



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY,  
NY 12234

**TO:** Adult Career and Continuing Education Services  
(ACCES) Committee

**FROM:** Kevin G. Smith

**SUBJECT:** Bureau of Proprietary School Supervision

**DATE:** December 30, 2011

**AUTHORIZATION(S):**

**SUMMARY**

**Issue for Discussion**

The purpose of this item is to update the Board of Regents on the status of legislative and regulatory changes being proposed to enhance the work of the Bureau of Proprietary School Supervision (BPSS).

**Reason for Consideration**

The proprietary school sector is an important avenue for adult students to continue their academic careers. As the sector continues to grow in size, scope and visibility, BPSS must sustain its ability to license and oversee this sector. Resources available for this purpose have remained static including related legislative and regulatory authority. This item will update the Board on the progress accomplished and the work to be done to assure that consumers are well informed and protected.

**Proposed Handling**

This item will come before the Regents ACCES Committee at its January 2012 meeting for discussion.

**Procedural History**

The Education Law (Sections 5001-5010) pertaining to non-degree proprietary schools was last amended substantially in 1990. Since then, the number of these schools has increased and their nature has changed. A State Education Department

bill (S.4268-A, LaValle, and A.7859, Glick) was introduced in both houses of the New York State Legislature in 2010, giving renewed impetus to a nearly decade long effort to modernize the statute. Over the summer of 2011, the major stakeholders met repeatedly to resolve issues and concerns. The negotiation resulted in general consensus thus hopefully positioning the bill for passage.

### Background Information

ACCES BPSS is responsible for overseeing New York State's 497 licensed non-degree granting proprietary schools attended by an estimated 200,000 students annually. In addition, there are currently 125 schools pending licensure. During the 2010 year, tuition collections for these schools are estimated at \$600 – \$750 million.

Increased national and state attention to problems in the industry has put additional pressure on the proprietary school owners and BPSS. Debt to income potential, high student loan default rates, ability to benefit questions and illegal activity have been the subject of federal reform efforts. In spite of these concerns, US Secretary of Education, Arne Duncan stated recently that, "As a country, we need this sector to succeed."

New York State has a strong history of support, oversight and success. Yet, far too much resource is expended on processing proprietary school-related issues using severely outdated methods. Antiquated data and record keeping systems hamper the ability to better inform and protect tens of thousands of students annually.

Efforts have been made over the last decade to modernize the Legislation to better reflect the current and future status of the industry, provide adequate authority to address the issues, and to establish provisions to generate the resources required to manage the growth in number and complexity of the schools.

### **BPSS Funding and Operations**

BPSS oversight is carried out by a staff of 21 split between a central office in Albany and a satellite office in New York City, where the majority of the State's proprietary schools are located, with an annual operating (personnel and non-personnel) budget of about \$3 million.

Two revenue accounts support BPSS activities. The Supervision Account (SA) funds operations and the Tuition Reimbursement Account (TRA) provides refunds to eligible students of proprietary schools. The accounts were created under the applicable provisions of Article 101 (Sections 5001 to 5010) of the Education Law and State Finance Law (Section 97-hh). Additional authority is provided through Part 126 of the Commissioner's Regulations.

Both accounts derive most of their revenue from statutory assessments placed on licensed schools. Additional revenue is received from fees and fines. All licensing

fees collected by BPSS are deposited into the SA. All fines imposed and collected by BPSS through its disciplinary authority are deposited directly into the TRA. The TRA also accrues interest.

The TRA was established for the protection of students. Its sole use is for refunds to students who attended licensed schools and filed BPSS substantiated complaints with the Commissioner. Since 1995, students have benefited from almost \$7 million in refunds from the TRA.

For more information regarding BPSS's relationship to the Proprietary College sector see Attachment A. For more information regarding BPSS's Scope of Responsibilities, see Attachment B.

## **2012 Legislation**

SED submitted our revised proposal to the Legislature in October 2011. This legislation will:

- Expedite student assistance when a school closes (shorten time for tuition refunds, expand expenses eligible for reimbursement, and ensure better access to student files). Allow access of up to \$200,000 per year from the TRA to store and scan closed school student records for student availability.
- Limit students' loan liability and the TRA's potential liability by distributing student loan pay-outs throughout the school year rather than at the start of the school.
- Make permanent the procedures for working with schools that are in financial distress so that unnecessary school closures are avoided, students are protected and the viability of TRA is assured
- Increase fees to reflect the resource needs of the Department. Additional revenues would support an update of the 25-year-old computer system, and resources to better fulfill our mission of student protection.
- Increase license application fee from \$250 to \$5,000. Our current fee encourages too many frivolous applications. Schools will need to have a business plan and the financial viability to be able to offer a sound education with adequate resources. Schools with little chance of long-term survival should be eliminated, and better education for the students will occur due to better stability.
- Create Candidacy Schools. Many schools operate without a license or oversight. Unfortunately, these schools appeal to our most vulnerable citizens: the poor, unemployed, immigrants, English Language Learners, and those seeking new careers. When a school is identified as requiring licensing, the past practice was to instruct the school to shut down until the license was received. The development of candidacy status will allow the school to continue operation while

- Allow qualified instructors to obtain a single license so that they could teach at any licensed school. This would facilitate an adequate pool of competent teachers for students, and reduce the number of unlicensed teachers.
- Eliminate the business, trade, and computer school designation, with all schools to be known as licensed private career schools. This more accurately identifies the schools for today's training.

