

**OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS
OF THE STATE OF NEW YORK
TITLE 8. EDUCATION DEPARTMENT
CHAPTER II. REGULATIONS OF THE COMMISSIONER
SUBCHAPTER F. PRIVATE SCHOOLS
PART 126. LICENSED PRIVATE CAREER SCHOOLS OR LICENSED
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SECTION 126.1. DEFINITIONS

1 As used in this Part:

2 126.1(a) **Acceptable, adequate, appropriate, proper, reasonable, satisfactory, sufficient**
3 and **suitable** shall mean educationally appropriate and/or beneficial to students in the judgment
4 of the commissioner.

5 126.1(b) **Approved** means approved by the commissioner based upon a finding of educational
6 appropriateness and/or benefit to students.

7 126.1(c) **Conform** means to meet or satisfy in the judgment of the commissioner.

8 126.1(d) **Curriculum** means a sequence of courses which together comprise a program of
9 instruction and is 100 clock hours or longer in duration.

10 126.1(e) **Course** means a sequence of units of instruction in a given subject area which is a
11 component of a program of instruction or curriculum, or which has an educational or
12 vocational objective of its own and is less than 100 clock hours in duration.

13 126.1(f) **Diploma** or **certificate of completion** means a document evidencing the successful
14 completion of a curriculum or course.

15 126.1(g) **Documentation of entrance requirements** means a copy of a student's high school
16 diploma or transcript, GED, original ability to benefit examination answer sheet indicating a
17 passing score, appropriate student certifications as specified by the approved curriculum, or
18 other approved documentation as determined by the commissioner, including but not limited to
19 a college degree.

20 126.1(h) **Grades** means letters, number or symbols used to indicate the quality of work
21 performed by students.

22 126.1(i) **Instruction** means any method or procedure used by the school faculty to impart
23 knowledge or develop skills.

24 126.1(j) **Instructional hour** means an instructional unit of time consisting of a minimum of 50
25 minutes and a maximum of 60 minutes.

26 126.1(k) **Properly** or **in proper manner** means in the manner prescribed by the commissioner.

27 126.1(l) **Recognized** means approved by a regional or national accrediting agency or
28 determined by the department to be equivalent in scope and content to a registered program,
29 unless the context calls for a different meaning.

30 126.1(m) **Standards**, unless otherwise indicated by the context, means the criteria established
31 or used by the commissioner to implement this Part.

32 126.1(n) **Practical experience** means full-time work experience, or its part time equivalent,
33 that is acceptable to the Commissioner using skills included in the occupation for which the
34 program is designed and approved.

35 126.1(o) **Gross tuition** means all revenues received for instruction by or on behalf of the
36 student, prior to any refund, from all sources, including but not limited to, lending institutions,
37 Federal agencies, State agencies, and any other entity or organization. Gross tuition shall not
38 include income from registration fees, the sale of books, supplies, services, kits, uniforms or
39 equipment.

40 126.1(p) **School** means a licensed private career school or licensed private school as defined in
41 section 5001 of the Education Law.

42 126.1(q) **Department** means the New York State Education Department.

43 126.1(r) **Marking period** means the period of time established by the school to measure a
44 student's progress in a course or curriculum.

45 126.1(s) **Attendance register** means a complete record of student attendance containing the
46 information required by section 126.4(e) of this Part which is maintained by the school as a
47 bound document or computer printout for each course, or each curriculum if there are no
48 courses.

49 126.1(t) **Non-occupational course** means a course for personal enrichment or self-
50 improvement with no occupational performance objective and under 40 hours in length.

51 126.1(u) **Reviewed financial statement** means a financial statement reported in accordance
52 with standards established by the American Institute of Certified Public Accountants and
53 conducted by a licensed public accountant or a certified public accountant.

54 126.1(v) **Occupationally required credential** means a professional license, vendor
55 certification, or other credential that is required for employment in the occupation or where
56 employment in the occupation without such a credential is diminished.

57 126.1(w) **Audited financial statement** means a financial statement prepared by a licensed
58 public accountant or a certified public accountant in accordance with generally accepted
59 accounting principles issued by the American Institute of Certified Public Accountants.

60 126.1(x) **Certified English as a second language schools** or **Nonpublicly funded ESL**
61 **schools** means schools that provide instruction in English as a second language; receive no
62 public funding, including but not limited to public funding received as a result of participation
63 in student financial aid general award programs pursuant to articles 13 and 14 of the Education
64 Law; and operate on a for-profit basis.

