



SENATE BILL No. 661

May 26, 1993, Introduced by Senator BOUCHARD and referred
to the Committee on Education.

A bill to regulate proprietary schools; to establish license
and other fees; to establish procedures for disciplinary action;
to establish civil and criminal penalties; and to provide certain
duties of certain state agencies and officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 1

DEFINITIONS

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Sec. 1. This act shall be known and may be cited as "the
proprietary school licensing act of 1993".

Sec. 2. As used in this act, the words and phrases defined
in sections 3 and 4 have the meanings given to them in those
sections.

Sec. 3. (1) "Course" means a component unit of an
instructional program.

1 (2) "Department" means the department of education.

2 (3) "Foreign proprietary institution" means a private trade
3 school, business school, correspondence school, or institute that
4 is located outside of this state; is organized to offer instruc-
5 tion to the public in any manner in any trade, occupation, or
6 vocation for money or any other consideration; and does not pos-
7 sess authority to grant baccalaureate degrees.

8 (4) "Instructional program" means 1 or more structured
9 learning experiences designed to accomplish a predetermined
10 objective or set of allied objectives in any particular trade,
11 occupation, or vocation.

12 (5) "Licensee" means the holder of a license to establish or
13 maintain and operate, or both, a proprietary school.

14 Sec. 4. (1) "Person" means an individual, partnership, cor-
15 poration, association, organization, or other legal entity.

16 (2) "Proprietary school" means a private trade school, busi-
17 ness school, correspondence school, institute, or facility
18 located and doing business in this state by offering instruction
19 or training to the public for tuition, fee, or charge in any
20 trade, occupation, or vocation, either in the recipient's home or
21 at a designated location. Proprietary school does not include
22 the following:

23 (a) An educational institution created by the legislature or
24 a state department.

25 (b) An educational institution or educational training pro-
26 gram that is maintained or provided by an employer or group of

1 employers, without charge, for its employees or anticipated
2 employees.

3 (c) An educational institution or educational training pro-
4 gram that is maintained or provided by a labor organization,
5 without charge, for its members or apprentices.

6 (d) An educational institution or educational training pro-
7 gram that is maintained by a joint union-management nonprofit
8 benefit plan to provide training in a skilled trade for its
9 employees or members.

10 (e) An educational institution or educational training pro-
11 gram that offers only self-improvement, motivational, or avoca-
12 tional courses or programs that are not designed to prepare indi-
13 viduals for employment or an occupation.

14 (f) A real estate continuing education course for licensed
15 real estate brokers, licensed associate real estate brokers, or
16 licensed real estate salespersons that is required by the depart-
17 ment of commerce for license renewal and is approved by the
18 department of commerce.

19 (g) A degree-granting 2-year or 4-year college or
20 university.

21 (h) An educational institution that offers only instruction
22 that is less than 30 clock hours in length.

23 (i) A school licensed by law through an agency of this state
24 other than the department.

25 (3) "Revenue fund" means the fee revenue fund created in
26 section 16.

8 (6) "Superintendent" means the superintendent of public
9 instruction.

12 (8) "Tuition reimbursement fund" means the tuition reim-
13 bursement fund created in section 42.

16 Sec. 11. (1) A person shall not establish or maintain and
17 operate a proprietary school unless the proprietary school is
18 licensed by the state board under this act. A separate license
19 is required for each location at which instruction is offered,
20 except a proprietary school may offer instruction at an auxiliary
21 classroom or a public assembly site without obtaining a separate
22 license for that location. However, if a proprietary school
23 operates at multiple locations under the same management and
24 operates only identical instructional programs in income tax
25 preparation or income tax theory, each consisting of 80 or fewer
26 hours of instruction, the proprietary school may operate those
27 instructional programs under a single license held by 1

1 licensee. For purposes of this subsection, "same management"
2 includes operation by a franchisee of the licensee if the
3 instructional program operated by the franchisee consists of a
4 curriculum developed by the licensee and is taught according to
5 guidelines set by the licensee. As used in this subsection:

6 (a) "Auxiliary classroom" means a facility used only for
7 instruction by the proprietary school that is located not more
8 than 1 mile from the location at which the proprietary school is
9 licensed to operate.

10 (b) "Public assembly site" means a site located in a public
11 educational institution or located in a public meeting area suit-
12 able for instruction in a public or privately owned facility.

13 (2) A license issued under this act is valid for not more
14 than 1 year for the period July 1 to June 30 and shall be renewed
15 if the applicant continues to comply with this act and the rules
16 promulgated under this act.

17 (3) An applicant for a proprietary school license or renewal
18 shall apply to the department for a license in the form and
19 manner prescribed by the state board. The application shall
20 include attachments and information required by this act for a
21 license and for approval of each instructional program the appli-
22 cant seeks to have included on the license.

23 (4) An application for initial licensure of a proprietary
24 school shall include the required application fee and initial
25 license fee under section 16 and information about the applicant
26 or the proprietary school as required by the state board.

1 (5) An application by a licensee for renewal of a license
2 shall include the required license fee under section 16 and the
3 assessments for the tuition reimbursement fund required under
4 section 42. If the applicant operates a proprietary school that
5 offers 1 or more instructional programs consisting of more than
6 80 hours of instruction, the application for renewal shall also
7 include a financial report as required by the superintendent that
8 includes at least a statement of the proprietary school's cash
9 receipts, disbursements, assets, liabilities, and capital, as
10 those items relate to the requirements of this act, and statisti-
11 cal reports required under subsection (6). The licensee shall
12 pay for the required financial report.

13 (6) An applicant for renewal of a license shall submit sta-
14 tistical reports as specified by the state board that include at
15 least enrollment data. For each instructional program consisting
16 of more than 80 hours of instruction, the statistical reports
17 shall also include the completion rate for the instructional pro-
18 gram and job placement data for those completing the instruc-
19 tional program.

20 (7) If an application for licensure or renewal does not
21 include all of the fees and information required by this act, the
22 state board shall not consider the application for licensure or
23 renewal.

24 (8) The department shall include on a license issued under
25 this section a listing of all instructional programs the propri-
26 etary school is authorized to offer under section 24.

1 (9) A proprietary school shall post its license in a
2 location at the school that is readily visible to the public.

3 Sec. 12. (1) A foreign proprietary institution shall not
4 solicit students in this state or employ or contract with a
5 person to solicit students in this state unless the foreign pro-
6 prietary institution has obtained a certificate of compliance
7 under this section. An applicant for a certificate of compliance
8 shall submit a written application to the department in the form
9 and manner prescribed by the state board. The application shall
10 include all information required by the state board.

11 (2) A certificate of compliance issued to a foreign propri-
12 etary institution shall specify the particular curriculum, insti-
13 tutional management, and address covered by the certificate of
14 compliance. The address specified shall be for a definite
15 location. If the foreign proprietary institution changes any of
16 those specifics, the certificate of compliance is invalid.

