

Colorado Revised Statutes 2021

TITLE 23

POSTSECONDARY EDUCATION

ARTICLE 64

Private Occupational Schools

Editor's note: This article 64 was added with relocations in 2017. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 64, see the comparative tables located in the back of the index.

23-64-101. Short title. The short title of this article 64 is the "Private Occupational Education Act of 1981".

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1177, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-101 as it existed prior to 2017.

23-64-102. Legislative declaration. (1) It is the purpose of this article 64 to provide standards for and to foster and improve private occupational schools and their educational services and to protect the citizens of this state against fraudulent or substandard private occupational schools by:

(a) Prohibiting the use of false or misleading literature, advertising, or representations by private occupational schools or their agents;

(b) Establishing accountability for private occupational schools and their agents through the setting of standards relative to the quality of educational services, fiscal responsibility, and ethical business practices;

(c) Providing for the preservation of essential records;

(d) Providing certain rights and remedies to the private occupational school division, the private occupational school board created in section 23-64-107, and the consuming public necessary to effectuate the purposes of this article 64;

(e) Providing for the authorization of appropriate educational credentials by approved schools, including, but not limited to, certificates, diplomas, and associate degrees; and

(f) Providing train-out for students of private occupational schools ceasing operation.

(2) To these ends, this article 64 shall be liberally construed.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1177, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-102 as it existed prior to 2017.

23-64-103. Definitions. As used in this article 64, unless the context otherwise requires:

(1) "Administrative law judge" means a person, appointed by the authority from a list provided by the attorney general, who shall conduct hearings on any matter that is within the jurisdiction of the division and that is referred to the administrative law judge by the division.

(2) "Agent" means any person owning any interest in, employed by, or representing for remuneration or other consideration a private occupational school located within or without this state who enrolls or who, in places other than the principal school premises, offers or attempts to secure the enrollment of any person within this state for education in a school.

(3) "Agent's permit" means a nontransferable written authorization issued to an agent pursuant to the provisions of this article 64 by the division upon approval by the executive director.

(4) "Associate degree" means a degree offered by a school on the successful completion of the degree requirements as established by the division.

(5) "Board" means the private occupational school board created in section 23-64-107.

(6) "Ceasing operation" means the voluntary discontinuation of operation by a private occupational school or the discontinuation of operation by a private occupational school due to the denial, expiration, revocation, or suspension of the school's certificate of approval by the division.

(7) "Certificate" means an award for the successful completion of a specific course or program objective.

(8) "Certificate of approval" means a written authorization issued by the division, upon approval by the executive director, to the principal owners of a school in the name of the school, pursuant to the provisions of this article 64, to operate a school in this state.

(9) "Diploma" means an award for the successful completion of an approved prescribed program of study in a particular field of endeavor.

(10) "Director" means the director of the private occupational school division created pursuant to section 23-64-105.

(11) "Division" means the private occupational school division created pursuant to section 23-64-105.

(12) "Educational credentials" means certificates, diplomas, associate degrees, transcripts, reports, numbers, or words that signify or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements for education at a school.

(13) "Educational services" or "education" includes, but is not limited to, any class, course, or program of training, instruction, or study that is designed or is purported to meet all or part of the requirements for employment in an agricultural, trade, industrial, technical, business, office, sales, service, or health occupation and constitutes occupational education.

(14) "Entity" includes, but is not limited to, any person, society, association, partnership, corporation, or trust.

(15) "Executive director" means the executive director of the department of higher education appointed pursuant to section 23-1-110 (2).

(16) "New school" means a private occupational school that does not hold an existing certificate of approval as of June 30, 1981, or a school holding an existing certificate of approval

as of June 30, 1981, that subsequently expires pursuant to the provisions of section 23-64-114 (4) or is revoked or denied pursuant to the provisions of this article 64.

(17) "Occupational education" means any education designed to facilitate the vocational, technical, or occupational development of individual persons, including, but not limited to, vocational or technical training or retraining that is given in schools or classes, including field or laboratory work incident thereto, that is conducted as a part of a program designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations requiring less than a four-year baccalaureate degree. The term also includes instruction related to the occupation for which the person is being trained or that is necessary for him or her to benefit from the training.

(18) "Offer" or "offering" includes, in addition to its usual meaning, advertising, publicizing, soliciting, or encouraging any person in any manner to perform the act described.

(19) "Operate" or "operating", when used with respect to a school, means to establish, keep, or maintain any facility or location in this state where, from, or through which educational services are offered or educational credentials are offered or granted.

(20) "Private occupational school" or "school" means any entity or institution for profit or not for profit located within or without this state that offers educational credentials or educational services that constitute occupational education in this state and that is not specifically exempt from the provisions of this article 64.

(21) "Train-out" means the opportunity for a student of a private occupational school ceasing operation to meet the student's educational objectives through training provided by another approved private occupational school, a community college, an area technical college, or any other training arrangement acceptable to the division.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1178, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-103 as it existed prior to 2017.

23-64-104. Exemptions. (1) The following educational institutions and educational services are exempt from this article 64:

(a) A public school or public educational institution funded wholly or in part by a local school district or school districts or by direct appropriation from the state to a school, public educational institution, or board;

(b) A nonprofit school owned, controlled, operated, and maintained by a bona fide parochial or denominational institution exempt from general property taxation under the laws of this state;

(c) A school offering education solely avocational, supplementary, or ancillary in nature;

(d) A college or university that:

(I) Confers four-year baccalaureate or higher degrees; and

(II) Offers programs or courses in this state, the majority of which are not occupational in nature, as defined by the division, or are at the graduate level;

(e) A private school providing a basic academic education comparable to that provided in public elementary and secondary schools of this state;

(f) A school offering only educational services for which no money or other consideration is paid;

(g) A school offering only educational services to an employer for the training of its employees;

(h) Education offered by a bona fide trade, business, professional, or fraternal organization that primarily benefits the organization's membership or mission;

(i) Educational services offered by an employer for the training of its own employees;

(j) Apprenticeship training registered pursuant to state or federal law;

(k) Educational services offered by an approved school that:

(I) Do not require the payment of money or other consideration;

(II) Are avocational, supplementary, or ancillary in nature; or

(III) Are offered only to an employer for the training and preparation of his or her employees;

(l) Nurse aide training programs approved pursuant to section 12-255-118.5 (1);

(m) Flight schools that are approved and regulated by the federal aviation administration;

(n) A private educational institution that is accredited by an agency recognized by the United States department of education, that confers post-graduate degrees, and that offers programs or courses that are not defined as occupational education pursuant to section 23-64-103 (17);

(o) A continuing professional education program that meets the requirements for maintaining or renewing a professional license issued by a Colorado state professional licensing entity so long as the continuing professional education program or the organization that provides the program is approved by the Colorado state professional licensing entity either before or after a licensee attends the program. To qualify for the exemption created in this subsection (1)(o), a continuing professional education program must be consistent with the purposes or requirements of the organization that provides the program.

(p) Yoga teacher training courses, programs, and schools; and

(q) Training of guides, trip leaders, and guide instructors by river outfitters licensed pursuant to section 33-32-104.

