

**Filed June 27, 2023**

LABOR AND WORKFORCE DEVELOPMENT

CENTER FOR OCCUPATIONAL EMPLOYMENT INFORMATION

Private Career Schools; Minimum Acceptable Level of Performance

Proposed Amendments: N.J.A.C. 12:41-1.1, 1.2, 2.2, 2.4, 2.6, 3.2, 4.5, 4.8, 5.1 and 5.2

Proposed New Rules: N.J.A.C. 12:43-1.1 through 4.1

Authorized By: \_\_\_\_\_

Robert Asaro-Angelo, Commissioner

Department of Labor and Workforce Development

Authority: N.J.S.A. 34:1-20; 34:1A-3(e); 34:15C-10.1; and 34:15C-10.1a.(g)

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2023 - \_\_\_\_\_

Submit written comments by \_\_\_\_\_ to:

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The agency proposal follows:

## Summary

The Department is proposing amendments throughout N.J.A.C. 12:41 and new rules at N.J.A.C. 12:43-1.1 through 4.1 in order to implement N.J.S.A. 34:15C-10.1a, which requires the Department to establish performance quality standards for (1) private career schools that operate with a certificate of approval issued jointly by the Commissioners of the Department of Labor and Workforce Development and the Department of Education under N.J.S.A. 34:15C-10.1, and (2) private career schools that are authorized by a professional or occupational board established within the Division of Consumer Affairs, in the Department of Law and Public Safety, to offer an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the Division of Consumer Affairs. In establishing the performance quality standards, N.J.S.A. 34:15C-10.1a instructs that the Department “shall consider the ratio of the tuition and fees charged to students in the program net of any institutional grant aid to the average earnings of New Jersey workers employed in the specific occupation for which the program prepares students.”

Regarding the consequences for private career schools that fail to meet “the minimum acceptable level of performance” established by the Department through its performance quality standards, the law requires with regard to private career schools that are licensed under N.J.A.C. 34:15C-10.1, that the Commissioners of the Department of Labor and Workforce Development and the Department of Education “shall, pursuant to N.J.S.A. 34:15C-10.1, revoke, suspend or make conditional the certificate of approval issued under the law.” As to the private career schools that are

authorized by a professional or occupational board established within the Division of Consumer Affairs, N.J.S.A. 34:15C-10.1a states that in the event the Department of Labor and Workforce Development determines that such a school does not meet the minimum acceptable level of performance established through the Department's quality performance standards, the Department shall issue a written determination directing the applicable board within the Division of Consumer Affairs to suspend or revoke the private career school's license or accreditation to offer such a program.

In addition, N.J.S.A. 34:15C-10.1a requires all private career schools, including those operating with a certificate of approval issued jointly by the Commissioners of the Department of Labor and Workforce Development and the Department of Education, and those authorized by a professional or occupational board established within the Division of Consumer Affairs, to submit "a quarterly report to the [Department] of Labor and Workforce Development that includes: (1) the tuition and fees charged for each program; (2) a record for each student enrolled in each program, which shall include but not be limited to, the student's social security number, gender, date of birth, date of enrollment, any date of completion, date of termination, date of start in job, date of application for a license, licensing examination result, date of issuance of a license, and any credential issued; and (3) any additional information that may be required by the Commissioner of Labor and Workforce Development."

Finally, regarding the consequences for private career schools that fail to submit any report required under N.J.S.A. 34:15C-10.1a, including but not limited to the required quarterly report, N.J.S.A. 34:15C-10.1a requires as to private career schools that are licensed under N.J.A.C. 34:15C-10.1, that the Commissioners of the

Department of Labor and Workforce Development and the Department of Education “shall, pursuant to N.J.S.A. 34:15C-10.1, revoke, suspend or make conditional the certificate of approval issued under the law;” and as to the private career schools that are authorized by a professional or occupational board established within the Division of Consumer Affairs, N.J.S.A. 34:15C-10.1a states that in the event the Department of Labor and Workforce Development determines that such a school has failed to submit any report required under N.J.S.A. 34:15C-10.1a, the Department shall issue a written determination directing the applicable board within the Division of Consumer Affairs to suspend or revoke the private career school’s license or accreditation to offer such a program.