17 (3) A certificate of compliance remains in effect as long as
18 the foreign proprietary institution pays the applicable annual
19 fees set forth in section 16 and is determined by the department
20 to be continuing to comply with this act. The department may
21 revoke a certificate of compliance if, after written notice and
22 an opportunity for a hearing, the state board finds that the for-
23 eign proprietary institution has not complied with this act.

24 Sec. 13. (1) In addition to other information required
25 under this act in an application for a license, renewal, or cer-
26 tificate of compliance, an applicant shall disclose all of the
27 following information:

1 (a) Whether the applicant, a person holding an ownership or
2 control interest in the proprietary school or foreign proprietary
3 institution that is the subject of the application, or an
4 employee of the proprietary school or foreign proprietary insti-
5 tution who is responsible in a supervisory capacity for the
6 administration of student funds or government funds has been con-
7 victed of a criminal violation of this act or of another crime in
8 this state or another jurisdiction involving the operation of an
9 educational or training program or the unlawful acquisition, use,
10 payment, or expenditure of the funds of an educational or train-
11 ing program.

12 (b) Whether the applicant, a person holding an ownership or
13 control interest in the proprietary school or foreign proprietary
14 institution that is the subject of the application, or an
15 employee of the proprietary school or foreign proprietary insti-
16 tution who is responsible in a supervisory capacity for the
17 administration of student or government funds has been finally
18 adjudicated in an administrative or civil proceeding to have vio-
19 lated this act, a rule promulgated under this act, an order of
20 the state board, department, or superintendent related to this
21 act, or a rule promulgated under this act or to have committed a
22 similar violation of law in another jurisdiction relating to the
23 licensure or operation of an educational or training program.

24 (c) Whether any proprietary school, foreign proprietary
25 institution, or other educational or training program operated by
26 the applicant in this or another state has closed or ceased
27 operation, and whether, at the time of the closing or cessation,

1 the applicant was subject to a pending disciplinary action or
2 penalty or was delinquent in paying a refund to any government
3 agency or student.

4 (2) The state board shall not deny an application for a
5 license, renewal, or certificate of compliance because of a dis-
6 closure made pursuant to subsection (1) unless the state board
7 makes a written determination that there is a direct relationship
8 between 1 or more of the disclosures and the license, renewal, or
9 certificate sought or that issuing the license, renewal, or cer-
10 tificate would create an unreasonable risk to property or to the
11 safety, education, or welfare of 1 or more specific individuals
12 or the general public.

13 (3) The state board may deny, suspend, revoke, or decline to
14 renew a license or certificate of compliance if it determines
15 that the significance of a disclosure under subsection (1) war-
16 rants the action or if it determines that an applicant failed to
17 make a disclosure required under subsection (1).

18 (4) As used in this section, "ownership or control interest"
19 means, for a proprietary school or foreign proprietary institu-
20 tion organized as or owned by a corporation, a position as an
21 officer or director of the corporation; for a proprietary school
22 or foreign proprietary institution that is organized as or owned
23 by a partnership, a position as a partner; or any other direct or
24 indirect interest totalling at least 10% of the total assets or
25 equity of a proprietary school or foreign proprietary
26 institution.

1 Sec. 14. (1) A license or certificate of compliance issued
2 under this act is not transferable or assignable unless the
3 transfer or assignment is approved by the state board under this
4 section. A transfer or assignment that changes ownership control
5 of a proprietary school or foreign proprietary institution or
6 that totals 50% or more of a proprietary school's or foreign pro-
7 prietary institution's total assets or equity is considered a
8 transfer or assignment of a license or certificate of
9 compliance.

10 (2) A person seeking a transfer or assignment of a license
11 or certificate of compliance shall apply to the state board for
12 approval. The application shall be in the form and manner pre-
13 scribed by the state board. In determining whether to approve or
14 deny a transfer or assignment of a license or certificate of com-
15 pliance to a particular person, the state board shall evaluate
16 the transferee or assignee using the same factors used under this
17 act to determine whether to approve or deny a license, renewal,
18 or certificate. Not later than 30 days after the application is
19 submitted, the state board shall notify an applicant for transfer
20 or assignment of a license or certificate in writing of its
21 approval or denial of the application, together with the reasons
22 for a denial. An approval or denial is retroactive to the date
23 the application was submitted.

24 (3) A licensee or certificate holder shall report a transfer
25 or assignment of any interest totalling at least 10% but less
26 than 50% of the proprietary school's or foreign proprietary

1 institution's total assets or equity to the superintendent within
2 90 days after the transfer or assignment.

3 Sec. 15. (1) A proprietary school or foreign proprietary
4 institution shall apply for and obtain a solicitor's permit from
5 the department for each solicitor employed by or under contract
6 to the proprietary school or foreign proprietary institution and
7 pay the solicitor's permit fee required under section 16.

8 (2) A person shall not act as a solicitor for a proprietary
9 school or a foreign proprietary institution unless the person is
10 employed by or under contract to the proprietary school or for-
11 eign proprietary institution and the proprietary school or for-
12 eign proprietary institution has obtained a solicitor's permit
13 for the person under subsection (1).

14 (3) The department shall issue a solicitor's permit or a
15 renewal to a proprietary school or foreign proprietary institu-
16 tion for a solicitor if the proprietary school or foreign propri-
17 etary institution demonstrates to the satisfaction of the depart-
18 ment that the solicitor has good moral character and will use
19 ethical and fair practices in the presentation of services to a
20 prospective student.

21 (4) A permit issued under this section is valid for a period
22 of 1 year after the date of issuance and shall state the propri-
23 etary school or foreign proprietary institution for which the
24 solicitor is authorized to solicit students.

25 (5) Not later than 30 days after a proprietary school or
26 foreign proprietary institution applying for a solicitor's permit
27 under this section submits a complete application, the

1 superintendent shall issue a temporary authorization to the
2 proprietary school or foreign proprietary institution that is
3 valid until the superintendent grants or denies the permit.

4 (6) A solicitor shall not represent more than 1 proprietary
5 school or foreign proprietary institution under different owner-
6 ship unless each of the proprietary schools or foreign propri-
7 etary institutions has obtained a solicitor's permit for the
8 solicitor.

9 (7) A solicitor shall not guarantee a job after graduation
10 to a prospective student.

11 (8) For the purposes of this act, a solicitor is an agent of
12 each proprietary school or foreign proprietary institution he or
13 she represents. If a solicitor violates this act or solicits or
14 enrolls a student through fraud or misrepresentation while repre-
15 senting a proprietary school or foreign proprietary institution,
16 the proprietary school or foreign proprietary institution shall
17 be considered to have committed the violation, and, in addition
18 to other remedies available under this act, the superintendent
19 may revoke the proprietary school's or foreign proprietary
20 institution's solicitor's permit for that solicitor upon 10 days'
21 notice and after an opportunity for a hearing.

