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**TITLE 570 INDIANA COMMISSION ON
PROPRIETARY EDUCATION**

Proposed Rule
LSA Document #02-233

DIGEST

Adds 570 IAC 1-14 concerning career college student assurance fund. Effective 30 days after filing with the secretary of state.

570 IAC 1-14

SECTION 1. 570 IAC 1-14 IS ADDED TO READ AS FOLLOWS:

Rule 14. Career College Student Assurance Fund

570 IAC 1-14-1 Fund administration

Authority: IC 20-1-19-4

Affected: IC 20-1-19-8.2; IC 20-1-19-18

Sec. 1. (a) The career college student assurance fund shall be administered by the commission under this rule.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) As used in this rule, “fund” means the career college student assurance fund. (*Indiana Commission on Proprietary Education; 570 IAC 1-14-1*)

570 IAC 1-14-2 Claim criteria

Authority: IC 20-1-19-4

Affected: IC 20-1-19-8

Sec. 2. The fund is established to provide compensation to a student or enrollee of a postsecondary educational institution who suffers a loss or damage as a result of:

- (1) the failure or neglect of the postsecondary proprietary educational institution to faithfully perform all agreements, express or otherwise, with the student, enrollee, one (1) or both of the parents of the student or enrollee, or a guardian of the student or enrollee as represented by the application for the accreditation and the materials submitted in support of that application;**
- (2) the failure or neglect of the postsecondary proprietary educational institution to maintain and operate a course or courses of instruction or study in compliance with the standards of IC 20-1-19; or**
- (3) an agent’s misrepresentation in procuring the student’s enrollment.**

(*Indiana Commission on Proprietary Education; 570 IAC 1-14-2*)

570 IAC 1-14-3 Fund contributions

Authority: IC 20-1-19-4

Affected: IC 20-1-19-8.3

Sec. 3. (a) The proper amount of a postsecondary educational institution’s fund contribution shall be calculated in accordance with IC 20-1-19-8.3.

(b) Upon receipt of a contribution from a school to the fund, the check shall be deposited into the fund within twenty-four (24) hours of receipt.

(c) Money in the fund not currently needed will be invested by the treasurer of the state.

(d) The treasurer of the state shall invest the money in a manner similar to the investment of other public funds.

(e) Any gains made from fund investments shall also be deposited into the fund.

(f) Fund proceeds do not revert into the general state fund. (*Indiana Commission on Proprietary Education; 570 IAC 1-14-3*)

570 IAC 1-14-4 Quarterly contributions

Authority: IC 20-1-19-4

Affected: IC 20-1-19-8.1; IC 20-1-19-8.3

Sec. 4. Each postsecondary proprietary institution shall make quarterly contributions to the fund in compliance with IC 20-1-19-8.3. As used in IC 20-1-19-8.3, “aggregate amount of tuition and fees” means gross income before depreciation, taxes, or amortization, less any student refunds required by this rule or by student contract. (*Indiana Commission on Proprietary Education; 570 IAC 1-14-4*)

570 IAC 1-14-5 Quarterly beginnings

Authority: IC 20-1-19-4

Affected: IC 20-1-19-8.1; IC 20-1-19-8.3

Sec. 5. A new quarter will begin on each of the following dates:

- (1) January 1.
- (2) April 1.
- (3) July 1.
- (4) October 1.

(*Indiana Commission on Proprietary Education; 570 IAC 1-14-5*)

570 IAC 1-14-6 Claims against bond and fund; procedures

Authority: IC 20-1-19-4

Affected: IC 20-1-19-20.6

Sec. 6. When a student of a postsecondary proprietary institution is protected by both a surety bond and the fund when making a claim, the allowed claim will first be collected from the surety bond and then any balance of the claim will be collected from the fund. (*Indiana Commission on Proprietary Education; 570 IAC 1-14-6*)

570 IAC 1-14-7 Claims against bond and fund; limitations; procedures

Authority: IC 20-1-19-4

Affected: IC 20-1-19-20.6

Sec. 7. (a) A claim as described in section 8 of this rule is limited to a refund of the student or enrollee’s applicable tuition and fees.

