

OFFICE FOR CAREER AND TECHNICAL SCHOOLS (OCTS)

2023

Policy and Procedures

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OCTS Staff Members:

Jessica Deaton, Program Director

Barbara Buffington, Program Director

OCTS Contact Information:

OCTS@dwd.IN.gov

I. INTRODUCTION TO OCTS

Background

The Indiana Department of Workforce Development (DWD) is responsible for the powers and duties associated with regulating non-degree granting postsecondary proprietary educational institutions.

In order to carry out authorization responsibilities on behalf of DWD, Indiana Code 22-4.1-21-10 established the Office for Career and Technical Schools; hereafter referred to as OCTS. Under the direction and guidance of DWD, OCTS carries out the authorization (regulatory oversight) responsibilities for non-credit bearing / non degree granting postsecondary proprietary educational institutions meeting the following definition:

A person doing business in Indiana by offering to the public, for a tuition, fee, or charge, instructional or educational services or training in a technical, professional, mechanical, business, or industrial occupation, in the recipient's home, at a designated location, or by mail.

Additionally, OCTS is responsible for the administration of the student assurance fund established in IC 22-4.1-21-18 and the proprietary educational institution fund established in IC 22-4.1-21-39.

Mission and Purpose

The Indiana General Assembly has given the following charge regarding the regulation of private (for profit) schools:

To protect students, educational institutions, the general public, and honest and ethical operators of private schools from dishonest and unethical practices.

Some of the goals of OCTS include:

- Developing policies and administrative rules to align with the regulatory code necessary to administer, effectively and efficiently, the authorization responsibilities for non-credit bearing / non degree granting proprietary educational institutions;
- Engaging in continuous improvement activities to include streamlining and modernizing business processes and procedures associated with regulatory activities; thereby reducing bureaucracy while ensuring close adherence to Indiana regulation and policies, and providing greater transparency to institutions and consumers of postsecondary proprietary education alike; and
- Determining the authorization status through an appropriate investigation/inspection of application materials, including conducting thorough onsite evaluations for those granted "temporary authorization" under the authorization practices.

II. PRE-APPLICATION PROCESS

REGULATORY DETERMINATION

Prior to submitting an application for authorization, proprietors are asked to complete a Determination of Status Questionnaire (found at <https://www.in.gov/dwd/octs.htm>) and submit it electronically to OCTS. Once the questionnaire is received, OCTS staff will determine whether or not the school meets the definition of a non-credit bearing / non degree granting postsecondary proprietary educational institution. If the institution is determined to require regulation, then the proprietor is asked to complete an online orientation after which s/he will receive application materials along with specific instructions and additional guidance. **Institutions that are determined to require regulation are prohibited from conducting business as a postsecondary proprietary school in Indiana without first being granted the appropriate authorization status.** If a postsecondary proprietary educational institution begins conducting business without authorization, OCTS may issue a “cease and desist” letter to the proprietor and retains the right to notify the appropriate county prosecutor.

On the other hand, if the determination questionnaire reveals any criteria that does not meet the definition of a postsecondary proprietary educational institution then the proprietor will receive a letter stating such. The letter includes the code citation that provides the basis for the decision. **Important: Institutions initially determined to not meet the definition are found so on the basis of criteria submitted in the determination questionnaire. If anything changes (i.e. incorporation status, programs added or modified, etc.), the proprietor MUST submit those changes back through the determination process.** Institutions that conduct any programs, courses, classes, or that change their focus or way of doing business without first contacting OCTS for regulatory re-determination are subject to involuntary closure of such programs and may receive a “cease and desist” letter prohibiting any education/training that is being conducted without appropriate regulation. Additionally, in such cases, OCTS retains the right to notify the appropriate county prosecutor.

Some examples of institutions that do not meet the definition of “postsecondary proprietary educational institution” for the purpose of OCTS regulation are:

- Institutions regulated by another state agency, board or commission (ex. schools that offer cosmetology programs exclusively and therefore are instead regulated by the Indiana Professional Licensing Agency);
- Institutions that offer courses to the public that are clearly motivational, for self-improvement, or of an avocational nature (ex. music, dance, private tutoring).