(2) An educational institution or educational service described in subsection (1) of this section may waive its exempt status in order to apply for authorization to operate a private occupational school pursuant to this article 64 by submitting the waiver in writing to the board. The following applies to an educational institution or educational service that waives its exempt status:

(a) An educational institution's or educational service's waiver of its exempt status does not guarantee the approval of the educational institution or educational service as a private occupational school, and an educational institution or educational service that waives exempt status pursuant to this subsection (2) must apply for a certificate of approval as described in section 23-64-114; and

(b) Upon the issuance of a certificate of approval pursuant to section 23-64-115, the educational institution or educational service submits to all applicable provisions of this article 64 and any rules promulgated in association with this article 64 for the full term of the certificate of approval.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1180, § 1, effective August 9. **L. 2019:** IP(1) and (1)(p) amended and (1)(q) added, (SB 19-160), ch. 416, p. 3662, § 3, effective August 2; (1)(l) amended, (HB 19-1172), ch. 136, p. 1685, § 123, effective October 1. **L. 2020:** (1)(l) amended, (HB 20-1183), ch. 157, p. 701, § 54, effective July 1. **L. 2021:** (2) added, (HB 21-1306), ch. 310, p. 1898, § 6, effective September 7.

Editor's note: This section is similar to former § 12-59-104 as it existed prior to 2017.

23-64-105. Private occupational school division - creation. There is hereby created the private occupational school division in the department of higher education and the office of director of the division. The division and the director shall exercise their powers and perform their duties and functions specified in this article 64 under the department of higher education and the executive director thereof as if the same were transferred to the department by a **type 2** transfer as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24. The director shall be appointed by the executive director. The director, with the approval of the executive director, shall employ such professional and clerical personnel as deemed necessary to carry out the duties and functions of the division. The director and professional personnel are declared to hold educational offices and to be exempt from the state personnel system.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1181, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-104.1 as it existed prior to 2017.

23-64-106. Powers and duties of division. (1) The division shall have, in addition to the powers and duties now vested therein by law, the following powers and duties:

(a) To publish a list of schools and maintain a list of agents authorized to operate in this state under the provisions of this article 64;

(b) To receive or cause to be maintained as a permanent file, in conformity with section 23-64-125, copies of educational, financial, and other records;

(c) To negotiate and enter into interstate reciprocity agreements with similar agencies in other states whenever, in the judgment of the division and the board, such agreements are or will be helpful in effectuating the purposes of this article 64; except that nothing contained in any such reciprocity agreement shall be construed as limiting the division's powers, duties, and responsibilities with respect to investigating or acting upon any application for a certificate of approval for a private occupational school or an application for issuance of or renewal of any agent's permit or with respect to the enforcement of any provision of this article 64 or any of the rules promulgated under this article 64.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1182, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-105 as it existed prior to 2017.

23-64-107. Private occupational school board - established - membership. (1)

Effective June 30, 1998, the private occupational school policy advisory committee is abolished, and the terms of members of the advisory committee serving as such immediately prior to June 30, 1998, are terminated.

(2) Effective July 1, 1998, there is established, in the private occupational school division, the private occupational school board that shall advise the director on the administration of this article 64 and shall have the powers and duties specified in section 23-64-108. The board shall exercise its powers and perform its duties and functions specified in this article 64 as if the same were transferred to the department of higher education by a **type 1** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24.

(3) The board shall consist of seven members appointed by the governor, with the consent of the senate, as follows:

(a) Three members shall be owners or operators of private occupational schools that receive Title IV funds;

(b) Four members shall be representatives of the general public, at least one of whom is employed by a lending institution located in Colorado and is familiar with federal loans and funds authorized in Title IV of the federal "Higher Education Act of 1965", as amended, and at least two of whom are owners or operators of businesses within Colorado that employ students who are enrolled in schools that are subject to administration by the division.

(4) No appointed member shall be an employee of any local district college, community or technical college, school district, or public agency that receives vocational funds allocated by any state agency.

(5) (a) The board members shall serve four-year terms; except that, of the members first appointed to the board, three members to be selected by the governor shall serve two-year terms. A member shall not serve more than two consecutive four-year terms.

(b) Notwithstanding the provisions of subsection (5)(a) of this section, of the three members appointed to replace persons whose terms expire on June 30, 2012, one member selected by the governor shall serve a two-year term, one member selected by the governor shall serve a three-year term, and one member selected by the governor shall serve a four-year term. Subsequent appointments to the positions identified in this subsection (5)(b) shall serve four-year terms.

(c) Notwithstanding the provisions of subsection (5)(a) of this section, of the four members appointed to replace persons whose terms expire on June 30, 2014, one member selected by the governor shall serve a one-year term, one member selected by the governor shall serve a two-year term, one member selected by the governor shall serve a three-year term, and one member selected by the governor shall serve a four-year term. Subsequent appointments to the positions identified in this subsection (5)(c) shall serve four-year terms.

(6) The board shall hold regular meetings at such times as it may deem appropriate, but it shall not meet less than four times per year.

(7) Board members shall be paid a per diem of thirty-five dollars for each day on which the board meets and their actual and necessary expenses incurred in the conduct of official business.

(8) The division shall provide any necessary staff assistance for the board.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1182, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-105.1 as it existed prior to 2017.

23-64-108. Powers and duties of board - rules. (1) The board shall have the following powers and duties:

(a) To establish minimum criteria in conformity with section 23-64-112, including quality of education, ethical business practices, and fiscal responsibility, that an applicant for a certificate of approval shall meet before the certificate of approval may be issued and continued in effect. The criteria to be developed under this section shall be such as will effectuate the purposes of this article 64.

(b) To establish minimum criteria in conformity with section 23-64-112 that an applicant for an agent's permit shall meet before the agent's permit may be issued and continued in effect. The criteria to be developed under this section shall be such as will effectuate the purposes of this article 64.

(c) To consult with the division regarding interstate reciprocity agreements;

(d) To receive, investigate, and evaluate, as it deems necessary, and act upon applications for certificates of approval, agents' permits, and changes of ownership;

(e) To require the posting of appropriate notices on the school premises notifying students of any school closure by operation of law or otherwise;

(f) To investigate, as it deems necessary, any entity subject to, or reasonably believed by the board to be subject to, the jurisdiction of this article 64 and, in connection therewith, to subpoena any persons, books, records, or documents pertaining to the investigation; to require answers in writing, under oath, to questions propounded by the board; and to administer an oath or affirmation to any person in connection with any such investigation. The investigation may include the physical inspection of school facilities and records. The subpoena shall be enforceable by any court of record of this state.

