

CHAPTER 46

PRIVATE VOCATIONAL SCHOOLS

Authority

N.J.S.A. 18A:1-1, 18A:4-10, 18A:4-15, 18A:4-16, 18A:4-24, 18A:4-25, 18A:7A-1 et seq., 18A:54-1 et seq., 18A:69-1 et seq., and 34:1A-38.

Source and Effective Date

R.1992 d.203, effective April 10, 1992.
See: 24 N.J.R. 541(a), 24 N.J.R. 1793(a).

Chapter Expiration Date

Pursuant to Executive Order No. 22(1994), Chapter 46, Private Vocational Schools, expires on October 10, 1998. See: 26 N.J.R. 3783(a) and 3942(a).

Chapter Historical Note

This chapter was adopted in accordance with the provisions of the State Plan for Vocational Education, N.J.S.A. 18A, P.L. 90-576, and the rules and regulations of the State Board of Education. The provisions of this chapter apply to Area Vocational Technical Schools, Apprenticeship Training, Art Schools, Business and Correspondence Schools, Trade Schools, Music Schools and Nonprofit Private Schools.

1971 Revisions: Revisions became effective July 23, 1971 as R.1971 d.127.

1973 Revisions: Amendments became effective March 13, 1973 as R.1973 d.71. See: 5 N.J.R. 35(a), 5 N.J.R. 104(a).

1978 Revisions: Amendments became effective March 7, 1978 as R.1978 d.86. See: 10 N.J.R. 56(a), 10 N.J.R. 142(b). Subchapter 9 became effective May 12, 1978 as R.1978 d.148. See: 10 N.J.R. 96(a), 10 N.J.R. 227(c).

1982 Revisions: Subchapter 1 became effective January 4, 1982 as R.1982 d.495. See: 13 N.J.R. 635(b), 14 N.J.R. 41(c). These rules completely replaced the rules previously codified in this subchapter. Further amendments became effective April 19, 1982 as R.1982 d.118. See: 14 N.J.R. 9(b), 14 N.J.R. 385(b).

1986 Revisions: 1986 Waiver: The Governor granted a waiver of Executive Order No. 66(1978) expiration date for N.J.A.C. 6:46-1 through 6:46-9. The waiver extended the expiration date from December 1, 1986 through December 1, 1987. See: 18 N.J.R. 1996(b).

1987 Revisions: This chapter Area Vocational Technical and Private Schools renamed Local Area Vocational School Districts and Private Vocational Schools was readopted pursuant to Executive Order 66(1978), effective October 5, 1987, with amendments that completely revised the chapter, effective November 2, 1987 as R.1987 d.434. See: 19 N.J.R. 1368(a), 19 N.J.R. 1989(a).

This chapter has been recodified effective November 2, 1987. Below is a Cross Reference Chart reflecting recodification changes.

Subchapter 2, Local Area Vocational School Districts, was repealed by R.1991 d.405, effective August 5, 1991. See: 23 N.J.R. 1247(a), 23 N.J.R. 2332(a).

Chapter 46, Private Vocational Schools, pursuant to Executive Order No. 66(1978), was readopted by R.1992 d.203, effective April 10, 1992. See: 24 N.J.R. 541(a), 24 N.J.R. 1793(a).

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. DEFINITIONS

6:46-1.1 Words and phrases defined

The following words and terms, when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Apprentice" means an employee of legal working age who meets the qualifications established by the apprentice sponsor and who is employed under a written agreement which provides that related training and on-the-job experience received be in accordance with approved standards of apprenticeship.

"Apprentice sponsor" means an employer who is a party to a written training agreement with an apprentice that includes the components of the training in accordance with approved standards of apprenticeship.

"Apprentice training" means a program of adult vocational education requiring a written training agreement between full-time paid apprentices and their apprentice sponsors. The program must include a component of related instruction which is coordinated by an individual who holds a current administrative certificate of Coordinator: Apprentice Programs.

"Apprenticeship agreement joint approval" means a written training agreement between an apprentice and an apprentice sponsor in accordance with approved standards of apprenticeship. This agreement includes the components of the training and is signed by the apprentice, apprentice sponsor, apprentice coordinator, State Department of Education representative and Federal Bureau of Apprenticeship and Training representative.

"Commissioner" means the Commissioner of Education.

"Course" means an organization of subject matter and related learning experiences designed to meet a vocational objective provided for the instruction of pupils on a systematic basis, usually for a predetermined period of time.

"Department" means the New Jersey Department of Education.

"Instructional hour" in a private vocational school means 60 consecutive minutes of which a minimum of 50 minutes is dedicated to instruction.

"On-the-job training" means one of two major components of apprentice training. This part of training is experiential in nature and is usually directly supervised by the apprentice sponsor.

"Private vocational school" means a business enterprise operated for either profit or nonprofit which maintains a place of business within the State of New Jersey and which:

1. Solicits pupils from the general public;
2. Charges tuition and/or other fees;
3. Offers instruction to a group or groups of four or more pupils at one time; and
4. Offers preparatory instruction to pupils for entry level employment or for upgrading in a specific occupational field. The occupational fields include those listed in the Classification of Instructional Programs (C.I.P.) requiring less than a baccalaureate degree. This document is available from the United States Department of Education, Office of Educational Research and Improvement, Center for Educational Statistics, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

"Program" means the planned sequence of courses, services or activities designed to meet a vocational objective.

"Related training" means one of two major components of apprentice training. This part of training includes the theoretical and technical subjects related to the apprentice trade and is provided in a classroom or individualized setting at a vocational education institution or at the work site.

"Supervisor of correspondence instruction" means the individual responsible for grading papers sent to the correspondence school by the pupils and guiding the pupils in their study.

"Termination" means the removal of a pupil from enrollment in a course or program in a private vocational or correspondence school by the director of the school prior to completion of the course or program in which the pupil is enrolled.

"Withdraw" means the voluntary discontinuation of enrollment by a pupil accepted into a private vocational or correspondence school prior to completion of the course or program in which the pupil is enrolled.

Amended by R.1990 d.150, effective March 5, 1990.

See: 21 N.J.R. 3700(a), 22 N.J.R. 799(a).

Term "clock hour of instruction" changed to "instructional hour."

Amended by R.1991 d.405, effective August 5, 1991.

See: 23 N.J.R. 1247(a), 23 N.J.R. 2332(a).

Definitions related specifically to local area vocational school districts were deleted pursuant to P.L. 1990 c.52 (QEA).

SUBCHAPTER 2. (RESERVED)

SUBCHAPTER 3. APPRENTICE TRAINING

6:46-3.1 Apprentice program responsibility

The Department is the recognized State agency responsible for the administration of the related training and instruction portion of apprentice programs. This training and instruction must comply with federal standards of apprenticeship as published in Labor Standards for the Registration of Apprenticeship Programs, 29 C.F.R. Sec. 29.1-13 (1977).

6:46-3.2 Approval of related training and instruction

Upon receipt of the Apprenticeship Agreement Joint Approval form from the Federal Bureau of Apprenticeship and Training, the Department will evaluate the related training and instruction component of the apprenticeship. Within 30 days of receipt of the form, the Department shall notify the Federal Bureau of Apprenticeship and Training of its approval or disapproval of the related training and instruction.

SUBCHAPTER 4. PRIVATE VOCATIONAL SCHOOLS

6:46-4.1 General provisions

(a) Institutions, courses and programs excluded from these rules are the following:

1. Institutions specifically exempted by N.J.S.A. 18A:69-1;
2. Institutions whose offerings are avocational, cultural or recreational in nature;
3. Commercial driving schools which are licensed by the New Jersey Division of Motor Vehicles under the provisions of N.J.S.A. 39:12-4;
4. Real estate schools which are licensed by the State of New Jersey Real Estate Commission;
5. Courses or programs for the purpose of preparing pupils for the State Insurance Certificate which are approved by the State of New Jersey Department of Insurance;

6. Courses or programs conducted by an employer for training and upgrading of employees without cost to the employee;

7. Courses or programs conducted under contract with an employer, whether at the place of employment or elsewhere, at no cost to the employee other than the cost of books, supplies, tools or equipment which become the property of the employee;

8. Courses or programs licensed by the State of New Jersey Casino Control Commission;

9. Ground and air flight training schools whose curricula and instructors are licensed and approved by the Federal Aviation Administration; and

10. Courses, programs or schools which are subject to approval or regulation by the State Board of Higher Education.

(b) Each private vocational school shall be operated under the supervision of a resident director approved by the Department who shall be responsible for the total operation of the school.