IMPORTANT:

Throughout the determination, orientation, and initial application process, proprietors/chief administrators will be asked to provide assurances as follows:

1. The owner or chief administrator has not been convicted of a felony; and
2. The owner or chief administrator has not operated an institution that has had authorization revoked or been closed involuntarily within the five (5) years preceding application for authorization.

For a list of “minimum standards” required to operate a proprietary school in the state of Indiana, see Investigation/Inspection.

NEW SCHOOL ONLINE ORIENTATION

In addition to completing the determination questionnaire, and prior to receiving/submitting initial authorization application materials, owners/operators or chief administrators must complete the online new school orientation (found at <https://www.in.gov/dwd/octs.htm>). The orientation will provide an overview of both the regulatory process and the application requirements.

III. APPLICATION REQUIREMENTS

An online application, found at <https://www.in.gov/dwd/octs.htm>, allows owners/operators or chief administrators to access the initial authorization application materials quickly. IMPORTANT: Do not complete and submit the application prior to receiving notification from OCTS. No refunds will be given.

APPLICATION CONTENTS

Once the proprietor completes the determination process and online orientation, s/he will be asked to submit the following application materials as a single “packet”* to OCTS:

- 1) Original Initial Application for authorization that includes the legal name and address of the postsecondary proprietary educational institution;
- 2) A copy of a certificate of authority from the Secretary of State to do business in Indiana;
- 3) Copies of letters of national authorization or home state approval where applicable;
- 4) The appropriate application fee (by check);
- 5) A surety bond (original documents must be mailed) with power of attorney and Indiana Tuition Report Form; and
- 6) Additional materials to include at least the following information:
 - a. The types of courses to be offered, the form of instruction to be followed with the class, shop, or laboratory, and the hours required for each curriculum; IMPORTANT: ALL programs that are intended to be offered must be included with the application. There are no additions or modifications allowed to programs during the initial operating period (called “temporary authorization”).
 - b. The type of certificate or diploma to be awarded to program completers;
 - c. A statement of the institution’s finances;
 - d. A description of the institution’s facilities, including classrooms, laboratories, library, machinery, equipment, and a passing fire inspection if required by local ordinance.

- e. An explicit statement of policy with reference to the solicitation of students, payment and amount of student fees, and conditions under which students are entitled to a refund in part or in full of fees paid, including a statement concerning the existence of the fund;
- f. A sample of the enrollment agreement that includes the OCTS approved refund policy; this statement will be included with the application forms and guidance documents;
- g. Provisions for liability insurance for students (proof of commercial general liability insurance (minimum of one (1) million dollars) in the form of a Certificate of Liability Insurance);
- h. Maximum student-teacher ratio to be maintained;
- i. Minimum educational/experience requirements for instructional staff;
- j. Evidence the owner/operator or chief administrator has not been convicted of a felony via a background check; and
- k. Assurance the owner/operator or chief administrator has not owned/operated a school that has had its authorization revoked or been involuntarily closed in the five (5) years preceding application for authorization.

**All documentation that requires a signature, notarization, or seal must be mailed to OCTS as a single packet. The application fee must also be mailed.*

INITIAL SITE VISIT

After the application materials have been reviewed and are considered to contain complete information and meet all requirements, OCTS staff will schedule an initial site visit *for a school physically located in Indiana*. This is not for the purpose of a full onsite evaluation rather only to confirm that the location exists and that the facilities and equipment are adequate for serving the anticipated number of students as indicated in the application.

