NEBRASKA DEPARTMENT OF EDUCATION

TO: Roger Breed, Ed.D.
Commissioner of Education

FROM: Sharon Katt, Administrator Adult Program Services

SUBJECT: Approve Rule 41 (92 NAC 41), Private Postsecondary Career Schools Authorization to Operate.

Proposed Board Action:

It is recommended that the State Board of Education approve the revisions of Rule 41 (92 NAC 41), Regulations for Private Postsecondary Career Schools Authorization to Operate.

Background Information:

The hearing was held on November 15, 2012 to hear testimony concerning the proposed revisions to Rule 41. No one outside of NDE appeared to testify at the hearing. Testimony in support of the revisions to Rule 41 was presented by Brad Dirksen, Program Director, Private Postsecondary Career Schools. Rule 41 Hearing Summary is attached.

The Private Postsecondary Career Schools Advisory Council met on September 4, 2012 and unanimously recommended the approve the proposed changes.

Estimated Cost:

$1,000 for filing of public notice and printing copies of rule once adopted.

Supporting Documentation Included:

Rule 41 Hearing Summary, Rule 41

For Additional Information on this item:

Call Brad Dirksen (402) 471-4825 or e-mail at brad.dirksen@nebraska.gov.

Roger D. Breed, Ed.D., Commissioner
Scott Swisher, Ed.D., Deputy Commissioner

NEBRASKA DEPARTMENT OF EDUCATION

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TO: State Board of Education

FROM: Scott Summers, Legal Counsel III, Commissioner's Appointed Staff Person to Conduct a Rule Hearing on Title 92, Nebraska Administrative Code, Chapter 41, *Regulations Governing the Authorization to Operate Private Postsecondary Career Schools* S.S.

DATE: November 15, 2012

RE: Summary of rule-making hearing on Proposed Revisions to 92 NAC 41

On October 10, 2012, the State Board of Education approved a hearing draft and authorized the Commissioner to set a hearing date and location as well as designate a staff person to conduct a hearing on the adoption of proposed revisions to Title 92, Nebraska Administrative Code, Chapter 41. By a memorandum dated October 10, 2012, the Commissioner appointed me to conduct the hearing on this Rule on November 15, 2012, commencing at 10:00 a.m. After the proper legal notice was published, the hearing was held at the Nebraska State Office Building, Nebraska Department of Education, 301 Centennial Mall South, Conference Room A, Sixth Floor, Lincoln, Nebraska. Pursuant to State Board of Education Policy B9, what follows is a written summary of the hearing testimony.

An audio recording of the hearing is available if any members of the Board wish to hear the tape.

SUMMARY OF TESTIMONY ON THE PROPOSED REVISIONS TO 92 NAC 41, Regulations Governing the Authorization to Operate Private Postsecondary Career Schools

Scott Summers, staff attorney and the hearing official, called the hearing to order, read into the record the name of the newspaper in which a legal notice of the hearing was published and the date the notice appeared, outlined the procedures for the hearing and introduced **Brad Dirksen, Director, Private Postsecondary Career Schools and Veterans Education, Nebraska Department of Education.**

Mr. Dirksen introduced and explained the proposed revisions to Title 92, Nebraska Administrative Code, Chapter 41 and offered his written testimony summarizing the proposed revisions. A copy of Mr. Dirksen's testimony is attached to this memo.

No other oral or written testimony was received.

To lead and support the preparation of all Nebraskans for learning, earning, and living.

Hearing Testimony
November 15, 2012

My name is Brad Dirksen. I am the Program Director of the Private Postsecondary Career Schools and Veterans Education section at the Nebraska Department of Education. All of the following proposed rule changes were unanimously approved by the Private Postsecondary Career Schools Advisory Council at the September 4, 2012 meeting.

Rule 41:

- "Distance Learning" definition (92 NAC 41 002.12) – broadened definition to read:

  002.12 Distance Learning means a teaching and learning situation in which (i) the instructor and the learner are geographically separated; ~~and~~ or, (ii) instruction or materials are delivered or exchanged by mail, electronic devices, ~~and~~ or other means.

- Update Rule to match statute (92 NAC 41 003.01D, 003.01G, 003.01I, 003.01J, 003.01K, 003.01L, and 011)
- Fee Revision: restructured fees which help maintain equity to both small and large private postsecondary institutions and establish sufficient fees to cover the total cost of administering the PPCS Act.

Rule 42:

- "Distance Learning" definition (92 NAC 002.14) matching Rule 41 above.
- Update rule to match Statute (003.01H, 003.01I, 003.01J, 003.01K, and 003.02, 005.02B5)
- Fee Revision: restructured fees which help maintain equity to both small and large private postsecondary institutions and establish sufficient fees to cover the total cost of administering the PPCS Act.

Rule 44:

- "Act" and "Short-term training" definition added – definitions consistent with Statute and Rule 41
- Update rule to match Statute (92 NAC 44 003.05, 003.07, 003.08, 004.01, and 005.06)

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 41 - PRIVATE POSTSECONDARY CAREER SCHOOLS AUTHORIZATION TO OPERATE

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TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 41 - PRIVATE POSTSECONDARY CAREER SCHOOLS AUTHORIZATION TO OPERATE

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001 General Information

001.01 Statutory Authority. This chapter is adopted pursuant to sections 85-1601 through 85-1658 Revised Statutes of Nebraska,(R.R.S.) Such sections may be cited as the Private Postsecondary Career School Act.

001.02 Scope of this Chapter. This chapter provides the procedures for the authorization to operate, and accredit private postsecondary career schools in Nebraska, and granting of authority to award associate degrees.

001.03 Related Chapters and Statutes. Chapter 42 of Title 92 of the Nebraska Administrative Code (92 NAC 42) provides the procedures for granting permits for agents for private postsecondary career schools. The regulations governing the complaint and investigation procedures for private postsecondary career schools under this chapter are contained in 92 NAC 43. 92 NAC 44 contains the procedures for administration of the Tuition Recovery Cash Fund. Copies of these related regulations are available from the Nebraska Department of Education. The procedures and criteria used by the Coordinating Commission for Postsecondary Education for approval of private colleges are contained in Sections 85-1105 through 85-1111 R.R.S. and regulations promulgated thereunder.

001.04 Implementation Date. The implementation date will be July 1, 2007 or the effective date of this Chapter, whichever is later.

002 Definitions. As used in this chapter:

002.01 Administrative Staff means those persons hired by the resident director to perform administrative duties for the school.

002.02 Authorization to Operate means approval by the Department to operate a private postsecondary career school in this state.

002.03 Board means the State Board of Education.

002.04 Branch Facility means a facility which:

002.04A is separate from a principal facility;

002.04B offers a full program and full student services;

002.04C is under the supervision of an on-site director or administrator;

002.04D the ownership, management, and control of which are the same as the principal facility, and

002.04D1 which principal facility is responsible for the delivery of all services, or

002.04D2 at which education is offered by a franchisee of a franchisor authorized to operate as a private postsecondary career school pursuant to the Act if the franchisor establishes the course curriculum and guidelines for teaching at the franchisee's facility.