In accordance with the above-described requirements of N.J.S.A. 34:15C-10.1a, the Department is proposing the following changes to N.J.A.C. 12:41, which governs private career schools that are licensed under N.J.A.C. 34:15C-10.1:

(1) Amendments to N.J.A.C. 12:41-1.1 that would include the effectuation of N.J.S.A. 34:15C-10.1a among the purposes of the chapter, and to make clear that N.J.S.A. 34:15C-10.1a empowers the Department to establish and enforce a minimum acceptable level of performance for private career schools;

(2) Amendments to N.J.A.C. 12:41-2.1 that would add new definitions for the following terms: “Average annual earnings,” “Average institutional grant aid,” “Fees,” “Minimum acceptable level of performance,” and “Tuition.” Specifically, regarding the definition for the term “minimum acceptable level of performance,” the Department is proposing that it mean “tuition and fees charged for an instructional program, minus institutional grant aid awarded to students registered in that instructional program,

divided by ten times the average annual earnings of New Jersey workers employed in the specific occupation for which the instructional program prepares students, is less than or equal to 0.10 (i.e., 10 percent).” As to the proposed definition for the term, “average annual earnings,” the Department has chosen the amount indicated for the 25<sup>th</sup> percentile of the annual salaries in New Jersey for an occupation according to the Department’s most recent Occupational Employment and Wage Estimates for All Industries Combined, as opposed to, for example, the 50<sup>th</sup> percentile, because what is material for the purpose of calculating the “minimum acceptable level of performance,” as that term is defined within the proposed amendments, is the amount that might be earned in a given occupation (i.e., the occupation for which a student has been trained) **during the ten years immediately following completion of the training program**. In the Department’s view, the 25<sup>th</sup> percentile of the annual salaries in New Jersey across an entire occupation, including not only those who are in the first 10 years of their career, but also those who have, for example, worked in the occupation for 20 years or 30 years, is more representative of the “average annual earnings” of a recent program graduate, than would be the 50<sup>th</sup> percentile of the annual salaries in New Jersey for the entire occupation.

(3) Amendments to N.J.A.C. 12:41-2.2 to reflect that meeting the minimum acceptable level of performance for each instructional program offered by a private career school is among the conditions for initial approval of the private career school; and to include among the information and documents that must be submitted by a private career school with its application for initial approval, the following information to assist the Department in determining whether the program(s) offered by the private

career school meet the minimum acceptable level of performance: (a) a list of each instructional program offered by the private career school including the Classification of Instructional Programs (CIP) code and Standard Occupational Classification (SOC) code for each instructional program, (b) identification of the specific occupation(s) and license(s) for which students will be prepared upon completion of each instructional program, (c) the duration of each instructional program, and (d) tuition and fee information for each instructional program, including tuition, fees, and institutional grant aid awarded to registered students. The amendments would also include a process for private career school applicants to request reconsideration of a decision by the Department's Training Evaluation Unit to deny its application for initial approval when the denial is based on the failure of any of the applicant private career school's programs to meet the minimum acceptable level of performance. The request for reconsideration would be made in writing, without the payment of any additional application fee, and would be reviewed by the Training Evaluation Unit on the basis of the written record;

(4) Amendments to N.J.A.C. 12:41-2.4 to reflect that meeting the minimum acceptable level of performance for each instructional program offered by a private career school is among the conditions for renewal of the private career school's certificate of approval; and to include among the information and documents that must be submitted by a private career school with its renewal application, the following information to assist the Department in determining whether the program(s) offered by the private career school meet the minimum acceptable level of performance: (a) a list of each instructional program offered by the private career school including the

Classification of Instructional Programs (CIP) code and Standard Occupational Classification (SOC) code for each instructional program, (b) identification of the specific occupation(s) and license(s) for which students will be prepared upon completion of each instructional program, (c) the duration of each instructional program, and (d) tuition and fee information for each instructional program, including tuition, fees, and institutional grant aid awarded to registered students. The amendments would also include a process for private career school applicants to request reconsideration of a decision by the Department's Training Evaluation Unit to deny its renewal application when the denial is based on the failure of any of the applicant private career school's programs to meet the minimum acceptable level of performance. The request for reconsideration would be made in writing, without the payment of any additional application fee, and would be reviewed by the Training Evaluation Unit on the basis of the written record.