TEMPORARY AUTHORIZATION STATUS

If the postsecondary proprietary educational institution meets all the minimum application requirements and passes the initial site inspection, the institution is granted a “temporary authorization” status and may begin advertising, recruiting, and enrolling students. **Authorization is not mobile or transferable to another location.** The institution is provided the following initial credentials:

- A letter verifying “temporary authorization”;
- Worksheet for making student assurance fund payments and the quarterly payment schedule;
- Agent Permit(s) as long as the agent training and agent permit application forms have been submitted with the appropriate fee(s); and
- The self-study template to be completed prior to scheduling the requisite comprehensive inspection. 10

TERMINATING TEMPORARY AUTHORIZATION STATUS

Until full authorization status is granted, schools are operating on a temporary status that may be terminated for cause in cases; such as but not limited to:

- a. failing to make payments to the fund;
- b. getting behind on quarterly payments to the fund; and/or
- c. failure to maintain a surety bond.

It is incumbent upon the proprietary educational institution to remain in good standing and to comply with all regulatory requirements throughout the authorization process or jeopardize full authorization.

IV. INVESTIGATION / INSPECTION

Institutions that have been granted temporary authorization, or renewing their authorization will receive an application for a that must be completed and returned to OCTS staff. Once the application is received from the school, OCTS staff will set a date to complete a thorough onsite inspection and will notify the institution thirty (30) days in advance of the scheduled visit for institutions with temporary authorization. OCTS staff members in collaboration with field experts will report on whether or not the institution meets *minimum* authorization standards as set forth in IC 22-4.1-21-23 which include:

- Evidence of a sound financial structure and sufficient resources for continued support;
- Satisfactory training/educational facilities with sufficient tools, supplies, equipment, work stations, classrooms, etc.
- Adequate number of qualified instructors/teachers with sufficient training, experience, and/or education;
- Advertising and representations to prospective students are truthful and free from misrepresentation or fraud;
- The instructional fees are clearly stated and based upon services rendered;
- Student work and study areas are sanitary, healthful, and safe according to modern standards;
- The institution follows the refund policy approved by OCTS;
- The owner or chief administrator of the school has not been convicted of a felony; and
- The owner or chief administrator of the school has not been the owner or chief administrator of a school that has had its authorization revoked or that has been involuntarily closed within the five (5) years preceding application for authorization.

OCTS staff and appropriate field experts will conduct an initial electronic review of the application submitted by the institution. Field experts may include individuals from other boards, agencies and commissions that set curriculum standards (ex. a member of the massage therapy board) as well as experts serving in the occupations represented by the institutions' programs (ex. welding instructor). OCTS/DWD staff members will conduct the actual onsite evaluations. The onsite evaluation will mean traveling to the site where the instruction/training takes place, interviewing the proprietor and/or chief administrator, staff and students, and reviewing records and documentation that serve to confirm the institution meets minimum standards of operation. Any findings will be documented and included in the staff evaluation report. Once the inspection/investigation has been completed, OCTS will decide to either grant or deny full authorization.

Expenses incurred to conduct the onsite inspection will be invoiced to the applicant postsecondary proprietary institution but shall not exceed a total sum of one thousand dollars (\$1,000). Costs associated with the onsite inspection include room, board, and mileage.

GRANTING FULL AUTHORIZATION

If subsequent to the comprehensive onsite inspection, OCTS staff will grant full authorization, the institution will be notified. OCTS staff will send the authorization certificate to the institution to be displayed in a prominent place. **Authorization is not mobile or transferable to another location.** The authorization is valid for one year from the date of issuance and the institution is required to meet authorization renewal criteria each year to continue operation.

INTERSTATE RECIPROCIITY

Out-of-state schools that are approved in their home states but wish to advertise, recruit and enroll students in Indiana (whether or not they have a physical location in Indiana) must be regulated. They may, however, be granted a status of Fully Authorized through interstate reciprocity and will not be required to submit the self-study. Prior to granting, OCTS staff authorization will determine whether or not the "home state's" authorization criteria meet or exceed Indiana's authorization standards and whether or not the school remains in "good standing." For out-of-state schools with a physical location in Indiana, OCTS staff will conduct an initial site visit only. Any out-of-state schools with a physical location in Indiana and that are either nationally accredited or concurrently seeking national accreditation will be asked to extend an invitation to OCTS staff to participate in their national accreditation team site visit.