002.05 Calendar Year means a 12-month period beginning January 1 and ending December 31.

002.06 Certificate of Approval to Recruit means approval by the Department for out-of-state schools to recruit students in this state.

002.07 Commission means the Coordinating Commission for Postsecondary Education.

002.08 Commissioner means the Commissioner of Education.

002.09 Course of Study or Instruction means a program of study, training, or instruction consisting of a series of lessons or classes which are coordinated as a curriculum or program of instruction to prepare or qualify individuals or improve or upgrade the skills needed for employment, career opportunities, or any specific occupation.

002.10 Delivery Mode means classroom instruction, home study or both which is delivered in any of the following manners: resident, independent study, practical training, correspondence, or distance learning technology.

002.11 Department means the State Department of Education.

002.12 Distance Learning means a teaching and learning situation in which (i) the instructor and the learner are geographically separated; ~~and~~ or, (ii) instruction or materials are delivered or exchanged by mail, electronic devices, ~~and~~ or other means.

002.13 Education or Educational Services means any class, course, or program of occupational training, instruction, or study.

002.14 Entity means any individual, company, firm, society, group, association, partnership, corporation, trust, or other person.

002.15 Fiscal Year means a period of time consisting of 12 consecutive months as defined by the accounting practices of the individual school.

002.16 Grant with respect to educational credentials, means award, sell, confer, bestow, or give.

002.17 Home Study School means a school which provides correspondence lesson materials prepared in a sequential and logical order for study and completion by a student on his or her own, with completed lessons returned by the student to the school for evaluation and subsequent return to the student, including those schools which offer instruction by home study in combination with in-residence training.

002.18 Nationally Accredited means accreditation of institutions and programs that have been approved by an accrediting body or bodies of national scope, which have been recognized by the U.S. Department of Education (USDE), based on prescribed accreditation criteria and standards and a peer evaluation process or a performance-based review process.

002.19 Offer shall include, in addition to its usual meaning, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform a described act.

002.20 Out-of-State School means any school which has its place of instruction or its principal location outside the boundaries of this state and which offers or conducts courses of instruction or subjects on the premises of the school, or provides correspondence or home study lesson materials or offers or provides Nebraska students with courses of instruction or subjects through activities engaged in or conducted outside the boundaries of Nebraska.

002.21 Principal Facility or Main School means a private postsecondary career school located and authorized to operate in the State of Nebraska.

002.22 Private Postsecondary Career School means any organization or business enterprise which is not specifically exempt under the Act, which offers courses or subjects for which tuition is charged, and at the place of business where a course of instruction is available through classroom instruction, home study, or both to a person for the purpose of training, preparing, or improving the person for an occupation even though the organization's or business enterprise's principal efforts may not be exclusively educational in nature.

002.23 Program means the complete body of prescribed subjects or studies for the purpose of training, preparing, or improving the person for an occupation.

002.24 Quarter Credit Hour means a minimum of 10 classroom periods of not less than 50 minutes each and which assumes outside reading and/or preparation; or 20 clock laboratory hours where classroom theory is applied; or 30 hours of external program-related work experience or any proportional combination of the above totaling at least 100 percent when added together as a percentage of each category.

002.25 Regionally Accredited means accreditation of institutions and programs that have been approved by an accreditation body of regional scope, which have been recognized by the U.S. Department of Education (USDE), based on prescribed accreditation criteria and standards and a peer evaluation process or a performance-based review process.

002.26 Resident Director means an individual entrusted with the direction and operation of a school. He or she shall have administrative responsibilities for the educational programs and policy making authority in curriculum, appointment of instructional staff, and scheduling of classes.

002.27 Resident School means any school offering courses of instruction to its students on the school's premises.

002.28 Semester Credit Hour means a minimum of 15 classroom periods of not less than 50 minutes each and which assumes outside reading and/or preparation; or 30 laboratory clock hours where classroom theory is applied; or 45 hours of external program-related work experience; or a proportional combination of the above totaling at least 100 percent when added together as a percentage of each category.

002.29 Separate Classroom means a supplemental training space:

002.29A which is located near the main school for the purpose of expanding the educational offerings or for training an overflow of students who cannot be accommodated at the main school;

002.29B which is close enough to the main school to assure immediate supervision and administration of all essential student services by the main school and ready access by students to the student services available, and

002.29C in which the only required onsite service is teaching.

002.30 Short-term training means classes, courses, or programs of instruction or study that are offered for the purpose of training, preparing, or improving a person for an occupation when (a) the total hours of instruction required for completion is sixteen clock hours or less and (b) no final course grade is given to persons enrolled.

002.31 Significant Program Change means (a) the name of the program; (b) a change in academic measurement from clock hours to credit hours or vice versa, or a change from quarter to semester credit hours or vice versa; or, (c) any change of twenty-five (25) percent or more in credit awarded, curriculum content (courses offered), or program length of a currently approved program if such changes occur between any two (2) applications for renewal of authorization to operate.

002.32 Unearned Tuition means money paid by an individual to a school for classes which will be held in a future attendance period or for classes which are no longer available due to termination of operation of the school.

002.33 The Act means the Private Postsecondary Career School Act.

003 Education and Schools Exempted. No entity of whatever kind, alone or in concert with others, shall operate, in the State of Nebraska, a private postsecondary career school which is not exempt unless the school has a currently valid authorization to operate.

003.01 The following education and schools are exempted from the provisions of the Act and this chapter:

003.01A Schools exclusively offering instruction at any or all levels from preschool through the twelfth grade;

003.01B Education sponsored by a bona fide trade, business, professional, or fraternal organization which is offered solely for that organization's membership or offered without charge;

003.01C Education provided by or funded by an employer and offered solely to its employees for the purpose of improving such persons in such employment;

003.01D Education ~~which is~~ solely avocational or recreational in nature, as determined by the Department;

003.01E Educational programs offered by a charitable institution, organization, or agency as long as such education or training is not advertised or promoted as leading toward occupational objectives;

003.01F Public postsecondary schools established, operated, and governed by this state or its political subdivisions;

003.01G Schools or organizations offering education or instruction~~ which are licensed and regulated by agencies of this state other than the Department as of September 12, 1977, are exempt, except that such schools or organizations shall not be exempt from the provisions of 92 NAC 42 with respect to agents permits and 92 NAC 44 with respect to~~ that is not part of a degree program leading to an associate, a baccalaureate, a graduate, or a professional degree which are licensed and regulated by agencies of this state other than the department, except that such schools or organizations shall not be exempt from the Act (and the provisions of 92 NAC 42 and 44) with respect to agents permits and the Tuition Recovery Cash Fund.