22 Sec. 16. (1) Subject to subsections (2) and (3), the
23 department shall collect the following fees under this act:

24 (a) An applicant for initial licensure of a proprietary
25 school or for an initial certificate of compliance for a foreign
26 proprietary institution shall pay an application fee of \$500.00.

1 (b) A proprietary school approved by the state board to
2 receive an initial license shall pay a fee of \$1,000.00 before
3 beginning operation of the proprietary school or soliciting
4 students.

5 (c) A foreign proprietary institution approved by the state
6 board to receive an initial certificate of compliance or a
7 renewal shall pay a fee of \$1,000.00 before soliciting students
8 in the state.

9 (d) An applicant for renewal of a proprietary school license
10 for a proprietary school that operates 1 or more instructional
11 programs consisting of 80 or fewer hours of instruction and does
12 not operate any instructional programs consisting of more than
13 80 hours of instruction shall pay a license renewal fee of
14 \$600.00.

15 (e) An applicant for renewal of a proprietary school license
16 for a proprietary school that operates 1 or more instructional
17 programs consisting of more than 80 hours of instruction shall
18 pay a license renewal fee of \$900.00.

19 (f) An applicant for approval of a change in the number of
20 hours of instruction in an instructional program or for approval
21 of an additional instructional program for a proprietary school
22 shall pay a fee of \$200.00.

23 (g) An applicant for approval of a change in the location of
24 a proprietary school shall pay a fee of \$200.00.

25 (h) A proprietary school or foreign proprietary institution
26 shall pay a fee of \$400.00 for each solicitor's permit issued to
27 the school under section 15.

1 (i) If a license is transferred or assigned under
2 section 14, the transferee or assignee shall pay a fee of
3 \$500.00.

4 (2) The department may begin to collect the fees specified
5 in this section at any time beginning on the effective date of
6 this act. If a proprietary school or foreign proprietary insti-
7 tution has already paid an amount under prior law that covers all
8 or part of the same period as a fee under this section, the
9 department shall credit that amount against the fee due from the
10 proprietary school or foreign proprietary institution under this
11 section.

12 (3) At the beginning of each state fiscal year, the state
13 board shall adjust the amount of the fees charged under this sec-
14 tion as follows:

15 (a) If the state board determines that the sum of the bal-
16 ance remaining in the fee revenue fund established under
17 subsection (4) at the end of the immediately preceding state
18 fiscal year plus the revenue that would be expected if the fees
19 were not adjusted from those in effect in the immediately preced-
20 ing state fiscal year would exceed the amount appropriated by the
21 legislature to administer this act in the state fiscal year in
22 which the calculation is made, the state board shall decrease the
23 amount of each type of fee proportionately so that the total
24 amount of fee revenue under this section will equal not more than
25 115% of the amount appropriated by the legislature for the admin-
26 istration of this act for the state fiscal year in which the
27 calculation is made.

1 (b) If there is no adjustment made under subdivision (a),
2 the state board shall adjust the amount of the fees by the same
3 percentage as the percentage increase or decrease in the Detroit
4 consumer price index for all items, as reported by the United
5 States bureau of labor statistics and certified by the state
6 treasurer. The adjustment shall be made by multiplying the per-
7 centage increase or decrease in that Detroit consumer price index
8 for all items for the immediately preceding state fiscal year
9 times the fee in effect in the immediately preceding state fiscal
10 year, adding that product to the fee in effect in the immediately
11 preceding state fiscal year, and rounding the sum to the nearest
12 whole dollar.

13 (4) There is created the fee revenue fund as a separate fund
14 in the state treasury, to be administered by the department. All
15 revenue received from fees under this section or from other
16 sources under this act that is not credited to the tuition reim-
17 bursement fund shall be credited to the fee revenue fund and used
18 for administration of this act. Money remaining in the fee reve-
19 nue fund at the end of a fiscal year shall not revert to the gen-
20 eral fund but shall be carried over in the fund to the next and
21 succeeding state fiscal years.

22 PART 3

23 OPERATION OF PROPRIETARY SCHOOLS

24 Sec. 21. (1) A proprietary school that operates an instruc-
25 tional program consisting of more than 80 hours of instruction
26 shall not admit as a student in the instructional program an
27 individual who does not possess a high school diploma, general

1 educational development certificate (G.E.D.), or a generally
2 recognized equivalent from a foreign country unless the student
3 demonstrates before admission to the instructional program that
4 he or she has the ability to benefit from the instruction, deter-
5 mined as described in subsection (2).

6 (2) A proprietary school described in subsection (1) shall
7 determine a student's ability to benefit from his or her chosen
8 instructional program by administering an examination approved by
9 the state board as being an effective measurement of a prospec-
10 tive student's ability to benefit from the particular instruc-
11 tional program. An examination approved for use shall be appro-
12 priate for the particular instructional program and, so far as
13 practicable, shall be an examination approved by the United
14 States department of education. The proprietary school shall
15 maintain each student's examination results and original examina-
16 tion answer sheet in the student's permanent record.

17 (3) A proprietary school described in subsection (1) shall
18 administer an examination under this section in accordance with
19 testing procedures that are established by the testing company
20 that supplied the examination and are approved by the
21 superintendent.

22 (4) A proprietary school described in subsection (1) shall
23 establish and enforce a specific score necessary to pass an exam-
24 ination described in this section and shall report that score to
25 the state board as part of the examination approval process. In
26 addition, at the request of the department the proprietary school
27 shall supply to the department a detailed description of the

1 criteria and rationale used to determine the passing score. If a
2 prospective student fails an examination under this section, the
3 proprietary school shall adhere to procedures and conditions for
4 retesting that are recommended by the testing company and
5 approved by the superintendent.

6 Sec. 22. A proprietary school that operates an instruc-
7 tional program consisting of more than 80 hours of instruction
8 shall advise students in the instructional program and prospec-
9 tive students on an individual basis on matters including, but
10 not limited to, the student's ability to progress in the instruc-
11 tional program; the availability of free or low-cost programs to
12 earn a general educational development certificate (G.E.D.) or a
13 high school diploma, or for remedial instruction; and the poten-
14 tial of the instructional program to prepare the student for
15 available employment opportunities within the geographic region
16 in which the proprietary school is located. The proprietary
17 school shall provide advising on a regular and continuing basis
18 for each student in the instructional program.

19 Sec. 23. (1) A proprietary school that operates an instruc-
20 tional program consisting of more than 80 hours of instruction
21 shall provide to each student admitted to the instructional pro-
22 gram before enrollment at least all of the following information
23 in writing in plain language:

24 (a) Information concerning the proprietary school, includ-
25 ing, but not limited to, all of the following:

26 (i) A description of the courses offered.

1 (ii) Program objectives and the length of the instructional
2 program.

