

## CHAPTER 15-20.4 POSTSECONDARY CAREER SCHOOLS

### **15-20.4-01. Definitions.**

As used in this chapter:

1. "Authorization to operate" or like term means approval of the board to operate or to contract to operate a private postsecondary career school in this state.
2. "Board" means the state board for career and technical education.
3. "Education" or "educational services" or like term includes any class, course, or program of training, instruction, or study.
4. "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for education at a postsecondary career school operating in this state.
5. "Entity" includes any company, firm, society, association, partnership, corporation, limited liability company, and trust.
6. "Executive officer" means the director of career and technical education.
7. "Postsecondary career school" means a private, vocational, technical, home study, business, professional, or other private school or college, or other private organization or person, operating in this state, offering educational credentials, or offering instruction or educational services, primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance, for attainment of educational, professional, or vocational objectives at a level no higher than the associate of applied science level.
8. "To grant" includes awarding, selling, conferring, bestowing, or giving.
9. "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.
10. "To operate" a career school, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform any such act.

### **15-20.4-02. Exemptions.**

The following education and educational schools or institutions are exempted from the provisions of this chapter:

1. Schools or institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade.
2. Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the board, solely for that organization's membership, or offered on a no-fee basis.
3. Education solely avocational or recreational in nature, as determined by the board, and schools or institutions offering such education exclusively.
4. Certain education provided through short-term programs as determined by the board.
5. Education offered by charitable schools or institutions, organizations, or agencies, so recognized by the board, provided the education is not advertised or promoted as leading toward educational credentials.
6. Schools of barbering regulated under chapter 43-04.
7. Schools of cosmetology regulated under chapter 43-11.
8. Native American colleges operating in this state, established by federally recognized Indian tribes.
9. Postsecondary career schools not operating in this state.
10. Postsecondary career schools whose only physical presence in this state consists of students enrolled in practicums or internships in this state.
11. Postsecondary educational institutions regulated under chapter 15-18.1.

#### **15-20.4-02.1. Voluntary application for authorization to operate.**

Although a postsecondary career school not operating in this state is exempt from this chapter by section 15-20.4-02, the school may subject itself to the requirements of this chapter by applying for and being awarded an authorization to operate by the board. An authorization to operate, as applied to a postsecondary career school not operating in this state, means approval of the board to offer to students in this state educational services leading to educational credentials.

#### **15-20.4-03. Board powers and duties.**

The board has, in addition to the powers and duties now vested in it by law, the following powers and duties to:

1. Establish and require compliance with minimum standards and criteria for postsecondary career schools under this chapter. The standards and criteria must include quality of education, ethical and business practices, health and safety and fiscal responsibility, which applicants for authorization to operate shall meet:
  - a. Before such authorization may be issued; and
  - b. To continue such authorization in effect.The criteria and standards developed will effectuate the purposes of this chapter, but will not unreasonably hinder legitimate educational innovation.
2. Prescribe forms and conditions for, receive, investigate as it may deem necessary, and act upon applications for authorization to operate postsecondary career schools.
3. Maintain a list of postsecondary career schools authorized to operate in this state under the provisions of this chapter. The list must be available for the information of the public.
4. Negotiate and enter into interstate reciprocity agreements with similar agencies in other states, if in the judgment of the board such agreements are or will be helpful in effectuating the purposes of this chapter; provided, however, that nothing contained in any such reciprocity agreement may be construed as limiting the board's powers, duties, and responsibilities with respect to independently investigating or acting upon any application for authorization to operate, or any application for renewal of such authorization to operate, a postsecondary career school, or with respect to the enforcement of any provision of this chapter, or any of the rules or regulations promulgated hereunder.
5. Receive and cause to be maintained as a permanent file, copies of academic records specified by the board in the event any postsecondary career school required to have an authorization to operate under this chapter proposes to discontinue its operation.
6. Promulgate such rules, regulations, and procedures necessary or appropriate for the conduct of its work and the implementation of this chapter, and to hold such hearings as it may deem advisable in accordance with chapter 28-32 or as required by law in developing such rules, regulations, and procedures, or in aid of any investigation or inquiry.
7. Investigate as it may deem necessary, on its own initiative or in response to any complaint lodged with it, any person, group, or entity subject to, or reasonably believed by the board to be subject to, the jurisdiction of this chapter; and in connection therewith to subpoena any persons, books, records, or documents pertaining to such investigation. The board may require answers in writing under oath to questions propounded by the board and may administer an oath or affirmation to any person in connection with any investigation. The board may, after hearing, revoke or suspend authorizations to operate. Subpoenas issued by the board are enforceable by any district court.
8. Require fees and bonds from postsecondary career schools in such sums and under such conditions as it may establish; provided, that fees established may not exceed the reasonable cost of the service being provided.
9. Exercise other powers and duties implied but not enumerated in this section but in conformity with the provisions of this chapter which, in the judgment of the board, are necessary in order to carry out the provisions of this chapter.