(c) Each private vocational school director shall submit an annual pupil enrollment and tuition source report for the period July 1 through June 30 of the preceding school year on forms provided by the Commissioner. The report shall include, but not be limited to, pupil admission and retention rates and sources of tuition paid by pupils. The report shall be submitted to the Commissioner no later than 30 calendar days after the close of the reporting period.

Amended by R.1989 d.241, effective May 1, 1989.
See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

Added FAA flight schools and schools or programs subject to regulation by the State Board of Higher Education, to list of exclusions; at (c) clarified elements necessary in annual report.

6:46-4.2 Name of school

(a) The name of the private vocational school shall not infringe on the name of another school.

(b) The words "New Jersey" or "State of New Jersey" shall not be used in the name of the school.

(c) No school shall adopt or use any title or name commonly accepted as descriptive of collegiate or university institutions.

(d) The name of the school, once approved, shall not be changed without the prior approval of the Department.

6:46-4.3 Private vocational school facilities and equipment

(a) All facilities shall be inspected and approved by the commissioner or his or her designee prior to the enrollment of pupils in approved courses or programs to verify that the facilities and equipment requirements have been met.

(b) Documentation shall be submitted by the school indicating that the local municipality and/or appropriate State agency final fire, health and occupancy certificates or permits have been obtained. Thereafter, when the annual request for the certificate of approval is submitted, documentation that the school continues to comply with appropriate fire and health requirements shall be included.

(c) The equipment, supplies, mock-ups, simulators, training aids and instructional space shall be appropriate to achieve the stated occupational objective(s) of the approved course or program.

(d) The school may be established in conjunction with another business enterprise. The school, however, shall have its own separate identity, staff, designated instructional space and hours of operation as approved by the Department. Use of facilities or periods of internship or externship at on- or off-premise facilities shall bear a direct relationship to the pupil's occupational objective(s) and shall be clearly indicated in the approved course or program and the school bulletin.

6:46-4.4 Private vocational school personnel qualifications

(a) An application for approval of the qualifications of private vocational school personnel described in (b) below shall be completed by the potential employee, certified and submitted to the Department by the director of the private vocational school on the form provided by the Department. The Department shall notify the school director of the approval or disapproval of the stated qualifications of the potential employee.

1. The Department may rescind the approval if the qualifications of staff are not verified by the school as required by N.J.A.C. 6:46-4.11(a)3.i.

(b) Qualifications of school personnel are as follows:

1. A school director shall have completed six years of academic, military and/or job-related experience beyond high school graduation that includes a minimum of two years of practical experience in a supervisory, administrative or teaching position.

2. Qualifications of instructors shall indicate:

i. Competency in the subject(s) to be taught as demonstrated by one of the following:

(1) Possessing an appropriate instructional certificate issued by the State Board of Examiners or a comparable teaching certificate issued by a recognized certifying authority in another state with which the State Board of Examiners has reciprocity;

(2) Possessing a minimum of a baccalaureate degree from a recognized institution with a major or specialization in the subject area to be taught;

(3) Attaining journeyperson's status by possessing a certificate of completion of apprentice training in the subject to be taught;

(4) Obtaining a passing score on the written portion of the appropriate National Occupational Competency Examination;

(5) Obtaining a passing score on the National Teacher Examination in the appropriate subject area. A passing score shall be the minimum passing score required by the Department for the issuance of instructional certification in the appropriate subject teaching field;

(6) Possessing a certificate of completion from an approved school, a license or rating in the occupational area to be taught; or

(7) Earning the minimum of an associate's degree from an approved institution with a major or specialization in the subject area to be taught.

(8) Possession of a high school diploma or its equivalent and six years full-time employment in the skilled trade or technical occupation to be taught.

(9) Possession of a high school diploma or its equivalent and three years full-time employment in the business or service occupation to be taught.

ii. Instructors demonstrating competency in the subject area in accordance with (b)2i(4) or (5) above must have completed a minimum of two years full-time employment in the occupation prior to taking the examinations.

iii. Instructors demonstrating competency in the subject area in accordance with (b)2i(6) or (7) above must have completed a minimum of two years full-time employment in the occupation following the training time.

iv. Instructors demonstrating competency in the subject area in accordance with (b)2i(8) or (9) above shall have the periods of the full-time employment verified by the director by the obtaining of written statements from former employer(s) attesting that the potential instructor demonstrated competence in the range of tasks and skills the individual will teach.

v. A supervising instructor offering direction and guidance to other instructors shall meet the qualifications for instructor and have completed at least one year of full-time teaching in the occupational area taught by the instructors being supervised.

3. Qualifications of administrative staff, except clerical personnel, employed in a non-teaching capacity, in such title as, but not limited to, Business Manager, Director of Admissions and Director of Placement shall have acquired through education or experience a knowledge of administrative and personnel procedures and practices.

4. Persons utilized by the school for the purpose of recruiting students to enroll in the school shall be employees of the school and hold the title of admissions, field or sales representative and shall have participated in training by the director or owner to thoroughly familiarize the representative with the school's courses, programs, admission requirements, policies, regulations and completion requirements. Admissions, field or sales representatives shall not have authority to approve or sign the pupil financial loan or grant application.

Amended by R.1989 d.241, effective May 1, 1989.
See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

Qualifications expanded and written statements from former employers required; at (b)4. prohibition of certain personnel to sign financial loan or grant applications.

6:46-4.5 School ownership and financial responsibility

(a) The proposed owner(s) of a private vocational school shall be required to satisfy the Commissioner that the owner(s) have a reputation for integrity and good business practices and shall be required to demonstrate that the owner(s) are capable of establishing a legitimate school with reasonable prospects for successful operation. Character and financial references and a criminal history review prepared by the New Jersey State Police shall be submitted to the Department with the application for approval. Present owner(s) of the schools shall submit a criminal history review annually with the application for renewal of the certificate of approval. The cost of obtaining the review shall be paid by the proposed or current owner(s).

(b) All acts, statements, advertising and representations of the school and its employees shall be considered as acts, statements, advertising and representations of the owner(s).

(c) When the school is owned by an out-of-state corporation, the owner shall be required to obtain a certificate of authority to conduct business in the State of New Jersey from the Secretary of State prior to approval to operate in accordance with N.J.S.A. 14A:13-3. The certificate of authority shall be submitted to the Commissioner with the application for approval.

(d) A franchised school shall be required to submit a copy of the franchise agreement to the commissioner.

(e) The private vocational school shall be required to submit to the Department, prior to initial approval and on an annual basis thereafter, an audit report containing financial statements prepared by a certified public accountant, licensed public accountant, registered municipal accountant or licensed public school accountant. The auditor shall determine whether the financial statements of the organization present fairly its financial position and the results of its financial operations and that they are in accordance with generally accepted accounting principles.

(f) Any school approved under this section that collects tuition 30 or more calendar days in advance of instruction,

except for a non-refundable registration fee described in N.J.A.C. 6:46-4.7(d), shall post a tuition performance bond payable to the Commissioner and in a format designated by the Commissioner in the amount of the advance tuition accepted by the school.

(g) The performance bond shall not be required of schools that do not collect tuition, other than a non-refundable registration fee, 30 or more calendar days in advance of instruction.

Amended by R.1989 d.241, effective May 1, 1989.
See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

Required financial statements be prepared by a certified public accountant.

Amended by R.1990 d.235, effective May 7, 1990.

See: 22 N.J.R. 91(b), 22 N.J.R. 1359(b).

Repealed use of letter of credit at (f).

6:46-4.6 Courses or programs offered

(a) The private vocational school shall advertise and offer to the public as courses and programs approved by the Department only those courses and programs which have been reviewed, evaluated and approved by the Department.

(b) Each request for course or program approval submitted by the private vocational school shall contain sufficient information for proper evaluation. The information submitted shall include:

1. Course or program title;
2. Specific vocational objective(s) of the course or program, to include occupational competencies the pupil will acquire;
3. The course or program content in outline form showing the major elements of instruction, the number of instructional hours for each element, and the total number of instructional hours required for completion;
4. A description of the methods of instruction to be used;
5. A description of the educational space, equipment, tools and text materials to be used;
6. Competencies needed by pupils prior to enrollment;
7. The tuition, other charges or fees;
8. The scheduled hours of instruction; and
9. A statement of the impact of the course or program on the overall capacity of the facility.