65 126.1(y) **Nationally recognized vendor** means an independent, industry recognized,
66 educational products provider offering curriculum and instructor qualifications to third party
67 educational service providers via the internet and other appropriate media.

68 126.1(z) **Significant educational change** means, for the purposes of section 5002(3)(c)(2) of
69 the Education Law and this Part, sufficient substantive changes in a student's educational
70 program, in terms of curriculum, resources and the quality and quantity of faculty, as to
71 indicate that the program is not substantially equivalent to the initial offering to the student.

72 126.1(aa) **Commissioner** means the Commissioner of Education.

73 126.1(bb) **Solicit** or **Procure** means inducing or attempting to induce a prospective student to
74 sign an enrollment agreement with a licensed private career school, private career school or a
75 certified English as a second language school as defined in section 5001 of the Education Law.

76 126.1(cc) **Enroll** means the execution of an enrollment agreement between a prospective
77 student and a licensed private career school or private career school or a certified English as a
78 second language school as defined in section 5001 of the Education Law.

79 126.1(dd) **Online education marketplace** shall mean a website or other internet-based online
80 technology tool with which a licensed private career school or private career school or certified
81 English as a second language school as defined in section 5001 of the Education Law contracts
82 for marketing or advertising services, or services in connection with the collection of tuition
83 and/or fees, to the extent authorized in section 5004(3) of the Education Law.

SECTION 126.2. CONDUCT OF THE SCHOOL

84 126.2(a) Fees or other charges for services or products produced in the course of instruction by
85 students or instructors shall not be collected from the public unless the commissioner approves
86 the collection of such fees or charges for the purpose of facilitating adequate practice in the
87 curriculum or course.

88 126.2(b) A school shall provide the same instruction, tools, equipment or instructional
89 supplies, and charge the same tuition rates and other fees or charges, to all student or groups of
90 students in like circumstances, unless otherwise approved by the commissioner.

91 126.2(c) Enrollment of students shall not be sought by:

92 126.2(c)(1) Assuring or seeming to assure employment in any business, establishment or
93 occupation.

94 126.2(c)(2) Including in advertising or promotional material representations with respect to
95 potential earnings in entry level employment or employment with experience, unless such
96 representations can be documented for the graduates of the school. All such advertising or
97 promotional material shall include the number and percent of graduates employed at the
98 advertised salary level listed by year of graduation and may be presented in conjunction with
99 State and national labor statistics.

100 126.2(c)(3) Including in advertising or promotional material representations of job placement
101 rates, unless such representations can be documented with the data required under section
102 126.10 of this Part.

103 126.2(c)(4) Misrepresentations of the cost of instruction or of the education, experience or
104 abilities required for successful completion of the course and the utilization thereof.

105 126.2(c)(5) Use of such phrases as “university,” “college,” or “professional school,” or other
106 terminology which connotes an institution which confers the associate or higher degrees,
107 except where the school has been authorized by the Regents to confer such degrees and has
108 been authorized to use the word “college” in its corporate name pursuant to section 3.29(c) of
109 this Title.

110 126.2(d) Each school shall submit to the commissioner for approval all scholarship and grant
111 programs offered by the school. In approving such programs, the commissioner shall consider
112 the following factors: the name of the scholarship program; the number and amount of
113 scholarships; period of time covered by the scholarship; the eligibility and application criteria;
114 academic and award criteria; source of scholarship funds; the manner in which scholarships are
115 paid; and that such funds are collected and applied in accordance with section 5002(1)(b-1) of
116 the Education Law; provisions for awarding scholarships to alternate candidates; standards for
117 continued scholarship eligibility; and the names and affiliation of all award committee
118 members. Each school shall assure that all scholarship recipients meet department-mandated
119 entrance requirements.

SECTION 126.3. ADVERTISING

120 126.3(a) Advertising conducted by or on behalf of a school shall not be false, misleading,
121 deceptive or fraudulent and shall be consistent with the provisions of article 22-A of the
122 General Business Law.

123 126.3(b) Statements and representations in all forms of advertising and promotion shall be
124 fairly and clearly presented, accurate, and restricted to facts which can be substantiated. All
125 forms of advertising and promotion by or on behalf of a school, shall identify the school for
126 which the advertising or promotion was undertaken, and shall be available for inspection at the
127 school by the commissioner, in accordance with section 126.11(a)(3) of this Part.