003.01H Schools or organizations which offer education or instruction and which are licensed and regulated solely by an agency of the federal government with respect to curriculum and qualifications of instructional staff;

003.01I ~~Not-for-profit private colleges, universities, and entities (a) which awarded baccalaureate or higher degrees prior to May 27, 2003 which maintain and operate educational programs for which credit is given, and which are in compliance with sections 85-1105 to 85-1111 R.R.S. or (b) which award baccalaureate or higher degrees, which maintain and operate educational programs for which credit is given, which are in compliance with sections 85-1105 to 85-1111 R.R.S., and which are regionally accredited~~ Any postsecondary institution offering or proposing to offer courses or programs leading to a baccalaureate, graduate, or professional degree, but whose offerings may include associate degree programs, diplomas, and other certificates based on the award of college credit, including any such institutions that were regulated prior to May 5, 2011, as private postsecondary career schools pursuant to the Act; and

~~003.01J For-profit colleges, universities, and entities which award baccalaureate or higher degrees, which are in compliance with sections 85-1105 to 85-1111 R.R.S., and which are regionally accredited;~~

~~003.01K Institutions which have previously been regulated as private postsecondary career schools pursuant to the Private Postsecondary Career School Act, which have become regionally accredited, and which have been approved by the commission to offer baccalaureate degrees or higher pursuant to sections 85-1105 to 85-1111 R.R.S. Institutions which have previously been regulated as private postsecondary career schools and which have been approved by the commission to offer baccalaureate degrees pursuant to sections 85-1105 to 85-1111 R.R.S. but which have not become regionally accredited shall remain under the jurisdiction of the State Department of Education and subject to the Private Postsecondary Career Schools Act; and~~

003.01~~L~~J Entities exclusively offering short-term training.

004 Minimum Standards. A school shall demonstrate that it can be maintained and operated in accordance with the following provisions:

004.01 Educational Quality. The course content or curriculum shall be designed toward specific preparation for employment which includes the following:

004.01A The program objective shall be clearly stated, indicating credentials to be awarded or skills to be acquired.

004.01B The curriculum objectives shall include development of skills, provision of job related training, the imparting of information, and training in the application of knowledge.

004.01C The curriculum shall be based on the knowledge and skill required in the occupations to enable those seeking employment after graduation to secure at least entry level positions in the occupation for which they have been trained.

004.01D The curriculum designed for specific preparation for employment shall reflect current occupational trends and changing needs of job requirements.

004.01E Each course in the curriculum shall have a brief description showing the specific knowledge to be learned or skills to be acquired.

004.02 Facilities and Equipment. The school shall have training facilities with equipment and the necessary work stations to properly train each student.

004.02A The building, work space, and equipment shall comply with local fire, building, health, and safety requirements, and be adequate to accommodate the educational program(s) of the school.

004.02B The school shall provide information to the Department on the major items of equipment available or which will be available for instruction relative to year, make, and model and with respect to state of the art technology.

004.03 Ownership: No persons who have financial interest of twenty-five (25) percent or more of the ownership shall have any felony convictions.

004.03A Any owner who is disqualified on account of any felony convictions shall have a right to appeal as provided in section 004.06.

004.04 Administrative Staff. Each school shall designate a resident director and administrative staff members who:

004.04A Shall file with the Department, no later than thirty (30) days following hiring, an administrative/director's qualification form furnished by the Department. Applicants must be approved by the Department.

004.04B Have no felony convictions. Any staff member who is disqualified for the position on account of any felony conviction shall have a right to appeal as provided in section 004.06.

004.04C Possess background, qualification and experience adequate for the position as demonstrated through experience and ability to direct the school operations successfully.

004.05 Instructional Staff. The school shall have a sufficient number of qualified and experienced instructors in the subject areas for which they are assigned to provide instructional services to students.

004.05A The school shall file with the Department, no later than thirty (30) days following hiring, an instructor's qualification form furnished by the Department.

004.05B The school shall employ instructors who are competent to provide the training contemplated.

004.05C The instructors shall be qualified either by three (3) years of trade or professional experience at a journeyman level, or its equivalent in the trade or specialty to be taught, or a baccalaureate or associate degree in that trade or specialty and one (1) year of trade or professional experience at a journeyman level, or its equivalent in the trade or specialty to be taught, or file a contingency plan approved by the Department whereby the minimum requirements will be met within three (3) years, with the school providing a yearly progress report on the plan.

004.05D If the school prepares students for an occupation that requires a license(s), the instructor shall maintain the appropriate license(s).

004.06 Appeals Procedure

004.06A Notice. An owner, resident director, or administrative staff member in a private postsecondary career school who the Department determines does not meet the minimum qualifications because of any prior felony conviction shall be notified in writing of the intent to deny approval.

004.06B Request for Review. Within twenty calendar days of the applicant's receipt of the notice of the intent to deny approval, the affected party(s) may request in writing a review by the Commissioner or the Commissioner's designee. Following the review, the Commissioner or the Commissioner's designee shall:

004.06B1 Notify the affected party(s) that the Department will approve his/her qualification as having met the requirements to own or be employed at the school: or

004.06B2 Notify the affected party(s) that his/her qualification has failed to meet the requirements.

004.07 Hearings: Within twenty calendar days of receipt of the notice of the Commissioner's denial of approval to own or administer the school, the affected party(s) may appeal the Commissioner's decision to the State Board of Education pursuant to 92 NAC 61.

004.08 Guidelines for Review. In considering whether to approve or disapprove an applicant based upon felony convictions, the Commissioner and the Board shall take into account the following factors:

004.08A The nature of the crime, the facts and circumstances surrounding the applicant's conviction, the sentence received, and whether the sentence was commuted, set aside, or pardoned;

004.08B The applicant's age at the time of the conduct;

004.08C The recency of the conduct;

004.08D The applicant's positive social contributions since the conduct; and

004.08E The reliability of the information concerning the conduct.

004.09 Publication of Catalogs. Each school shall publish and present to each prospective student prior to the execution of any enrollment agreement, a catalog which shall include at least the following information:

004.09A The full name and address of the school;

004.09B Identifying data, such as catalog number and date of publication;

004.09C Table of contents;

004.09D Names of owners and officers, including any governing boards;

004.09E The school calendar, including holidays, enrollment periods, and beginning and ending dates of terms;

004.09F A description of the school's facilities and equipment used for training;

004.09G Specific and written statement of program objective(s) and teacher-to-student ratio established by the school for each program offered.

004.09H A description of each authorized educational service offered, including courses or programs offered, tuition, fees, length, or, in case of correspondence schools, number of lessons or units of instruction, as appropriate;

004.09I The school's enrollment procedures and entrance requirements, including late enrollment if permitted;
004.09J A description of the school's placement assistance. If no assistance is offered, the school must state this fact;

004.09K The school's attendance policy including minimum attendance requirements;

> 004.09K1 The circumstances under which a student's enrollment will be interrupted for unsatisfactory attendance, and the conditions under which a student may subsequently be readmitted;

004.09L The school's policy concerning satisfactory progress, which shall include:

> 004.09L1 How progress is measured and evaluated, including an explanation of any system of grading used;
>
> 004.09L2 The conditions under which the student may be readmitted if terminated for unsatisfactory progress, and
>
> 004.09L3 Description of any probation policy;

004.09M The school's system of making progress reports to students;

004.09N The school's policy regarding student conduct, including causes for dismissal and conditions for readmission;

004.09O The school's policy concerning credit granted for previous education, training or experience;

004.09P The school's refund policy which shall also include the school's method of determining the official date of termination;

004.09Q The school's procedure for addressing student complaints including the statement, "The student may contact the Program Director of Private Postsecondary Career Schools at the Nebraska Department of Education."