REFUSING (DENYING) FULL AUTHORIZATION

Should OCTS refuse full authorization, the institution will be notified that their status of "temporary authorization" is being terminated and will be required to cease operation of programs that fall under regulation pursuant to IC 22-4.1-21. Institutions that receive notification denying authorization may choose to appeal the decision (see Hearings).

AUTHROZATIONTIMELINE

- 1) Proprietors will have thirty (30) days after OCTS sends the Determination of Status letter to review the New School Orientation and the OCTS Policy and Procedures document and submit the Orientation

Verification electronically. If the verification is not completed within thirty (30) days, the proprietor will have to submit a new Determination of Status.

- 2) Proprietors will then have thirty (30) days, after notification from OCTS, to submit the Initial Application with fees. If an incomplete application is received, proprietors will have a total of ninety (90) days from the time OCTS receives any portion of the initial application and fees to submit missing materials. If the Initial Application, with fees, is not received within thirty (30) days, the application process will be deactivated and the proprietor will have to restart the application process with a new Determination of Status.
- 3) Following the onsite visit, the school will be considered for a status of “Temporary Authorization.”
- 4) After receiving a status of Temporary Authorization, the school will have not less than six (6) months or more than ten (10) months to complete the formal application and schedule a comprehensive onsite evaluation/inspection. Failure to submit the formal application within this timeframe will result in the termination of Temporary Authorization.
- 5) Upon conclusion of the onsite evaluation/inspection, OCTS staff will grant or deny Fully Authorized status.

V. MAINTAINING AUTHORIZATION STATUS

AUTHORIZATION RENEWAL PROCESS

According to IC 22-4.1-21-24 Full Authorization status is valid for one year from the date of issuance, and **authorized institutions must not allow their authorization status to expire at the risk of forfeiting their operating status and being asked to close the institution involuntarily.** Institutions must submit the renewal application at least thirty (30) days prior to the expiration date on their certificate of authorization to prevent any lapse in renewal status that might put the authorization status in jeopardy. In addition to ensuring institutions are maintaining an appropriate a status, the annual renewal process provides an opportunity for OCTS staff to review the institution’s performance and collect student data. The following materials/information/evidence must be submitted for consideration:

- 1) Completed renewal application indicating any changes to address, ownership, partnership, national/regional/out of state authorization if applicable; any changes/deletions/additions to programs, courses, credentials offered;
- 2) Administration and faculty credentials;
- 3) Graduate information including placement (if placement services are offered);
- 4) Graduate certification data*;
- 5) Corporate and financial information including a financial report submission sheet;
- 6) Fire inspection report from the local municipal fire department indicating no violations (generated in the last 12 months);

- 7) Proof of commercial general liability insurance (minimum of one (1) million dollars) in the form of a Certificate of Liability Insurance;
- 8) Evidence that the regulation statements and OCTS approved refund policy is being used verbatim and printed in the catalog and student enrollment agreement;
- 9) Submitting information for a background check to be performed for verification the owner/operator and/or the chief administrator has not been convicted of a felony; and
- 10) Renewal fee.

* We understand that where certification exams are conducted via a third-party provider, the institution may be unable to obtain the data; however, if this information is available it must be provided along with other student data.

CONTINUAL COMPLIANCE

Although the annual authorization renewal process provides opportunity for our office to determine continued regulatory compliance, there may be times when certain issues arise and warrant our immediate attention. Whether an internal or external source reveals an institution is allegedly engaging in business practices, advertising, recruiting, enrolling, or any other conduct disallowed under current regulatory standards, OCTS will investigate the matter and take any necessary action to ensure that the institution remains in good standing. Some of the ways OCTS will address non-compliance issues include but are not limited to:

- 1) Conducting an impromptu site visit based on “right to premises” to investigate complaints/concerns;
- 2) Suspending authorization status for cause; or
- 3) Initiating the authorization revocation process for cause.

