

## **Subchapter 6**

### **— Private Resident and Correspondence Schools**

6-51-601. Legislative intent.

6-51-602. Definitions.

6-51-603. Exemptions.

6-51-604. Notice of possible violations — Responses — Injunctions.

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

6-51-606. School license generally.

6-51-607. Private Career School Student Protection Trust Fund.

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

6-51-609. Admissions representative's license — Generally.

6-51-610. Fees.

6-51-611. License renewal.

6-51-612. Penalty for operating school without license.

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

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

6-51-615. Denial or suspension of admissions representative's license — Review — Penalty.

6-51-616. Student grievance procedure.

6-51-617. Private Career Education Arbitration Panel.

6-51-618. Fines.

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

6-51-620. Bond.

6-51-621. Construction of subchapter.

6-51-622. Noncommercial driver training instruction.

6-51-623. Defensive driving instruction.

#### **6-51-601. Legislative intent.**

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

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

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

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

**History.** Acts 1983, No. 770, § 1; A.S.A. 1947, § 80-4301; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1.

#### **6-51-602. Definitions.**

As used in this subchapter, unless the context otherwise requires:

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

(2) "Board" means the State Board of Private Career Education;

(3) "Combination school" means any school in which programs of study are conducted

by both distance education and resident training;

(4) “Director” means the authorized representative of the State Board of Private Career Education for the purpose of administering the provisions of this subchapter;

(5) “Distance education school” means any school in which all programs of study are conducted by distance education;

(6) “Extension course site” means a location away from the school whereby a course or courses are conducted one (1) or more times during the licensure period;

(7) “Private Career Education Arbitration Panel” means the three-person panel established for the purpose of arbitrating student and school grievances;

(8) “Program of study” means an organized unit of courses or an individual course in which instruction is offered;

(9) “Resident school” means any school in which all programs of study are conducted in resident classrooms or held in public meeting facilities;

(10) “Satellite school” means a location within the State of Arkansas away from the school where programs of study are offered on a regular continuing basis by Arkansas schools;

(11) (A) “School” means any person, firm, partnership, association, corporation, or other form of business organization seeking to do business or offering in the State of Arkansas resident or correspondence training that leads to or enhances occupational qualifications, whether or not the institution is subject to the jurisdiction of the Arkansas Higher Education Coordinating Board under § 6-61-301;

(B) “School” also means any firm, partnership, association, corporation, or other form of business organization that offers instruction in airframe or power plant mechanics;

(C) “School” also means any firm, partnership, association, corporation, or other form of business organization which offers training as preparation for passing exams which may lead to employment;

(D) “School” also means any firm, partnership, association, corporation, or other form of business organization which offers driver education training excluding those courses taught motor vehicle violators pursuant to court order; and

(12) “Student”, “enrollee”, “trainee”, or “pupil” means a person seeking to enroll, or who has been enrolled, or who is sought for enrollment, or is seeking training or instruction, in a school as defined in this subchapter.

**History.** Acts 1983, No. 770, § 2; A.S.A. 1947, § 80-4302; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2003, No. 1781, §§ 1, 2; 2009, No. 1478, § 1.

### **6-51-603. Exemptions.**

The following are exempt from licensure under this subchapter:

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

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

(3) State colleges and universities coordinated by the Arkansas Higher Education Coordinating Board;

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

- (5) Schools operated solely to provide programs of study in theology, divinity, religious education, and ministerial training;
  - (6) A training program offered or sponsored by an employer for training and preparation of its own employees and for which no tuition fee is charged the employee;
  - (7) A program of study sponsored by a recognized trade, business, or professional organization for instruction of the members of the organization with a closed membership and for which no fee is charged the member;
  - (8) A school or educational institution supported by state or local government taxation;
  - (9) Flight instructors and flight instruction schools licensed under appropriate Federal Aviation Administration regulations and offering only training for a private pilot's license;
  - (10) Schools covered by § 6-61-301(a)(3) and exempted from § 6-61-101 et seq.;
  - (11) Training offered by other Arkansas state agencies, boards, or commissions; and
  - (12) (A) Training offered on military bases where a majority of the students enrolled are active duty personnel or their adult family members, United States Department of Defense civilian employees or their adult family members, members of the United States Armed Forces reserve components, and retirees.  
(B) These organizations shall remain exempt from the requirement for licensure if required to move off the military installation for a period of not more than ninety (90) days because of a change in security level which would not allow civilian students on the installation.  
(C) The board shall have the authority to review any situations that extend past the ninety-day period and determine whether the exemption status should remain for the school.
- History.** Acts 1983, No. 770, §§ 1, 2; A.S.A. 1947, §§ 80-4301, 80-4302; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2003, No. 1781, § 3; 2009, No. 1478, § 2.