(g) To deny or revoke the agent's permit of an agent of an out-of-state school determined not to be in compliance with this article 64;

(h) To appoint administrative law judges to conduct hearings on any matter within the jurisdiction of the board, which shall include the conduct of hearings in aid of any investigation or inquiry pursuant to subsection (1)(f) of this section;

(i) To promulgate rules and to adopt procedures necessary or appropriate for the conduct of its work and the implementation of this article 64;

(j) To establish educational standards and requirements for the awarding of appropriate educational credentials by private occupational schools;

(k) To exercise other powers and duties implied, but not enumerated, in this section that, in the judgment of the board, are necessary in order to carry out the provisions of this article 64;

(l) To designate, by category of instruction, those schools that teach students under sixteen years of age for which instructional staff and prospective instructional staff, as defined by board rule, shall be required to submit a complete set of fingerprints pursuant to section 23-64-110;

(m) To prescribe uniform academic reporting policies and procedures to which a private occupational school shall adhere.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1183, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-105.3 as it existed prior to 2017.

23-64-109. Duties of private occupational schools. [*Editor's note: This version of this section is effective until March 1, 2022.*]A private occupational school shall provide the division with such data as the board deems necessary upon written request of the board. Data pertaining to individual students or personnel shall not be divulged or made known in any way by a member of the board, by the director, or by any division or school employee, except in accordance with judicial order or as otherwise provided by law. A person who violates this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501. In addition, the person shall be subject to removal or dismissal from public service on grounds of malfeasance in office.

23-64-109. Duties of private occupational schools. [*Editor's note: This version of this section is effective March 1, 2022.*]A private occupational school shall provide the division with such data as the board deems necessary upon written request of the board. Data pertaining to individual students or personnel shall not be divulged or made known in any way by a member of the board, by the director, or by any division or school employee, except in accordance with judicial order or as otherwise provided by law. A person who violates this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. In addition, the person shall be subject to removal or dismissal from public service on grounds of malfeasance in office.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1185, § 1, effective August 9. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3223, § 401, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-59-105.4 as it existed prior to 2017.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

23-64-110. Submittal of fingerprints for persons teaching at designated schools - fingerprint-based criminal history record checks - prerequisite for commencing or continuing employment. (1) (a) (I) Instructional staff or prospective instructional staff who may be teaching students in a school designated by the board pursuant to section 23-64-108 (1)(I) shall, beginning July 1, 2006, in order to commence or continue employment at a designated school, submit a set of his or her fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Nothing in this section precludes the board from making further inquiries into the background of instructional staff or prospective instructional staff. Instructional staff or prospective

instructional staff shall pay the fee established by the Colorado bureau of investigation for conducting the fingerprint-based criminal history record check. Upon completion of the criminal history record check, the bureau shall forward the results to the board. The board shall conduct a review of the results of the criminal history record check forwarded by the bureau and consider the results in assessing whether instructional staff or prospective instructional staff meet minimum standards of qualification, as established by the board pursuant to section 23-64-112, necessary to commence or continue employment at the designated school.

(II) When the results of a fingerprint-based criminal history record check of instructional staff or prospective instructional staff performed pursuant to this section reveal a record of arrest without a disposition, the board shall require the instructional staff or prospective instructional staff to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d). Instructional staff or prospective instructional staff shall pay the fee established by the board for conducting the named-based criminal history record check.

(b) Instructional staff or prospective instructional staff shall be required to resubmit a set of his or her fingerprints pursuant to subsection (1)(a) of this section even if he or she previously submitted his or her fingerprints pursuant to subsection (1)(a) of this section.

(2) In addition to any other requirements established by the board for the necessary qualifications of instructional staff or prospective instructional staff, the submittal of fingerprints pursuant to subsection (1) of this section and results consistent with the minimum standards of qualification established by the board pursuant to section 23-64-112 shall be a prerequisite to commencing or continuing employment as instructional staff who may be teaching students in a school designated by the board pursuant to section 23-64-108 (1)(l).

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1185, § 1, effective August 9. **L. 2019:** (1)(a) amended, (HB 19-1166), ch. 125, p. 549, § 29, effective April 18.

Editor's note: This section is similar to former § 12-59-105.7 as it existed prior to 2017.

23-64-111. Duties and powers of the division subject to approval of the executive director. The division shall exercise all of the powers and duties set forth in section 23-64-106. The executive director shall review and approve, consistent with the institutional role and statewide needs, any action taken by the division pursuant to the powers and duties set forth in section 23-64-106; except that the participation of the executive director shall not be required in any action taken by the board.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1185, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-105.9 as it existed prior to 2017.

23-64-112. Minimum standards. (1) In establishing the criteria required by section 23-64-108 (1)(a), (1)(b), and (1)(j), the board shall observe and require compliance with at least the following minimum standards for all schools:

(a) That the school can demonstrate that it has sufficient financial resources to:

- (I) Fulfill its commitments to students;
- (II) Make refunds of tuition and fees to the extent and in the manner set forth in this article 64; and
- (III) Meet the school's financial obligations;
- (b) That the school shall furnish and maintain surety bonds as required by this article 64;
- (c) That the educational services are such as will adequately achieve the stated objectives for which the educational services are offered;
- (d) That the school has adequate facilities, equipment, instructional materials, instructional staff, and other personnel to provide educational services necessary to meet the stated objectives for which the educational services are offered;
- (e) That the education and experience qualifications of administrators, instructional staff, and other personnel are such as will adequately ensure that the students will receive educational services consistent with the stated objectives for which the educational services are offered;
- (f) That the school provides each prospective student with a school catalog and other printed information describing the educational services offered and describing entrance requirements, program objectives, length of programs, schedule of tuitions, fees, all other charges and expenses necessary for the completion of the program of study, cancellation and refund policies, and such other material facts concerning the school and the program of instruction that are likely to affect the decision of a student to enroll therein as required by the board and that the information is provided to a prospective student prior to the commencement of classes and the execution of any enrollment agreement or contract;
- (g) That, upon satisfactory completion of training, the student is given appropriate educational credentials by the school; except that the school may require the payment of all tuition and fees due at the time of completion;
- (h) That adequate educational, financial, and other records are maintained by the school;
- (i) That the school adheres to procedures, standards, and policies set forth in the school catalog and other printed materials;
- (j) That the school is maintained and operated in compliance with all pertinent ordinances and laws, including rules adopted pursuant thereto, relative to the health and safety of all persons upon the premises;
- (k) That neither the school nor its agents have violated the prohibitions as set forth in section 23-64-113 or have engaged in deceptive trade or sales practices as set forth in section 23-64-123;
- (l) That the principal owners, officers, agents, administrators, and instructors are of good reputation and free from moral turpitude;
- (m) That the school provides the student with a copy of the executed enrollment agreement or contract, at the time of enrollment, that complies with this article 64;
- (n) That the school adheres to a policy for the cancellation, settlement, and refund of tuition and fees that complies with this article 64;
- (o) That an out-of-state school shall maintain records that include, but are not limited to, a list of the name and address of each student enrolled from within this state and that the records shall be made available to the board upon request;
- (p) That the school shall submit to the board the name and Colorado address of a designated agent upon whom any process, notice, or demand may be served and that the agent shall be maintained continuously. Nothing contained in this section shall limit or affect the right

to serve any process, notice, or demand required or permitted by law to be served upon a foreign corporation in any other manner now or hereafter permitted by law.

