC.58.

IC 21-18.5-6-24

Adjudication

Sec. 24. An action of the board for proprietary education concerning the issuance, denial, or revocation of an authorization under this chapter is subject to review under IC 4-21.5.

As added by P.L.107-2012, SEC.58. Amended by P.L.273-2013, SEC.27.

IC 21-18.5-6-25

Violations

Sec. 25. (a) Except as provided in subsection (b), a person who

knowingly, intentionally, or recklessly violates this chapter commits a Class B misdemeanor.

(b) A person who, with intent to defraud, represents the person to be an agent of a postsecondary credit bearing proprietary educational institution commits a Level 5 felony.

As added by P.L.107-2012, SEC.58. Amended by P.L.158-2013, SEC.252.

IC 21-18.5-6-26

Postsecondary credit bearing proprietary educational institution authorization fund; fees

Sec. 26. (a) As used in this section, "fund" means the postsecondary credit bearing proprietary educational institution authorization fund established by subsection (b).

(b) The postsecondary credit bearing proprietary educational institution authorization fund is established.

(c) The fund shall be administered by the commission (as defined in IC 21-18.5-2-7.).

(d) Money in the fund at the end of a state fiscal year does not revert to the general fund.

(e) All fees collected by the board for proprietary education under this chapter shall be deposited in the fund.

(f) Money in the fund shall be used by the board for proprietary education to administer this chapter.

As added by P.L.107-2012, SEC.58. Amended by P.L.13-2013, SEC.63; P.L.273-2013, SEC.28.

IC 21-18.5-6-27

Rules

Sec. 27. The board for proprietary education may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.107-2012, SEC.58.