3 (iii) A schedule of tuition payments, fees, and all other
4 charges and expenses necessary for completion of the instruc-
5 tional program.

6 (iv) The tuition refund and contract cancellation policies
7 and procedures of the proprietary school.

8 (v) A description of the faculty and other instructional
9 personnel and their qualifications.

10 (vi) The names of associations, agencies, or governmental
11 bodies that accredit, approve, or license the proprietary
12 school.

13 (vii) A description of any special facilities and services
14 available to handicapped students.

15 (viii) Any other items required by rules promulgated under
16 this act.

17 (b) The completion rate for students in the instructional
18 program for the most recent calendar year.

19 (c) The job placement rate for students who completed the
20 instructional program in the most recent calendar year, showing
21 the percentage of students who obtained employment in an occupa-
22 tion for which the instructional program is offered.

23 (d) The pass rate of graduates of the instructional program
24 for the most recent calendar year on any licensure or certifica-
25 tion examination required by the state for employment in each
26 particular occupational field for which the proprietary school

1 offers training, if this information is available to the
2 proprietary school.

3 (e) Information concerning student financial assistance for
4 which the student may be eligible, including at least a descrip-
5 tion of the procedures and forms, student eligibility require-
6 ments, and the rights and responsibilities of students receiving
7 financial aid.

8 (f) A description of the proprietary school's internal com-
9 plaint procedures.

10 (g) A description of the procedures for filing a complaint
11 with the superintendent under section 55.

12 (2) A proprietary school shall submit the written informa-
13 tion required under subsection (1) to the superintendent for
14 approval as part of the annual license renewal process.

15 Sec. 24. (1) A proprietary school shall not offer an
16 instructional program unless the curriculum of the instructional
17 program is approved by the department and the instructional pro-
18 gram is authorized on the proprietary school's license.

19 (2) Before operating an instructional program or course or
20 changing the number of hours of instruction in an approved
21 instructional program, a proprietary school shall apply to the
22 department for approval of the curriculum for the instructional
23 program or of the change in the number of hours of instruction in
24 the instructional program in the form and manner prescribed by
25 the department, supplying the information required by the
26 department. If the curriculum of the instructional program is
27 approved under this section, the department shall authorize the

1 proprietary school to offer the instructional program and shall
2 indicate the authorization on the proprietary school's license.

3 (3) Initial approval of a curriculum under this section is
4 valid for 3 years. After that time, the superintendent may
5 require reapproval of a curriculum if he or she has cause to
6 believe that the curriculum is not meeting the needs of
7 students.

8 (4) For a curriculum to be eligible for approval, the pro-
9 prietary school shall demonstrate to the satisfaction of the
10 department that the curriculum meets at least all of the follow-
11 ing requirements:

12 (a) The admission standards will effectively require suc-
13 cessful applicants to demonstrate that they possess the skills,
14 competencies, and prerequisite knowledge needed to progress in
15 the curriculum.

16 (b) The content will enable the student to develop the
17 skills and competencies required for employment in the occupa-
18 tional area for which the instructional program was developed and
19 will be offered.

20 (c) The proprietary school will use appropriate facilities
21 and instructional methods.

22 (d) The instructional equipment to be used in the instruc-
23 tional program is comparable to the equipment being used at the
24 time of application for curriculum approval by business or indus-
25 try in the occupational area for which the instructional program
26 was developed and will be offered.

1 (e) If students are required as part of the curriculum to
2 engage in industrial or commercial activity, the required
3 industrial or commercial activity is reasonably necessary to gain
4 practical experience needed for the occupational program for
5 which the instructional program was developed and will be
6 offered.

7 (5) If the evaluation of a particular curriculum, portion of
8 a curriculum, or facility used in an instructional program
9 requires the services of an expert not employed by the depart-
10 ment, the department may contract with such an expert.

11 (6) Upon request by a proprietary school, the department may
12 contract with a consultant to expedite an approval, and the pro-
13 prietary school shall reimburse the department for the reasonable
14 cost of the consultant's services.

15 Sec. 25. (1) A proprietary school shall not use an enroll-
16 ment agreement or a catalog unless it meets the requirements con-
17 tained in rules promulgated by the state board under section 61.

18 (2) A proprietary school shall use a student enrollment
19 agreement form that is written in plain language and shall pro-
20 vide a copy to the student. An enrollment agreement entered into
21 by a proprietary school is subject to the tuition refund provi-
22 sion of part 4.

23 Sec. 26. (1) A proprietary school's housing, instructional,
24 and other facilities shall conform to all applicable standards
25 prescribed by the appropriate local and state authorities,
26 including, but not limited to, fire, health, safety, building
27 construction, and sanitary requirements.

1 (2) A proprietary school shall notify the department before
2 changing the location of any of its facilities.

3 Sec. 27. After a particular course in a proprietary school
4 begins, the proprietary school shall not do any of the
5 following:

6 (a) Make any unscheduled cancellation or suspension of the
7 course without giving each student an opportunity to receive a
8 full refund for the course.

9 (b) Change the location of the proprietary school or change
10 the day, time, or location of any scheduled class unless the stu-
11 dents enrolled at the time of the change had been informed in
12 writing of the possible change at the time of their initial
13 enrollment for the class. If no prior notification was given,
14 and the new location of the proprietary school or the new day,
15 time, or location of the class is not equally convenient for a
16 particular student as the original day, time, or location, the
17 proprietary school shall make an adjustment of tuition charges
18 for the affected student as agreed to in writing by the affected
19 student.

20 (c) Alter the number of hours of instruction advertised for
21 a course in the proprietary school's catalog or other printed
22 material without obtaining the prior written consent of each stu-
23 dent enrolled in the course and notifying the department.

24 Sec. 28. A proprietary school shall establish and maintain
25 an internal complaint process for students to express to the pro-
26 prietary school's administration any concerns about academic or
27 administrative matters.

1 Sec. 29. A proprietary school shall not require students of
2 the proprietary school to engage in industrial or commercial
3 activity as part of a course or instructional program unless the
4 activity is part of the curriculum of the instructional program
5 as approved under section 24.

6 Sec. 30. A proprietary school shall employ and use only
7 administrative, supervisory, and instructional staff who have
8 appropriate education or experience in each substantive field
9 that the individual is assigned to administer, supervise, or
10 teach.

11 Sec. 31. (1) A proprietary school shall not use a name that
12 includes the word "college" or "university". A proprietary
13 school shall not use a name that implies that the proprietary
14 school is affiliated with a government agency or that could imply
15 that the proprietary school is affiliated with a public or pri-
16 vate corporation, agency, or association with which it is not in
17 fact affiliated. A proprietary school may advertise that it is
18 licensed by the state board but shall not represent that it is
19 approved, recommended, endorsed, or accredited by the state board
20 or the department.