(q) That the school or agent shall have paid any restitution required by section 23-64-124 and any civil penalties assessed pursuant to section 23-64-127;

(r) That an agent shall represent only a school that meets the minimum standards set forth in this section and the criteria established pursuant to section 23-64-108;

(s) That the school shall not deny enrollment of a student or make any distinction or classification of students on account of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, gender expression, or marital status; and

(t) That a school offering an associate degree is accredited by an institutional or programmatic accrediting body that is officially recognized by the United States department of education or the Council for Higher Education Accreditation.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1186, § 1, effective August 9. **L. 2021:** (1)(s) amended, (HB 21-1108), ch. 156, p. 894, § 30, effective September 7; (1)(s) amended and (1)(t) added, (HB 21-1306), ch. 310, p. 1897, § 4, effective September 7.

Editor's note: (1) This section is similar to former § 12-59-106 as it existed prior to 2017.

(2) Amendments to subsection (1)(s) by HB 21-1108 and HB 21-1306 were harmonized.

Cross references: For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of Colorado 2021.

23-64-113. Prohibitions. (1) No entity of whatever kind, alone or in concert with others, shall:

(a) Operate in this state a school not exempt from the provisions of this article 64 unless the school holds a valid certificate of approval issued pursuant to the provisions of this article 64;

(b) Offer educational services in or grant educational credentials from a school located within or without this state unless the agent holds a valid agent's permit issued pursuant to the provisions of this article 64; except that the board may promulgate rules to permit the rendering of legitimate public information services without such permit;

(c) Accept contracts or enrollment agreements from an agent who does not hold a valid agent's permit issued pursuant to the provisions of this article 64;

(d) Award educational credentials without requiring the completion of any education.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1187, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-107 as it existed prior to 2017.

23-64-114. Application for certificate of approval. (1) Any entity desiring to operate a private occupational school in this state shall make application for a certificate of approval to the

board upon forms to be provided by the board. The application shall include at least the following:

- (a) A catalog published or proposed to be published by the school containing the information specified in the criteria promulgated by the board;
- (b) A description of the school's placement assistance, if any;
- (c) Documentation necessary to establish the applicant's financial stability as required by the minimum standards and bond provisions specified in this article 64;
- (d) Copies of media advertising and promotional literature;
- (e) Copies of all student enrollment agreement or contract forms and instruments evidencing indebtedness;
- (f) A surety bond as required by this article 64;
- (g) A fee as required by this article 64;
- (h) The name and Colorado address of a designated agent upon whom any process, notice, or demand may be served.

(2) Each application shall be signed and certified to under oath by the owner or his or her authorized designee.

(3) The board shall not be required to act upon an application until such time as an application is submitted as set forth in this section.

(4) An application submitted by a school that holds a valid certificate of approval shall be submitted on or before February 15 immediately prior to the expiration of the certificate of approval. If the application as set forth in subsection (1) of this section is not submitted as set forth in this section, the school's existing certificate of approval shall expire on June 30 by operation of law, and any such application submitted after February 15 shall be treated as an application submitted by a new school.

(5) The board shall not be required to act upon an application submitted by a school whose certificate of approval has been revoked or denied by a final nonappealable order of the board for a period of twelve months subsequent to the revocation or denial. Notwithstanding that an order of revocation or denial may be subject to judicial review, the school shall otherwise comply with and be subject to the provisions of this article 64; except that the school shall not be required to submit an application as required by this section.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1188, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-108 as it existed prior to 2017.

23-64-115. Issuance of certificate of approval. (1) Following the review and evaluation of an application for a certificate of approval and any further information required by the board to be submitted by the applicant and an investigation and appraisal of the applicant as the board deems necessary or appropriate, the board shall either grant or deny a certificate of approval to the applicant. A certificate of approval shall be issued to the applicant in the name of the school and shall state in clear and conspicuous language the name and address of the school, the date of issuance, and the term of approval.

(2) The term for which a certificate of approval is issued shall be for three years commencing on July 1 and expiring on June 30 of the third year thereafter or upon the cessation

of operation of the school. New schools shall be issued a provisional certificate of approval which shall expire on June 30 of the second year following the date of issuance or upon the cessation of operation of the school.

(3) At any time within the period of a certificate of approval, the board may require the school to submit supplementary documentation or information deemed necessary to enable the board to determine whether the school is continuing to be operated in compliance with the provisions of this article 64.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1189, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-109 as it existed prior to 2017.

23-64-116. Application for change of ownership - definition. (1) In the event of a change of ownership of a school, the seller, prior to the effective date of the change of ownership, shall notify the board in writing, and the buyer, prior to or within thirty days after the change of ownership, shall make application for approval of the change of ownership upon forms to be provided and in a manner prescribed by the board. In the event of a failure to do so, the school's certificate of approval shall be suspended by operation of law until the application has been received and approved by the board as provided in this section.

(2) Following the review and evaluation of an application and any further information required by the board to be submitted by the applicant and an investigation and appraisal of an applicant as the board deems necessary or appropriate, the board shall either grant or deny the application. Denial of an application shall be in the same manner as set forth in section 23-64-118 for a denial of an application for a certificate of approval; except that the board shall not be required to submit a notice of noncompliance.

(3) "Ownership", for the purpose of this section, means ownership of a controlling interest in the school or, in the event the school is owned or controlled by a corporation or other legal entity other than a natural person, ownership of a controlling interest in the legal entity owning or controlling the school.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1189, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-110 as it existed prior to 2017.

23-64-117. Agent's permits. (1) **In-state schools.** (a) Any person desiring to engage in the performance of the duties of an agent for a school located within this state shall be registered by the school upon forms to be provided by the division. The registration shall include the following:

(I) A statement signed by the applicant that he or she has read the provisions of the "Private Occupational Education Act of 1981" and the rules promulgated pursuant thereto;

(II) A fee as required by this article 64.

(b) An agent representing more than one school must obtain a separate agent's permit for each school represented; except that an agent holding a valid agent's permit to represent a school

shall not be required to obtain a separate permit to represent another school owned by the same entity to the same extent and having the same name as the first school.

(c) An agent's permit shall be issued to the agent and shall state in a clear and conspicuous manner the name of the agent, the name and location of the school he or she represents, and the date of issuance and term of the permit.

(d) An agent's permit shall expire on the same date as the certificate of approval for the school that the agent represents expires.

(2) **Out-of-state schools.** (a) Any person desiring to engage in the performance of the duties as an agent within this state, for a school located outside this state, shall make application through the school to the board upon forms to be provided by the division. The application shall include the following:

(I) A statement signed by the applicant that he or she has read the provisions of the "Private Occupational Education Act of 1981" and the rules promulgated pursuant thereto;

(II) A surety bond as required in this article 64;

(III) A fee as required by this article 64.

(b) An application submitted by an applicant who intends to represent a school located outside this state shall not be acted upon until any information regarding the school that is required to be submitted by the board, including the name and Colorado address of a designated agent upon whom any process, notice, or demand may be served, has been received.

(c) An agent representing more than one school must obtain a separate agent's permit for each school represented; except that an agent holding a valid agent's permit to represent a school shall not be required to obtain a separate permit to represent another school owned by the same entity to the same extent and having the same name as the first school.