(5) Amendments to N.J.A.C. 12:41-2.6 to indicate that the Training Evaluation Unit, with the Department, shall not approve any change in tuition or fee if that change would result in failure of the private career school that is seeking approval for the change to meet the minimum acceptable level of performance for each instructional program offered by the private career school;

(6) Amendments to N.J.A.C. 12:41-3.2 to include the new quarterly report required under N.J.S.A. 34:15C-10.1a, described in detail above;

(7) An amendment to N.J.A.C. 12:41-4.5 to reflect that the requirement that each private career school is under a continuing obligation between renewal cycles to ensure

compliance with applicable law and rules, includes a continuing obligation between renewal cycles to ensure compliance with N.J.S.A. 34:15C-10.1a;

(8) New N.J.A.C. 12:41-4.8, entitled “Minimum acceptable level of performance,” which would state that each private career school shall meet the minimum acceptable level of performance for each instructional program that it offers to students, and that failure of a private career school to meet the minimum acceptable level of performance for each instructional program offered by the private career school shall alone constitute sufficient grounds for suspension, revocation, or placement of conditions upon the continued possession of a Certificate of Approval; and

(9) Amendments to N.J.A.C. 12:41-5.1 and 5.2 to include among the causes for suspension, revocation, or placement of conditions upon the continued possession of a Certificate of Approval, that the private career school has violated the provisions of N.J.S.A. 34:15C-10.1a or N.J.A.C. 12:41-4.8, which impose a minimum acceptable level of performance on private career schools and the instructional programs they offer to students; and to make clear that the same appeal procedures apply to violations of N.J.S.A. 34:15C-10.1a and its implementing rules, that apply to other violations of N.J.S.A. 34:15C-10.1 and existing N.J.A.C. 12:41.

In accordance with the requirements of N.J.S.A. 34:15C-10.1a, described in detail above, that apply to private career schools that are authorized by a professional or occupational board established within the Division of Consumer Affairs, the Department is proposing a new Chapter 43, which would include the following:

(1) General provisions addressing the purpose and scope of the chapter;



(2) Definitions of words and terms used throughout the chapter, such as “Average annual earnings,” “Commissioner,” “Division,” “Board-authorized Private Career School,” “Fee,” “Institutional grant aid,” “Minimum acceptable level of performance,” and “Tuition;”

(3) Reporting requirements for Division-authorized private career schools;

(4) An express requirement that each Division-authorized private career school must meet the minimum acceptable level of performance for each instructional program that it offers to students;

(5) A section addressing suspension or revocation of the licensure of Division-authorized private career schools for failure to meet the minimum acceptable level of performance or for failure to submit required reports, including appeal rights.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)(5).

### **Social Impact**

The proposed amendments and new rules would have a positive social impact in that by establishing a minimum acceptable performance level based on a ratio of tuition and fees to average earnings of New Jersey workers employed in the occupation for which a program prepares students — specifically, by establishing a minimum acceptable performance level that tuition and fees charged for an instructional program, minus institutional grant aid awarded to students, divided by ten times the average annual earnings of New Jersey workers employed in the specific occupation for which the instructional program prepares students, is less than or equal to ten percent — will

ensure that private career schools do not charge an amount in tuition and fees that so far exceeds anticipated earnings that students will be unable over a reasonable period of time (ten years) pay for the cost of the program. That is, the proposed amendments and new rules will provide the accountability framework needed for the Department to assess whether each instructional program offered by private career schools is providing quality education and training to the private career school's students that lead to earnings that will allow students to pay for the cost of the program, including paying back their student loan debt. The beneficial social impact that this will have on students and prospective students of private career schools in New Jersey will be life changing. Under N.J.S.A. 34:15.c-10.1a, and under the proposed amendments and new rules, private career schools in New Jersey will either meet the minimum acceptable level of performance (lowering tuition in order to do so when necessary) and become or remain licensed, or they will not meet the minimum acceptable level of performance and will not be licensed. Either way, the private career schools which overcharge will disappear from the New Jersey educational/training landscape, and only those that charge a reasonable amount for the education/training that they offer will remain; thus, students will have a blanket protection against private career schools that overcharge for training in an occupation for which low wages do not justify program costs.