(c) In all shops or laboratories where there are physical hazards such as, but not limited to, moving machinery, possibility of fire, explosion or exposure to high voltage electricity, there shall be compliance with all local, State and Federal safety and health codes.

(d) An accredited private vocational school approved by the Commissioner may request that the Commissioner grant course or program approval in credit hours. The Commissioner may grant approval in credit hours for a course or program taught in an approved private vocational school provided the course or program approval request contains the information specified in (b) above. In addition, the number of credit hours requested must be in accordance with the conversion formula to credit hours used by the appropriate accrediting agency recognized by the Commissioner and accepted by the Secretary of the United States Department of Education.

Amended by R.1989 d.241, effective May 1, 1989.

See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

At (a) language added regarding advertising; (d) added.

Amended by R.1990 d.150, effective March 5, 1990.

See: 21 N.J.R. 3700(a), 22 N.J.R. 799(a).

Term "clock hour of instruction" changed to "instructional hour".

6:46-4.7 Tuition, fees and other charges

(a) The private vocational school shall establish tuition, fees and/or other charges which shall be filed with the Commissioner. Cost changes shall be filed with the commissioner not less than 60 calendar days prior to the effective date of the change.

(b) The tuition shall be expressed on the basis of individual courses where applicable. In the case of a program, the tuition may be expressed either on the basis of the individual courses making up the program, the full program of instruction or a time period such as a semester, quarter, term or school year.

(c) The school may establish an application fee to defray the expense of processing the application, obtaining records or transcripts and testing the applicant. The amount of this fee, which may be non-refundable, shall be limited to a maximum of \$25.00.

(d) Upon written notification of admission of the pupil to the school, the school may require the payment of a registration fee subject to the following:

1. The fee shall be credited to the pupil's tuition account;
2. The fee shall not exceed 15 per cent of the pupil's total tuition for the course or program or \$100.00, whichever is less;
3. The fee need not be refunded if the pupil does not proceed with the course or program or if the pupil discontinues training before completion of the course or program. The registration fee shall be returned if the pupil cancels the enrollment agreement within three business days after acceptance by the school, even if instruction has begun during the three day period.

(e) The application and registration fees are not subject to the provisions of N.J.A.C. 6:46-4.5(f).

(f) The school may establish other charges if necessary. These charges shall be expressed separately from the tuition and shall be clearly stated in the school bulletin, enrollment agreement and application for enrollment. These charges may include, but not be limited to, such items as laboratory fees, deposits against breakage, graduation fees and pupil activities fees.

(g) Required pupil books, equipment and supplies shall be itemized with the approximate cost to the pupil. The school shall not require pupils to purchase the books, equipment and supplies from the school if such items are available on the general market.

(h) Increases in tuition and/or fees shall not apply to pupils already accepted for enrollment or in attendance in a single course. Increases in tuition and/or fees applicable to programs which are divided into time periods such as quarters, terms, semesters or phases shall not apply to:

1. The first such time period for pupils that have been accepted for enrollment and who have not yet started their training; and
2. The current time period for pupils already in attendance.

(i) The school may grant appropriate credit for previous training, education or experience; however, tuition and other costs shall be reduced in proportion to credit granted toward course or program completion.

(j) All refunds due pupils shall be processed and sent to the pupil no later than 30 calendar days after the date of termination of enrollment of the pupil by the school or receipt by the school of notification from the pupil of withdrawal from the school.

Amended by R.1989 d.241, effective May 1, 1989.

See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

At (j), changed from 40 calendar days to 30 calendar days.

6:46-4.8 Enrollment agreement

(a) The private vocational school shall use an enrollment agreement which shall be the contract between the school and the pupil. This agreement shall:

1. Be prepared in duplicate, dated and signed by the pupil and an appropriate school official. In the case of a minor, both the pupil and a parent or legal guardian must sign. The pupil shall be furnished a copy of the agreement;
2. Contain specific information on the name and length of the course or program, the tuition and other costs and the schedule of payment;
3. Contain information regarding the scheduled hours of instruction, the date of the start of the course or program and the approximate completion date;

4. Contain a statement of the registration fee paid and the refund policy in the event a pupil does not start the course, notifies the school of withdrawal or is terminated by the school prior to completion;

5. Contain a statement of the school policy regarding termination of enrollment of pupils or a specific reference to the location in the school bulletin where such policy is explained; and

6. Contain a statement that the pupil shall notify the director, in writing, of the date on which the pupil intends to withdraw from the school if it is prior to completion of the course or program.

(b) The enrollment agreement shall not be signed until the pupil receives written confirmation of acceptance for enrollment by the school.

(c) The enrollment agreement may be executed at the school, the pupil's home or by mail. The agreement shall not become binding until three business days after signing by both parties. The enrollment agreement shall be signed by the school owner, director or other appropriate school official designated in writing by the owner or director. An appropriate school official shall not be an admissions, field or sales representative.

(d) The enrollment agreement shall conform to the regulations in N.J.S.A. 56:12-1 et seq., The Plain Language Law.

Amended by R.1989 d.241, effective May 1, 1989.

See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

Added language in (c) regarding "appropriate school official".

6:46-4.9 Refund policy

(a) In the event of notification by the pupil of withdrawal from the school or termination by the school prior to the completion of the course or program, the following considerations shall determine the maximum obligation of the pupil. (The school may determine its refund policy to the pupil on a more liberal basis.)

1. The school may retain all or part of the registration fee.

2. The school may require that all books, equipment and tools purchased from the school and issued to the pupil be retained by the pupil. However, the school may refund a portion of the monies paid if the books, equipment and tools are in proper condition for resale.

3. In calculating refunds of tuition paid in advance or sums due the school where tuition is paid on a weekly, monthly or semester basis, the following shall apply:

i. For courses of 300 hours or less, the school may retain the registration fee plus a pro-rata portion of the tuition calculated on a weekly basis.

ii. For full-time attendance in courses exceeding 300 hours in length but not exceeding 1,200 hours, the school may retain the registration fee plus:

(1) Ten percent of the total tuition if withdrawal occurs in the first week;

(2) Twenty percent of the total tuition if withdrawal occurs in the second or third week;

(3) Forty-five percent of the total tuition if withdrawal occurs after the third week but prior to the completion of 25 percent of the course;

(4) Seventy percent of the total tuition if withdrawal occurs after 25 percent but not more than 50 percent of the course has been completed; or

(5) One hundred percent of the total tuition if withdrawal occurs after completion of more than 50 percent of the course.

iii. For part-time attendance in courses over 300 hours in length, calculation of the amount the school may retain in addition to the registration fee shall be based on:

(1) Ten percent of the total tuition if withdrawal occurs in the first 25 hours of scheduled attendance.

(2) Twenty percent of the total tuition if withdrawal occurs between 26 and 75 hours of scheduled attendance.

(3) After 75 hours of scheduled attendance the amount the school retains shall be calculated on the same basis as for full-time attendance.

iv. In cases where other fees have been charged, the refund shall be based upon the extent to which the student has benefited. For example, the graduation fee shall be refunded; the activity fee shall be pro-rated.

Amended by R.1989 d.241, effective May 1, 1989.

See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

At (a)2., the phrase "and issued to" was added and "by" was deleted.

6:46-4.10 School bulletin

(a) Prior to obtaining its initial approval, the private vocational school shall prepare a draft copy of an official school bulletin which, after approval by the Department, shall be published and a copy given to each pupil upon payment of the application fee. The bulletin shall be revised and updated, subject to approval of the Department, as conditions warrant.