004.09R A school located and authorized to operate in Nebraska by the Commissioner is permitted to use a statement printed in the catalog reading: "Authorized to operate and regulated by the Commissioner of Education."

004.09R1 A school not authorized to operate by the Commissioner but which has been issued "agents' permits" pursuant to Chapter 42, is permitted to use a statement printed in the catalog reading: "Agents permits issued by the Commissioner of Education."

004.09S Supplemental page(s) may be used as part of the school catalog provided they are used in such a way as to become an effective part of the catalog. Supplemental page(s) shall show an effective date and shall be presented to each prospective student prior to execution of any enrollment contract.

004.10 Educational Credentials.

004.10A A certificate shall be conferred only upon successful completion of an approved prescribed course of study as listed in the catalog.

004.10B A diploma may be conferred only upon the successful completion of the prescribed course of instruction of not less than four hundred and fifty (450) clock hours or thirty (30) semester or forty-five (45) quarter credit hours or the equivalent in length as stated in the catalog.

004.10C An associate degree shall be conferred only upon successful completion of an approved prescribed course of instruction of not less than sixty (60) semester or ninety (90) quarter credit hours or the equivalent.

004.10D Measurement. One semester credit hour is equivalent to each fifteen (15) clock hours of lecture, or thirty (30) clock hours of laboratory, or forty-five (45) clock hours of externship. One quarter credit hour is equivalent to each ten (10) clock hours of lecture, or twenty (20) clock hours of laboratory, or thirty (30) clock hours of externship.

004.11 Building and Sanitation Standards. The premises and conditions under which students work and study and the living quarters that are owned or approved for student housing by the school shall meet the sanitation and safety requirements of all local and state regulating agencies.

004.12 Financial Stability. The school shall have adequate revenues and assets to meet the school's financial obligations; to provide adequate services to its students and prospective students; to provide refunds when students have justifiable claims against the school, and to refund all unearned tuition and other charges within a reasonable period of time if the school is dissolved.

004.12A At a minimum, a school requesting reauthorization to operate shall submit financial statements prepared in accordance with the Generally Accepted Accounting Principles (GAAP) for the school's most recently completed fiscal year along with the application for authorization to operate.

Schools that prepare audited financial statements must submit the audited financial statements. If the school is affiliated with a corporation/parent organization, a copy of the parent organization's most recent financial statements prepared by an independent CPA shall also be submitted.

004.12B In evaluating the financial statements, a school requesting reauthorization to operate must meet at least one of the following criteria:

004.12B1 The financial statements must demonstrate a minimum ratio of current assets to current liabilities of at least 1:1 for an institution's latest fiscal year. Asset Ratio is calculated by adding cash and cash equivalents to current accounts receivable and dividing the sum by total current liabilities.

004.12B2 The school must have a positive net worth in which total assets exceed total liabilities for its latest fiscal or calendar year.

004.12B3 The school shall show a profit for the most recent fiscal or calendar year or two previous years combined.

004.12C An applicant school that is applying for an inaugural authorization to operate shall submit the owners' financial statements and the most recent federal and state income tax reports.

004.12D The school shall provide documentation to the Department regarding liens, fines, limitations, or suspensions levied against the school which occurred during the last calendar year.

004.12E If after analyzing a school's financial reports and records it is determined by the Department that the school has not met the requirements of sections 004.12A or 004.12B, the school shall be required to grant authorization to the Department to recruit an independent CPA, mutually agreed upon by the school and the Department, to review the accounts of the school. The cost of such review shall be borne by the school. Failure to grant such authorization will be sufficient grounds to deny an authorization to operate to the school for failure to demonstrate financial stability.

004.13 Advertising. All advertising and promotional materials shall include the full and correct name and location of the school.

004.13A All materials used in this state shall be completely truthful and shall refrain from giving any false, misleading, or exaggerated impression with respect to the school, its personnel, its courses and services, or the occupational opportunities for its graduates.

004.13B When using the classified column of a newspaper or other publication to recruit students, the school shall use only column headings such as "Education," "Schools," or "Instruction," and not "Help Wanted," "Employment," or "Business Opportunities."

004.13C During recruitment, no statement or representation shall be made that students will be guaranteed employment nor shall any school or its representative thereof falsely represent opportunities concerning income.

004.13D No dollar amount(s) shall be quoted in any advertising as representative or indicative of the earning potential of graduates, unless the facts are substantiated and the supporting data made available for inspection.

004.13E The school's representatives shall refrain from using unethical, deceptive, or derogatory practices in recruiting students or in any reference to competitors.

004.13F All advertising or promotional materials shall clearly identify any branch facility as such and shall not portray it as a separate stand alone campus facility.

004.14 Refund of Unearned Tuition and Fees. The school has and adheres to a reasonable refund policy of unearned tuition and fees paid in advance by an enrollee who fails to enter, or withdraws, or is discontinued therefrom prior to completion of the study. Refunds of unearned tuition, fees, and other charges shall be made in the following manner within sixty (60) days of termination:

004.14A If cancellation occurs within seventy-two (72) hours of enrollment, all monies paid shall be refunded.

004.14B If cancellation occurs after seventy-two (72) hours of enrollment, but before resident classes begin, or home study materials are delivered, a refund shall be made of all tuition paid except a registration fee not to exceed one hundred fifty dollars ($150.00).

004.14C If cancellation occurs after resident classes have begun or after home study materials have been delivered, the school shall adhere strictly to the refund policy published in the school catalog or in the enrollment agreement. Once books and supplies have been issued, they become the property of students and any refunds on them shall be at the discretion of the school.

004.14D A full refund is due students whose contracted educational services are denied as a result of intentional deception, or misrepresentation of facts, or the use of advertising which is known to be false, inaccurate, or misleading.

004.14E A full refund is due an individual whose admission is denied by the school.

004.14F The school shall make all refunds due within 60 days following a student's official drop date, or in the case of a student who does not return to school at the expiration of an approved leave of absence, within 60 days following the last day of that leave of absence.

004.14F1 The school shall maintain accurate records of attendance to assist in establishing the last day of attendance of any student enrolled at the school.

004.15 Maintenance of Records.

004.15A A school shall maintain, and make available for inspection by the Department, records necessary to demonstrate its efficient and effective academic and financial aid operations. Included shall be records for students, dropouts, and graduates, that shall include at a minimum:

004.15A1 Name and address of the school;

004.15A2 The academic transcript shall show the name and address of the student, the student's identification number used by the school, date of entry and date of exit.

004.15A3 The academic transcript shall indicate the name of the program pursued, courses taken, credit hours per course (identified as quarter or semester credit hours), grades earned, and if the student graduated, withdrew, or was terminated.

004.15A4 The financial records shall show student's name and address, student's identification number used by the school, program of study pursued, all expenses incurred and all payments made.

004.15A5 A school shall maintain, in a fire resistant area, permanent records suitable for academic and financial records for all students. Permanent academic records shall be maintained for fifty (50) calendar years and financial records for five (5) years after the student has departed from the school.