### **Economic Impact**

In terms of positive economic impact, the proposed amendments and new rules would reduce student costs and related debt; ensure better return on educational/training investment for students, prospective students and their families; and for high-performing private career schools, result in potential growth in enrollments

and revenues, as poor-performing schools are eliminated from the market. It is worth adding that students who graduate from programs with manageable debt and adequate earnings are better positioned to save for future career and personal goals. As to negative economic impact, private career schools that do not already meet the minimum acceptable level of performance would likely see lower revenues and possibly reduced profit margins in the event that they must lower tuition and fees in order to meet the new standard. In the Department's view, and in the view of the New Jersey Legislature in enacting P.L. 2022, c.76, any negative economic impact on low-performing private career schools would be outweighed by the positive economic impact on students and their families.

#### **Federal Standards Statement**

The proposed amendments and new rules do not exceed standards or requirements imposed by Federal law as there are currently no Federal standards or requirements applicable to the subject matter of this rulemaking. As a result, a Federal standards analysis is not required.

#### **Jobs Impact**

The proposed amendments and new rules would have no impact on either the generation or loss of jobs.

#### **Agriculture Industry Impact**

The proposed amendments and new rules would have no impact on the agriculture industry.

## **Regulatory Flexibility Analysis**

The proposed amendments and new rules would require that each of the approximately 300 private career schools in New Jersey, many of which are small businesses, as that term is defined within the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., submit quarterly reports as described above and meet the minimum acceptable level of performance set by the Department in order to maintain a Certificate of Approval to offer instructional programs to students in New Jersey. Both the reporting requirement and the establishment of a minimum acceptable level of performance are expressly dictated by N.J.S.A. 34:15C-10.1a. No distinction is made within the law between large and small businesses. The Department has no discretion to deviate from the requirements set forth in the law. It is not anticipated that compliance with the proposed amendments and new rules will require professional services or result in capital costs. The Department does not anticipate any compliance costs, because the information contained in the required reporting is information that private career schools have readily available and which they are already accustomed to providing to various regulatory and accrediting authorities. Of course, there is the possibility that in order to meet the minimum level of performance some private career schools may be required to lower their tuition. To the degree that that is considered a compliance cost, it will likely occur, but is precisely what the Legislature intended when it passed N.J.S.A. 34:15C-10.1a; namely, to ensure that a private career school does not overcharge for the training it provides, when compared to anticipated earnings in the occupation for which the private career school's students have been trained.

### **Housing Affordability Impact Analysis**

It is not anticipated that the proposed amendments and new rules will evoke a change in the average costs associated with housing. The basis for this finding is that the proposed amendments and new rules pertain to the licensure of private career schools and have nothing to do with housing.

### **Smart Growth Development Impact Analysis**

It is not anticipated that the proposed amendments and new rules would evoke a change in the housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the proposed new amendments and new rules do not pertain to housing production anywhere in the State of New Jersey.

### **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Commissioner has evaluated this rulemaking and determined that it would not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## 12:41-1.1 Purpose and scope

(a) The purpose of this chapter is to establish rules to effectuate N.J.S.A. 34:15C-10.1 and **34:15C-10.1a**, which empower the Commissioner of the Department of Labor and Workforce Development and the Commissioner of Education to issue certificates of approval to “qualifying schools” (referred to throughout this chapter as and defined therein as synonymous with the term, “private career schools”); to “maintain rules governing curricula, qualifications of instructors and supervisors, facilities, recordkeeping (and reporting) requirements, and any other matter essential to the maintenance of quality instruction and the business integrity” of private career schools; **to establish and enforce a minimum acceptable level of performance for private career schools**; to oversee the proper conduct of private career schools, including the monitoring and inspection of approved private career schools and the conducting of examinations of all facilities and methods of operation of private career schools; and, to revoke, suspend, or place reasonable conditions upon the continued approval of a private career school where reasonable causes exists to believe that the private career school is guilty of violating N.J.S.A. 34:15C-10.1, **N.J.S.A. 34:15C-10.1a**, N.J.A.C. 6A:19-7, or this chapter or is found to be “financially unsound.”