(b) The school bulletin shall be the official statement of the school's policies, regulations, charges and fees and shall include, but not be limited to, the following items:

1. Identifying data, which includes volume, number, date of publication and effective dates;

2. Name of the school, name of the chief executive officer of the governing body and names of administrators and instructors;

3. A calendar of the school showing legal holidays, beginning and ending date of each quarter, term or semester and other important dates;

4. School policy and regulations on enrollment with respect to dates of enrollment and specific prerequisites or entrance requirements for each course or program;

5. School policy and regulations on leaves of absence, absences, class cuts, make-up work, tardiness and unavoidable interruptions of attendance;

6. School policy and regulations on standards of progress required of the pupil. This policy shall define the grading system of the school, the minimum grades required to remain in school, consequences for unsatisfactory grades or progress, a description of the probationary period, if any, allowed by the school and conditions for readmission following a dismissal for unsatisfactory progress, attendance or behavior. A statement shall be made regarding what constitutes the record of academic progress maintained by the school and the record of academic progress shall be provided to the pupil;

7. School policy and regulations on pupil conduct and identification of specific behavior that will result in dismissal;

8. Detailed cost of fees, tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits and all other charges;

9. Policy and regulations on the refund of the unused portion of tuition, fees and other charges in the event the pupil does not enter the course, withdraws or is terminated by the school;

10. A description of each approved course and program describing course content, type of work or skill to be learned and instructional hours;

11. A description of the available educational facilities and equipment;

12. Policy and regulations on granting credit for previous education and training;

13. Policy and regulations on the awarding of a diploma, certificate or other evidence of successful completion of a course or program;

14. A description of pupil loans or grants available and an explanation of the difference between a loan and a grant;

15. A description of scholarships available from the school which includes information on qualifying criteria, dollar value, number available and source of scholarship funds; and

16. A statement that pupils not meeting the school admission requirements and requiring remedial education programs shall receive information from the director on the availability of remedial programs from adult learning centers listed in the "Adult Education Program Directory" published by the Division of Adult Education, New Jersey Department of Education and sent to each school by the Department.

(c) Certain information that is subject to change, such as the schedule of tuition and fees, approved courses or programs, list of instructional staff and the school calendar may be omitted from the body of the bulletin and prepared as attachments to the bulletin. In such cases, the attachments shall be physically attached to the bulletin and the bulletin shall include a specific reference to the attachments.

(d) Pupil handbooks may be published containing any of the items listed in (b)1 through 16 above if the pupil handbook is identified as an official supplement to the school bulletin and given to the pupil upon enrollment.

Amended by R.1989 d.241, effective May 1, 1989.

See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

At (b)6. required that academic progress records not only be available but be provided to students; language added at (b)16. regarding pupils not meeting the school admission requirements.

Amended by R.1990 d.150, effective March 5, 1990.

See: 21 N.J.R. 3700(a), 22 N.J.R. 799(a).

Term "clock hour of instruction" changed to "instructional hour".

6:46-4.11 School records

(a) Private vocational schools shall maintain records which include, but are not limited to, the following:

1. General records containing:

i. Official notification from the Department indicating approval of courses and programs;

ii. A copy of each currently approved course or program; and

iii. A copy of all current promotional materials, bulletins, bulletin supplements, advertising materials, enrollment agreements, applications for enrollment and, if applicable, pupil handbooks.

2. Pupil records for every pupil admitted shall be maintained for a period of five years. The records shall include, but not be limited to:

i. Attendance, academic progress, grades, enrollment and completion dates for each course or program, evidence of meeting entrance requirements or qualification under "ability to benefit" described in N.J.A.C. 6:46-4.12(c);

ii. An evaluation of the pupil's previous training, education and experience if the pupil is granted advanced standing or credit by virtue of previous training, education and experience;

iii. Placement data on pupils who complete the program indicating the employer, date of hire, job title and starting salary attested to by the pupil or verified by the school;

iv. Completed enrollment agreement and, when applicable, the application for enrollment;

v. Records of academic or other counseling, if appropriate; and

vi. Financial records of all tuition and other fees paid by and due from the pupil and, when applicable, a worksheet showing the method used to calculate any refund of monies due and paid to a pupil who withdrew or whose enrollment was terminated by the school prior to completion of the course or program. The source and amount of any pupil grants, loans and scholarships shall be identified.

3. Personnel records for administrative, instructional and sales staff showing:

i. Evidence of qualification for the position held;

ii. Performance evaluations, if appropriate; and

iii. A copy of the approvals issued by the Department.

4. A permanent record, containing necessary pupil identification information, courses and programs completed, grades, period of attendance and dates of course and program completion or withdrawal shall be maintained. If a school closes, all permanent pupil record cards shall be forwarded to the county superintendent of schools in the county in which the school is located.

Amended by R.1989 d.241, effective May 1, 1989.

See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

Deleted unnecessary language regarding pupil placement.

6:46-4.12 Conduct of the school

(a) The school may collect fees for pupil services or products subject to the following limitations:

1. The products or services must be a required element of the approved course or program from which the student gains practical experience in order to achieve the identified vocational objectives.

2. Charges for pupil products shall represent only the amount required to recover the actual cost of materials needed to produce the product.

3. Charges for pupil services shall be at a lesser rate than similar services performed by a professional or practitioner.

4. Products made and services offered shall be done under the supervision of the certified instructor and clearly identified as pupil work.

5. Charges for pupil products and services shall not generate a profit for the school and may be used to offset

additional costs to the pupil that would be necessary if the fee were not charged for the product or service.

(b) The minimum educational requirement for a pupil to be accepted for enrollment in a course or program in a private vocational school shall be the possession of either a locally issued, state endorsed high school diploma or a state issued high school diploma recognized by the Department.

(c) A prospective pupil not meeting the minimum educational requirement prescribed in (b) above may be admitted by the school on the determination that the individual has the ability to benefit from the education or training offered by the school as determined by the director. Prior to admission, a prospective pupil being considered under the ability-to-benefit provision shall be administered a nationally recognized standardized or industry developed test designed to measure grade level in reading and mathematics. A copy of the test(s) to be used and the score(s) required by the school shall be forwarded to the Assistant Commissioner, Division of Vocational Education for review and approval prior to its use by the school.

(d) A demonstrated ability at the ninth grade level for reading and mathematics will qualify a prospective student to be enrolled under the ability-to-benefit provision of (c) above. The reading portion of the test shall measure the prospective student's skill in the primary language of instruction. In those courses where the preponderance of instruction is performance based rather than academic, the school may request that the Department approve an alternative ability-to-benefit standard under which a student may be admitted to the specific course/program.

(e) Applicants unable to satisfy the admissions testing requirements specified in (c) and (d) above shall not be admitted to the private vocational school. The director of the school shall provide the pupil with information regarding the availability of remedial education programs at adult learning centers. Locations of the centers are contained in the "Adult Education Program Directory" available from the Division of Adult Education, New Jersey Department of Education. Following the remedial or developmental education program, the pupil may be re-evaluated by the director for compliance with admission requirements or ability to benefit criteria.

(f) A pupil shall not be retained by the school when the pupil fails to meet the school's minimum standards of academic progress or exceeds the maximum number of absences as stated in the school bulletin. The maximum number of unexcused absences shall not exceed 20 percent of the total instructional hours of the course or program.

(g) A school shall not permit its representatives to encourage any pupil to leave another educational institution where the pupil is in attendance, nor shall any school seek to induce a pupil to change plans after the pupil has signed an enrollment form and paid a registration fee to another school.

Amended by R.1989 d.241, effective May 1, 1989.

See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

Requirement that copies of tests and minimum passing scores used by school be forwarded to the Assistant Commissioner of the Division of Vocational Education; requirement that a pupil who does not meet admissions standards not be admitted, changed from allowing admittance into a remedial or developmental program.

Amended by R.1990 d.150, effective March 5, 1990.

See: 21 N.J.R. 3700(a), 22 N.J.R. 799(a).

Term "clock hours" changed to "instructional hours".

Amended by R.1990 d.235, effective May 7, 1990.

See: 22 N.J.R. 91(b), 22 N.J.R. 1359(b).

Added new (d), recodified (d)-(f) as (e)-(g).

6:46-4.13 Publicity, advertising and solicitation of students

(a) All advertising shall be based upon fact. Any statement, illustration, representation or omission, which may mislead the public, shall not be permitted.

(b) A school shall advertise only as a school and under the approved name and address of the school. It shall not advertise in conjunction with any other business or establishment.

(c) All advertising and promotional literature used by a school must clearly indicate that training or education, and not employment, is being offered.

(d) Schools using classified columns of newspapers or other publications to recruit pupils must use only such columns as are headed by "Education", "School" or "Instruction". Classifications such as "Business Opportunities", "Employment" or "Help Wanted" may only be used to recruit employees or agents for the school.

(e) Statements, direct or implied, assuring or guaranteeing jobs or memberships in unions or other organizations as a result of completing a course or program shall not be used.