004.15B Any transcript issued shall include the signature and title of a school official, date of issue and seal of the school, if such a seal exists.

004.15C A school shall not release, transfer, disclose or otherwise disseminate students' records or information contained therein, unless upon the student's written request, except to persons authorized or required to have such information by state or federal law or regulation, or pursuant to a court order.

004.15D Students shall have the right to review their student records, including grades, attendance, and financial records.

005 Procedures for Authorization to Operate. Each private postsecondary career school desiring authorization to operate in Nebraska shall make an application to the Department upon forms supplied by the Department. The forms shall include, but not be limited to, the following information:

005.01 The legal title and name of the school;

005.02 The owners, ownership structure, controlling officers, and managing employees;

005.02A The names, addresses and current status of all schools of which each applicant has previously owned any interest in, and currently owns any interest in, and a declaration as to whether any of these schools were ever denied accreditation, licensing, or authorization to operate from any governmental body or accrediting agency.

005.02B A statement verifying that none of the following persons have any felony convictions:

005.02B1 Any persons having twenty-five (25) percent or more ownership of the applicant school as provided in section 004.03;

005.02B2 Resident director as defined in section 002.15;

005.02B3 Administrative staff members as defined in section 002.01.

005.03 The specific course(s) of instruction which will be offered, and the specific purposes of such instruction;

005.04 The location(s) where such instruction shall be given and a description of the physical facilities thereof;

005.05 A specific listing of the equipment available for instruction with the maximum enrollment that such equipment will accommodate;

005.06 The educational and teaching qualifications of instructors in each course and subject of instruction, and the teacher to student ratio established by the school;

005.07 The qualifications of administrators;

005.08 It shall include, on the appropriate forms, the identification of any branch facility or separate classroom. When a branch facility or separate classroom is to be added to a school subsequent to its most recent application for an authorization to operate, the school, prior to opening any such facility or classroom for education, shall utilize the same form to notify the Department. A facility which does not meet the criteria for a branch facility described in section 002.04 shall be considered a separate private postsecondary career school requiring separate authorization.

005.09 Information that Shall Accompany the Application.

005.09A Descriptive Literature. The application shall be accompanied by descriptive literature published or proposed to be published by the school. This shall include copies of all brochures, catalogs, promotional materials, written scripts, media advertising, and promotional literature that may be used to induce residents to enroll in courses of instruction.

005.09B Surety Bond or Other Security Agreement. The application shall be accompanied by a surety bond or other security agreement as detailed below:

005.09B1 At the time application is made for authorization to operate, the private postsecondary career school must file with the Department a good and sufficient surety bond in the penal sum of twenty thousand dollars ($20,000.00) or other security agreement deemed satisfactory by the Department. Such bond or other security shall cover branch facilities. The bond or agreement shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state. The bond or agreement shall be conditioned to provide indemnification for any student or enrollee or his or her parent or guardian determined by the Board to have suffered loss or damage as a result of any act or practice which is a violation of the Private Postsecondary Career School Act by the school and that the surety also shall pay any final judgement rendered by any court of this state having jurisdiction upon receipt of written notification of the judgement from the Board. Regardless of the number of years that such bond or agreement is in force, the aggregate liability of the surety thereon shall in no event exceed the penal sum of the bond or agreement. The bond or agreement may be continuous.

005.09B2 Other security agreements acceptable to the Department include only the following:

005.09B2a Twenty thousand dollars ($20,000) Escrow Account which provides the State of Nebraska Department of Education with a recourse against the assets in the account as it would have against an insurance company on a bond. The terms on such an account would be exactly the same as the terms on a bond.

005.09B2b Twenty thousand dollars ($20,000) Irrevocable Letter of Credit from a bank, made payable to the State of Nebraska and deposited with the State Department of Education as would a bond. The Irrevocable Letter of Credit will be released to the school a year after the school has ceased to be in operation, or immediately when replaced by another instrument with similar amount.

005.09B3 Release of Surety Bond or Agreement. The surety bond or agreement shall cover the period of the authorization to operate, as appropriate, except when a surety is released as provided in this section. A surety on any bond or agreement filed under section 005.09B may be released there from after such surety serves written notice thereof on the Department at least thirty (30) days prior to the release. Such release shall not discharge or otherwise affect any claim theretofore or thereafter filed by a student or enrollee or his or her parent or guardian for loss or damage resulting from any act or practice which is a violation of the Private Postsecondary Career School Act alleged to have occurred while the bond or agreement was in effect or for a school ceasing operations during the term for which tuition has been paid while the bond or agreement was in force.

005.09B4 Suspension of Authorization to Operate. Authorization for a school to operate shall be suspended by operation of law when the school is no longer covered by a surety bond or agreement as required by section 005.09B. The Commissioner shall cause the school to receive at least thirty (30) days written notice prior to the release of the surety to the effect that the authorization shall be suspended by operation of law until another surety bond or agreement is filed in the same manner and like amount as the bond or agreement being terminated.

005.09C Fees. All fees collected pursuant to the Act shall be remitted by the Department to the State Treasurer for credit to the Private Postsecondary Career Schools Cash Fund. The fund shall be used only for the purpose of administering the Act. No fee shall be subject to refund. Pursuant to Section 85-1643 R.R.S., after consultation with the advisory council, established pursuant to Section 85-1607 R.R.S., the board may increase fees by not more than twenty (20) percent for each year of fiscal years 2003-2004, 2004-2005, and 2005-2006. Beginning with fiscal year 2006-2007 and each year thereafter, the board in consultation with the

advisory council shall establish fees sufficient to cover the total cost of administration, as provided in Section 85-1643(4) R.R.S., except that such fees shall not exceed one hundred ten (110) percent of the previous year's total cost. The fees that shall accompany the application, and the various other fees authorized by the Act, are provided for in Appendix A.

005.09D School Safety. The application shall be accompanied by a statement of assurance signed by the Resident Director or a member of the school's administrative staff stating the school complies with all applicable health, fire, safety, and sanitation laws and regulations.

005.09E Contracts. The application shall be accompanied by copies of enrollment agreements and retail installment contracts to be used in Nebraska.

005.09F Collections. The application shall be accompanied by a description of the methods used to collect tuition, and procedures for collecting delinquent payments.

005.09G Financial Statement. The applicant shall submit financial statements compiled in accordance with generally accepted accounting procedures and practices. Such statements shall be consistent with the requirements in section 004.12.

005.09H Ownership of Facility. The applicant shall submit evidence of ownership or lease of the premises for one year or more contingent upon issuance of an authorization to the school to operate.

005.09I Agents' Permits. Schools which apply for authorization to operate must include their applications for agents' permits.

006 Authorization to Operate. Following review of an application for authorization to operate and any information required by the Department, the Commissioner shall either grant or deny authorization to operate. A grant of authorization to operate may be on such terms and conditions as the Commissioner may specify. The authorization to operate shall be issued to the owner or governing body of the applicant school and shall be nontransferable.