**6-51-604. Notice of possible violations — Responses — Injunctions.**

- (a) Whenever the State Board of Private Career Education or director acting for the board has probable cause to believe that a person, agent, group, or entity has committed any acts that would be in violation of this subchapter such as fraud, misrepresentation, or unethical practices, the board or director acting for the board shall first give notice in writing by certified mail or in person to the agency or entity affected.
- (b) The person, agent, or entity will have ten (10) days in which to respond to the notice of violation, unless the board or the director acting for the board deems an emergency exists, in which case the entity will have up to twenty-four (24) hours in which to respond.
- (c) (1) If action on the part of the person, agent, or entity in response to a notice is to seek to eliminate the violation, a further extension of time may be granted by the director acting for the board.  
(2) Otherwise, the board may order a cease and desist of such acts after a formal hearing, or the board or the director shall have the duty to request the Attorney General or district prosecuting attorney in the county where the offense was committed to seek in a court of competent jurisdiction an injunction restraining the commission of such acts.

**History.** Acts 1983, No. 770, § 13; A.S.A. 1947, § 80-4313; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1.

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

- (a) (1) The Governor shall appoint a board of seven (7) members who shall serve for terms of seven (7) years. The Governor shall make appointments or reappointments to the board to provide membership of three (3) persons associated with schools and four (4) persons from the general public.

**(2)** The Director of the Department of Higher Education and the Director of the Department of Workforce Education or their designees shall serve as nonvoting, ex officio members of the State Board of Private Career Education.

**(b)** The board:

**(1)** Shall have the power to elect the necessary officers, acting by and through the director;

**(2)** Shall have the sole authority to:

**(A)** Approve all schools offering programs of study leading to or enhancing an occupational objective;

**(B)** Administer and enforce this subchapter; and

**(C)** Issue licenses to schools which have met the standards set forth for the purposes of this subchapter by the board, including, but not limited to, programs of study, adequate facilities, financial stability, qualified personnel, and legitimate operating practices.

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

**(d)** The board, acting by and through the director, shall:

**(1)** Formulate the criteria and the standards evolved for the approval of such licensed schools;

**(2)** Provide for adequate investigation of all schools applying for a license;

**(3)** Issue licenses to those applicants meeting the standards fixed by the board; and

**(4)** Maintain a list of schools approved under the provisions of this subchapter.

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

**(f)** The board shall promulgate standards, rules, and regulations to be prescribed for the administration of this subchapter and the management and operation of the schools and admissions representatives, subject to the provisions of this subchapter.

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

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

**(i)** A majority of favorable votes by the board members at an official meeting is required for adoption of a recommendation.

**(j)** Board members may be reimbursed for expenses in accordance with § 25-16-901 and stipends according to § 25-16-903.

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

**(l)** **(1)** The board shall employ a director who reports to the board.

**(2)** Provisions will be made for a retirement plan for the staff with a state contribution and board-approved investment option in the same manner as is provided in § 24-7-901 et seq.

**(m)** **(1)** The board shall annually require background investigations for all partners or shareholders with ten percent (10%) or more ownership interest in a school when the school seeks an original license.

**(2)** The board may establish a schedule for periodic background checks for partners or shareholders with ten percent (10%) or more ownership interest in a school when seeking renewal of a school license.

**(n)** **(1)** The partners or shareholders shall apply to the Identification Bureau of the

Department of Arkansas State Police for a state and national criminal background check to be conducted by the Federal Bureau of Investigation.

(2) The check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(3) The applicant shall sign a release of information to the board and shall be responsible to the Department of Arkansas State Police for the payment of any fee associated with the criminal background check.

(4) Upon completion of the criminal background check, the Identification Bureau of the Department of Arkansas State Police shall forward to the board all information obtained concerning the person in the commission of any offense listed in § 6-51-606(h)(3).