## 12:41-1.2 Definitions

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

. . .

**“Average annual earnings” means the amount indicated for the 25<sup>th</sup> percentile of the annual salaries in New Jersey for an occupation according to the**

most recent Department of Labor and Workforce Development Occupational Employment and Wage Estimates for All Industries Combined, which is available at <https://www.nj.gov/labor/labormarketinformation/>.

“Fees” means the mandatory fees charged to the most recent students registered in the instructional program. Such fees may include, but are not limited to, general education fees, registration fees, facility fees, technology fees, laboratory fees, student service and activity fees, and program and course fees, including fees associated with coursework.

“Institutional grant aid” means the award of money given by the private career school to students registered in the instructional program. Such aid includes, but is not limited to, need-based or merit-based aid in the form of grants, scholarships, subsidies, endowments, and discounts.

“Minimum acceptable level of performance” means that tuition and fees charged for an instructional program, minus institutional grant aid awarded to students registered in that instructional program, divided by ten times the average annual earnings of New Jersey workers employed in the specific occupation for which the instructional program prepares students, is less than or equal to 0.10 (i.e., 10 percent).

“Tuition” means the net dollar amount most recently represented by the private career school as the price for attending class(es) in order to pay for instruction.

“Written” means handwritten or typed, hardcopy or electronic.

12:41-2.2 Application for initial approval of a private career school

(a) Any private career school that seeks to apply for a Certificate of Approval under N.J.S.A. 34:15C-10.1 **and 34:15C-10.1a** shall make a written Application for Initial Approval of a Private Career School to the Department of Labor and Workforce Development.

1. The Application for Initial Approval of a Private Career School shall have two components: one component pertaining to facilities, business operations, [and] financial aspects, **and minimum acceptable level of performance**, of the applicant private career school, which shall be reviewed and evaluated by the Training Evaluation Unit, and the other component pertaining to program and course curricula and administrator and instructor credentials, which shall be reviewed and evaluated by the Department of Education.

(b) The information and documents to be submitted for review and evaluation by the Training Evaluation Unit shall include the following:

1. – 16. (No change.)

17. A copy of the school advertising materials; [and]

18. Proof of appropriate school entry standards[.] ;

**19. A list of each instructional program offered by the private career school including the Classification of Instructional Programs (CIP) code and Standard Occupational Classification (SOC) code for each instructional program;**



**20. Identification of the specific occupation(s) for which students will be prepared upon completion of each instructional program;**

**21. Identification of the specific license(s), if applicable, for which students will be prepared upon completion of each instructional program;**

**22. The duration of each instructional program;**

**23. Tuition and fee information for each instructional program, including the following:**

**i. Tuition;**

**ii. Fees; and**

**iii. Institutional grant aid awarded to registered students; and**

**24. Such other information and documents as may be required by the Commissioner of the Department of Labor and Workforce Development as part of the Application for Initial Approval of a Private Career School.**

**(c) (No change.)**

**(d) The Training Evaluation Unit shall, prior to the issuance of a Certificate of Approval, assess each private career school applicant to identify whether each instructional program offered by the private career school meets the minimum acceptable level of performance.**

**(e) Failure of a private career school applicant to meet the minimum acceptable level of performance for each instructional program offered by the private career school shall alone constitute sufficient grounds for denial of the private career school's application for initial approval.**

[(d)] **(f)** Each applicant private career school shall pay an initial, non-refundable, application fee of \$1,150, payable to the State Treasurer.