21 (2) A proprietary school or foreign proprietary institution
22 shall ensure that all published advertising literature, illustra-
23 tions, diagrams, and other advertising media regarding the pro-
24 prietary school or foreign proprietary institution convey only
25 true and accurate information supported by facts and statistics
26 about the proprietary school or foreign proprietary institution,
27 its management, instruction, and offerings, and the occupational

1 opportunities it provides, and that the advertising includes the
2 name that appears on the proprietary school's license or the for-
3 eign proprietary institution's certificate of compliance and the
4 address and city where the proprietary school or foreign propri-
5 etary institution is located.

6 (3) A proprietary school or foreign proprietary institution
7 or its agent shall not do any of the following:

8 (a) Make any misrepresentation concerning any of the
9 following:

10 (i) Employment opportunities for graduates, including, but
11 not limited to, suitable jobs, job availability, and probable
12 earnings.

13 (ii) The proprietary school's or foreign proprietary
14 institution's facilities, instructional programs, courses, man-
15 agement, operational policies, charges for tuition and fees,
16 available training equipment, instructors' qualifications, or
17 placement activities.

18 (iii) Transfer to degree-granting colleges and
19 universities.

20 (iv) Eligibility for student financial assistance.

21 (b) Make any statement or representation in an advertisement
22 or solicitation that a student will be guaranteed employment
23 while enrolled in the proprietary school or foreign proprietary
24 institution or after graduation.

25 (c) Include in an advertisement or solicitation a quote of a
26 dollar amount as representing or indicating the earning potential
27 of graduates.

1 (4) The department may at any time require a proprietary
2 school or foreign proprietary institution to furnish proof of the
3 truth and accuracy of any of the specific claims in its
4 advertising. If the proprietary school or foreign proprietary
5 institution does not furnish proof satisfactory to the depart-
6 ment, the department may order the proprietary school or foreign
7 proprietary institution to cease making the claim and to retract
8 the claim using the same method of advertising as was used to
9 make the claim. A proprietary school or foreign proprietary
10 institution that does not comply with an order under this subsec-
11 tion or that continues advertising a claim described in this sub-
12 section after being ordered to cease is subject to disciplinary
13 action under section 52.

14 Sec. 32. (1) Subject to subsection (2), a proprietary
15 school shall maintain the records required in this act for a
16 period of not less than 6 years at its principal place of busi-
17 ness within this state. The records shall be maintained in the
18 manner and form prescribed in this section and in rules promul-
19 gated by the state board and a proprietary school shall make the
20 records available upon request to the department.

21 (2) In addition to the other requirements of this section, a
22 proprietary school shall retain each student's academic record
23 and transcript, as described in subsection (3), for at least 20
24 years. If the proprietary school closes or discontinues its
25 operations, the proprietary school shall forward all of those
26 student grade records and transcripts to the department.

1 (3) A proprietary school shall make and maintain for each
2 student an academic record and transcript showing at least
3 courses taken, grades earned, and certificates or degrees
4 awarded. Upon request by the student, a proprietary school shall
5 make available to the student his or her academic record and
6 transcript.

7 (4) A proprietary school shall not close, cease instruction,
8 or surrender its license unless it provides to the department at
9 least 30 days before the date of that action written notice of
10 its intention to take that action and a plan for safely securing
11 the academic records and transcripts of the proprietary school
12 and transferring those documents to the department. However, the
13 department may waive the 30-day notice requirement for good
14 cause.

15 (5) Upon ceasing instruction, a proprietary school promptly
16 shall provide to the department pursuant to the plan submitted
17 under subsection (4) the original or a copy of the academic
18 record and transcript of each student that has attended the pro-
19 prietary school.

20 (6) The department shall maintain academic records and tran-
21 scripts received under subsection (4) and, upon written request
22 by a student, shall make available to the student his or her aca-
23 demic record and transcript.

24 Sec. 33. (1) If a proprietary school closes or ceases
25 instruction, the department shall make arrangements with 1 or
26 more other proprietary schools to provide teachout opportunities
27 for the school's students under this section.

1 (2) A proprietary school shall participate in providing
2 teachout opportunities for students of a proprietary school that
3 closes or ceases instruction according to the teachout plan
4 developed by the department for those students.

5 (3) A teachout plan developed by the department shall
6 include at least all of the following:

7 (a) The teachout opportunities shall be arranged with 1 or
8 more teachout schools that offer an instructional program or
9 course that is substantially similar to that offered in the pro-
10 prietary school that closes or ceases instruction.

11 (b) A teachout school must fulfill the enrollment agreement
12 signed by a student at the proprietary school ceasing instruc-
13 tion, except that the department, in consultation with the teach-
14 out school and with the approval of each affected student, may
15 modify the requirements of the enrollment agreement.

16 (c) The teachout plan shall not require a teachout school to
17 provide teachout opportunities in a particular instructional pro-
18 gram to a number of students that exceeds 10% of the teachout
19 school's average enrollment for the instructional program
20 involved in the teachout over the immediately preceding 3 years.

21 (4) A teachout school shall not subject a student who
22 enrolls at the teachout school pursuant to a teachout plan to any
23 costs beyond the total costs identified in the student's original
24 enrollment agreement. The teachout school is entitled to receive
25 any tuition that is still owed to the proprietary school that
26 closes or ceases instruction under the enrollment agreement and

1 may collect those charges from the source from whom the money is
2 owed.

3 (5) A student who claims that his or her participation in a
4 teachout plan would result in undue hardship to the student may
5 decline to enroll at a teachout school pursuant to a teachout
6 plan and instead seek a refund from the tuition reimbursement
7 fund under section 43. The student's eligibility for a refund
8 shall be determined under section 43.

9 (6) A teachout plan shall identify the expenses to be reim-
10 bursed from the tuition reimbursement fund.

11 (7) As used in this section, "teachout school" means a pro-
12 prietary school that is contractually committed to the department
13 under a teachout plan to provide instruction for students of a
14 proprietary school that closes or ceases instruction.

15 PART 4

16 TUITION REFUNDS

17 Sec. 41. (1) A student at a proprietary school may withdraw
18 from an instructional program or course at any time. If a stu-
19 dent withdraws from an instructional program or course, the pro-
20 prietary school shall pay a refund to the student in the amount
21 calculated under the refund policy specified in this section not
22 later than 45 days after the student's withdrawal.

23 (2) Subject to subsection (3), if all or a portion of the
24 tuition was paid from federal student financial aid money, the
25 refund shall be first used by the proprietary school to repay the
26 unpaid balance of a student loan taken out by the student to the
27 lender of the student loan or, if appropriate, the state or

1 federal agency that guaranteed or reinsured the student loan.
2 After that payment, any amount of the refund in excess of the
3 unpaid balance of the student loan shall be first used by the
4 proprietary school to repay any amount owed by the student to any
5 other student financial aid programs from which the student
6 received benefits, in proportion to the amount of the benefits
7 received. If there is any amount remaining after those payments,
8 the remaining amount shall be paid to the student.