(d) Following the review and evaluation of an application and any further information required by the board to be submitted by the applicant and an investigation and appraisal of an applicant as the board deems necessary or appropriate, the board shall recommend to the executive director either a grant or denial of an agent's permit to the applicant.

(e) An agent's permit shall be issued to the agent and shall state in a clear and conspicuous manner the name of the agent, the name and location of the school he or she represents, and the date of issuance and term of the permit.

(f) An agent's permit shall expire annually on June 30. An agent's permit shall also expire upon termination of his or her employment with the school named on the permit.

(g) An agent's permit issued for the purpose of representing a school located outside this state shall be suspended by operation of law when the school fails to maintain in this state an agent upon whom any process, notice, or demand may be served.

(h) At least sixty days prior to the expiration of an agent's permit, the agent shall complete and file with the board an application form and fee for renewal of the permit. The application shall be reviewed and acted upon as provided in this article 64. If the application is not submitted as set forth in this section, the agent's existing permit shall expire on July 1.

(i) The board shall not be required to act upon an application submitted by an agent whose permit has been revoked or denied by a final nonappealable order of the board for a period of twelve months subsequent to the revocation or denial. Notwithstanding that an order of revocation or denial shall be subject to judicial review, the agent shall otherwise comply with and be subject to the provisions of this article 64; except that the agent shall not be required to submit an application as required by this section.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1190, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-111 as it existed prior to 2017.

23-64-118. Denial of application for certificate of approval or agent's permit. (1) If the board, upon review of an application for a certificate of approval or for an agent's permit, determines upon reasonable belief that the applicant fails to meet any one or more of the criteria established pursuant to this article 64, the board shall submit to the applicant a notice of noncompliance setting forth the reasons therefor in writing. The notice shall set forth a period of time within which the applicant may submit written data, arguments, views, or information with respect to the reasons set forth in the notice and during which time the applicant shall also be afforded the opportunity to eliminate the reason for the notice.

(2) The board shall consider the written data, arguments, views, or information submitted and the steps taken by the applicant to comply and shall thereafter determine upon reasonable belief whether a hearing shall be conducted for the purpose of denying the application.

(3) An application for a certificate of approval or an agent's permit may also be denied by the board if the applicant has furnished false or misleading written or oral statements, documents, or other representations to the board with the intent to mislead or conceal the truth of any matter to be considered by the board as a factor in approving the application.

(4) Notwithstanding the provisions of subsections (1), (2), and (3) of this section, the provisions of the "State Administrative Procedure Act", article 4 of title 24, shall apply to the denial of an application for a certificate of approval submitted by a new school and to the denial of an initial application for an agent's permit.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1191, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-112 as it existed prior to 2017.

23-64-119. Revocation of certificate of approval and agent's permit. (1) If the board determines upon reasonable belief that the holder of a certificate of approval or an agent's permit has violated or is violating any one or more of the criteria established pursuant to this article 64, the board or its authorized designee shall submit to the holder or a school's designated agent for service of process a notice of noncompliance setting forth the reasons therefor in writing. The notice shall set forth a period of time within which the applicant may submit written data, views, arguments, or information with respect to the reasons set forth in the notice and during which time the holder shall also be afforded the opportunity to eliminate the reason for the notice.

(2) The board shall consider the written data, arguments, views, or information submitted and the steps taken by the holder to comply and shall thereafter determine upon reasonable belief whether a hearing shall be conducted for the purpose of revoking the certificate of approval or an agent's permit.

(3) If the board has reasonable grounds to believe and finds that the holder has willfully and deliberately violated the criteria established pursuant to this article 64 or that the public

health, safety, or welfare imperatively requires emergency action and incorporates such findings in its order, it may summarily suspend the certificate of approval or agent's permit pending a hearing, which shall be promptly instituted and determined.

(4) A certificate of approval or an agent's permit may also be revoked by the board if the holder thereof has furnished false or misleading written or oral statements, documents, or other representations to the board with the intent to mislead or conceal the truth of any matter considered by the board as a factor in approving the application for a certificate of approval or an agent's permit or for continuing in effect the certificate of approval or an agent's permit.

(5) A certificate of approval may be revoked by the board if the holder thereof has had its surety bond canceled and has not replaced it within fifteen days prior to the effective date of the bond termination.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1192, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-113 as it existed prior to 2017.

23-64-120. Refund policy. (1) As a condition for granting a certificate of approval or an agent's permit to represent a school located outside this state, a school shall maintain a policy for the refund of tuition and fees in the event, and within thirty days of the date, a student fails to enter the course, withdraws, or has been discontinued therefrom at any time prior to completion. The policy shall provide for at least the following:

(a) A full refund of all money paid if the applicant is not accepted by the school;

(b) A full refund of tuition and fees paid if the applicant withdraws within three days after signing the contract or making an initial payment if the applicant has not commenced training;

(c) A full refund of tuition and fees paid in the event that the school discontinues a course or program of education during a period of time within which a student could have reasonably completed the same; except that this provision shall not apply in the event that the school ceases operation;

(d) That the school use a method of determining the official termination date of the student that complies with the established criteria of the state board for community colleges and occupational education;

(e) That except for retention of a cancellation charge not to exceed one hundred fifty dollars or twenty-five percent of the contract price, whichever is less, the policy for cancellation, settlement, and refund of tuition and fees provides for at least the following:

(I) For a student terminating his or her training within the first ten percent of his or her program, the student shall be entitled to a refund of ninety percent of the contract price of the program exclusive of books, tools, and supplies;

(II) For a student terminating his or her training after ten percent but within the first twenty-five percent of his or her program, the student shall be entitled to a refund of seventy-five percent of the contract price of the program exclusive of books, tools, and supplies;

(III) For a student terminating his or her training after twenty-five percent but within the first fifty percent of his or her program, the student shall be entitled to a refund of fifty percent of the contract price of the program exclusive of books, tools, and supplies;

(IV) For a student terminating his or her training after fifty percent but within the first seventy-five percent of his or her program, the student shall be entitled to a refund of twenty-five percent of the contract price of the program exclusive of books, tools, and supplies;

(V) A student who has completed seventy-five percent of his or her program and has entered the final twenty-five percent shall not be entitled to any refund and shall be obligated for the full price of the program, which constitutes the maximum obligation.

(2) (a) A school offering education using an individualized instruction method shall:

(I) Establish a time period during which a student should complete the training;

(II) Outline school policies relative to satisfactory progress, including an average rate of assignment completion;

(III) Establish a policy for termination in the event that a student does not maintain the rate of assignment completion.

(b) Under these conditions, a refund of tuition and fees required by this section may be computed based on the time period or on assignments completed in accordance with the policy previously adopted by the school.

(3) The board may require a school to submit to the board a notice of each tuition refund paid or contract canceled in the manner and to the extent determined by the board.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1192, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-114 as it existed prior to 2017.