**(g)** Where an initial application for approval of a private career school is denied on the basis that the applicant private career school has failed to meet the minimum acceptable level of performance for any of its instructional programs, the applicant private career school may within 15 days of receipt of the application denial, and without the payment of any additional application fee, submit to the Training Evaluation Unit a written request for reconsideration of the denial.

**(h)** The written request for reconsideration under **(g)** above shall contain a detailed description of the basis for the request, including an explanation of either **(1)** what the applicant believes is an error made by the Department in its measurement of the performance of the applicant private career school's instructional program(s) against the minimum acceptable level of performance, or **(2)** a change in circumstances (e.g., a reduction in tuition and/or fees) that would alter the Department's measurement of the performance of the private career school applicant's instructional program(s) against the minimum acceptable level of performance.

**(i)** The option to file a written request for reconsideration under **(g)** above shall apply only to application denials that are based on the applicant private career school's failure to meet the minimum acceptable level of performance for any of its instructional programs.

**(j) The Training Evaluation Unit shall review any request for reconsideration submitted under (g) above on the written record and shall render a decision within 20 days of receipt of the request.**

12:41-2.4 Application for Renewal of Certificate of Approval for private career schools

(a) A private career school that seeks to apply for renewal of a Certificate of Approval shall make a written Application for Renewal of a Private Career School Certificate of Approval.

1. (No change.)

(b) – (c) (No change.)

(d) The information and documents to be submitted by the private career school for review and evaluation by the Training Evaluation Unit for renewal of a Certificate of Approval shall include the following:

1. – 7. (No change.)

8. Verification that the school complied with the annual reporting requirement, contained within N.J.A.C. 12:41-3.2, for the immediately preceding fiscal year; [and]

9. Modifications to any documentation provided as part of the Application for Initial Approval of a Private Career School[.] ;

**10. A list of each instructional program offered by the private career school including the Classification of Instructional Programs (CIP) code and Standard Occupational Classification (SOC) code for each instructional program;**

**11. Identification of the specific occupation(s) for which students will be prepared upon completion of each instructional program;**

**12. Identification of the specific license(s), if applicable, for which students will be prepared upon completion of each instructional program;**

**13. The duration of each instructional program; and**

**14. Tuition and fee information for each instructional program, including the following:**

**i. Tuition;**

**ii. Fees; and**

**iii. Institutional grant aid awarded to registered students.**

**15. Such other information and documents as may be required by the Commissioner of the Department of Labor and Workforce Development as part of the Application for Renewal of a Private Career School Certificate of Approval.**

**(e) (No change.)**

**(f) The Training Evaluation Unit shall prior to renewal of a Certificate of Approval, assess the private career school renewal applicant to identify whether each instructional program offered by the private career school meets the minimum acceptable level of performance.**

**(g) Failure of a private career school renewal applicant to meet the minimum acceptable level of performance for each instructional program offered by the private career school shall alone constitute sufficient grounds for denial of the private career school's application for renewal of its Certificate of Approval.**

**(h) Where an initial application for approval of a private career school is denied on the basis that the applicant private career school has failed to meet the minimum acceptable level of performance for any of its instructional programs, the applicant private career school may within 15 days of receipt of the application denial, and without the payment of any additional application fee, submit to the Training Evaluation Unit a written request for reconsideration of the denial.**

**(i) The written request for reconsideration under (h) above shall contain a detailed description of the basis for the request, including an explanation of either (1) what the applicant believes is an error made by the Department in its measurement of the performance of the applicant private career school's instructional program(s) against the minimum acceptable level of performance, or (2) a change in circumstances (e.g., a reduction in tuition and/or fees) that would alter the Department's measurement of the performance of the private career school applicant's instructional program(s) against the minimum acceptable level of performance.**

**(j) The option to file a written request for reconsideration under (h) above shall apply only to application denials that are based on the applicant private career school's failure to meet the minimum acceptable level of performance for any of its instructional programs.**

**(k) The Training Evaluation Unit shall review any request for reconsideration submitted under (h) above on the written record and shall render a decision within 20 days of receipt of the request.**

12:41-2.6 Application for approval of changes for private career schools

(a) – (b) (No change.)