128 126.3(c) Endorsements, commendations or recommendations from any person or persons, firm,
129 corporation or other organization shall be used only with the identification and qualifications of
130 such person, persons, firm, corporation or other organization (*e.g.*, graduate, employer) and
131 with their written consent. Such consent shall be on file with the school, and shall be available
132 for examination. No consideration for any such endorsement, commendation or
133 recommendation shall be offered or paid by a school. The date of any such endorsement,
134 commendation or recommendation shall be included in the advertising matter unless it is less
135 than two years old.

136 126.3(d) Illustrations in all advertising matter shall relate solely to the school or shall be clearly
137 designated otherwise.

138 126.3(e) Services or articles produced in the process of instruction shall not be advertised for
139 sale in connection with the school unless such practice is approved by the commissioner.

140 126.3(f) Pursuant to section 5002(7)(b) of the Education Law, beginning on January 1, 2000 all
141 schools shall include in their advertising, promotional material or letterhead the phrase,
142 "Licensed by the State of New York, New York State Education Department". Such statement
143 shall also be accompanied by the symbol issued by the commissioner to indicate such status.

SECTION 126.4. STANDARDS AND METHODS OF INSTRUCTION

144 126.4(a) Schools shall conduct only those curricula or courses which have been approved by
145 the commissioner, and shall conduct such curricula or courses in accordance with section
146 5002(4) and (5) of the Education Law and this Part; except for those programs which have
147 been deemed exempt from the requirements of article 101 of the Education Law and this Part,
148 as prescribed in section 5001(2-b) of the Education Law. The commissioner shall approve the
149 appropriate student-to-teacher ratio for each course or curricula. Schools shall ensure that
150 student enrollment on the attendance register does not exceed the approved ratio after the first
151 week of instruction. Pursuant to section 5002(4)(c) of the Education Law, for all courses or
152 curricula reviewed by an expert or outside consultant not employed by the department, the
153 department shall retain the expert or outside consultant and the school shall bear the expense of
154 the expert or outside consultant, in addition to the curriculum or course application fee set forth
155 in section 5002(4)(a) of the Education Law. The cost of a review by an expert or outside
156 consultant not employed by the department shall be set according to the following schedule:

157 126.4(a)(1) for courses or curricula up to 100 clock hours, the reimbursement shall be \$200;

158 126.4(a)(2) for courses or curricula between 101 and 400 clock hours, the reimbursement
159 shall be \$300;

160 126.4(a)(3) for courses or curricula between 401 and 700 clock hours, the reimbursement
161 shall be \$400;

162 126.4(a)(4) for courses or curricula between 701 and 1000 clock hours, the reimbursement
163 shall be \$500;

164 126.4(a)(5) for courses or curricula between 1001 and 1400 clock hours, the reimbursement
165 shall be \$600;

166 126.4(a)(6) for courses or curricula between 1401 and 1800 clock hours, the reimbursement
167 shall be \$700;

168 126.4(a)(7) for courses or curricula above 1800 clock hours, the reimbursement shall be
169 \$800.

170 126.4(b) The director of the school shall cause to be prepared data concerning curricula or
171 courses of study and methods of instruction in sufficient detail to clearly indicate the nature of
172 the proposed instruction. He shall submit such data to the commissioner in such form as said
173 commissioner shall direct, accompanied by a request for approval.

174 126.4(c) Data submitted for approval of curricula or courses or revisions thereof given on
175 school premises shall include the following information:

176 126.4(c)(1) the name and the educational or occupational objective of the curriculum or
177 course;

178 126.4(c)(2) the minimum entrance requirements, and complete information with respect to
179 any aptitude tests administered to prospective students in connection therewith, including
180 wherever possible a nationally recognized test appropriate to the course of instruction;

181 126.4(c)(3) the minimum and/or maximum instructional hours and the allocation of time to
182 each portion of the curriculum or course;

183 126.4(c)(4) the daily and weekly schedule of instruction;

184 126.4(c)(5) a description of the method of instruction, indicating the number of instructional
185 hours to be devoted to classroom activities and shop or laboratory practice, and where
186 appropriate, practice and experience components outside the school premises, and the
187 relation between the classroom and practice phases of the curriculum or course;

188 126.4(c)(6) the tuition and other charges and the method of payment thereof;

189 126.4(c)(7) an itemized list of equipment;

190 126.4(c)(8) an itemized list of the small tools, books and supplies loaned or furnished to
191 students;

192 126.4(c)(9) a detailed floor plan of the premises occupied by the school, indicating all
193 facilities;