**15-20.4-03.1. Career school fee fund.**

There is created a career school fee fund into which fees provided to the board upon application for authorization to operate a postsecondary career school under section 15-20.4-03 must be deposited. The fund and interest earned on the fund may be spent by the board pursuant to legislative appropriation exclusively to carry out the intent and purpose of this chapter. This fund is not subject to section 54-44.1-11.

**15-20.4-04. Minimum standards - Exceptions.**

1. All postsecondary career schools must be accredited by national or regional accrediting agencies recognized by the United States department of education. The board may additionally require such further evidence and make such further investigation as in its judgment may be necessary. Any postsecondary career school operating in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the school becomes eligible for accreditation by a recognized accrediting agency. Schools issued a provisional authorization to operate must demonstrate a substantial good-faith showing of progress toward such status. Only upon accreditation shall a school become eligible for a regular authorization to operate. A school shall give written notification to the board within thirty days of any change to the school's accreditation status.
2. This section does not apply to postsecondary career schools operating in this state that do not grant degrees and that offer mainly hands-on training in low census occupations, as determined by the board. "Degree" as used in this subsection means a document that provides evidence or demonstrates completion of a course of instruction that results in the attainment of a rank or level of associate or higher.

**15-20.4-05. Prohibition.**

A person, group, or entity of whatever kind, alone or in concert with others, may not:

1. Operate, in this state, a postsecondary career school not exempted from the provisions of this chapter, unless said school has a currently valid authorization to operate issued pursuant to the provisions of this chapter.
2. Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any school or party to perform any such act, at a facility or location in this state unless such person, group, or entity observes and is in compliance with the minimum standards and criteria established by the board pursuant to subsection 1 of section 15-20.4-03, and the rules and regulations adopted by the board pursuant to subsection 6 of section 15-20.4-03.
3. Use the term "university", "institute", or "college" without authorization to do so from the board.
4. Grant, or offer to grant, educational credentials, without authorization to do so from the board.

**15-20.4-06. Refund of tuition fees.**

1. Postsecondary career schools shall refund tuition and other charges, other than a reasonable application fee, when written notice of cancellation is given by the student in accordance with the following schedule:
  - a. When notice is received prior to, or within seven days after completion of the first day of instruction, or after receipt of the first correspondence lesson by the school, all tuition and other charges must be refunded to the student.
  - b. When notice is received prior to, or within thirty days after completion of the first day of instruction, or prior to the completion of one-fourth of the educational services, all tuition and other charges except twenty-five percent thereof must be refunded to the student.

- c. When notice is received upon or after completion of one-fourth of the educational services, but prior to the completion of one-half of the educational services, all tuition and other charges except fifty percent thereof must be refunded to the student.
  - d. When notice is received upon or after the completion of fifty percent of the educational services, no tuition or other charges may be refunded to the student.
2. The provisions of this section do not prejudice the right of any student to recovery in an action against any postsecondary career school for breach of contract or fraud.
  3. A postsecondary career school may implement a refund schedule that deviates from subsection 1 if the proposed refund schedule is more favorable to the student than the schedule described in subsection 1.

**15-20.4-07. Negotiation of promissory instruments.**

Repealed by S.L. 2009, ch. 161, § 7.

**15-20.4-08. Cancellation of contract for instrument.**

Any person has the right for any cause to rescind, revoke, or cancel a contract for educational services at any postsecondary career school within seven days after entering into such contract without incurring any tort or contract liability. In such event, the postsecondary career school may retain the amount of tuition and other charges as set forth in subsection 1 of section 15-20.4-06.