(5) (A) The board may issue a nonrenewable temporary license pending the results of the criminal background check.

(B) The license shall be valid for no more than six (6) months.

(C) Upon receipt of information from the Identification Bureau of the Department of Arkansas State Police that only one (1) of the partners or shareholders of the school holding the license has been convicted of any offense listed in § 6-51-606(h)(3), the board shall revoke the license.

(o) (1) The provisions of § 6-51-606(h) may be waived by the board upon the request of:

(A) An affected applicant for licensure; or

(B) The partners or shareholders of a school holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

(A) The age at which the crime was committed;

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a threat.

(p) (1) Any information received by the board from the Identification Bureau of the Department of Arkansas State Police pursuant to this section shall not be available for examination except by:

(A) The affected applicant for licensure or his or her authorized representative; or

(B) The person whose license is subject to revocation or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Department of Arkansas State Police.

(q) Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that person only.

(r) Rights of privilege and confidentiality established in this section shall not extend to any document created for purposes other than the background check required by this section.

(s) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section.

**History.** Acts 1983, No. 770, § 3; A.S.A. 1947, § 80-4303; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 1997, No. 250, § 24; 2003, No. 1781, §§ 4-6.

**6-51-606. School license generally.**

(a) No persons shall operate, conduct, maintain, or offer to operate in this state a school as defined in this subchapter, or solicit the enrollment of students residing in the state, unless a license is first secured from the State Board of Private Career Education issued in accordance with the provisions of this subchapter and the rules and regulations promulgated by the board.

(b) (1) Application for a license shall be filed in the manner and upon the forms prescribed and furnished by the director for that purpose.

(2) The application shall be signed by the applicant and properly verified and shall contain such information as may apply to the type and kind of school, satellite school, or extension course site for which a license is sought.

(c) (1) Any license issued shall be restricted to the programs of study specifically indicated in the application for a license.

(2) The holder of a license shall present a supplementary application for approval of additional programs of study.

(d) The license shall remain the property of the State of Arkansas and shall be returned to the director upon cause.

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

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

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

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

(1) The licensee has violated any of the provisions of this subchapter or any of the rules and regulations of the board;

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

(3) The applicant or licensee has pleaded guilty, entered a plea of nolo contendere, or has been found guilty in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld, deferred, or suspended by a court of this state, another state, or the federal government of:

(A) Any felony; or

(B) Any act involving moral turpitude, gross immorality, or which is related to the qualifications, functions, and duties of a licensee;

(4) The applicant or licensee has intentionally failed or refused to permit the board or its representatives to inspect the school or classes or has intentionally failed or refused to make

available to the board, at any time when requested to do so, full information pertaining to any or all items of information contained in an application for license or pertaining to the operation of the school;

- (5)** The applicant has failed or refused to submit to the board an application for license or renewal in the manner and on the forms prescribed;
  - (6)** A licensed admissions representative has failed or refused to display or produce his or her license when requested to do so by prospective students or designated officials of the board;
  - (7)** The applicant or licensee has failed to provide or maintain premises, equipment, materials, supplies, or conditions in accordance with minimum standards as established by rules and regulations;
  - (8)** The licensee has been found by the board or a court of law to have perpetrated fraud or deceit in advertising of the school or programs of study or in presenting to prospective students information relating to the school, programs of study, employment opportunities, or opportunities for enrollment in institutions of higher education;
  - (9)** The licensee has in its employ admissions representatives who have not been licensed but are actively engaged in the practice of attempting to enroll students;
  - (10)** The licensee has failed to provide and maintain standards of instruction or qualified administrative, supervisory, or instructional staff as established by rules and regulations;
  - (11)** The applicant or licensee is unable to provide and maintain financial resources in sufficient amount to equip and maintain the school or classes;
  - (12)** The licensee has moved the school into new premises or facilities without first notifying the director;
  - (13)** The licensee has offered training or instruction in programs of study which have not been approved and authorized in accordance with rules and regulations;
  - (14)** A licensed admissions representative has solicited prospective students to enroll in a school which has not been licensed by the board or which is not listed on his or her license;
  - (15)** There was a change in the ownership of the school without proper notification to and approval from the board;
  - (16)** The licensee has failed to notify the director or to provide written documentation as to the cause that the license of a school has been suspended or revoked or the school has been placed on probation or a show cause issued in another state or by another regulatory agency;
  - (17)** The licensee has failed to notify the director of legal actions initiated by or against the school; or
  - (18)** The licensee fails to make tuition refunds to the students or their lenders in compliance with current regulations.
- (i)** The board shall have the power to revoke a license if in its discretion it determines that:
- (1)** The licensee has failed to cure a deficiency leading to a license probation within the time as may be reasonably prescribed by the board;
  - (2)** The licensee while on probation has been found by the board to have incurred an additional infraction of this subchapter; or
  - (3)** The licensee has closed a school without first having completed the training of all students currently enrolled or having made tuition refunds to students or their lenders.
- (j)** The board may impose sanctions pursuant to § 25-15-217.
- (k) (1)** Unless directed to do so by court order, the board shall not, for a period of five (5) years following revocation, reinstate the license of a school or allow an owner of any such