9 (3) If all or a portion of the tuition was paid from federal
10 student financial aid money, the department shall consider com-
11 pliance with the federal regulations concerning refunds of that
12 money to be compliance with subsection (2).

13 (4) Not later than 10 days after the day on which the refund
14 is made, the proprietary school shall notify the student in writ-
15 ing of the date on which the refund was made, the amount of the
16 refund, the method of calculating the refund, and the name and
17 address of each entity to which a part of the refund was sent.
18 The following statement shall be placed at the top of the notice
19 in at least 10-point boldfaced type: "This Notice Is Important.
20 Keep It For Your Records."

21 (5) The following refund policy applies to each proprietary
22 school, except that a proprietary school that is accredited may
23 follow a policy established by the particular accrediting agency
24 and approved by the department:

25 (a) A student is entitled to a full refund if 1 or more of
26 the following are met:

1 (i) The student cancels the enrollment agreement or
2 enrollment application within 3 business days after signing it.

3 (ii) The student did not meet the proprietary school's mini-
4 mum admission requirements.

5 (iii) The student's enrollment was procured as the result of
6 a misrepresentation in the written materials used by the propri-
7 etary school or in oral representations made by or on behalf of
8 the proprietary school.

9 (iv) The student had not visited the proprietary school
10 prior to enrollment and the student withdrew within 3 days after
11 attending a regularly-scheduled orientation or making a tour of
12 the proprietary school facilities and inspection of equipment,
13 whichever is earlier.

14 (b) A student withdrawing from an instructional program
15 within 1 week after entering a proprietary school and starting
16 the instructional program is entitled to a refund of 90% of the
17 contract price of the instructional program, minus \$150.00.
18 However, the proprietary school shall not retain a total of more
19 than \$350.00.

20 (c) A student withdrawing from an instructional program
21 after 1 week but within the first 25% of the duration of the
22 instructional program is entitled to a refund of 75% of the con-
23 tract price of the instructional program, minus \$150.00.

24 (d) A student withdrawing from an instructional program
25 after completing more than 25% but less than 50% of the duration
26 of the instructional program is entitled to a refund of 50% of
27 the contract price of the instructional program, minus \$150.00.

1 (e) A student withdrawing from an instructional program
2 after completing at least 50% but less than 75% of the duration
3 of the instructional program is entitled to a refund of 25% of
4 the contract price of the instructional program, minus \$150.00.

5 (f) A student withdrawing from an instructional program
6 after completing 75% or more of the duration of the instructional
7 program is not entitled to a refund.

8 (6) If the proprietary school specifies in the enrollment
9 agreement for an instructional program a separate charge for
10 equipment that the student actually obtains and the student fails
11 to return that equipment in good condition, allowing for reason-
12 able wear and tear, within 10 days after the date of the
13 student's withdrawal, the proprietary school may offset against
14 the refund calculated under subsection (5) the amount specified
15 in the enrollment agreement for equipment. The student is liable
16 for the amount, if any, by which the amount for equipment exceeds
17 the refund amount calculated under subsection (5).

18 (7) If the proprietary school specifies in the enrollment
19 agreement for an instructional program a separate charge for
20 equipment that the student has not obtained at the time of the
21 student's withdrawal, the student is entitled to the refund
22 described in subsection (5) plus any amount the student has paid
23 of the charge specified in the enrollment agreement for the
24 equipment.

25 (8) For the purpose of determining a refund under this sec-
26 tion, a student shall be considered to have withdrawn from an
27 instructional program on the earliest of the following dates:

1 (a) The date the student notifies the proprietary school in
2 writing of the student's withdrawal.

3 (b) The date the proprietary school terminates the student's
4 enrollment as provided in the enrollment agreement.

5 (c) If the student has failed to attend classes for a period
6 of 3 consecutive weeks and the student is not on a formal leave
7 of absence, the last date of recorded attendance.

8 (d) If the student has failed to submit 3 consecutive com-
9 pleted lessons or has failed to submit a completed lesson within
10 60 days after its due date as required in a self-paced, home
11 study, or correspondence course, the date on which the student
12 submitted the last completed lesson.

13 (9) A proprietary school has the burden of proof to estab-
14 lish the number of classes or hours remaining in a class without
15 a fixed class schedule after a student's withdrawal. The propri-
16 etary school shall maintain records for 5 years of all the evi-
17 dence on which the proprietary school relies under this section.

18 Sec. 42. (1) There is created the tuition reimbursement
19 fund as a separate fund in the state treasury, to be administered
20 by the department. The department may accept money from any
21 source and shall deposit that money and money received from
22 assessments under this section with the state treasurer who shall
23 credit the amount of the deposit to the tuition reimbursement
24 fund. The state treasurer shall direct the investment of the
25 fund money and shall credit earnings to the tuition reimbursement
26 fund.

1 (2) Money in the tuition reimbursement fund at the end of a
2 fiscal year shall not revert to the general fund but shall be
3 carried over in the tuition reimbursement fund to the next and
4 succeeding fiscal years.

5 (3) The tuition reimbursement fund shall be used only to pay
6 tuition refunds to students and other persons pursuant to section
7 43 and for costs incurred by the department in arranging teachout
8 opportunities for students in a situation in which there are not
9 sufficient teachout schools to provide the teachout opportunities
10 pursuant to a teachout plan under section 33. In addition, with
11 the approval of the state board, the department may use money in
12 the tuition reimbursement fund to purchase insurance or reinsur-
13 ance to guarantee that the obligations of the tuition reimburse-
14 ment fund can be met. Except as provided in this subsection, the
15 department shall not use money in the tuition reimbursement fund
16 for salaries or any other cost of administering this act.

17 (4) Not later than 6 months after the effective date of this
18 act, the department shall develop, adopt, and submit to the state
19 board a plan of operation for the tuition reimbursement fund that
20 ensures fair, reasonable, and equitable administration of the
21 tuition reimbursement fund. The department shall also submit a
22 copy of the plan of operation at the same time to the standing
23 committees of the legislature responsible for higher education
24 legislation. That plan of operation shall include at least the
25 following:

26 (a) A process for determining debts and liabilities to be
27 paid from the tuition reimbursement fund.

1 (b) A process for determining assessments to be charged to
2 licensees as a condition of licensure to ensure the solvency of
3 the tuition reimbursement fund. The process for determining
4 assessments shall be structured so that each licensee pays an
5 equitable amount based on the proprietary school's enrollment,
6 tuition charges, and claims history. The initial assessments
7 shall be calculated to generate at least \$30,000.00 to be depos-
8 ited in the tuition reimbursement fund and the process for deter-
9 mining assessments shall ensure that the fund balance at the
10 beginning of each state fiscal year is at least \$30,000.00, minus
11 any amount paid for insurance or reinsurance. The process for
12 determining assessments may be structured so that assessments are
13 imposed and collected to satisfy the obligations of the tuition
14 reimbursement fund only as they arise or to maintain a fund bal-
15 ance of at least \$30,000.00, minus any amount paid for insurance
16 or reinsurance, or both, and may include, but is not limited to,
17 the imposition of emergency assessments.