VI. HEARINGS

Pursuant to IC 22-4.1-21-26 a postsecondary proprietary educational institution has the right to a hearing with an Administrative Law Judge (ALJ) if the institution’s authorization has been refused, revoked, or suspended. **The application for a hearing must be submitted in writing within thirty (30) days of the notice of denial, revocation, or suspension**, and DWD is charged with giving a prompt hearing with not less than ten (10) days notice of the date, time and place for the hearing. Additionally, the institution has the right to be represented by counsel and may provide oral and documentary evidence relevant to the issue. Finally, DWD will have not more than fifteen (15) days after the hearing to provide a written finding of fact, a written decision, and a written order based solely on the evidence submitted at the hearing, either granting or denying authorization to the postsecondary proprietary educational institution.

Not more than fifteen (15) days after the issuance of a written order by the ALJ, any party adversely affected by the order may file an objection to the order in writing with the DWD Commissioner and request that the Commissioner review the order. The party must identify the basis of the objection with reasonable particularity. Not later than thirty(30) days after the objection is filed with the Commissioner, the Commissioner shall issue a

final order affirming, modifying, or dissolving the administrative law judge's order. The Commissioner may remand the matter, with or without instructions, to the administrative law judge for further proceedings.

In the absence of an objection, the commissioner shall affirm the administrative law judge's order. The Commissioner is the ultimate authority (as defined by IC 4-21.5-1-15) for the Department.

VII. SCHOOL CLOSURE / STUDENT RECORDS

INVOLUNTARY CLOSURE

An individual operating a postsecondary proprietary educational institution without the appropriate state regulation; or whose authorization status has been revoked or denied or which has expired; or whose school does not remain in continual compliance will be required to “cease and desist” all operations including but not limited to advertising, recruiting, and enrolling students and/or conducting education and training classes, and the owner/operator of the proprietary institution may not be considered for authorization of another proprietary school within the five (5) year period immediately following the involuntary closure. Continued operation of a postsecondary proprietary educational institution upon notification of mandatory school closure is subject to prosecution pursuant to IC 22-4.1-21-36. Upon closure, the owner/operator or school administrator must submit within a period of thirty (30) days from notice to OCTS the following items:

- a. Authorization Certificate
- b. Agent Permit(s)
- c. All Student Records

VOLUNTARY CLOSURE

Voluntary school closures must be conducted in such a way as to cause minimal to no disruption to students. If possible, all students should be allowed to complete their programs of study, and therefore, while not required, it is highly recommended that schools considering closure do so through a “teach out” process. Should the owner/operator insist on a school closure that does not allow students to complete their programs of study, the institution will be required to provide full refunds to those students. A pro-rata approach to refunding program fees based on services rendered is prohibited by the state uniform refund policy. Upon closure, the owner/operator or school administrator must submit within a period of thirty (30) days of closure to OCTS the following items:

- a. Authorization Certificate
- b. Agent Permit(s)
- c. Student Records

VIII. STUDENT COMPLAINT PROCESS

OCTS will review and respond to formal student complaints against post-secondary proprietary schools that are non-credit bearing and non-degree granting and which are currently regulated only after the student exhausts the

institution's complaint process. In such cases, staff will review complaints to determine their veracity and legitimacy and will work with both the student complainant and school toward a mutually satisfactory resolution. Institutions are expected to work with students to resolve complaints and only where a mutually satisfactory resolution cannot be achieved does OCTS begin the determination process. The determination by OCTS is final and is not appealable through the Department.

Instructions for filing a complaint against a regulated school are posted to the OCTS website at: <https://www.in.gov/dwd/octs.htm>. A student who believes a school has acted in a discriminatory manner is directed to contact the Indiana Civil Rights Commission by completing their complaint form posted on our website.

APPENDIX

A . FEE SCHEDULE

Application for Authorization – In State Institutions Out of State Institutions	\$1,000 \$2,000
Application for Full Authorization	\$500
Annual Authorization Renewal – All Institutions	\$500
Agent Application	\$80
Annual Agent Renewal	\$50

B . GLOSSERY OF TERMS

Authorization – certification of a status of approval or authorization to do business as a postsecondary proprietary educational institution. OCTS provides authorization at the institutional level and does not provide program or curriculum approval.