**15-20.4-09. Remedy of defrauded student - Treble damages.**

Any person defrauded by any advertisement or circular issued by a postsecondary career school, or by any person who sells textbooks to the school or to the pupils thereof, may recover from such school or person three times the amount paid.

**15-20.4-10. Board review.**

Any person aggrieved by a decision of the board respecting denial or revocation of an authorization to operate, or the placing of conditions thereon, whether on initial application or on application for renewal, and any person aggrieved by the imposition of a penalty by the board under section 15-20.4-12, has the right to a hearing and review of such decision by the board and to judicial review in accordance with chapter 28-32.

**15-20.4-11. Violations - Civil penalty.**

Any person, group, or entity, or any owner, officer, or employee thereof, who violates the provisions of section 15-20.4-05, or who fails or refuses to deposit with the board the records required by the board under this chapter, is subject to a civil penalty not to exceed one hundred dollars for each violation. Each day's failure to comply with the provisions of said sections is a separate violation. Such fine may be imposed by the board in an administrative proceeding or by any court of competent jurisdiction.

**15-20.4-12. Violations - Criminal penalty.**

Any person, group, or entity, or any owner, officer, or employee thereof, who willfully violates the provisions of section 15-20.4-05, or who willfully fails or refuses to deposit with the board the records required by the board under this chapter, is guilty of a class B misdemeanor. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state or a state's attorney pursuant to section 15-20.4-14.

**15-20.4-13. Jurisdiction of courts - Service of process.**

Any postsecondary career school not exempt from this chapter, which has a place of business in this state, and which instructs or educates, or offers to instruct or educate, enrolls or offers to enroll, or contracts or offers to contract, to provide instructional or educational services in this state, whether such instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards any educational credentials to a

resident of this state, submits such school, and if a natural person, the person's personal representative, to the jurisdiction of the courts of this state, concerning any claim for relief arising therefrom, and for the purpose of enforcement of this chapter by injunction pursuant to section 15-20.4-14. Service of process upon any such school subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or outside this state, in the manner prescribed by the North Dakota Rules of Civil Procedure, with the same force and effect as if the summons had been personally served within this state. Nothing contained in this section limits or affects the right to serve any process as prescribed by the North Dakota Rules of Civil Procedure.

**15-20.4-14. Enforcement - Injunction.**

1. The attorney general of this state, or the state's attorney of any county in which a postsecondary career school is found, at the request of the board or on the attorney general's own motion, may bring any appropriate action or proceeding, including injunctive proceedings, or criminal proceedings pursuant to section 15-20.4-12, in any court of competent jurisdiction for the enforcement of the provisions of this chapter.
2. Whenever it appears to the board that any person, group, or entity is, is about to, or has been violating any of the provisions of this chapter or any of the lawful rules, regulations, or orders of the board, the board may, on its own motion or on the written complaint of any person, file a petition for injunction in the name of the board in any court of competent jurisdiction in this state against such person, group, or entity, for the purpose of enjoining such violation or for an order directing compliance with the provisions of this chapter, and all rules, regulations, and orders issued hereunder. It is not necessary that the board allege or prove that it has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the board has, and is in addition to any right of criminal prosecution provided by law; provided, however, the board may not obtain a temporary restraining order without notice to the person, group, or entity affected. The existence of board action with respect to alleged violations of this chapter does not operate as a bar to an action for injunctive relief pursuant to this section.

**15-20.4-15. Unlawful to issue, manufacture, or use false academic degrees - Penalty.**

Repealed by S.L. 2013, ch. 137, § 14.

**15-20.4-16. Unlawful to use degree or certificate when coursework not completed - Penalty.**

Repealed by S.L. 2013, ch. 137, § 14.

**15-20.4-17. Consumer protection - False academic degrees.**

Repealed by S.L. 2013, ch. 137, § 14.

**15-20.4-18. Unlawful to operate accreditation mill - Penalty.**

Repealed by S.L. 2013, ch. 137, § 14.

**15-20.4-19. Compliance with professional board registration and certification requirements.**

A postsecondary career school shall give written notification to potential students applying for enrollment in a course or program that customarily leads to professional registration or certification of the status of the course or program compliance with the registration or certification requirements of the appropriate professional board in the state. A postsecondary career school shall give written notification to all students enrolled in a program or course that customarily leads to professional registration or certification of any change in the status of the course or program compliance with the registration or certification requirements of the appropriate professional board in the state.