**(c) The Training Evaluation Unit shall not approve any change in tuition or fee if that change would result in failure of the private career school that is seeking approval for the change to meet the minimum acceptable level of performance for each instructional program offered by the private career school.**

12:41-3.2 Reporting requirements

(a) – (c) (No change.)

**(d) Each private career school shall submit a quarterly report to the Training Evaluation Unit, which shall include the following:**

- 1. The tuition and fees charged for each instructional program;**
- 2. A record for each student enrolled in each instructional program,**

**which shall include the following:**

- i. Social security number,**
- ii. Gender;**
- iii. Date of birth;**
- iv. Date of enrollment;**
- v. Date of completion, if applicable;**
- vi. Date of termination, if applicable;**
- vii. Date of start in a job, if applicable;**
- viii. Date of application for a license, if applicable;**

**ix. Licensing examination result, if applicable;**

**x. Date of issuance of a license, if applicable;**

**xi. Credential issued, if applicable; and**

**3. Any additional information that may be required by the  
Commissioner of the Department of Labor and Workforce Development.**

[(d)] **(e)** Each private career school may be required by the Training Evaluation Unit to submit additional reports on a more frequent basis.

**12:41-4.5 Continuing compliance obligation**

Each private career school shall be under a continuing obligation between certificate renewal cycles to ensure compliance with the requirements of N.J.S.A. 34:15C-10.1, **34:15C-10.1a**, this chapter, and N.J.A.C. 6A:19-7.

**12:41-4.8 Minimum acceptable level of performance**

**(a) Each private career school shall meet the minimum acceptable level of performance for each instructional program that it offers to students.**

**(b) Failure of a private career school to meet the minimum acceptable level of performance for each instructional program offered by the private career school shall alone constitute sufficient grounds for suspension, revocation, or placement of conditions upon the continued possession of the Certificate of Approval under N.J.A.C. 12:41-5.1.**

**12:41-5.1 Penalties**

**(a) – (b) (No change.)**

**(c) A Certificate of Approval shall be suspended, revoked, or made conditional if it is determined that the approved private career school has violated the provisions of N.J.S.A. 34:15C-10.1a or N.J.A.C. 12:41-4.8.**

12:41-5.2 Commissioners' order to show cause

(a) Where the Commissioners of the Departments of Labor and Workforce Development and Education become aware of any violation(s) of any of the provisions of N.J.S.A. 34:15C-10.1, **N.J.S.A. 34:15C-10.1a**, this chapter, or N.J.A.C. 6A:19-7, or that the private career school is financially unsound, which, if true, would entitle the Commissioners to revoke, suspend, or place condition(s) on the continued possession of a Certificate of Approval, the Commissioners may accord the private career school an opportunity to present its views preliminary to imposing such sanction by issuing an order directing the private career school to show cause why such sanction should not be imposed. A statement of the factual details and investigative findings supporting the charge shall accompany the order. This procedure shall not be in lieu of a contested case hearing under N.J.A.C. 12:41-5.3, and the right to a contested case hearing is independent of, and in addition to, this step.

(b) – (d) (No change.)

## **CHAPTER 43**

### **EDUCATIONAL PROGRAMS REGULATED BY A PROFESSIONAL OR OCCUPATIONAL BOARD ESTABLISHED WITHIN THE DIVISION OF CONSUMER AFFAIRS; MINIMUM ACCEPTABLE LEVEL OF PERFORMANCE**



## **SUBCHAPTER 1 GENERAL PROVISIONS**

### **12:43-1.1 Purpose and scope**

**(a) This chapter implements N.J.S.A. 34:15C-10.1 which in pertinent part authorizes the Commissioner of the Department of Labor and Workforce Development to establish a minimum acceptable level of performance for private career schools that are authorized by a professional or occupational board established within the Division of Consumer Affairs, in the Department of Law and Public Safety, to offer an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the Division of Consumer Affairs.**

**(b) This chapter applies to private career schools that are authorized by a professional or occupational board established within the Division of Consumer Affairs, in the Department of Law and Public Safety, to offer an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the Division of Consumer Affairs.**