school to seek licensure of another school.

(2) Upon expiration of licensure status, the school must apply for an original license in accordance with the provisions of this subchapter.

(1) (1) Upon closure of a school located in Arkansas and licensed under any provision of this subchapter, whether for license revocation or any other cause, all student financial aid records for the previous three (3) years and all student transcripts regardless of age must be delivered to the director.

(2) Delivered records shall be arranged in alphabetical order and stored in boxes or in data format at the discretion of the board.

(3) The director shall be responsible for the proper security, storage, and maintenance of all such records.

**History.** Acts 1983, No. 770, § 5; A.S.A. 1947, § 80-4305; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2003, No. 1781, §§ 7, 8.

**6-51-607. Private Career School Student Protection Trust Fund.**

(a) (1) Each school licensed under this subchapter shall pay annually a fee to be set by the State Board of Private Career Education.

(2) The fee shall be set at such amount as the board deems necessary to establish the Private Career School Student Protection Trust Fund and to maintain the Private Career School Student Protection Trust Fund as necessary.

(3) For a renewing school, the fee shall be based on the enrollment of Arkansas residents in the preceding twelve (12) months of July 1 through June 30.

(4) (A) For an original license, the fee shall be a percentage as determined by the board of the sum of the tuitions for each program offered.

(B) Additionally, during the first twelve (12) months of licensure, the same percentage shall be paid to the Private Career School Student Protection Trust Fund on additional new programs of study.

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

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

(d) The assets of the Private Career School Student Protection Trust Fund may be invested and reinvested as the board may determine. Any interest income or dividends from the investment of the fund shall be credited to the Private Career School Student Protection Trust Fund.

(e) With the approval of the board, the Director of the State Board of Private Career Education may use any amounts in the Private Career School Student Protection Trust Fund, including accumulated interest, to:

(1) Pay claims filed by students not to exceed a total of one hundred thousand dollars (\$100,000) for all students of the school when a school becomes insolvent or ceases to operate without offering a complete program of study;

(2) Pay expenses incurred by a school not to exceed a total of one hundred thousand dollars (\$100,000) that are directly related to educating a student placed in the school under this

subchapter, including the applicable tuition for the period of time for which the student has paid tuition;

(3) Pay expenses directly associated with the storage and maintenance of academic and financial aid records of those students adversely affected by school closings;

(4) (A) Pay administrative cost due to school closings, including without limitation:

(i) Travel expenses; and

(ii) The employment of temporary personnel to assist with transport and organization of student records.

(B) Provided further, that reimbursement for the expenses incurred in subdivision (e)(4)(A) of this section shall not exceed five thousand dollars (\$5,000) per school closing.

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

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

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

(3) Provide staff assistance.

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

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

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

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

**History.** Acts 1989, No. 906, § 1; 1995, No. 367, § 1; 1995, No. 1213, § 1; 2003, No. 1781, §§ 9, 10; 2009, No. 1478, § 3.

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

(a) (1) Any school licensed under this subchapter shall make application to the State Board of Private Career Education to offer a course or courses at an extension course site or satellite school.

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

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

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

**History.** Acts 1983, No. 770, § 5; A.S.A. 1947, § 80-4305; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1.

**6-51-609. Admissions representative's license — Generally.**

(a) (1) No person representing a resident, distance education, or combination school shall solicit or sell in Arkansas any program of study for consideration or remuneration unless the admissions representative first secures a license from the Director of the State Board of Private Career Education.