23-64-121. Bonds - definitions. (1) Schools located within this state shall file as a part of their application for a certificate of approval evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, or one bond as set forth in this section covering the school and its agents. Schools located outside this state shall file evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, or bonds as set forth in this section covering the school's agents.

(2) At the time application is made for a certificate of approval, the board shall require an applicant to file with the division a surety bond in a sum as determined pursuant to subsection (3) of this section. The bond shall be executed by the applicant as principal and by a surety company authorized to do business in this state. The bond shall be conditioned to provide indemnification to any student or enrollee or to any parent or guardian of the student or enrollee determined by the board to have suffered loss of tuition or any fees as a result of any act or practice that is a violation of any minimum standard as set forth in this article 64 or any criterion established pursuant thereto by a school or its agents, to provide train-out for students enrolled in an approved school ceasing operation as provided in subsection (5) of this section, and to reimburse the department of higher education for any actual administrative and related costs associated with an approved school ceasing operation. The bond shall be continuous unless the surety is released as set forth in this section.

(3) The amount of the bond to be submitted with an application for a certificate of approval shall be equal to a reasonable estimate of the maximum prepaid, unearned tuition and fees of the school for a period or term during the applicable school training year for which programs of instruction are offered, including, but not limited to, on a semester, quarter,

monthly, or class basis; except that the period or term of greatest duration and expense shall be utilized for this computation where a school's training year consists of one or more such periods or terms. Following the initial filing of the surety bond with the division, the amount of the bond shall be recalculated annually based upon a reasonable estimate of the maximum prepaid, unearned tuition and fees received by the school for such period or term. In no case shall the amount of the bond be less than five thousand dollars.

(4) (a) A student, enrollee, or parent or guardian of the student or enrollee claiming loss of tuition or fees may file a claim with the board if the claim results from an act or practice that violates a minimum standard or criterion established pursuant to section 23-64-112. Such claims that are filed with the board shall constitute public records and are subject to the provisions of article 72 of title 24; except that no such claims records shall be made public if the release would violate any federal privacy law.

(b) Notwithstanding the provisions of subsection (4)(a) of this section, the board shall not consider any claim that is filed more than two years after the date the student discontinues his or her training at the school.

(5) (a) In the event that a private occupational school ceases operation, the board is authorized to make demand on the surety of the school upon the demand for a refund by a student or for the implementation of a train-out for the students of the school, and is authorized to make demand on the surety to reimburse the department of higher education for actual administrative costs associated with the school ceasing operation, and the surety shall pay the claim due in a timely manner. To the extent practicable, the board shall use the amount of the bond to provide train-out for students of the private occupational school ceasing operation through a contract with another approved private occupational school, a community college, an area technical college, or any other training arrangement acceptable to the board. The train-out provided to a student replaces the original enrollment agreement or contract between the student and the private occupational school ceasing operation; except that tuition and fee payments shall be made by the student as required by the original enrollment agreement or contract.

(b) Any student enrolled in a private occupational school ceasing operation who declines the train-out required to be offered pursuant to subsection (5)(a) of this section may file a claim with the board for the student's prorated share of the prepaid, unearned tuition and fees paid by the student subject to the limitations of subsection (5)(c) of this section. No subsequent payment shall be made to a student, unless proof of satisfaction of any prior debt to a financial institution is submitted in accordance with the board rules concerning the administration of this section.

(c) If the amount of the bond is less than the total prepaid, unearned tuition and fees that have been paid by students at the time the private occupational school ceased operation, the amount of the bond shall be prorated among the students.

(c.5) Any amount of the surety that is greater than the amount necessary to satisfy costs to provide a train-out for students pursuant to subsection (5)(a) of this section and any demand for a refund by a student pursuant to subsection (5)(b) of this section may be retained by the department of higher education as reimbursement up to the amount of any actual administrative costs incurred by the department of higher education that are associated with the school closure.

(d) The provisions of this subsection (5) shall be applicable only to those students enrolled in the private occupational school at the time it ceases operation, and, once a school ceases operation, no new students shall be enrolled therein.

(e) The board shall be designated as the trustee for all prepaid, unearned tuition and fees, student loans, Pell grants, and other student financial aid assistance in the event that an approved private occupational school ceases operation.

(f) The board shall determine whether the offering of a train-out for students enrolled in an approved private occupational school ceasing operation is practicable without federal government designation of the board as trustee for student loans, Pell grants, and other student financial aid assistance pursuant to subsection (5)(e) of this section.

(6) At the time that application is made for an agent's permit to represent a school located outside this state, the application shall be accompanied by a surety bond in the sum of fifty thousand dollars. The bond shall be executed by the applicant as principal and by a surety company authorized to do business in this state. The bond shall be conditioned to provide indemnification to any student or enrollee or his or her parent or guardian determined by the board to have suffered loss of tuition or any fees as a result of any act or practice that is a violation of any deceptive trade or sales practice as set forth in this article 64 or any criteria established pursuant thereto by the agent. Regardless of the number of years that the bond is in force, the aggregate liability of the surety thereon shall in no event exceed the penal sum of the bond. The bond shall be continuous, unless the surety is released as set forth in this section, and may be blanket in form. Any student or enrollee or his or her parent or guardian claiming loss of tuition or any fees as a result of any deceptive trade or sales practice shall file a notarized claim with the board. In no event, however, shall the board consider any such complaint filed one hundred eighty days after the date the student discontinued his or her training at the school.

(7) Except with respect to a claim for tuition and fees made by a student enrolled in an approved private occupational school ceasing operation, the board shall conduct a hearing for the purpose of determining any loss of tuition or fees, and, if any claim is found to be correct and due the claimant, the board shall make demand upon the principal and the surety on the bond. If the principal or surety fails or refuses to pay the claim due, the board shall commence an action on the bond in any court of competent jurisdiction; except that no such action may be filed more than six years subsequent to the date of any violation that gives rise to the right to file a claim pursuant to this section. A claim for tuition and fees made by a student enrolled in an approved private occupational school ceasing operation shall be handled in the manner provided in subsection (5) of this section.

(8) A certificate of approval or an agent's permit shall be suspended by operation of law when the school or agent is no longer covered by a surety bond as required by this section. The board shall give written notice to the school or agent, or both, at the last-known address, at least forty-five days prior to the release of the surety, to the effect that the certificate of approval or agent's permit shall be suspended by operation of law until another surety bond is filed in the same manner and like amount as the bond being released.

(9) A surety on any bond filed under the provisions of this section shall be released therefrom after the surety serves written notice thereof to the board at least sixty days prior to the release. The release shall not discharge or otherwise affect any claim filed by any student or enrollee or his or her parent or guardian for loss of tuition or any fees that occurred while the bond was in effect or that occurred under any note or contract executed during any period of time when the bond was in effect, except when another bond is filed in a like amount and provides indemnification for any such loss.

(10) (a) The board shall allow, at a reasonable price, alternate surety methods in lieu of the bonding requirements of this section. The alternate sureties shall be conditioned to provide indemnification to any student or enrollee or to any parent or guardian of the student or enrollee for any loss of tuition or any fees as a result of any act or practice that is a violation of this article 64 and to provide train-out for students enrolled in an approved school ceasing operation as provided in subsection (5) of this section. In the event that a school covered by an alternate surety ceases operation, the board shall act in the manner provided in subsection (5) of this section.