(b) Upon a determination by the commission that a claimant shall be reimbursed, the commission shall prioritize the reimbursement in the following order:

- (1) Tuition, fees, and other expenses paid directly by the student.
- (2) A student or enrollee’s educational loan balances, less interest.
- (3) Federal grant repayment obligations of the student.

(c) Claims against the balance in the fund may not be made until the balance in the career college assurance fund is more than twenty-five thousand dollars (\$25,000). (*Indiana Commission on Proprietary Education; 570 IAC*

1-14-7)

570 IAC 1-14-8 Claims against an institution

Authority: IC 20-1-19-4

Affected: IC 20-1-19-8.2

Sec. 8. (a) Any student or enrollee who alleges a loss or damage due to the conditions described in section 2 of this rule may file a claim against the institution.

(b) Any claim submitted to the commission must include the following:

- (1)** A statement of the facts supporting the claim or outlining the problems experienced.
- (2)** A copy of the student or enrollee's enrollment agreement.
- (3)** Documentation of tuition payments in the form of canceled checks, credit card receipts, money orders, or financial aid documents.
- (4)** Any other supporting documentation which would be beneficial to a commission investigation.

(c) Upon receipt of such documentation, commission staff will then be responsible for conducting an investigation. *(Indiana Commission on Proprietary Education; 570 IAC 1-14-8)*

570 IAC 1-14-9 Multiple claims against the fund

Authority: IC 20-1-19-4

Affected: IC 20-1-19-8.2

Sec. 9. If more than one (1) claim needs to be paid, amounts of the claims will be prorated as such so that some portion of each claim is paid until all amounts are paid in full. *(Indiana Commission on Proprietary Education; 570 IAC 1-14-9)*

570 IAC 1-14-10 Investigation, hearing, and payment of allowed claims

Authority: IC 20-1-19-4

Affected: IC 4-21.5; IC 20-1-19-8; IC 20-1-19-8.2

Sec. 10. After the filing of a claim, the commission shall conduct an investigation. Commission staff will try to resolve the complaint to the satisfaction of all parties through an informal investigation. An investigation into a student or enrollee's claim will be made by commission staff through the following process:

- (1)** After reviewing a student or enrollee's complaint, commission staff shall then contact the postsecondary educational institution.
- (2)** The postsecondary educational institution shall respond in writing to the student or enrollee's complaint and commission staff inquiry within two (2) weeks of receipt of the complaint.
- (3)** If, after the postsecondary educational institution has responded to the inquiry, the claim cannot be resolved satisfactorily on an informal basis, either party may request a hearing.
- (4)** If a hearing is requested, the student or enrollee or the postsecondary educational institution shall be given not less than twenty (20) days' notice. Each party shall be permitted to appear and defend at a formal hearing set on the claim.
- (5)** If it is determined by the commission, either through an informal investigation or a formal requested hearing that a claim is valid, the commission shall determine the amount of the allowed claim and notify the institution of the fact of the claim allowance. If the claim is disallowed in whole or in part, the student shall be notified of the disallowance.
- (6)** If, after such formal hearing and adjudication of such claim by the commission, any party to the proceedings desires to appeal therefrom, such appeal shall be prosecuted under the provisions of the Indiana Administrative Adjudication Act (IC 4-21.5).
- (7)** A disbursement from the fund shall be paid to a student or enrollee within thirty (30) days from the date the determination is made.
- (8)** In the event the claim is not paid or satisfied within a reasonable time, the claim shall be paid by disbursement from the fund.

(Indiana Commission on Proprietary Education; 570 IAC 1-14-9)

570 IAC 1-14-10 Rights of commission to proceed against institution

Authority: IC 20-1-19-4

Affected: IC 20-1-19-8.1

Sec. 10. If a claim is paid out of the fund, the commission shall make all reasonable efforts to collect the amount of the paid claim from the institution against whom the claim was made. These efforts may include, where appropriate, commencing civil action on behalf of the state against the institution in the county of its principal place of business. Any amounts recovered as a result of these efforts shall be returned to the fund.
(Indiana Commission on Proprietary Education; 570 IAC 1-14-10)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 31, 2003 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 1, Indianapolis, Indiana the Indiana Commission on Proprietary Education will hold a public hearing on proposed new rules concerning the career college student assurance fund. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E201 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Phillip H. Roush
Commissioner
Indiana Commission on Proprietary Education