006.01 The authorization to operate shall contain:

006.01A Date of issuance, effective date, and term of authorization;

006.01B The full, correct name and location of the school so authorized;

006.01C The authority for authorization and conditions thereof;

006.01D Any limitation of authorization as deemed necessary by the Commissioner; and

006.01E The term for which authorization is given shall not extend for more than one (1) calendar year.

006.02 Name or Location Change of School. Since the authorization to operate and the permits for agents are nontransferable, when a private postsecondary career–school desires to change the name or location of the school, the owner or governing body of a school desiring to change its name or location shall notify the Department and submit a fee as provided in Appendix A for a new certificate of authorization to operate and riders to the bonds to reflect the change of name or location. The appropriate agent's permit renewal fee as found in Appendix A shall be submitted for each agent to obtain a new agent's permit to show the new name or location of the school.

006.02A Student enrollment contracts, catalogs and pertinent school documents shall reflect the new name or location.

006.02B Any promotional literature shall reflect the new name or location of the school.

006.03 Inaugural Authorization to Operate. A school not yet in operation when its application for authorization to operate is filed may not begin operation until receipt of authorization. The authorization shall be an inaugural authorization valid for one (1) year and upon showing to the satisfaction of the Commissioner that it has fully complied with all standards so provided, the school will be eligible for a regular authorization. The Commissioner may issue a provisional authorization to operate which contains such limitations as to time, procedures, functions, or other conditions as the Commissioner may deem necessary.

006.03A At least thirty (30) days prior to the expiration of an inaugural authorization to operate, the school shall complete and file with the Department an application for regular authorization to operate.

006.04 Regular Authorization to Operate. A school which has been in continuous operation in prior years or has gone through the inaugural authorization to operate phase shall apply for a regular authorization to operate. A regular authorization expires on the last day of the sixth month following the end of the school's fiscal year. Refer to fee schedule found in Appendix A.

006.04A Provisional Authorization to Operate. If upon review and consideration of an application for authorization to operate, the Department determines that the application fails to meet certain criteria,

the Commissioner may grant a provisional authorization to operate which contains such limitations as to time, procedures, functions or other conditions as deemed necessary to meet the requirements.

006.05 Applicant Fails to Qualify. Upon review and consideration of an application for authorization to operate, if the Department determines that the applicant fails to meet the standards established in this chapter, the Department shall so notify the applicant, setting forth the reasons thereof in writing, and shall deny the application.

006.05A Extension of Time. The Commissioner may grant an applicant authorization to operate or an extension of time of reasonable duration in which the applicant may eliminate the reasons for denial contained in the statement of denial if the applicant has demonstrated to the satisfaction of the Commissioner the desire to meet the standards established and if in the judgement of the Commissioner, it would be reasonably possible for the applicant to meet such requirements and standards within such time.

006.05B Right of Hearing. Any person aggrieved by a decision of the Commissioner respecting denial of an authorization to operate or the placing of conditions on such authorization shall have the right to a hearing and review of such decision by the Board as provided in sections 006.05B1 through 006.05B3.

006.05B1 If, upon written notification of any such action taken by the Commissioner, the aggrieved party desires a hearing and review, such party shall so notify the Board in writing within ten (10) business days after the giving of notice of such action was received. If such notice is not given, the action shall be deemed final. Upon receipt of such notice from the aggrieved party, the Board shall fix the time and place for a hearing and shall notify the aggrieved party by certified mail.

006.05B2 At such hearing, the party may employ counsel, shall have the right to hear the evidence upon which the action is based, and may present evidence in opposition to the Commissioner's action or in extenuation or mitigation. The hearing shall be conducted in accordance with the Administrative Procedure Act and the hearing procedures set forth in 92 NAC 61. Any member of the Board may preside except when a clear conflict of interest may be demonstrated. The Board may utilize hearing officers to conduct the hearings and present recommendations, including findings of fact and conclusions of law, to the Board for final decision.

006.05B3 A decision of the Board following a hearing shall be deemed final subject to the right of judicial review provided in the Administrative Procedure Act. All matters presented at any such hearing shall be acted on promptly by the Board, and the Board shall notify all parties in writing of its decision, which shall include a statement of findings and conclusions upon all material issues of fact, law, or discretion presented at the hearing, and the appropriate rule, order, sanction, relief, or denial thereof.

007 Renewal Process. At least thirty (30) days prior to the expiration of an authorization to operate and upon notification by the Department, the school shall complete and file with the Department an application form for renewal of its authorization to operate. Financial stability information shall accompany the application. The renewal application shall be reviewed and acted upon as provided for an initial application. No authorization issued to any private postsecondary career school shall be renewed unless such school has been accredited by the Department within five (5) years of the date of its initial authorization to operate.

007.01 When a school changes the dates of its fiscal year, the Department shall be notified in writing within 30 days of the effective date of the change. The school's renewal schedule will be changed to reflect the new fiscal year in accordance with section 006.04.

008 Change of Ownership. In the event of a change in ownership of the school, the new owner or governing body shall, within ten (10) days after the change of ownership, apply for a new authorization to operate, and in the event of a failure to do so, the authorization to operate shall terminate. An application for a new authorization to operate by reason of change in the ownership of the school shall be deemed an application for renewal of the school's authorization to operate and regulated by sections 005 and 006.

008.01 When a school has a change of fifty (50) per cent or more of the school's stock or assets in one or a series of transactions occurring within a three (3) year period, it shall file immediately a change of ownership application with the Department. Included in the application shall be the following:

008.01A The name, full addresses, and corporate titles of all persons or other entities having financial interest of twenty-five (25) per cent or more of the ownership; and signed statements that to the best of their knowledge such persons have no felony convictions.

008.01B A new or revised catalog/bulletin or a supplement which describes the changed operations;

008.01C A certified financial report, including the information required in section 004.12C for schools making original application;

008.01D A fully executed school surety bond and a fully executed agents bond or other security agreements as provided in section 005.09B;

008.01E A report on any other changes made in the school's organization and operations since the last application was filed and approved by the Commissioner;

008.01F A report on arrangements to ensure continuing operations and compliance with laws and regulations during the change of school ownership;

008.01G A copy of the sales agreement or contract showing items and conditions of sale.

008.02 In a change of ownership, the records shall be transferred intact and in good condition to the new owner and the transfer shall be verified by the Department.

008.03 The Department shall be notified in writing when a school has any transfer of ten (10) per cent or more stock or assets of the school.

008.04 Assumption of Liability. The new owner shall submit evidence containing the following stipulations:

008.04A That the school will make all refunds, which on the date the school is sold, may be due students, and

008.04B That the school will honor all student contracts that were signed or approved by the previous school officials before the effective date of the change of ownership.

009 Procedures for Accreditation. Any private postsecondary career school offering instruction in the State of Nebraska shall, within five (5) years of its initial authorization to operate, apply to the Department for the accreditation of such school. No authorization issued to any private postsecondary career school shall be renewed unless such school has been accredited by the Department within the 5 year time frame. Only accredited schools shall have authority to grant associate or higher degrees.