(f) Any advertising of the price of tuition must state the exact name of the course or program immediately followed by the number of instructional hours of the course or program. When the cost of tuition is advertised, the cost of tools, supplies and all other charges shall be included in the advertising.

(g) Illustrations in bulletins, circulars or advertisements shall relate solely to the school being advertised. If the school operates two or more separate facilities, all illustrations shall clearly indicate which facility is shown. Illustrations depicting typical work settings are permissible in the aforementioned documents.

(h) A school that is a member of any organization or association of schools shall limit any published statement to "A member of _____ association".

(i) A school that is accredited by an accrediting agency recognized by the United States Secretary of Education and/or the Council on Postsecondary Accreditation shall limit any published statement to "Accredited by _____". No school may advertise accreditation by an agency not recognized by the United States Secretary of Education or the Council on Postsecondary Accreditation.

(j) A guarantee of placement for graduates shall not be promised or implied by any school, owner, partner, officer, employee, agent or sales person thereof. Placement statistics shall not be advertised or appear in any school document unless they are verified by the school to the Department. No school, in its advertising or through the activities of its owners, officers or representatives shall guarantee or imply the guarantee of employment or of any certain wage or salary.

(k) The school may refer to the fact that it has been approved by the commissioner only in the following terminology: "Approved by the New Jersey Department of Education".

Correction: Substituted "Council on Postsecondary Accreditation" for "National Commission on Accrediting".

See: 20 N.J.R. 1296(b).

Amended by R.1989 d.241, effective May 1, 1989.

See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

Prohibited use of placement statistics in advertising unless verified by the school to the Department.

6:46-4.14 Scholarships and financial assistance

(a) Schools may offer financial assistance and/or scholarships as follows:

1. Loan or deferred payments may be made to worthy students. Interest on loans shall not exceed the prime interest rate plus 2.5 percent in effect 30 days in advance of the loan;

2. Work or service scholarships may be granted for actual performance of duties or services. Payment for the duties or services shall not be in excess of the current local rates for comparable duties or services;

3. Scholarships may be granted on the basis of the value, number and source of scholarships as printed in the school bulletin; and

4. Schools participating in a financial assistance and/or scholarship program shall have a suitably named committee to administer the program.

Amended by R.1989 d.241, effective May 1, 1989.

See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

Added 2.5 percent above the prime interest rate that could be charged on loans.

6:46-4.15 Period of approval of school and school personnel

(a) Approval of a private vocational school is granted for a period of one year. The period of approval may be adjusted to a calendar year, fiscal year or the anniversary date of the original approval. The owner of a private vocational school wishing to operate in the State of New Jersey shall register with the Commissioner and complete an application for approval prescribed by the Commissioner no later than 120 calendar days prior to commencement of instruction. Upon approval by the Commissioner the school will be issued a certificate of approval to operate which shall be valid for one year from the date of approval.

(b) Such school shall file an application for renewal of approval no later than 60 calendar days prior to the expiration of the certificate of approval. The renewal application shall contain a copy of all external audits and program reviews conducted regarding the school since the last approval. If the school submits the application for renewal by the submission deadline, the school may continue to operate with the existing certificate of approval until such time as the Commissioner determines that the school is not eligible for reapproval or the new certificate of approval is issued.

(c) The approvals issued to the school for instructors, directors, sales representatives and administrative personnel shall be valid as long as the persons are employed by the school.

(d) The school shall display the certificate of approval in a public place in the approved school. The certificates of the director, administrators, instructors and sales representatives may be displayed at the discretion of the school director.

(e) A change shall not occur prior to approval in any item that was an element or condition of the original or subsequent approval. Any change shall be submitted for approval by the Department.

(f) A change in ownership shall invalidate an approval by the commissioner. The new owner(s) shall be required to submit an application for approval and evidence of qualification to operate a school. Upon request, the Commissioner may grant a temporary approval, not to exceed 90 calendar days to the new owner provided the conditions of the current approval are not changed.

(g) A change in location without prior approval of the Department shall invalidate an approval. Before a change in location, the school director shall obtain approval from the Department.

Amended by R.1989 d.241, effective May 1, 1989.
See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

Added that renewal application must contain copies of external audits and program reviews.

6:46-4.16 Violations of rules

(a) Violations of these rules may be just cause for the Commissioner to revoke or withhold a certificate of approval or place reasonable conditions upon the continued operation of the school.

(b) Prior to the revocation of a certificate of approval the Commissioner shall direct the owner of the school to show cause why such a sanction shall not be imposed in accordance with the procedure established under N.J.A.C. 6:24-3.1. When the annual renewal of an approval is withheld due to chronic non-compliance with the requirements of this subchapter, the following actions shall be taken by the Department:

1. The school director shall be notified in writing of the deficiencies for which the approval has been withheld;

2. The school director shall be directed to cease student recruitment activities, new enrollments and new course/program starts, effective immediately upon receipt of the notification;

3. The school director shall be given 90 days from the receipt of notification to correct the deficiencies or to submit and implement a plan of corrective action deemed acceptable to the Department of Education;

4. Upon correction of the deficiencies or implementation of an approved plan of corrective action, the school's annual approval will be issued;

5. Failure to correct the deficiencies or implement an approved plan of corrective action within 90 days will result in a notice to the school director that its approval will not be renewed. The Commissioner shall issue a temporary approval of the school to permit the school to complete the instructional program of students enrolled or arrange the transfer of students to other schools to complete their instructional programs. The order to cease the activities as per (b)2 above shall remain in effect under the temporary approval.

(c) An appeal of the actions of the Department of Education under (b)5 above may be made to the Commissioner of Education as per N.J.A.C. 6:24. During the appeal process, the school may continue to conduct classes under the conditions described in (b)2 above.

(d) Any person, firm, corporation or association that operates a private vocational school without obtaining or maintaining the approval required by this chapter shall be referred by the Commissioner to the Office of the Attorney General with a request that the Attorney General obtain a court order to enjoin the offending school from continuing to operate through an action in the Superior Court, Law Division. The Commissioner shall request that the court sign an order to show cause why the school should not be enjoined from continuing to operate in violation of the law.

(e) The Commissioner shall notify all relevant agencies, including but not limited to, accrediting agencies, the Department of Higher Education, New Jersey Higher Education Assistance Authority and other student loan guarantors when the approval of an approved private vocational school is revoked or withheld by the Commissioner.

(f) Schools found in non-compliance with this subchapter shall be subject to a three level enforcement process designed to permit a school to comply with these rules or have its approval to operate revoked by the Commissioner in accordance with (b) above. Nothing in this subsection shall preclude the Commissioner from initiating the enforcement procedure at any level if non-compliance with the rules of this subchapter is deemed serious enough to endanger the safety, health or welfare of students or staff of the school or the general public.

(g) Level 1 Enforcement: When a non-compliance with the rules of this subchapter has been identified, Department staff designated by the Assistant Commissioner, Division of Vocational Education, shall notify the school director in writing of the violation(s) and grant the school director 30 days from receipt of notification to submit actions taken to correct the violation(s) and to identify procedures to be established to preclude a recurrence of the violation(s) in the continued operation of the school. Failure to respond to the notification of violation will result in the moving of the action to Level 2 Enforcement.

1. Upon review of the corrective action(s) taken, the Department staff shall notify the school director in writing of the acceptability of the action(s).

2. If the action(s) taken do not correct the violation(s) and preclude recurrence, the Department staff shall notify the school director in writing and grant the school director 15 days from receipt of the notice of non-correction to submit evidence of correction.

3. If there is a failure to respond or if the corrective action submitted does not adequately address correction of the violation(s), the matter will be moved to Level 2 Enforcement.

(h) Level 2 Enforcement: The Department staff shall notify the Assistant Commissioner, Division of Vocational Education, when a violation of this subchapter has not been corrected through the Level 1 Enforcement process.

1. The Assistant Commissioner shall notify the school director in writing that the violation(s) has not been corrected and notify the school director that he or she, upon receipt of the notification, shall cease the recruitment and enrollment of additional students and refrain from initiating any new class starts after the date of receipt of the notice.