18 (5) Not later than 30 days after the department submits its
19 plan of operation for the tuition reimbursement fund to the state
20 board under subsection (4), the state board shall approve, disap-
21 prove, or modify the process for determining assessments and
22 shall notify the department and the standing committees of the
23 legislature responsible for higher education legislation of the
24 approval or disapproval.

25 (6) In administering the tuition reimbursement fund, the
26 department shall approve all disbursements from the fund for
27 administration of the tuition reimbursement fund and for payments

1 authorized under this section. The department shall be a party
2 in interest in all proceedings involving a claim against the
3 tuition reimbursement fund, may investigate a claim to determine
4 its validity, and may compromise, settle, and pay a valid claim
5 and deny an invalid claim.

6 (7) The auditor general and the department shall each audit
7 the tuition reimbursement fund annually and the auditor general
8 shall produce an annual financial statement for the tuition reim-
9 bursement fund according to generally accepted accounting
10 principles. If either the auditor general or the department
11 determines as the result of an audit that the resources of the
12 tuition reimbursement fund are inadequate to meet actual or
13 anticipated obligations of the tuition reimbursement fund, the
14 auditor general or department shall make recommendations to the
15 state board on changes to be made in the assessment process to
16 ensure that the tuition reimbursement fund will have adequate
17 resources.

18 (8) The state treasurer shall issue warrants from the
19 tuition reimbursement fund as directed by the department.

20 Sec. 43. (1) To claim a refund from the tuition reimburse-
21 ment fund, a student shall apply to the department in the form
22 and manner required by the department.

23 (2) If a claimant was enrolled at a proprietary school at
24 the time the proprietary school closed or ceased instruction, the
25 claimant is eligible for a refund under this section if the stu-
26 dent is not offered a teachout opportunity pursuant to a teachout
27 plan developed by the department under section 33 for the

1 instructional program in which he or she was enrolled, or if the
2 department determines that requiring the student to continue
3 instruction at a teachout school under a teachout plan would be
4 an undue hardship for the student. A refund under this section
5 shall be in the amount of all tuition payments made by or on
6 behalf of the student to the proprietary school that closed or
7 ceased instruction for courses not completed by the student.

8 (3) Until the amount of the refund is exhausted, a tuition
9 refund under this section shall be paid in the following order of
10 priority:

11 (a) First, to repay the unpaid balance of the loan to a
12 lender or guarantor, as appropriate, of a guaranteed student loan
13 taken out by the claimant for payment of the tuition for which
14 the refund is made.

15 (b) Second, to repay a state or federal government agency
16 that has paid tuition on behalf of the claimant.

17 (c) Third, to the claimant to refund actual personal tuition
18 expenditures or money the claimant borrowed from other sources
19 for tuition.

20 (4) Persons receiving refund money under this section are
21 considered to have assigned or subrogated their tuition refund
22 rights against the proprietary school that closed or ceased
23 instruction to the department on behalf of the tuition reimburse-
24 ment fund for the amount refunded by the tuition reimbursement
25 fund.

26 Sec. 44. (1) If the superintendent determines that a
27 proprietary school has demonstrated a pattern or practice of

1 failing to make tuition refunds in a timely manner under
2 section 41, the superintendent shall require the proprietary
3 school to establish a trust account in a manner prescribed by the
4 superintendent. The assets and funds in the trust account shall
5 be maintained for the sole and exclusive benefit of the students
6 enrolled in the proprietary school.

7 (2) In making the determination under subsection (1), the
8 superintendent shall consider at least all of the following
9 factors:

10 (a) The number of refunds not paid by the school in a timely
11 manner.

12 (b) Whether the pattern of misconduct substantially affects
13 the financial interests of students or the state.

14 PART 5

15 COMPLIANCE AND VIOLATIONS

16 Sec. 51. (1) The department shall conduct periodic sched-
17 uled reviews of proprietary schools to monitor compliance with
18 this act, rules promulgated under this act, and any final order
19 of the state board under this act.

20 (2) The department may conduct an unscheduled inspection of
21 a proprietary school at any time if the department has reason to
22 believe that the proprietary school has violated or is violating
23 this act or rules promulgated under this act or any final order
24 of the state board under this act. The department shall inform
25 the appropriate personnel of the proprietary school of the sus-
26 pected violation in writing at the time of the unscheduled
27 inspection.

1 (3) Upon request by the department, a licensee shall provide
2 to the department any records the department considers necessary
3 to review compliance with this act, rules promulgated under this
4 act, or a final order of the state board issued under this act.

5 Sec. 52. (1) After notice of intent to take disciplinary
6 action and an opportunity for a hearing under section 55, the
7 superintendent may take disciplinary action against a proprietary
8 school, foreign proprietary institution, or solicitor under this
9 section for violation of this act.

10 (2) A proprietary school, foreign proprietary institution,
11 or solicitor is subject to disciplinary action by the superinten-
12 dent for any of the following:

13 (a) Fraudulent statements or misrepresentations to the
14 department, a student, or the public in connection with any
15 activity of the proprietary school or foreign proprietary
16 institution.

17 (b) A violation of this act or rules promulgated under this
18 act.

19 (3) Subject to subsection (4), the superintendent may impose
20 any 1 or more of the following penalties on a proprietary school,
21 foreign proprietary institution, or solicitor that is found to be
22 subject to disciplinary action under subsection (2):

23 (a) A cease and desist order.

24 (b) An order to remedy a violation.

25 (c) Suspension or revocation of a license, certificate of
26 compliance, or solicitor's permit.

1 (d) Probation.

2 (e) An order to make restitution or refund, or both.

3 (f) An administrative fine of not more than \$2,500.00 for a
4 first violation and not more than \$5,000.00 for a second or fur-
5 ther violation occurring within the same 5-year period as the
6 first violation.

7 (4) In addition to the other penalties under this act, the
8 superintendent may impose an administrative fine of not more than
9 \$25,000.00 for the first offense or not more than \$50,000.00 for
10 the second offense against a person found to have committed 1 or
11 more of the following violations:

12 (a) Intentionally operating a proprietary school without a
13 license.

14 (b) Operating a proprietary school knowing that the propri-
15 etary school's license has been suspended or revoked.

16 (5) The superintendent may suspend a license, certificate of
17 compliance, or solicitor's permit if a proprietary school or for-
18 eign proprietary institution fails to pay a fee, fine, penalty,
19 or assessment under this act unless the failure is determined by
20 the superintendent to be for good cause.

21 (6) Upon receipt, the superintendent shall deposit all money
22 received from imposition of a penalty under this section with the
23 state treasurer for credit to the revenue fund.

