

Texas Workforce Commission

A Member of Texas Workforce Solutions

Tom Pauken, Chairman

Ronald G. Congleton
Commissioner Representing
Labor

Andres Alcantar
Commissioner Representing
the Public

August 29, 2011

Dear School Director:

Larry E. Temple
Executive Director

Last month, we shared with you an overview of changes affecting career schools and colleges, including several legislative initiatives that were enacted by the 82th Legislature, Regular Session. As a reminder, a summary of these initiatives has been posted on our website on the News for Schools page at:

<http://www.twc.state.tx.us/svcs/propschools/propnews.html>.

The purpose of this letter is to provide further details on changes to requirements for refund policies due to House Bill 2784. The bill amended *Title 3, Texas Education Code, Chapter 132, Section 132.061(4)*, by simplifying a school's required minimum refund policy for a student who enters a residence program or a synchronous distance education course and subsequently terminates enrollment. The changes do not affect refund calculations for asynchronous distance education courses, programs that have 40 hours or less of course time, or a seminar or workshop.

The law takes effect on September 1, 2011 and requires each affected school to adopt a school refund policy consistent with the new requirements not later than the first renewal of their Certificate of Approval after that date, although it may be adopted at any time prior to renewal. Refunds must be calculated using the revised requirements by the date of the school's certificate renewal. Please note that the Texas Workforce Commission cannot renew the Certificate of Approval for an institution that has not implemented the new requirements.

If you are a school with one or more residence vocational programs *or* synchronous distance education programs, please submit the following along with your application for renewal of your Certificate of Approval, at least 30 days prior to the expiration of your current Certificate of Approval:

- a catalog or catalog addendum that includes a revised school refund policy;
- an enrollment agreement that includes the new refund policy; and,
- form PS-042, Summary of Changes.

We have included with this letter a special notice for schools renewing their certificates in September or October of 2011, identifying how we plan to handle their transition to the new refund policies.

In brief, the refund policy revisions replace the current calculation, which uses periods and corresponding percentages earned, with a simpler calculation based on the precise number of clock hours the student has paid for but not yet used in the relevant period at the point of termination, up to the 75% completion mark of the period, after which no refund is due. The period used is established by school policy, stated in the catalog and enrollment agreement, and could be the entire program, an academic year, the current term, or some other period. If the student has passed the 75% point of the period charged, there is no refund required but, if they have withdrawn for an appropriate reason, they may request an incomplete and return within a year at no additional charge for that portion. Not more than \$100 of non-refundable administrative fees may be retained by the school for the entire program.

For further details, please see forms incorporating the new requirements and clarifications of refund provisions in the forms section of our web site: <http://csc.twc.state.tx.us>. You may also use the direct address: <http://www.twc.state.tx.us/svcs/propschools/propforms.html#schoolForms>. The forms that have been revised to reflect the changes in requirements include: the Sample Cancellation and Refund Policies for Residence Schools

(PS-023R) and Residence Schools Not Taking Attendance (PS-023R-NA), and the Sample Refund Worksheets for Residence Schools (PS-1040R) and Residence Schools Not Taking Attendance (PS-1040R-NA).

As a reminder, although these provisions relate to the minimum requirements for inclusion in a school's refund policy, career schools are subject to pay a refund to students in cases of other violations of *Texas Education Code, Chapter 132* or the Career Schools and Colleges Rules, *Texas Administrative Code, Chapter 807*. These include the requirement for a refund if:

- The student is not accepted by the school or cancels enrollment within cancellation timeframes;
- The student was solicited or enrolled by an unregistered representative;
- The student's enrollment was procured as a result of any misrepresentation in advertising, promotional materials of the school, or representations by the owner or representatives of the school;
- The student was solicited or admitted to an unapproved course of instruction;
- The school failed to establish that the admissions requirements were met for a student admitted to the program;
- Classes up to the entire program or course, if applicable, were taught by:
 - (a) an instructor that was not approved, qualified, or for whom an application was not submitted properly for approval, as may be required for the course, or
 - (b) a temporary instructor without proper notification to TWC;
- Class period(s) that had no instructor;
- The course of instruction is discontinued by the school, preventing the student from completing;
- The school moves to a location causing hardship for the student in completing training; and
- There are other program violations or deficiencies by the school.

Please call or e-mail your school's Program Specialist if they may be of assistance.

Thank you in advance for your cooperation.

Sincerely,

Catherine Bingle

Director, Career Schools and Colleges

Enclosure

Special Notice for Schools Renewing in September or October, 2011

If you have either a residence (vocational) program or a synchronous distance education course, your certificate will be renewed even if you have not submitted the new refund policy prior to the renewal date. However, if you have not submitted the required catalog and enrollment agreement revisions, with the form PS-042, Summary of Changes, by November 1, 2011, you will receive a notice of intent to revoke your certificate.

Even if you have not submitted the documents, you are required to implement the new statutory changes to your refund policy on or before the date of your renewal certificate.

You MUST begin calculating refunds using the new requirements by the date of your certificate renewal. This is true whether or not you have been able to update all of your school's materials or submit the required materials to TWC by that time.

If you fail to use the new requirements, you will be cited for failure to implement the new refund requirements. This may result in your owing additional refunds and, if you owe additional refunds and they are paid late, you will have to pay penalties.

Please contact your school's Program Specialist if you have any questions.