2. The school director will be granted 30 days from the date of notification from the Assistant Commissioner to submit actions taken to correct the violation(s) and to establish procedures to preclude a recurrence of the violation(s) in the continued operation of the school.

i. The notification letter will also contain the requirement that the school director return a certified statement to the Assistant Commissioner that recruitment, enrollment and new class start activities have ceased and will remain so unless the sanction is removed by the Assistant Commissioner.

ii. The notification letter will also require that the school director submit to the Assistant Commissioner appropriate information, as a minimum, to identify students actively enrolled and attending the school, course/program completion status for each student enrolled and attending and the title of the course or program in which each student is enrolled. The certification statement and student status information will be submitted to the Assistant Commissioner by the school director within five days of receipt of the notification from the Assistant Commissioner.

3. Until the sanction is removed by the Assistant Commissioner, the school will be periodically visited by a representative designated by the Assistant Commissioner. The representative will verify that the school is abiding by the sanction imposed and receive a written certification from the school director that the sanction is being abided by.

4. If the school does not submit a response within the 30 day period or the response does not adequately address the correction of the violation(s), the matter will be moved to Level 3 Enforcement.

5. If the violation(s) is corrected, the sanctions will be removed by the Assistant Commissioner.

(i) Level 3 Enforcement: The Assistant Commissioner shall notify the Commissioner when a violation of these rules has not been corrected through the Level 2 Enforcement process.

1. The Commissioner will issue an order to the school director to show cause why the Commissioner should not remove the school's approval to operate or why another corrective action should not be taken by the Department because of the violation of these rules.

2. The notification from the Commissioner will also specify the continuation or initiation of the procedures to cease recruitment, enrollment and new class start activities and to verify that the school abides by the sanction as described in (h) above.

(j) Whenever a school director submits written corrective actions or plans in response to a notice to cease recruitment, enrollment of additional students and refrain initiating new class starts, the corrective actions or plans will be reviewed by the Department. The school will be notified of the acceptability of the corrective actions or plans within five working days of receipt of the information by the Department.

Amended by R.1989 d.241, effective May 1, 1989.

See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

Added language concerning relevant agencies, "including but not limited to," accrediting agencies. Capitalized Commissioner.

Amended by R.1990 d.236, effective May 7, 1990.

See: 22 N.J.R. 91(b), 22 N.J.R. 1359(b).

Added new (b)1.-5. and new (c); recodified (c)-(d) as (d)-(e) and added new (f)-(i) spelling out non-compliance enforcement process.

6:46-4.17 Conformity with existing rules

The granting of approval to operate a private vocational school by the Commissioner shall not waive any requirements established by legally constituted commissions or other local, State or Federal laws or rules and regulations.

Amended by R.1989 d.241, effective May 1, 1989.

See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

Capitalized "Commissioner" and "Federal" and added ... and "regulations".

6:46-4.18 Procedures for monitoring private vocational schools

(a) The Commissioner shall monitor each approved private vocational school prior to December 31, 1989. After January 1, 1990, each approved private vocational school shall be monitored at least once every two years.

(b) Based upon the monitoring, the Commissioner shall determine whether to recommend the continuation or suspension of the certificate of approval of the private vocational school.

(c) The monitoring procedure shall be as follows:

1. The assistant commissioner, Division of Vocational Education shall establish a monitoring schedule.

2. Each private vocational school director shall be notified in advance by the assistant commissioner, Division of Vocational Education of the date established for the monitoring visit.

3. Prior to the monitoring visit, each private vocational school director shall receive a copy of the monitoring instrument prescribed by the Commissioner containing the requirements of this subchapter and specific indicators needed to demonstrate compliance with the requirements.

(d) The monitor(s) shall record findings required by this subchapter using worksheets prescribed by the Commissioner and review the findings with the school director at an exit conference.

(e) The assistant commissioner, Division of Vocational Education, shall send a formal notification of findings to the school director within 20 work days of the completion of the monitoring visit. The notification shall contain:

1. Copies of the completed worksheets;

2. A recommendation that the approval of the school be continued or suspended by the Commissioner.

(f) A school director notified that the Assistant Commissioner, Division of Vocational Education will recommend to the Commissioner that the approval of the school be suspended shall be granted 30 calendar days from receipt of the notification to document to the Commissioner that the indicator(s) found unacceptable have been corrected.

(g) Any school that does not correct the deficiencies within the 30 calendar day period shall have its certificate of approval suspended by the Commissioner, in accordance with the procedure established under N.J.A.C. 6:24-3.1.

Amended by R.1989 d.241, effective May 1, 1989.
See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

Changed to every two year inspection commencing January 1, 1990.

6:46-4.19 Fees required for administering the registration and approval process of private vocational schools

(a) Application for initial approval to operate a private vocational school in New Jersey shall be submitted to the Commissioner for approval in accordance with N.J.A.C. 6:46-4.15(a).

1. A preliminary submission consisting of the following application components shall be forwarded to the Commissioner for review and approval;

i. A letter of intent to seek a certificate of approval to operate a private vocational school;

ii. A copy of the course(s) or program(s) proposed to be offered detailing information as prescribed in N.J.A.C. 6:46-4.6(b);

iii. Information required regarding the proposed owner(s) as prescribed in N.J.A.C. 6:46-4.5(a); and

iv. Twenty-five percent of the required fee described and in the method described in (d) and (e) below.

2. Upon approval of the preliminary submission, the remainder of the required application components shall be forwarded to the Commissioner for review and approval with the remaining 75 percent of the fee described in (e) below.

(b) Each application for annual renewal of the certificate of approval to operate a private vocational school in New Jersey shall be submitted in accordance with N.J.A.C. 6:46-4.15(b) and shall be accompanied by the required fee in the amount and method described in (d) and (e) below.

(c) A private vocational school located outside the State of New Jersey shall not permit a marketing representative or other agent of the out-of-State school to recruit New Jersey residents within the borders of New Jersey until the school and agent are approved by the Commissioner to conduct business in New Jersey in accordance with the rules contained in this subsection.

1. The following must be submitted for review and approval by the Commissioner before an initial certificate of approval to conduct business in New Jersey may be issued:

i. A letter of intent to recruit New Jersey residents from the owner(s) or director of the school;

ii. Evidence that the school and courses and programs offered are approved by the appropriate approving agency of the state in which the school is headquartered;

iii. Evidence that tuition, fees and other charges are developed and administered as specified in N.J.A.C. 6:46-4.7;

iv. An enrollment agreement that meets the requirements specified in N.J.A.C. 6:46-4.8 and contains a statement of a refund policy which complies with N.J.A.C. 6:46-4.9;

v. A copy of the current school bulletin or catalog which includes courses and program outlines offered;

vi. Copies of publicity and advertising materials to be used to recruit New Jersey residents which meet the requirements specified in N.J.A.C. 6:46-4.13;

vii. Completed applications for the registration of each marketing representative or agent of the school who will recruit New Jersey residents on the application form provided by the Commissioner; and

viii. The required fees in the amount and method of payment described in (d) and (e) below.

2. Sixty days prior to the expiration date of the initial certificate of approval to conduct business in New Jersey, the following must be submitted to the Commissioner for review and approval to renew the certificate of approval:

i. Items identified in (a)1i through viii above; and

ii. A letter of request that the marketing representative(s) or agent(s) previously registered continue to be registered; and

iii. Completed applications for each new or additional marketing representative(s) or agent(s) submitted on the application form provided by the Commissioner.

3. The Commissioner shall prescribe the annual effective starting and expiration dates of the certificate of approval to conduct business in New Jersey and the registration of each marketing representative(s) and agent(s).

4. Annual pupil enrollment and tuition source reports providing information pertaining to New Jersey residents in attendance at the out-of-State school shall be reported in accordance with N.J.A.C. 6:46-4.1(c).

5. The Commissioner may revoke the certificate of approval to conduct business issued to the out-of-State school or the registration of the marketing representative(s) or agent(s) for good cause in accordance with the provisions of N.J.A.C. 6:24-3.1.

6. When an out-of-State school is found operating in violation of this subsection, the owner(s) or director of the school will be notified of the violations, in writing, by the Commissioner and given 20 working days to comply with these provisions. If the school does not comply within the time period specified, the Commissioner may seek the assistance of the Attorney General to enjoin further operation of the school or take such other action as the Commissioner deems appropriate consistent with the enforcement of N.J.S.A. 18A:69-1 et seq.

(d) General requirements regarding the payment of required fees are as follows:

1. Payment will be in the form of a certified check or money order in the appropriate amount made payable to the "Treasurer, State of New Jersey";

2. The required fees are non-refundable;

3. Review and approval actions required by this subchapter will not be undertaken until the required fee payments are received; and

4. Non-payment of the required fees shall be cause for the Commissioner to revoke a certificate of approval to operate a private vocational school.