### **12:43-1.2 Definitions**

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

**“Average annual earnings” means the amount indicated for the 25<sup>th</sup> percentile of the annual salaries in New Jersey for an occupation according to the most recent Department of Labor and Workforce Development Occupational Employment and Wage Estimates for All Industries Combined, which is available at <https://www.nj.gov/labor/labormarketinformation/>.**

**“Commissioner” means the Commissioner of the Department of Labor and Workforce Development or their designee.**

**“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.**

**“Board-authorized private career school” means a private career school authorized by a professional or occupational board established within the Division of Consumer Affairs, in the Department of Law and Public Safety, to offer an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the Division of Consumer Affairs.**

**“Fees” means the mandatory fees charged to the most recent students registered in the instructional program. Such fees may include, but are not limited to, general education fees, registration fees, facility fees, technology fees, laboratory fees, student service and activity fees, and program and course fees, including fees associated with coursework.**

**“Institutional grant aid” means the award of money given by the private career school to students registered in the instructional program. Such aid**

includes, but is not limited to, need-based or merit-based aid in the form of grants, scholarships, subsidies, endowments, and discounts.

“Minimum acceptable level of performance” means that tuition and fees charged for an instructional program, minus institutional grant aid awarded to students registered in that instructional program, divided by ten times the average annual earnings of New Jersey workers employed in the specific occupation for which the instructional program prepares students, is less than or equal to 0.10 (i.e., 10 percent).

“Tuition” means the net dollar amount most recently represented by the private career school as the price for attending class(es) in order to pay for instruction.

## **SUBCHAPTER 2 REPORTING REQUIREMENT**

### **12:43-2.1 Reporting requirement**

(a) Each Board-authorized private career school shall submit a quarterly report to the Commissioner, which shall include the following:

1. The tuition and fees charged for each instructional program;
2. A record for each student enrolled in each instructional program,

which shall include the following:

- i. Social security number,
- ii. Gender;
- iii. Date of birth;
- iv. Date of enrollment;

- v. Date of completion, if applicable;
- vi. Date of termination, if applicable;
- vii. Date of start in a job, if applicable;
- viii. Date of application for a license, if applicable;
- ix. Licensing examination result, if applicable;
- x. Date of issuance of a license, if applicable;
- xi. Credential issued, if applicable; and

3. Any additional information that may be required by the Commissioner.

(b) Each Board-authorized private career school may be required by the Commissioner to submit additional reports on a more frequent basis.

### **SUBCHAPTER 3 MINIMUM ACCEPTABLE LEVEL OF PERFORMANCE**

#### **12:43-3.1 Minimum acceptable level of performance**

(a) Each Board-authorized private career school shall meet the minimum acceptable level of performance for each instructional program that it offers to students.

### **SUBCHAPTER 4 SUSPENSION OR REVOCATION; ISSUANCE OF WRITTEN DETERMINATION TO APPLICABLE BOARD WITHIN THE DIVISION**

**12:43-4.1 Suspension or revocation; Issuance of written determination to applicable board within the Division**

**(a) In the event that the Commissioner determines that an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the Division has failed to submit any report required under N.J.A.C. 12:43-2.1, or has failed to meet the minimum acceptable level of performance under N.J.A.C. 12:43-3.1, the Commissioner shall issue a written determination directing the applicable board within the Division to suspend or revoke the Board-authorized private career school's license or accreditation to offer such a program.**

**(b) Upon receiving the written determination from the Commissioner directing the suspension or revocation of the Board-authorized private career school's license or accreditation to offer an instructional program, it shall be the responsibility of the applicable board within the Division to notify the Board-authorized private career school of the reason or reasons for the suspension or revocation and provide the opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.**

**(c) Upon receiving the written determination from the Commissioner directing the suspension or revocation of the Board-authorized private career school's license or accreditation to offer an instructional program, the applicable board within the Division may delay the effective date of the suspension or revocation for a reasonable time if it determines that doing so is necessary for**

**the applicable board, or the affected Board-authorized private career school at the direction of the applicable board, to protect the interests of the students.**