(b) Prior to September 1, 1991, and each year thereafter, any alternate surety allowed by the board shall be required to contract for an independent financial audit. The audit shall be included in a report to the board due by January 1 of the following year. The board may disapprove an alternate surety if it deems that the surety is not able to provide students with the indemnification and train-out required by this section.

(11) For the purposes of this section, "school" and "private occupational school" shall include a for-profit private college or university, as defined in section 23-2-102 (11), in which the majority of students are enrolled in courses and programs that are occupational in nature, as defined by the board.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1194, § 1, effective August 9. **L. 2018:** (2) and (5)(a) amended and (5)(c.5) added, (SB 18-177), ch. 196, p. 1289, § 2, effective August 8.

Editor's note: This section is similar to former § 12-59-115 as it existed prior to 2017.

23-64-122. Fees - private occupational schools fund - annual adjustment - rules. (1) The board by rule shall establish fees for the direct and indirect costs of the administration of this article 64, which fees shall accompany any application for a certificate of approval for a new school or for a school other than a new school, for an in-state or out-of-state agent's permit, or for a change of ownership. All fees collected shall be transmitted to the state treasurer, who shall credit the same to the private occupational schools fund, which fund is hereby created. The money in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of this article 64. All money credited to the fund shall be used for the direct and indirect costs of the administration of this article 64 and shall not be deposited in or transferred to the general fund of this state or to any other fund.

(2) In addition to the fees specified in subsection (1) of this section, the board by rule shall establish and receive fees for reviewing the qualifications of and for issuing appropriate credentials to instructors and administrators pursuant to section 23-64-112 (1)(e). Such fees shall be collected and administered in the same manner as the fees specified in subsection (1) of this section.

(3) (a) The board shall propose, as part of the division's annual budget request, an adjustment in the amount of the fees that it is authorized to collect pursuant to this section. The budget request and the adjusted fees shall reflect the direct and indirect costs of administering this article 64.

(b) Based upon the appropriation made, the board shall adjust its fees so that the revenue generated from the fees approximates the direct and indirect costs of administering this article

64. The adjusted fees must remain in effect for the fiscal year for which the budget request applies.

(c) Beginning July 1, 1995, and each July 1 thereafter, whenever money appropriated to the division for its activities for the prior fiscal year are unexpended, the money shall be made a part of the appropriation to the division for the next fiscal year, and the amount shall not be raised from fees collected by the division. If a supplemental appropriation is made to the division for its activities, the division's fees shall be adjusted in the following fiscal year by an additional amount that is sufficient to compensate for the supplemental appropriation. Funds appropriated to the division in the annual general appropriations bill shall be designated as cash funds and shall not exceed the amount anticipated to be raised from fees collected by the division.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1197, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-116 as it existed prior to 2017.

23-64-123. Deceptive trade or sales practices. (1) It is a deceptive trade or sales practice for:

(a) A school or agent to make or cause to be made any statement or representation, oral, written, or visual, in connection with the offering of educational services if the school or agent knows or reasonably should have known the statement or representation to be false, substantially inaccurate, or misleading;

(b) A school or agent to represent falsely, directly or by implication, through the use of a trade or business name or in any other manner, including the use of "help wanted" or other employment columns in a newspaper or other publication, that it is an employment agency or agent or authorized training facility for another industry or member of such industry or to otherwise deceptively conceal the fact that it is a school;

(c) A school or agent to represent falsely, directly or by implication, that any of its educational services have been approved by a particular industry or that successful completion thereof qualifies a student for admission to a labor union or similar organization or for the receipt of a state license to perform certain functions;

(d) A school or agent to represent falsely, directly or by implication, that the lack of a high school education, prior training, or experience is not a handicap or impediment to completing successfully a course or program of study or for gaining employment in the field for which the educational services were designed;

(e) A school or agent to adopt a name, trade name, or trademark that represents falsely, directly or by implication, the quality, scope, nature, size, or integrity of the school or its educational services;

(f) A school or agent to represent falsely, directly or by implication, that students completing a course or program of instruction successfully may transfer credit therefor to any institution of higher education;

(g) A school or agent to represent falsely, directly or by implication, in its advertising or promotional materials or in any other manner, the size, location, facilities, or equipment of the school, the number or educational experience qualifications of its faculty, the extent or nature of

any approval received from any state agency, or the extent or nature of any accreditation received from any accrediting agency or association;

(h) A school or agent to provide prospective students with any testimonials, endorsements, or other information that has the tendency to mislead or deceive prospective students or the public regarding current practices of the school, current conditions for employment opportunities, or probable earnings in the industry or occupation for which the educational services were designed or as a result of the completion of any such educational service;

(i) A school or agent to enroll a student when it is reasonably obvious that the student is unlikely to complete successfully a program of study or is unlikely to qualify for employment in the field for which the education is designed, unless this fact is affirmatively disclosed to the student;

(j) An agent representing an out-of-state school to represent directly or by implication that the school is approved or accredited by the state of Colorado;

(k) A school or agent to designate or refer to its sales representatives as "counselors" or "advisors" or to use words of similar import that have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of the sales representatives or agents; or

(l) A school to advertise or otherwise represent that it is accredited unless the school is accredited by an accrediting body that is recognized by the United States department of education or is accredited by a programmatic accrediting body recognized by the Council for Higher Education Accreditation as having the ability to accredit a freestanding, single-purpose institution of construction education.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1198, § 1, effective August 9. **L. 2021:** (1)(k) amended and (1)(l) added, (HB 21-1306), ch. 310, p. 1897, § 5, effective September 7.

Editor's note: This section is similar to former § 12-59-117 as it existed prior to 2017.

23-64-124. Complaints of deceptive trade or sales practices. (1) A person claiming pecuniary loss as a result of a deceptive trade or sales practice, pursuant to section 23-64-123, by a school or agent may file with the board a written complaint against the school or agent. The complaint must set forth the alleged violation and any other relevant information as the board may require. A complaint filed under this section is a public record subject to the provisions of article 72 of title 24 and must be filed within two years after the student discontinues his or her training at the school or at any time prior to the commencement of training.

(2) The board shall investigate any such complaint and thereafter may consider the complaint at a hearing. If, upon all the evidence at a hearing, the board finds that a school or agent has engaged in or is engaging in any deceptive trade or sales practice, the board may issue and cause to be served upon the school, the agent, or the designated agent for service of process, notice, or demand an order requiring the school or agent to cease and desist from such practice. The board may obtain an order for enforcement of its order in the district court pursuant to section 24-4-106.

(3) If the board finds that the complainant or class of complainants has suffered pecuniary loss as a result of such practice, the board, at its discretion, may award the complainant or class of complainants full restitution for the loss. The board may also commence a civil action against a school or agent believed by the board to have caused a complainant or class of complainants to suffer pecuniary loss as a result of any deceptive trade or sales practice. Upon a finding that the complainant or class of complainants has suffered pecuniary loss as a result of any deceptive trade or sales practice, the court shall order the school or agent to pay to the complainant or class of complainants full restitution for the loss.