**(2)** A license issued by the director shall be subject to ratification by the State Board of Private Career Education.

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

**(2)** The license shall bear a recent photograph of the admissions representative, the admissions representative's name, the name and address of the licensed school to be represented, and the valid period of the admissions representative's license which will indicate the expiration date.

**(c) (1)** An admissions representative's license shall be automatically cancelled when the license of the school represented by the admissions representative is suspended or revoked for any reason, or the school closes.

**(2)** The license shall be endorsed by the chair of the board. The license shall remain the property of the State of Arkansas and shall be returned to the director upon cause.

**(d)** An applicant for an admissions representative's license must:

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

**(2)** Be a high school graduate or hold a graduate equivalent degree;

**(3)** Not have been convicted in any jurisdiction of a felony, theft of property, or a crime involving an act of violence for which a pardon has not been granted;

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

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

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

**(e) (1)** An applicant for an admissions representative's license shall apply to the Identification Bureau of the Department of Arkansas State Police for a state and national criminal background check to be conducted by the Federal Bureau of Investigation.

**(2)** The check shall conform to the applicable federal standards and shall include the taking of fingerprints.

**(3)** The applicant shall sign a release of information to the board and shall be responsible to the Department of Arkansas State Police for the payment of any fee associated with the criminal background check.

**(4)** Upon completion of the criminal background check, the Identification Bureau of the Department of Arkansas State Police shall forward all information obtained concerning the person in the commission of any felony, Class A misdemeanor, or a crime involving an act of violence for which a pardon has not been granted.

**(f) (1) (A)** The board may issue a nonrenewable temporary license pending the results of the criminal background check.

**(B)** The temporary license shall be valid for no more than six (6) months.

**(2)** Upon receipt of information from the Identification Bureau of the Department of Arkansas State Police that the person holding the temporary license has been convicted of a felony, Class A misdemeanor, or a crime involving an act of violence for which a pardon has not been granted, the board shall immediately revoke the temporary license.

**(g) (1)** The provisions of subdivision (d)(3) of this section may be waived by the board upon the request of:

**(A)** An affected applicant for licensure; or

- (B) The person holding a license subject to revocation.
  - (2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:
    - (A) The age at which the crime was committed;
    - (B) The circumstances surrounding the crime;
    - (C) The length of time since the crime;
    - (D) Subsequent work history;
    - (E) Employment references;
    - (F) Character references; and
    - (G) Other evidence demonstrating that the applicant does not pose a threat.
  - (h) (1) Any information received by the board from the Identification Bureau of the Department of Arkansas State Police pursuant to this section shall not be available for examination except by:
    - (A) The affected applicant for licensure or his or her authorized representative; or
    - (B) The person whose license is subject to revocation or his or her authorized representative.
  - (2) No record, file, or document shall be removed from the custody of the Department of Arkansas State Police.
  - (i) Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that person only.
  - (j) Rights of privilege and confidentiality established in this section shall not extend to any document created for purposes other than the background check required by this section.
  - (k) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section.
- History.** Acts 1983, No. 770, § 6; A.S.A. 1947, § 80-4306; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2003, No. 1781, §§ 11-13; 2009, No. 1478, § 4.

**6-51-610. Fees.**

- (a) The State Board of Private Career Education shall set fees for schools and admissions representatives.
  - (b) The fees collected under this subchapter, except fees collected for the Private Career School Student Protection Trust Fund, shall be deposited in the State Treasury as special revenues credited to the Private Career Education Fund.
  - (c) No license fee shall be refunded in the event of a school or an admissions representative's license suspension, revocation, denial, or request for withdrawal of an application by a school.
- History.** Acts 1983, No. 770, § 7; A.S.A. 1947, § 80-4307; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1.

**6-51-611. License renewal.**

- (a) Licenses shall be renewable annually.
  - (b) The licensing period shall be determined by the State Board of Private Career Education.
  - (c) (1) Application for renewal of a school license is to be provided in the form and manner prescribed by the board.
  - (2) The school and its programs of study, facilities, faculty, and all other operations must meet the minimum standards as established by rules and regulations.
  - (d) An application for renewal of an admissions representative's license shall be made on the forms and in the manner prescribed by the board.
- History.** Acts 1983, No. 770, § 7; A.S.A. 1947, § 80-4307; Acts 1989, No. 906, § 1; 1995, No.