(e) The following specific fees are required and became effective on January 7, 1988, as per N.J.S.A. 18A:69-2 and 3:

1. Each initial application for a certificate of approval to operate a private vocational school in New Jersey—\$700.00 for each of the first 10 school sites and \$70.00 for the 11th and each additional site;

2. Each annual request for renewal of a certificate of approval to operate a private vocational school in New Jersey—\$450.00 for each of the first 10 school sites and \$45.00 for the 11th and each additional site;

3. Each out-of-State school site requesting an initial one year certificate of approval to recruit in New Jersey in accordance with this subsection—\$700.00;

4. Each out-of-State school site requesting an annual renewal of certificate of approval to recruit in New Jersey—\$450.00; and

5. Each initial and annual request to register an out-of-State marketing representative or agent to recruit New Jersey residents—\$25.00.

New Rule: R.1989 d.241, effective May 1, 1989.
See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

6:46-4.20 Recognition of accrediting agencies

(a) The Commissioner may recognize the institutional and programmatic accreditation granted to a school by an accrediting agency recognized by the United States Secretary of Education.

(b) Such recognition by the Commissioner shall be subject to the following:

1. The accredited school shall comply with laws and the rules of the New Jersey State Board of Education;

2. The recognition of accreditation shall apply only to courses or programs that were evaluated and recognized by the accrediting agency;

3. Recognition of accredited status shall permit a school to apply for approval under the provisions of 38 U.S.C. § 1775, for the purpose of training veterans and other eligibles; and

4. The accrediting agency shall notify the Commissioner of planned accrediting or reaccrediting evaluation visits and invite a member of the Department to participate on the evaluation visit.

New Rule: R.1989 d.241, effective May 1, 1989.
See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

SUBCHAPTER 5. CORRESPONDENCE SCHOOLS

6:46-5.1 Basic information concerning certificates of approval for correspondence schools located in New Jersey

(a) No correspondence school located in New Jersey shall solicit students or collect fees until a certificate of approval has been granted by the commissioner.

(b) The issuing of a certificate of approval to a correspondence school shall not be deemed to accredit the courses offered as valid for transfer to any other school or college in New Jersey.

(c) An approved correspondence school located in New Jersey may use the following statement in its advertising: "Approved by the New Jersey Department of Education".

(d) The fee for the initial issue of a certificate of approval shall be \$100.00.

(e) A certificate of approval shall be renewed annually upon payment of a fee of \$50.00. Fees shall be made payable to the New Jersey Commissioner of Education.

(f) Any certificate of approval may be revoked or denied for good cause after a hearing pursuant to N.J.A.C. 6:24-3.1.

(g) An application for a certificate of approval shall be filed with the commissioner. It shall be in the form of a letter with data to show how the requirements of N.J.A.C. 6:46-5.2 have been attained.

6:46-5.2 Standards for correspondence schools

(a) Name of school requirements:

1. The name of the correspondence school shall not infringe on the name of another school.

2. The words "New Jersey" or "State of New Jersey" shall not be used in the name of the school.

3. No school shall adopt or use any title or name commonly accepted as descriptive of collegiate or university institutions.

4. The name of the school, once approved, shall not be changed without the prior approval of the Department.

(b) Administration of the school requirements:

1. Each correspondence school shall have an administrator. The administrator of the school shall present evidence that he or she has the qualifications and the experience essential for competent and ethical administration of a correspondence school and will devote to the school the time necessary for efficient administration.

2. The administrator of a correspondence school shall have the administrative assistance necessary for adequately operating the school and effectively coordinating the work of the supervisors of correspondence instruction.

3. Each private correspondence school located in New Jersey shall furnish such information and reports to the commissioner as required by these rules. Failure to furnish any such information or report or to conform to standards prescribed for private correspondence schools shall be good and sufficient reason for the refusal of a certificate of approval for such private correspondence school or for the revocation of a certificate of approval previously granted.

(c) Organization and nature of correspondence course requirements:

1. Each course of instruction offered shall consist of:

i. A preliminary lesson or set of instructions on how to study by the home-study method or adequate instruction on how to study each lesson assignment.

ii. Textual or lesson materials which are:

(1) Adequate in that they cover the subject as fully and as thoroughly as advertised;

(2) Accurate in that they are all authenticated;

(3) Current in that they represent reliable and up-to-date information on the subject;

(4) Presented in a clear and logical manner.

iii. Instructional evaluation on each lesson or unit assignment consisting of:

(1) A series of examination questions or problem assignments which thoroughly stress the important phases of the subject presented and require a demonstration of the pupil's ability or skill in applying the information attained;

(2) An individualized written performance evaluation pointing out errors, directing the pupil to sources of correct information and supplying addi-

tional explanations and supplementary instructional material when necessary.

(d) Qualifications of instructional staff requirements:

1. Each approved correspondence school in New Jersey shall maintain an adequate and competent instructional staff.

2. The individualized written performance evaluation shall be the responsibility of a supervisor of correspondence instruction.

3. Qualifications of supervisors of correspondence instruction shall indicate competency in the subject(s) which he or she will evaluate as demonstrated by meeting the qualifications identified in N.J.A.C. 6:46-4.4(b)2i through iv.

(e) School ownership and financial responsibility requirements:

1. The proposed owner(s) of a correspondence school shall be required to satisfy the commissioner that the owner(s) have a reputation for integrity and good business practices and shall be required to demonstrate that the owner(s) are capable of establishing a legitimate school with reasonable prospects for successful operation. Character and financial references and a criminal history review prepared by the New Jersey State Police shall be submitted to the Department with the application for approval. Present owner(s) of schools shall submit a criminal history review annually with the application for renewal of the certificate of approval. The cost of obtaining the review shall be paid by the proposed or current owner(s).

2. The owner(s) of a school shall be held responsible and accountable for all activities of the school and its employees. All acts, statements, advertising and representations of the school and its employees shall be considered as acts, statements, advertising and representations of the owner(s).

3. When the school is owned by an out-of-state corporation, the owner(s) shall be required to obtain a certificate of authority to conduct business in the State of New Jersey from the Secretary of State prior to approval to operate in accordance with N.J.S.A. 14A:13-3. The certificate of authority shall be submitted to the commissioner with the application for approval.

4. A franchised school shall be required to submit a copy of the franchise agreement to the commissioner.

5. The correspondence school shall be required to submit to the Department, prior to initial approval and on an annual basis thereafter, an audit report containing financial statements prepared by a certified public accountant, licensed public accountant, registered municipal accountant or licensed public school accountant. The auditor shall determine whether the financial statements of the organization present fairly its financial position and the results of its financial operations and that they are in accordance with generally accepted accounting principles.

6. Any school approved under this section that collects tuition 30 or more calendar days in advance of instruction shall post a performance bond or irrevocable letter of credit payable to the commissioner in the amount of the projected advance tuition accepted by the school.

7. The performance bond shall not be required of schools that do not collect tuition other than a non-refundable registration fee, 30 or more calendar days in advance of instruction.

(f) The official bulletin or catalog requirements:

1. Each correspondence school located in New Jersey shall issue a printed bulletin which shall clearly indicate that it is an institution offering courses by correspondence. Its statements shall set forth the obligations of both the school and the pupils.

2. The bulletin shall show the following:

- i. The name and location of the school;
- ii. The name of the administrator of the school;
- iii. A description of the lessons and the courses offered;

iv. The fees and tuition charged;

(1) A correspondence school may meet this standard by publishing separately its list of fees and charges, provided an up-to-date list of such fees and charges is filed with the commissioner;

v. Requirements for completion;

vi. The maximum time allowed for completing each course.

(g) Financial records: Each school shall maintain detailed financial records. These records shall be subject to inspection by the commissioner or his or her designee.

(h) Responsibility for agents and field representatives: Each school shall be accountable for the acts of its licensed agents and field representatives as these acts affect the rights of pupils or prospective pupils.

(i) Preliminary sales training: Each private correspondence school located in New Jersey shall give its field representatives and agents adequate preliminary training and exercise careful supervision to guard against any misrepresentation to prospective pupils and to prevent the enrollment of pupils who lack qualifications for probable success in completing the course concerned.