24 Sec. 53. (1) A person who knowingly violates this act or a
25 rule promulgated or an order issued under this act is guilty of a
26 misdemeanor, punishable by imprisonment for not more than 30 days
27 or a fine of not more than \$1,000.00, or both. If the conviction

1 is for a second or further offense committed within 5 years after
2 the first conviction, the person is guilty of a misdemeanor pun-
3 ishable by imprisonment for not more than 6 months or a fine of
4 not more than \$2,000.00, or both.

5 (2) A person who knowingly does 1 of the following is guilty
6 of a misdemeanor punishable by imprisonment for not more than 1
7 year or a fine of not more than \$5,000.00, or both:

8 (a) Falsifies or destroys, with intent to defraud, business
9 records relating to the operation of a proprietary school or for-
10 eign proprietary institution.

11 (b) Operates a proprietary school without a valid license or
12 under a suspended or revoked license.

13 (3) A criminal penalty under this section is in addition to
14 any other penalty or disciplinary action under this act or other
15 law.

16 Sec. 54. An individual injured by a violation of this act
17 may bring an action against a proprietary school, the operator of
18 a proprietary school, a foreign proprietary institution, or a
19 solicitor in the circuit court for a county in which the propri-
20 etary school, foreign proprietary institution, or solicitor does
21 business for actual damages or \$100.00, whichever is greater.
22 The court may award costs and reasonable attorney's fees to a
23 prevailing plaintiff.

24 Sec. 55. (1) A person alleging a violation of this act may
25 file a written complaint with the superintendent not later than 1
26 year after the date of the alleged violation. If, after an
27 investigation, the superintendent finds that there is reasonable

1 cause to believe that a violation of this act has occurred, the
2 superintendent may initiate a hearing by serving a notice of
3 intent to take disciplinary action and hearing on each person
4 subject to disciplinary action for the alleged violation. The
5 notice shall provide reasonable notice of the hearing, including
6 at least the time, place, and nature of the hearing, the nature
7 of the allegations, and the penalties sought.

8 (2) In the hearing, a person subject to discipline has the
9 right to respond to allegations, to cross-examine witnesses, to
10 present evidence and argument on the issues involved in the hear-
11 ing and to have counsel or another representative present.

12 (3) A hearing under this section may be resolved by stipula-
13 tion, agreed settlement, consent order, default, or other infor-
14 mal disposition.

15 (4) A hearing shall be conducted by a hearing officer, who
16 may do all of the following:

17 (a) Administer an oath or affirmation.

18 (b) Regulate the course of the hearing, set the time and
19 place for continued hearings, and set the time for filing of
20 briefs and other documents.

21 (c) Direct the person subject to discipline to appear and
22 confer in a pre-hearing conference to consider the simplification
23 of issues by consent.

24 (d) Grant a request for adjournment of a hearing upon a
25 showing of good cause.

26 (5) The strict legal rules of evidence do not apply in a
27 hearing under this section.

1 (6) After conclusion of a hearing, if there is no informal
2 disposition, the hearing officer shall make written findings of
3 fact and conclusions of law, shall make a recommended decision
4 and recommend penalties to the superintendent in writing, and
5 shall mail a copy of the findings and recommendation to the
6 person subject to discipline and the person's attorney or
7 representative.

8 (7) The superintendent shall make the final determination of
9 whether a violation has occurred and the penalty to be imposed
10 based exclusively on the evidence and other material presented at
11 the hearing. If the superintendent determines that a person has
12 committed a violation, he or she shall issue a final order impos-
13 ing discipline according to section 52 and shall send by certi-
14 fied mail a copy of the order to the person subject to discipline
15 and the person's attorney or representative. At the request of
16 the person subject to discipline, the superintendent shall fur-
17 nish the person a copy of the transcript of the hearing upon pay-
18 ment by the person of the reasonable cost of producing the
19 transcript.

20 (8) An order of discipline imposed under this section shall
21 be supported by substantial evidence on the record as a whole and
22 may be appealed to the circuit court for a county in which the
23 proprietary school, foreign proprietary institution, or solicitor
24 does business.

25 Sec. 56. The attorney general, in his or her own capacity
26 or at the request of the superintendent, may bring an appropriate
27 action or proceeding in the circuit court to collect a fine or

1 enforce another penalty imposed under this act or to enforce this
2 act.

3 Sec. 57. (1) Upon a finding that a deficiency or violation
4 of this act or the rules promulgated under this act seriously
5 affects the health, safety, or welfare of individuals receiving
6 services from a proprietary school, the superintendent may issue
7 an emergency order limiting, suspending, or revoking the license
8 of the proprietary school. The superintendent shall provide an
9 opportunity for a hearing under section 55 within 10 working days
10 after issuance of the order.

11 (2) An order under this section shall incorporate the
12 superintendent's findings. The conduct of a hearing under this
13 section does not suspend the superintendent's order.

14 Sec. 58. An enrollment agreement or contract entered into
15 in this state by a proprietary school, a foreign proprietary
16 institution, or a solicitor that does not hold the appropriate
17 valid license, certificate of compliance, solicitor's permit, or
18 other authorization under this act is void. A promissory note or
19 other evidence of indebtedness taken in lieu of a cash payment by
20 a proprietary school, foreign proprietary institution, or solici-
21 tor that does not hold the appropriate valid license, certificate
22 of compliance, solicitor's permit, or other authorization under
23 this act is void.

24 PART 6

25 ADMINISTRATION

26 Sec. 61. (1) The state board shall promulgate rules to
27 implement this act pursuant to the administrative procedures act

1 of 1969, Act No. 306 of the Public Acts of 1969, being sections
2 24.201 to 24.328 of the Michigan Compiled Laws. The rules shall
3 include at least requirements for all of the following:

4 (a) The form and content of proprietary school enrollment
5 agreements and catalogs.

6 (b) The form and content of records to be kept by a propri-
7 etary school.

8 (c) The manner in which records described in subdivision (b)
9 are maintained.

10 (2) The department also may promulgate other rules to imple-
11 ment this act, which may include, but are not limited to, all of
12 the following matters relating to proprietary schools:

13 (a) Standards and methods of instruction.

14 (b) Equipment to be available for instruction.

15 (c) Physical plant.

16 (d) Maximum enrollments based upon methods of instruction,
17 equipment, and physical plant.

18 (e) Qualifications and experience of teaching or management
19 personnel, or both.

20 (f) Methods of collecting tuition.

21 (g) Sufficiency and suitability of the economic resources
22 available for the support of a proprietary school.

23 (h) Counseling provided to students.

24 Sec. 62. The state board shall establish a process to
25 receive advice and comment from the public on department policies
26 and procedures concerning proprietary schools.

1 Sec. 65. This act shall not take effect unless Senate Bill
2 No. 163 of the 87th Legislature is enacted into law.