Agent – a person who enrolls or seeks to enroll a resident of Indiana through personal contact; telephone; advertisement; letter; or publications; in a course offered by a postsecondary proprietary educational institution.

Agent’s Permit – a nontransferable written authorization from the Office for Career and Technical Schools to solicit a resident of Indiana to enroll in a course offered or maintained by a postsecondary proprietary educational institution.

Application – a written request for initial operating status, full authorization, or an agent’s permit on forms supplied by the Office for Career and Technical Schools.

Course – a plan or program of instruction in a specific field of study intended to lead to employment in that occupation or to the occupational certification.

Fund – the career college student assurance fund (CCSAF) established by IC 22-4.1-21-18.

Hearing – the proprietor’s right to appear before the Department of Workforce Development if an application for hearing is submitted in writing not more than thirty (30) days after notification that authorization has been denied, revoked, or suspended.

Investigation/Inspection – activities that include a thorough examination of application materials submitted to

the Office for Career and Technical Schools, including initial site visits and comprehensive onsite inspections.

Inspection Fee – expenses incurred by team members to conduct an onsite inspection; paid by the applicant postsecondary proprietary educational institution and not to exceed a total of one thousand dollars (\$1,000) for room, board, and mileage.

Involuntary School Closure – school closure completed upon the request of the Office for Career and Technical Schools to “cease and desist” all education and training unless or until the institution meets the appropriate regulatory standards as defined by statute, administrative rule, and/or policy.

Office for Career and Technical Schools (OCTS) – the office established to carry out the administrative responsibilities associated with regulating non-credit/non degree granting postsecondary proprietary educational institutions on behalf of the Department of Workforce Development.

Postsecondary Proprietary Educational Institution – a person doing business in Indiana by offering to the public, for a tuition, fee, or charge, instructional or educational services or training in a technical, professional, mechanical, business, or industrial occupation.

Proprietary Educational Institution Authorization Fund – fund established by IC 22-4.1-21-39 for the collection of fees associated with the administration of IC 22-4.1-21.

Quarterly Contributions – payments made by the institution to the student assurance fund in the amount of sixty dollars (\$60) plus one-tenth percent (0.1%) of the total amount of tuition and fees earned during the quarter. If no student tuition or fees are collected during a quarter, a minimum administration fee of sixty dollars (\$60) must be paid into the fund on the same quarterly basis.

Representations – statements (oral, written, or other visual representation) in connection with the offering or publicizing of a course; promise or guarantee to a student or prospective student.

Revocation – the process of withdrawing an institution’s authorization and therefore its authorization to operate a postsecondary proprietary school in the state of Indiana.

Standards – minimum requirements the institution must meet, including financial, staff, facilities, program, curriculum, etc. in order to be granted full authorization.

Surety Bond – insurance held by the post-secondary proprietary institution with a penal sum of a minimum of twenty-five thousand dollars (\$25,000) or fifty thousand dollars (\$50,000) if the institution’s projected annual gross tuition will be more than two hundred fifty thousand dollars (\$250,000).

Suspension – a period of time in which an institution is not permitted to recruit or enroll students unless/until issues of noncompliance are resolved. Institutions may continue to train enrolled students during the suspension period. Authorization suspensions are effective for seven (7) days.

Temporary Authorization – an operating status allowed under section 20 (b) during the initial application and inspection period and until a determination regarding full authorization can be made.

Voluntary School Closure – school closure completed upon notification to the Office for Career and Technical Schools that it wishes to cease operations.

C . REGULATION

The Indiana regulation that governs non-credit / non-degree granting postsecondary proprietary educational institutions can be found at:

Indiana Code 22-4.1-21: <http://www.in.gov/legislative/ic/code/title22/ar4.1/ch21.html>

Policy and Procedures updated in September 2019.

Any questions regarding the regulations associated with the authorization of non-credit / non-degree granting postsecondary proprietary educational institutions can be directed to the Office for Career and Technical Schools. For contact information, see: <https://www.in.gov/dwd/octs.htm>