As a result:

- The Bureau of Proprietary School Supervision's *systems of operation could be fully modernized.*
- More complaints could be investigated and completed, thereby *allowing students to obtain refunds in a timelier manner and more quickly resume their education.*
- *Technical and educational assistance* to licensed schools and students could be increased.
- *Better data collection and management* to oversee schools' performance.
- *Financial viability reviews* of schools -- and monitoring of schools in financial distress -- could both be enhanced to limit the number of school closures.
- Greater numbers of cases and investigations could be conducted and *resolved*, protecting students, clients/patients, and taxpayers.
- *Enhanced program reviews* and site visits could be conducted to ensure quality education. This is the ideal venue for increased technical assistance, and presence in the schools is a proven deterrent.
- *On-line licensure and discipline system, when purchased and implemented, will provide for* online license application, online inquiries for application and renewal status, electronic reminders to applicants for outstanding documents/tasks, and faster access to licensing and disciplinary data.
- A more *streamlined complaint and discipline resolution* process could be implemented.
- *Communications* with schools, instructors, and students could be enhanced.

## **Next Steps**

The Department continues to advocate for the 2012 legislation discussed above and work toward upgrading our current 25-year-old computer system.

Protecting students, supporting licensed schools, shutting down unlicensed schools, and investigating allegations of fraud and mismanagement must keep pace with the rapid growth of this important education sector.

With updated legislative authority and resource, BPSS will review and refine its operational plan and structure.

## **Attachments**

## ATTACHMENT A

BPSS does not oversee New York's 42 proprietary colleges. This responsibility lies with SED's Office of Higher Education (OHE). See below for a comparison of proprietary schools and proprietary colleges.

### Proprietary Schools vs. Proprietary Colleges

	<b>Proprietary Schools</b>	<b>Proprietary Colleges</b>
<b>Number</b>	497	42
<b>Degree-Granting Status</b>	Non-Degree	Degree
<b>Department Oversight</b>	ACCES – BPSS	OHE
<b>Statutory / Regulatory Authority</b>	Education Law, Sections 5001-5010 and Part 126 of the Regulations	Education Law, Sections 210 and 214 – 219 and Part 50 of the Regulations
<b>Outside Oversight</b>	Some oversight provided by various trade accrediting groups	Some oversight by various accrediting groups
<b>Partners</b>	Coalition of NYS Career Schools, NYS Beauty School Association	Association of Proprietary Colleges

## **Scope of BPSS Responsibilities**

BPSS oversight focuses on prevention and protection --- licensing up front and protection of students' financial interests in the event of substandard conditions or school closure subsequent to license approval.

Operating responsibilities are distributed among staff members who are generally assigned to one of three teams that mirror BPSS major responsibilities -- Licensing, Education and Curriculum, and Investigations.

The *Licensing Team* reviews for approval, all new school applications. All aspects of a school are examined, including facilities, school forms (e.g., school catalogs and student contracts), curriculum, personnel, financial viability, and school ownership. Related reviews are conducted when a school moves, changes ownership, or applies for renewal. Licensed school personnel, reviewed and approved by the Licensing Team in accordance with statutory minimum standards include teachers, school directors, and admissions agents.

The *Education and Curriculum Team*, in conjunction with experienced curriculum experts, reviews all courses and curricula for relevancy to the job market and assurance that course graduates will be eligible and suitable for entry-level positions in the field. Such reviews are completed at license application, new curriculum submission, and curriculum renewal.

In addition to often daily contact with the schools, the team's educators conduct on-site visits to provide technical assistance and review compliance with requirements. The Team may also visit classes to assess the educational program and atmosphere for learning.

The *Investigations Team* is responsible for the student complaint system. When a complaint is received, an assigned Investigator performs a school inspection to determine its validity. BPSS also may use investigative "operatives" who pose as students to verify allegations received. The Investigations Team includes a Senior Attorney who is responsible for seeking restitution and ensuring subsequent compliance by violators.

BPSS intervention is particularly crucial in the event of a school closure. With its primary objective of protecting the students, BPSS may take action to:

- Locate other schools where the students can complete their studies;
- Ensure that students receive full refunds to which they are entitled;
- Negotiate with others for applicable financial relief for students such as USDOE for loan forgiveness;
- Process student applications for refunds from the TRA when no other avenue exists to make the students whole; and

- Take possession of school records to preserve students' ability to maintain hours already completed and/or to pursue future educational or employment opportunities.

It is important to note that many of the programs offered by non-degree proprietary schools are in fast-growing high demand fields that are often still developing. In addition, many fields of study receive no oversight by any regulatory body other than BPSS. BPSS oversight can give assurance to the public that future practitioners have attended licensed schools.