1213, § 1.

**6-51-612. Penalty for operating school without license.**

(a) Any person, admissions representative, each member of any association of persons, or each officer of any corporation who opens and conducts a school, satellite school, or extension course site, as defined in this subchapter, or an out-of-state school which offers to sell a program of study in Arkansas, without first having obtained a license required in this subchapter, shall be guilty of a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or thirty (30) days' imprisonment, or both, at the discretion of the court.

(b) Each day said school continues to be open and operate shall constitute a separate offense.

**History.** Acts 1983, No. 770, § 9; A.S.A. 1947, § 80-4309; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1.

**6-51-613. Contracts and promissory notes of unlicensed schools void — Recovery of tuition.**

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

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

**History.** Acts 1983, No. 770, § 10; A.S.A. 1947, § 80-4310; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1.

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

(a) The State Board of Private Career Education, acting by and through the director, shall have the authority to refuse to issue a school license, to place on probation, or to revoke a school license theretofore issued.

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

**History.** Acts 1983, No. 770, § 7; A.S.A. 1947, § 80-4307; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2005, No. 1962, § 15.

**6-51-615. Denial or suspension of admissions representative's license — Review — Penalty.**

(a) No person shall be granted an admissions representative's license if, upon investigation, the applicant is found not to meet the requirements for an admissions representative under this subchapter.

(b) The Director of the State Board of Private Career Education, upon receipt of information considered dependable which indicates fraud, misrepresentation, or unethical practices on the part of an applicant, may deny issuance of a license applied for or may suspend immediately a

license already issued pending a review by the State Board of Private Career Education.

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

(d) Any person violating the provisions of this subchapter shall be guilty of a Class B misdemeanor.

**History.** Acts 1983, No. 770, §§ 11, 12; A.S.A. 1947, §§ 80-4311, 80-4312; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2005, No. 1994, § 235.

**6-51-616. Student grievance procedure.**

(a) Any student may file a written complaint with the director on the forms prescribed and furnished by the director for that purpose if the student has reason to believe he or she is suffering loss or damage resulting from:

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

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

(b) All complaints shall be investigated, and attempts shall be made to resolve them informally. If an informal resolution cannot be achieved, the aggrieved party may request a formal hearing to be held before the Private Career Education Arbitration Panel.

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

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

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

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

**History.** Acts 1989, No. 906, § 1; 1989 (3rd Ex. Sess.), No. 51, § 1; 1995, No. 1213, § 1; 2003, No. 1781, § 14.

**6-51-617. Private Career Education Arbitration Panel.**

(a) The Private Career Education Arbitration Panel as referenced in this section shall represent the sole authority to resolve disputes between a student and schools as to grievances relating to:

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

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

(b) (1) The State Board of Private Career Education shall appoint the arbitration panel, which shall be composed of three (3) members. One (1) member shall be from the school sector, and two (2) members shall be from the general public.

(2) No member of the arbitration panel may serve for hearings which involve the member's school.

(c) (1) In resolving disputes, the arbitration panel shall be exempt from judicial redress for failure to exercise skill or care in the performance of its duties.

(2) The arbitration proceeding, confirmation, or vacation of an award and appeal shall be conducted pursuant to the Uniform Arbitration Act, §§ 16-108-201 et seq.

**History.** Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2003, No. 1781, § 15.

**6-51-618. Fines.**

(a) Whenever the State Board of Private Career Education finds that a school is guilty of a violation of this subchapter or the rules and regulations of the board, it shall have the power and

authority to impose a penalty on the school.

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

(c) (1) Upon imposition of a penalty, the board shall have the power and authority to require that the school pay a penalty to the board with regard to the violation, with the sanction that the license may be suspended until the penalty is paid.

(2) No penalty imposed by the board may exceed five hundred dollars (\$500) per violation.

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

(e) The power and authority of the board to impose these penalties shall not be affected by any other civil or criminal proceeding concerning the same violation.