009.01 Standards. The following minimum requirements must be met:

009.01A The school enrolls students who are beyond the age of compulsory school attendance in one or more programs, the content of which is of a postsecondary level and leads to postsecondary academic credential (e.g., certificate, diploma, associate or higher degree);

009.01B The school is currently authorized to operate as a private postsecondary career school in the state;

009.01C The school offers educational programs which help students develop skills and competencies to secure gainful employment in trade, business and industry, government or service industries;

009.01D The school has been in continuous operation for at least two (2) years and has graduated students from its programs to enable the assessment of the effectiveness of its educational program(s);

009.01E The overall objective of the school shall be clearly stated and each program of study shall have clearly defined objective(s).

009.02 Procedures for Application of Accreditation. The following procedures must be used to apply for accreditation:

009.02A Submit application for accreditation on forms supplied by the Department, plus the statutory fee, as found in Appendix A, made payable to the Nebraska Department of Education. Application for branch campus(es) must be made on separate form(s).

009.02B Submit four (4) copies of a Self-Study Report following the guidelines as to format and contents as specified by the Department.

009.02B1 The Self-Study Report should be typed or printed and strictly adhere to the outline provided.

009.02B2 All supporting documentation and exhibits must be submitted with the Report.

009.03 A private postsecondary career school that is nationally accredited or regionally accredited may file copies of its Self-Study Report that it files with its accrediting association or agency. This report, if it is more than a year old, shall be updated as to changes which have occurred since the Report was written. The Self-Study Report will be submitted in place of the report outlined in section 009.02B as meeting the accreditation requirements, provided a staff member from the Department participates in the on-site evaluation of the school by the appropriate accrediting association or agency.

009.04 Additional information or clarification may be requested before on-site evaluation by a team.

009.05 On-Site Evaluation. After a school has submitted a satisfactory Self-Study Report and all other required documentation, a visiting team will be appointed. The size, composition and qualification of the team will be determined by the size and number of programs offered at the school. The length of the visit will depend on location, size, and program offerings of the school.

009.05A The expenses of all the members in the team, with the exception of the Department of Education representative, shall be paid by the school. Such expenses shall include mileage, meals, and accommodations, where applicable.

009.05B Where branch campuses exist, it may not be possible to visit all branch campus operations during the main campus visit. Efforts will be made to visit the branch campus operations at some point before the evaluation of the school is complete.

009.05C The school will be provided in advance of the date of the visit, names of members in the team and a check list of materials and documents that should be current and readily available for review by the team. The school is required to update the Self-Study Report where significant changes have occurred since its initial submission to the Department.

009.05D The on-site evaluation team shall verify information in the school's Self-Study Report and report all facts observed during the visit as to how the school is accomplishing its stated objective(s).

009.05E During the visit, the school should make provisions for adequate consultation between team members, and with faculty, administrative staff, and students.

009.05F An exit interview will be conducted at the conclusion of the visit with the school administrator and any others designated by him/her. The interview will highlight strengths and weaknesses observed and suggestions for improvement.

009.05G The team will prepare a written report covering each area evaluated at the school and include other information pertinent to an accurate evaluation. A compilation of the team's report is sent to the school's administrator for his/her written response. A deadline is assigned for responding in order to prevent stalling the process.

009.05H The school's response, together with the team's evaluation reports and all materials pertinent to the accreditation, are reviewed by the program director and one member from the evaluation team, and a recommendation is made to the Commissioner for action.

009.06 When the Commissioner finds that a private postsecondary career school has met the requirements for accreditation, a certificate of accreditation shall be issued to the school. The certificate of accreditation shall be accompanied by a letter which lists the courses taught at the school at the time of the evaluation.

009.06A Accreditation shall be for a period of five (5) years.

009.07 Renewal of Accreditation. Reaccreditation shall require the same procedure and process as the initial accreditation.

009.08 Applicant Fails to Qualify. A school which has received an unfavorable accreditation evaluation will be notified in writing setting forth areas of concern and the period of time in which the concerns shall be corrected.

009.08A If no corrective action is taken within the stipulated time period, accreditation shall be denied and the school shall discontinue operation.

009.08B A school whose accreditation is denied can appeal the decision to the Board under the procedures outlined in 92 NAC 43.

009.09 Any private postsecondary career school which has been accredited but loses its authorization to operate in the state automatically terminates the accreditation of the school and its programs.

010 Authority to Offer Associate Degree Program.

010.01 The Commissioner shall give consideration to an application for an authority to offer a program that leads to an associate degree. Such school may provide both non-degree and associate degree courses of instruction. A school is not required to offer an associate degree program.

010.02 An accredited school shall make a separate application for each program to the Commissioner for authority to award the associate degree. Such application shall clearly indicate the course of instruction for which the degree will be awarded. The application shall be accompanied by a fee as found in Appendix A. In addition, the school shall provide information sufficient to indicate conformance with the appropriate standards of instruction as set forth herein.

010.02A Associate of Arts (A.A.) degree program, requires at least forty-five (45) quarter credit hours or thirty (30) semester credit hours of general education courses plus forty-five (45) quarter credit hours or thirty (30) semester credit hours of liberal arts courses. The objective of the school will be to instruct the student in subjects that have a liberal arts emphasis with the intention to be offered exclusively for transfer to baccalaureate programs offered by senior colleges and universities.

010.02B Associate of Science (A.S.) degree program requires at least forty-five (45) quarter credit hours or thirty (30) semester credit hours of general education courses plus forty-five (45) quarter credit hours or thirty (30) semester credit hours of science courses. The objective of the school will be to instruct the student in subjects that have a science emphasis with the intention to be offered exclusively for transfer to baccalaureate programs offered by senior colleges and universities.

010.02C Associate of Applied Science (A.A.S.) degree program requires at least eighteen (18) quarter credit hours or twelve (12) semester credit hours of general education courses plus eighteen (18) quarter credit hours or twelve (12) semester credit hours of basic courses clearly related to the field of major interest, and fifty-four (54) quarter credit hours or thirty-six (36) semester credit hours in the technology or job-related courses of instruction. The objective of the school will be to instruct students with the intention exclusively of preparing them to enter full-time skilled and/or paraprofessional occupations at the end of two (2) academic years of full-time study.

010.02D Associate of General Studies (A.G.S.) degree program requires at least twenty-four (24) quarter credit hours or sixteen (16) semester credit hours of general education courses plus sixty-six (66) quarter credit hours or forty-four (44) semester credit hours of job-related courses of instruction. The objective of the school will be to instruct the student in both general education and job-related subjects, and the school will require proficient performance by the student in both areas of study. Each school proposal for an A.G.S. program is required to state in the catalog that it will require each student to develop, in consultation with, and with the approval of, counselors and/or faculty advisors, a written statement of objectives and courses needed to satisfy those objectives.

010.02E Associate of Occupational Studies (A.O.S.) degree program, in addition to the minimum total credits of ninety (90) quarter hours or sixty (60) semester credit hours, requires only that the school justify each such program to the Commissioner in terms of a logical sequence of courses which will assure adequate preparation for entry level employment in a particular occupational field.