(j) Nature of the school's contract with pupils requirements:

1. The contract to be approved shall enumerate the following:

- i. The total cost to the pupil;

- ii. The initial payment at the time of registration;
 - iii. The amounts of subsequent payments and a statement specifying when the payments are due;
 - iv. A list of books, supplies and equipment to be furnished by the correspondence school;
 - v. A list of the books, supplies and equipment which the pupil must purchase in addition to those provided by the correspondence school;
 - vi. All other charges which the school may make, such as fees for a diploma or for completion;
 - vii. The terms of settlement for the pupil who decides to discontinue his or her enrollment and withdraw from the school;
 - viii. The terms of settlement for the pupil who is terminated by the school;
 - ix. The particulars concerning instruction during completion periods in shops, schools or laboratories, provided such instruction is offered.
- (k) Completion periods in shops, schools or laboratories requirements:
- 1. Completion periods in shops, school or laboratories may be offered by correspondence schools located in New Jersey provided the shop, school or laboratory concerned is approved by the Commissioner as adequate for the courses offered. If a correspondence school located in New Jersey advertises a completion period in a school as part of a course, shop or laboratory, the contract shall specify:
 - i. The basis for qualifying as a pupil for admission to the shop, laboratory or school for the completion period concerned;
 - ii. The location of such shop, laboratory or school;
 - iii. The schedule of periods of instruction in such shop, laboratory or school;
 - iv. The number of days of instruction to which the qualified pupil is entitled;
 - v. A description of the facilities in the shop, laboratory or school concerned;
 - vi. The amount of additional tuition required for attendance at the shop, laboratory or school used for the completion period;
 - vii. The pupil's responsibility for paying the cost of transportation to and from the shop, laboratory or school where the completion period is scheduled;
 - viii. The pupil's responsibility for paying the cost of room and board while in attendance during the completion period;
 - ix. A list of the books, supplies and tools which will be furnished by the school for use by the pupil while in

attendance during the completion period and the rental cost for the use of such books, tools and supplies;

- x. A list of additional tools, equipment, work clothing, books or other items which must be purchased by the pupil for use during the completion period.

(l) Standards for enrollment:

1. Each correspondence school located in New Jersey shall establish and print standards of educational achievement which pupils shall attain before enrolling for each course offered.

(m) Pupil records: A permanent record, containing necessary pupil identification information, courses and programs completed, grades, dates of course and program completion or withdrawal shall be maintained. If a school closes, all permanent record cards shall be forwarded to the county superintendent of schools in the county in which the school is located.

(n) Avoiding unfair practices: Each correspondence school to which a New Jersey certificate of approval is awarded shall avoid unfair trade practices enumerated in the Federal Trade Commission Guides for Private Vocational and Home Study Schools, 16 C.F.R. Sec. 254.1-10 (1986).

(o) Revoking a certificate of approval: The certificate of approval of a correspondence school located in New Jersey may be revoked if the commissioner, after a hearing pursuant to N.J.A.C. 6:24-3.1, finds and determines that the school has not maintained the standards for New Jersey correspondence schools approved by the State Board of Education.

Amended by R.1989 d.241, effective May 1, 1989.
See: 21 N.J.R. 262(a), 21 N.J.R. 1137(a).

At (d)3. reference added N.J.A.C. 6:46-4.4(b)2i-iv. and at (e)5. requirement to have a CPA prepare financial statements and that the auditor shall determine if the statements fairly represent the organizations' financial situation.

6:46-5.3 Licensure of field representatives or agents

(a) No field representative or agent of any private correspondence school located within the State shall solicit pupils or transact business in New Jersey unless he or she has secured a license from the Commissioner.

(b) A license to act in New Jersey as a field representative or agent of an approved correspondence school shall be valid for a period of one year. It shall be renewable annually unless revoked for a good cause after a hearing.

(c) The annual fee for the issue or renewal of a license shall be \$10.00.

6:46-5.4 Qualifications of field representatives or agents

(a) A license valid for one year to serve as a field representative or agent of a correspondence school shall be issued to an applicant who presents evidence satisfactory to the Commissioner that:

1. He or she has attained the age of 21 years;
2. He or she is of good moral character and has a reputation for honesty, truthfulness and fair dealings; and
3. He or she has satisfactorily completed a training program for field representatives or agents conducted by the correspondence school which he or she represents.

6:46-5.5 Revocation of the field representative or agent license

(a) The license of a field representative or agent may be revoked if, after a hearing, the commissioner finds and determines that the field representative or agent concerned has violated the Federal Trade Commission Guides for Private Vocational and Home Study Schools, 16 C.F.R. Sec. 254.1-.10 (1986) or that the field representative or agent has not maintained the standards approved for New Jersey correspondence schools by the State Board of Education.

6:46-5.6 through 6:46-5.14 (Reserved)

SUBCHAPTER 6. CONTRACTING FOR EDUCATIONAL SERVICES WITH ELIGIBLE PRIVATE VOCATIONAL SCHOOLS

6:46-6.1 Contracts to provide vocational education courses; qualifications

(a) For the purpose of providing vocational education courses on an individual or group basis, district boards of education may, provided the provisions of N.J.A.C. 6:8-7.1 et seq. are met, enter into contracts with private vocational schools under the following conditions:

1. When such courses cannot be provided by the county or regional vocational schools or other school districts; or
2. A private vocational school can provide substantially equivalent training at a lesser cost as substantiated and certified by the local education agency subject to the review and approval of the commissioner. Said course shall meet the requirements of the Public School Education Act of 1975 (N.J.S.A. 18A:7A-1 et seq.).

6:46-6.2 Eligibility of private vocational schools

(a) A private vocational school shall be deemed eligible to enter contracts with a district board of education if it is approved by the commissioner pursuant to N.J.A.C. 6:46-4.1 et seq.

(b) A license or certificate of approval must have been held by the private vocational school for at least two consecutive years preceding execution of the contract. The two-year period of operation requirement will apply to courses offered by a subsidiary branch or extension of a school.

i. Additional facilities acquired by a school because of space limitations will not be considered to be a subsidiary branch or extension and will not be subject to the two-year limitations if all of the following conditions are met:

- (1) The school has reached the limit of its enrollment capacity in its present facilities;
- (2) The courses to be offered at the additional facilities are the same as those given in the present facilities; and
- (3) The additional facilities are within normal commuting distance of the present facilities.

(c) A private vocational school shall meet all provisions of N.J.A.C. 6:46-4.1 et seq., except that in addition all facilities and instructional equipment to be used in meeting the terms and conditions of the proposed contract shall be approved by the county superintendent of schools of the county in which the school is located. Facility approval criteria, as a minimum, shall be those used for emergency approval for public schools.

(d) Such contracting schools shall be subject to all of the provisions of N.J.A.C. 6:46-4.1 et seq.

6:46-6.3 Records

Pupil progress and attendance records shall be furnished to the contracting board of education in a timely fashion to coincide with existing public school reporting procedures. Final payment to a private vocational school may be withheld until course completion results, on an individual basis, are received by the contracting board of education.

6:46-6.4 Contracts; terms; approval

(a) Each contract entered into shall:

1. Assure that all parties and all contractual criteria referenced therein be in accordance with all applicable Federal and State laws and regulations;
2. Be approved in writing by the commissioner prior to its execution. Requests for approval shall be presented at least 60 days prior to the proposed execution date; and
3. Be executed in a format developed and approved by the commissioner.

(b) Appended to each contract shall be a copy of the proposed curriculum, applicable pupil schedules, rules of the private vocational school concerning participating pupils, current comparative programmatic and cost analyses demonstrating that training offered is equivalent in nature and is being provided at a lesser per capita cost than could be provided by the contracting board of education, statement of qualifications of teaching personnel and any other appendages deemed appropriate by the contracting parties, county superintendent of schools or the commissioner.

6:46-6.5 Pupil attendance

Pupils failing to attend, without sufficient cause, that portion of the school program provided in the public or nonpublic sending school, shall be prohibited from participation in the contracted portion of the program.

6:46-6.6 Course credit

Course credit shall be assigned in keeping with the provisions of N.J.A.C. 6:8-7.1(d), except that no course at a private vocational school shall receive more than 10 credits.

6:46-6.7 Other requirements

The provisions of this subchapter are subject to the monitoring, supervision and other requirements of the Public School Education Act of 1975 (N.J.S.A. 18A:7A-1 et seq.).