(4) Any person filing a complaint alleging a deceptive trade or sales practice pursuant to this section shall exhaust the remedies provided in this section prior to filing a complaint with the district court alleging a deceptive trade or sales practice.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1199, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-118 as it existed prior to 2017.

23-64-125. Preservation of records. (1) In the event that a school located in Colorado ceases operation, the owner or his or her authorized designee shall deposit with the division the original or legible true copies of all educational, financial, or other records of the school.

(2) In the event that it appears to the board that any records of a school located in Colorado that is ceasing operation are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the board, the board may seize and take possession of the records upon making application to any court of competent jurisdiction for an appropriate order. The board shall maintain or cause to be maintained a permanent file of any such records.

(3) Any person desiring copies of any such records shall pay a fee as may be established by the board.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1200, § 1, effective August 9. **L. 2018:** (2) amended, (SB 18-177), ch. 196, p. 1290, § 3, effective August 8.

Editor's note: This section is similar to former § 12-59-119 as it existed prior to 2017.

23-64-126. Enforceability of notes, contracts, and other evidence of indebtedness. (1) No note, other instrument of indebtedness, or contract relating to payment for educational services shall be enforceable in the courts of this state by any school located within this state unless the school, at the time of execution of the note, other instrument of indebtedness, or contract, holds a valid certificate of approval nor by any school having an agent in this state unless the agent, who enrolled persons to whom educational services were to be rendered or to whom educational credentials were to be granted, held a valid agent's permit at the time of the execution of the note, other instrument of indebtedness, or contract.

(2) The enforceability of notes, contracts, and other evidence of indebtedness relating to payment for educational services shall be in compliance with applicable state and federal laws and regulations, as amended.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1200, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-120 as it existed prior to 2017.

23-64-127. Violations - civil - penalty. The board may commence a civil action against any entity believed by the board to have violated the provisions of section 23-64-113 or who fails or refuses to deposit with the division the records required by section 23-64-125. Upon a finding that the entity has violated the provisions of section 23-64-113 or has failed or refused to deposit with the division the records required by section 23-64-125, the court shall order the entity to pay to the division a civil penalty not to exceed one hundred dollars for each violation. Each day's failure by an entity to comply with the provisions of said section is a separate violation.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1200, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-121 as it existed prior to 2017.

23-64-128. Violations - criminal - penalty. *[Editor's note: This version of this section is effective until March 1, 2022.]* Any person, group, or entity, or any owner, officer, agent, or employee thereof, who willfully violates the provisions of section 23-64-113 or who willfully fails or refuses to deposit with the division the records required by section 23-64-125 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or both. It is the duty of the district attorney to prosecute all violations of this section that occur within his or her district.

23-64-128. Violations - criminal - penalty. *[Editor's note: This version of this section is effective March 1, 2022.]* Any person, group, or entity, or any owner, officer, agent, or employee thereof, who willfully violates the provisions of section 23-64-113 or who willfully fails or refuses to deposit with the division the records required by section 23-64-125 commits a class 2 misdemeanor.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1200, § 1, effective August 9. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3223, § 402, effective March 1, 2022.

Editor's note: (1) This section is similar to former § 12-59-122 as it existed prior to 2017.

(2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

23-64-129. State administrative procedure act. Unless otherwise provided in this article 64, the provisions of the "State Administrative Procedure Act", article 4 of title 24, shall govern the giving of notices for and the conducting of any hearings on any matter within the authority of the board as set forth in this article 64.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1201, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-123 as it existed prior to 2017.

23-64-130. Jurisdiction of courts - service of process. Any school located within or without this state that offers to provide educational services to any person in this state, whether the educational services are provided in person or by correspondence, or that offers to award any educational credentials to any person in this state submits the school to the jurisdiction of the courts of this state concerning any cause of action arising therefrom and for the purpose of enforcement of this article 64 by injunction pursuant to section 23-64-131. Service of process upon any such school subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or without this state in the manner prescribed by the Colorado rules of civil procedure, which shall have the same force and effect as if the summons had been personally served within this state. Nothing contained in this section shall limit or affect the right to serve any process as prescribed by the Colorado rules of civil procedure.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1201, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-124 as it existed prior to 2017.

23-64-131. Enforcement - injunction - fines - rules. (1) Whenever it appears to the board that any entity is or has been violating any of the provisions of this article 64 or any of the lawful rules or orders of the board, the board, on its own motion or on the written complaint of any person, may apply for and obtain a temporary restraining order or injunction, or both, in the name of the board in any district court in this state against the entity for the purpose of restraining or enjoining the violation or for an order directing compliance with the provisions of this article 64 and all rules and orders issued pursuant to this article 64. The board may also issue a cease-and-desist order prior to seeking court-ordered injunctive relief. It is not necessary that the board allege or prove that it has no adequate remedy at law. The right of injunction or a cease-and-desist order provided for in this section is in addition to any other legal remedy that the board has and is in addition to any right of criminal prosecution provided by law. The existence of board action with respect to alleged violations of this article 64 is not a bar to any action for injunctive relief pursuant to this section.

(2) The board shall have the authority to promulgate rules and adopt procedures to establish, impose, and collect fines from an entity that is in violation of the provisions of this article 64 or the lawful rules or orders of the board. The board may impose a fine, pursuant to said rules, in addition to or in lieu of seeking a temporary restraining order or an injunction

pursuant to subsection (1) of this section. All fines collected pursuant to this subsection (2) shall be transferred to the state treasurer, who shall credit the same to the state general fund.

(3) In determining whether to impose a fine, seek a temporary restraining order or an injunction, or issue a cease-and-desist order, the board shall consider whether the entity has engaged in a pattern of noncompliance.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1201, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-125 as it existed prior to 2017.

23-64-132. Transfer of governance of private occupational schools - provisions for transition - rules. (1) (a) Any powers, duties, and functions relating to the governance, jurisdiction, and control of private occupational schools that were previously vested in the state board for community colleges and occupational education prior to July 1, 1990, are specifically transferred to the division on July 1, 1990.

(b) The powers, duties, and functions specified in section 23-64-108 relating to the governance, jurisdiction, and control of private occupational schools that were previously vested in the division prior to July 1, 1998, are specifically transferred to the board on July 1, 1998.

(2) The board shall establish minimum criteria, promulgate other rules, and adopt procedures necessary for the conduct of its work and the implementation of this article 64 pursuant to section 23-64-108.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1202, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-127 as it existed prior to 2017.

23-64-133. Repeal of article - review of functions. This article 64 is repealed, effective September 1, 2024. Prior to the repeal, the department of regulatory agencies shall review the regulation of private occupational schools and their agents under this article 64, including the functions of the division and the board, in accordance with section 24-34-104.

Source: L. 2017: Entire article added with relocations, (HB 17-1239), ch. 261, p. 1202, § 1, effective August 9.

Editor's note: This section is similar to former § 12-59-128 as it existed prior to 2017.