010.03 Admission. A student admitted to a degree program of instruction shall be a high school graduate or upon appropriate evaluation of study and experience be found to possess the equivalency of education usually required for the awarding of a high school diploma.

010.04 Curriculum. The curriculum in the appropriate associate degree program of study shall consist of subjects of instruction in the general education courses and/or the occupational education area as established hereunder.

010.05 Instructors. Instructors teaching general educational courses shall hold at least a baccalaureate degree, including adequate preparation in areas the instructors are assigned to teach. Instructors teaching only general educational courses are exempt from and do not require vocational credentials.

010.06 Library. A library is maintained which is supervised by a trained librarian or a competent staff member. The library shall include holdings appropriate to the courses of study along with standard works of reference.

~~011 Authority to Award Baccalaureate Degrees. A school which has been accredited pursuant to section 009 may apply to the department for authority to award baccalaureate degrees. The department shall refer such degree applications to the commission for its review and approval. Baccalaureate degrees, as defined by the Commission, require completion of an organized program of study of at least 120 semester credit hours or 180 quarter credit hours, and will include a general education program as well as a series of closely related courses in a major field of study. Within ninety days after receipt of such referral, the commission shall make a determination setting forth the specific program area and the name of the baccalaureate degree program. The commission shall report its determination to the commissioner who shall issue a certificate setting forth the programs for which the baccalaureate degree may be awarded. Such authorization shall continue so long as the school remains accredited.~~

~~011.01 The procedures and criteria by which the commission considers petitions and applications for a school to extend its program offerings to include the baccalaureate or higher degree level are provided in sections 85-1105 through 85-1111 R.R.S. and rules and regulations promulgated thereunder.~~

0~~12~~11 School Closing. A school which is closing, either voluntarily or involuntarily shall take the following actions:

0~~12~~11.01 Inform the Department of this action immediately by certified mail;

0~~12~~11.02 Return its authorization to operate to the Department immediately upon cessation of instruction or termination of authorization status;

0~~12~~11.03 Give the Department the name, address and telephone number of the person who will be responsible for closing arrangements;

0~~12~~11.04 Furnish the Department with names, addresses, and telephone numbers for each student who has not completed his/her course of instruction, and the name(s) of the course(s) of instruction in which they were enrolled; the amount of class time left to complete the course, and the amount of refund, if any, for which each student is eligible;

0~~12~~11.05 Furnish the Department with copies of the written notice being mailed to all enrolled students explaining the procedures they are to follow to secure refunds or to continue their education, and

0~~12~~11.06 File procedures with the Department for disbursement of refunds and set a date no later than thirty (30) days from last day of instruction to issue refund checks in the full amount to which students are entitled.

0~~12~~11.07 Academic and Financial Records. A member of the school's administrative staff shall cause to be filed with the Department the original or legible true copies of all academic and financial records and such other records of the school as may be specified by the department. These records shall be signed by an authorized official of the school for authenticity. These records shall be filed alphabetically by the student's last name then first name. Students requesting a copy of his or her transcripts which are on file with the Department will be charged a fee of ten ($10) dollars for each copy requested and received.

0~~12~~11.08 If students are receiving instruction prior to the school's closing, the school shall file a plan including the information described in this section with the Department to ensure that the students will continue to receive training of the same quality and content as that for which they contracted.

> 0~~12~~11.08AArrangements for transferring students to a public or a private postsecondary career school authorized to operate shall be filed with the Department prior to any student transfer.
>
> 0~~12~~11.08BPrior to approving the school's arrangements for completing its teaching obligations to the students, the Department shall verify that the students transferring will receive the same kind of program and instructional services as those for which they contracted;

0~~12~~11.09 Refund of Tuition and Fees. The school shall refund all unearned tuition, fees, and other charges, if the Department, in any situation in which students are receiving instruction prior to a school's closing, determines that:

> 0~~12~~11.09AThe school has not fulfilled its contractual obligations; or

0~~12~~11.09BA student has reasonable objections to transfer resulting from the closing.

0~~13~~12 Criminal Penalty. Section 85-1650 R.R.S. provides that any entity or any owner, officer, agent, or employee thereof who willfully violates section 85-1610 R.R.S. or refuses to deposit with the Department the records required by section 85-1644 R.R.S. shall be guilty of a Class II misdemeanor. Each day's failure to comply with such sections shall be a separate violation.

FEES

Applications shall be accompanied by the following:

Initial (Inaugural) application to operate: ~~Four~~ three hundred ~~fifty-nine~~ sixty dollars ~~and ninety-nine cents ($459.99)~~ ($360.00) plus ~~forty- five~~ one hundred thirty-five dollars ~~and ninety-nine cents ($45.99)~~ ($135.00) per program of study offered.

Regular (Renewal) application for authorization to operate, two hundred twenty-~~nine~~ dollars ~~and ninety-nine cents ($229.99)~~ ($220.00) plus ~~forty- five dollars and ninety-nine cents ($45.99)~~ seventy-five dollars ($75.00) per program of study offered.

Initial agent's permit for school located in Nebraska, one hundred ~~fourteen dollars and ninety-nine cents ($114.99)~~ fifty dollars ($150.00).

Agent's permit renewal for school located in Nebraska, ~~forty- five dollars and ninety-nine cents ($45.99)~~ one hundred fifty dollars ($150.00).

Other fees which must be submitted when applicable include:

Approval to operate a branch facility, ~~two~~ one hundred ~~twenty-nine~~ thirty-five dollars ~~and ninety-nine cents ($229.99)~~ ($135.00);

Late submission of a regular application for authorization to operate, one hundred ~~fourteen~~ forty-nine dollars ~~and ninety-nine cents ($114.99)~~ ($149.00);

Accreditation or reaccreditation, ~~two~~ three hundred ~~twenty-nine~~ dollars ~~and ninety-nine cents ($229.99)~~ ($300.00);

Initial authorization to award an associate degree, ~~two~~ one hundred ~~twenty-nine~~ thirty-five dollars ~~and ninety-nine cents ($229.99)~~ ($135.00);

~~Initial authorization to offer a baccalaureate degree, three hundred eighty-three dollars and thirty-three cents ($383.33);~~

Significant program change, ~~one hundred fourteen~~ forty dollars ~~and ninety-nine cents ($114.99)~~ ($40.00);

Change of name or location, one hundred fifty~~-seven~~ dollars ~~and fifty cents (57.50)~~ ($150.00);

Addition of a new program, ~~two~~ one hundred ~~twenty-nine~~ thirty-five dollars ~~and ninety-nine cents ($229.99)~~ ($135.00);

Fees for out-of-state schools:

Certificate of Approval to Recruit, one thousand ~~one~~ five hundred ~~forty-nine~~ fifteen dollars ~~and ninety-eight cents ($1,149.98)~~ ($1,515.00).

Initial agent's permit for out-of-state schools, ~~two~~ three hundred ~~twenty-nine~~ dollars ~~and ninety-nine cents ($229.99)~~ ($300.00).

Agent's permit renewal for out-of-state schools, ~~ninety-one~~ three hundred dollars ~~and ninety-nine cents ($91.99)~~ ($300.00).