

1 **POSTSECONDARY PROPRIETARY SCHOOL**

2 **ACT AMENDMENTS**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Lyle W. Hillyard**

6 AN ACT RELATING TO POSTSECONDARY EDUCATION; MODIFYING THE CRITERIA
7 BY WHICH THE STATE BOARD OF REGENTS MAY REFUSE TO ACCEPT A
8 STATEMENT OF REGISTRATION OR EXEMPTION OF A POSTSECONDARY
9 PROPRIETARY SCHOOL; AND ALLOWING THE BOARD TO REQUIRE A SURETY
10 BOND, CERTIFICATE OF DEPOSIT, OR LETTER OF CREDIT AS PART OF THE
11 REGISTRATION PROCESS.

12 This act affects sections of Utah Code Annotated 1953 as follows:

13 AMENDS:

14 **53B-5-107**, as last amended by Chapter 287, Laws of Utah 1995

15 **53B-5-108**, as last amended by Chapter 287, Laws of Utah 1995

16 *Be it enacted by the Legislature of the state of Utah:*

17 Section 1. Section **53B-5-107** is amended to read:

18 **53B-5-107. Operation of proprietary schools -- Required registration statement --**
19 **Fee -- Denial of registration -- Registration does not constitute endorsement.**

20 (1) An institution may not advertise, recruit students for, or operate a proprietary school
21 in this state unless it has:

22 (a) filed with the board a registration statement relating to the school that is in compliance
23 with applicable rules promulgated by the board and is also in compliance with the other
24 requirements set forth in this chapter; or

25 (b) established an exemption with the board.

26 (2) (a) The board may refuse to accept a statement of registration or exemption if:

27 (i) the proprietary school or an owner, administrator, faculty, staff, or agent of the school

28 has violated laws, federal regulations, or state rules [~~related to the operation of educational~~
29 institutions] as determined in a criminal, civil, or administrative proceeding; and

30 (ii) the board determines the violation is relevant to the appropriate operation of the
31 school.

32 (b) The statement of registration or exemption shall be verified by the oath or affirmation
33 of the owner or a responsible officer of the school filing it.

34 (c) The statement shall include a certification as to whether the school or an owner,
35 administrator, faculty, staff, or agent of the school has violated laws, federal regulations, or state
36 rules [~~related to the operation of educational institutions~~] as determined in a criminal, civil, or
37 administrative proceeding.

38 (d) The institution shall make available, upon request, a copy of the statement, showing
39 the date upon which it was filed, and a certificate of registration shall be displayed by the
40 proprietary school in a conspicuous place on its premises.

41 (3) (a) A registration statement and the accompanying certificate of registration are not
42 transferable.

43 (b) In the event of a change in ownership or in the governing body of the proprietary
44 school, the new owner or governing body, within 30 days after the change, shall file a new
45 registration statement.

46 (4) A registration statement or a renewal statement and the accompanying certificate of
47 registration are effective for a period of two years after the date of filing and issuance.

48 (5) (a) The board shall establish a graduated fee structure for the filing of registration
49 statements by various classifications of institutions pursuant to Section 63-38-3.2.

50 [~~(b) The maximum fee for any institution may not exceed \$300 per statement.~~]

51 [~~(c)~~] (b) Fees are not refundable.

52 (6) (a) Each proprietary school shall demonstrate fiscal responsibility at the time it files
53 its registration statement as prescribed by rules of the board.

54 (b) It shall provide evidence to the board that it is financially sound and can reasonably
55 fulfill commitments to and obligations it has incurred with students and creditors.

56 (c) [~~An institution~~] A proprietary school applying for an initial certificate of registration
57 to operate shall prepare and submit financial statements and supporting documentation as
58 requested by the board.

59 (d) [~~An institution~~] A proprietary school applying for renewal of a certificate of
60 registration to operate or renewal under new ownership must provide audited financial statements.

61 (e) The board may require evidence of financial status at other times when it is in the best
62 interest of students to require such information.

63 (7) (a) A proprietary school applying for an initial certificate or seeking renewal shall
64 provide a surety bond, certificate of deposit, or irrevocable letter of credit in a form approved by
65 the board.

66 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
67 board may make rules providing for:

68 (i) the amount of the bond, certificate, or letter of credit required under Subsection (7)(a);

69 (ii) the execution of the bond, certificate, or letter of credit;

70 (iii) cancellation of the bond, certificate, or letter of credit during or at the end of the
71 registration term; and

72 (iv) any other matters related to providing the bond, certificate, or letter of credit required
73 under Subsection (7)(a).

74 (c) The bond, certificate, or letter of credit shall be used as a protection against loss of
75 advanced tuition, book fees, supply fees, or equipment fees:

76 (i) collected by the school from a student or a student's parent, guardian, or sponsor prior
77 to the completion of the program or courses for which it was collected; or

78 (ii) for which the student is liable.

79 [~~(7)~~] (8) (a) The board cannot refuse acceptance of a registration statement that is tendered
80 for filing and, based on a preliminary review, appears to be in compliance with Subsections (1),
81 (2), and [~~(2)~~] (6), accompanied by the required fee.

82 (b) A statement is effective upon approval by the board or its designated officer in
83 accordance with board rules.

84 (c) The board may not register a program at a proprietary institution if it determines that
85 the educational credential associated with the program represents the undertaking or completion
86 of educational achievement that has not been undertaken and earned.

87 (d) A certificate of registration is effective upon the date of issuance.

88 (e) The responsibility of compliance is upon the institution and not upon the board.

89 (f) If it appears to the board or its designated officer that a statement on file may not be in

90 compliance with this chapter, the board may advise the institution as to the apparent deficiencies.

91 (g) A new or amended statement may then be presented for filing by the institution,
92 accompanied by the required fee.

93 [~~8~~] (9) The acceptance of a registration statement, renewal statement, or amended
94 registration statement and issuance of a certificate of registration shall not constitute, nor be
95 represented by any person to constitute, an endorsement or approval of the institution or
96 proprietary school by either the board or the state of Utah.

97 Section 2. Section **53B-5-108** is amended to read:

98 **53B-5-108. Information required to be available -- Fair and ethical practices.**

99 It is a violation of this chapter for any institution or school, which is required to file a
100 registration statement under this chapter, to offer postsecondary education in this state unless:

101 (1) it makes available to all applicants, prior to enrollment, information that includes the
102 following:

103 (a) the school name, which shall be representative of the programs offered at the school,
104 its address, and location;

105 (b) the facilities, faculty, training equipment, and instructional programs of the school;

106 (c) enrollment qualifications;

107 (d) tuition, fees, and other charges and expenses, as well as financial assistance,
108 cancellation, and tuition refund policies, including the posting of a surety bond, certificate of
109 credit, or irrevocable letter of credit;

110 (e) length of programs;

111 (f) graduation requirements; and

112 (g) awarding of appropriate educational credentials to indicate satisfactory course
113 completions;

114 (2) all recruiting documents, advertising, solicitations, publicity releases, and other public
115 statements regarding the school are fair and accurate; and

116 (3) all agents or sales representatives of the school are required by the school to comply
117 with ethical practices prescribed by the board.

Legislative Review Note

as of 11-23-99 4:15 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Education Interim Committee recommended this bill.