**History.** Acts 1995, No. 1213, § 1; 2003, No. 1781, § 16.

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

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

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

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

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

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

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

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

**History.** Acts 1995, No. 1213, § 1.

**6-51-620. Bond.**

(a) (1) Each school licensed under this subchapter shall maintain a surety bond during its licensure.

(2) The surety bond shall be submitted to the State Board of Private Career Education on or before the expiration date of the bond.

(3) The bond shall be for the period during which the license is issued.

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

(i) A violation of a provision of this subchapter or any rule or regulation

of this board by the school or its officers, admissions representatives, or employees; or

(ii) The failure or neglect of the school 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 licensure and the materials submitted in support of that application; or

(iii) An admissions representative's misrepresentation in procuring the student's enrollment.

(B) (i) A surety on that bond may be released after the surety has made a written notice of at least thirty (30) days before the release.

(ii) However, a surety may not be released from the bond unless all sureties on the bond are released.

(C) (i) The license shall be suspended when that school is no longer covered by a surety bond meeting the required amount.

(ii) The board shall notify the school in writing at least ten (10) days prior to release of the surety or sureties that the license is suspended until another surety bond is filed in the manner and amount required under this chapter.

(5) (A) The bond shall be based on gross tuition, meaning the total amount collected by a school during the most recently completed twelve-month fiscal year, reduced only by the amount of refunds paid during the fiscal year, for tuition, application fees, registration fees, and those other fees deemed appropriate by rule and regulation of the board;

(B) Provided, however, that, for a school located outside of this state which is authorized to recruit in this state, "gross tuition" means only the amount of such tuition and fees collected from residents of this state.

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

(A) Except as provided in subdivisions (a)(6)(B) and (C) of this section, a school shall procure and maintain a bond equal to ten percent (10%) of the gross tuition with a minimum bond amount of five thousand dollars (\$5,000) with the maximum bond amount to be determined by the board.

(B) Schools that have no gross tuition charges assessed for the previous year shall secure and maintain a surety bond in the amount of ten thousand dollars (\$10,000).

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

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

(b) A surety bond is not required for licensees approved by the board on April 10, 1995, and that maintain continuous licensure.

(c) No right of action shall accrue on the surety bond to or for the use of any person or entity other than the obligee named in the bond or the heirs, executors, administrators, or successors of the obligee.

**History.** Acts 1995, No. 1213, § 1; 2003, No. 1781, §§ 17-19.

#### **6-51-621. Construction of subchapter.**

Nothing in this subchapter shall be construed to affect the responsibilities of the Arkansas Higher Education Coordinating Board as defined in § 6-61-301.

**History.** Acts 1995, No. 1213, § 2.

#### **6-51-622. Noncommercial driver training instruction.**

(a) A person teaching or instructing a person seventeen (17) years of age or younger to drive a noncommercial motor vehicle or a motorcycle shall offer the minimum amount of driver

training to the student driver as prescribed by this section.

(b) The minimum requirements for classroom driver training instruction for noncommercial motor vehicles shall consist of:

(1) Thirty (30) hours or more of classroom instruction on driving techniques and rules of the road in Arkansas, including six (6) hours of classroom instruction on traffic law changes that have occurred within the last ten (10) years; and

(2) Ten (10) hours of behind-the-wheel driving experience.

(c) The minimum requirements of correspondence programs for driver training instruction for noncommercial motor vehicles shall consist of:

(1) A maximum of twenty-eight (28) hours of correspondence work;

(2) A minimum of two (2) hours or more of classroom instruction on driving techniques and rules of the road in Arkansas; and

(3) Ten (10) hours of behind-the-wheel driving experience.

(d) (1) The State Board of Private Career Education may promulgate reasonable rules and regulations to implement, enforce, and administer this section.

(2) The board's regulations shall be issued in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(e) The requirements for classroom driver training instruction for a motorcycle are:

(1) A minimum of five (5) hours of classroom instruction on driving techniques and rules of the road in Arkansas; and

(2) A minimum of ten (10) hours of actual motorcycle driving experience.

**History.** Acts 2001, No. 1756, § 1; 2009, No. 1478, §§ 5, 6.

**6-51-623. Defensive driving instruction.**

A person shall not be required to obtain a license from the State Board of Private Career Education as a requirement for teaching or providing a course in defensive driving under a court-mandated defensive driving class.

**History.** Acts 2003, No. 768, § 1.