194 126.4(c)(10) the language in which instruction is to be provided and an appropriate
195 justification required by the commissioner for offering instruction in a language other than
196 English;

197 126.4(c)(11) the manner in which the course or curriculum is apportioned into quarters,
198 semesters or terms pursuant section 126.7 of this Part; and

199 126.4(c)(12) for applications for approval of curriculum certified by a nationally recognized
200 vendor pursuant to section 5002(4)(e) of the Education Law, the school shall provide, in
201 addition to the information prescribed in paragraphs (1) through (11) of this subdivision, an
202 identification of the vendor and the vendor-maintained location that shall enable the
203 commissioner to determine that the curriculum proposed by the school is in its original
204 format.

205 126.4(d) Data submitted for approval of curricula or courses of study or revisions thereof given
206 by correspondence or home study or by internet transmission shall include the following
207 information:

208 126.4(d)(1) the name and the educational or occupational objective of the curriculum or
209 course;

210 126.4(d)(2) the minimum entrance requirements, and complete information with respect to
211 any aptitude tests administered to prospective students in connection therewith;

212 126.4(d)(3) the complete instructional units, in detail, as they are to be furnished to the
213 student, showing the instructional content to be taught, the method or procedure to be
214 followed, and the types of skills or knowledge to be learned;

215 126.4(d)(4) the approximate time necessary for completion of each instructional unit;

216 126.4(d)(5) the method of mailing or transmitting and correcting instructional units and the
217 manner in which remedial instruction is to be given to individual students;

218 126.4(d)(6) the language in which instruction is to be provided and an appropriate
219 justification required by the commissioner for offering instruction in a language other than
220 English; and

221 126.4(d)(7) the manner in which the course or curriculum is apportioned into quarters,
222 semesters or terms pursuant to section 126.7 of this Part.

223 126.4(e) Each school shall establish and maintain attendance policies and regulations,
224 acceptable to and approved by the commissioner, in accordance with the following
225 requirements:

226 126.4(e)(1) An attendance register shall be maintained by the school and be available for
227 inspection by the department for each course or curriculum, as applicable and shall contain
228 the following:

229 126.4(e)(1)(i) the room number, schedule and approved name of the course or
230 curriculum;

231 126.4(e)(1)(ii) the start and completion dates of the course or curriculum;

232 126.4(e)(1)(iii) the time and date of each class, laboratory or session;

233 126.4(e)(1)(iv) a daily record of attendance for each student which shall identify each
234 student as “present,” “absent,” “late” or “make-up;”

235 126.4(e)(1)(v) the name and signature of the instructor for each class, laboratory or
236 session;

237 126.4(e)(1)(vi) verification of the instructor by oath or affirmation of the accuracy of the
238 attendance register;

239 126.4(e)(1)(vii) any leaves of absence;

240 126.4(e)(1)(viii) last date of attendance for any student who drops out or is discontinued;

241 126.4(e)(1)(ix) the marking period and grades for each student for each marking period,
242 unless otherwise approved by the commissioner; and

243 126.4(e)(1)(x) any other information required by the commissioner.

244 126.4(e)(2) A school shall determine the academic standing of each student in accordance
245 with the following:

246 126.4(e)(2)(i) except as provided in subparagraph (iii) of this paragraph, any student who
247 is absent more than 15 percent of the total number of instructional hours offered during
248 each marking period of the student's program, excluding approved leaves of absence
249 pursuant to paragraph (6) of this subdivision, and who has not maintained satisfactory
250 academic progress, shall be dismissed or placed on academic probation. Any student who
251 fails to meet satisfactory academic progress at the end of any marking period, regardless
252 of attendance, shall be dismissed or placed on academic probation in accordance with
253 subparagraph (iii) of this paragraph;

254 126.4(e)(2)(ii) satisfactory academic progress means a cumulative average of 1.5 for the
255 curriculum or course, unless otherwise approved by the commissioner;

256 126.4(e)(2)(iii) a school may, in its discretion, place a student on academic probation for
257 one marking period if the student would otherwise be dismissed pursuant to the
258 requirements set forth in subparagraph (i) of this paragraph. The school shall dismiss any
259 student who at the end of such academic probation fails to raise his or her cumulative
260 average to 1.5 and who fails to maintain attendance for at least 85 percent of the
261 instructional hours offered during the probationary period;

262 126.4(e)(2)(iv) during a student's academic probation, a school shall make available to
263 the student appropriate counseling and remediation; and

264 126.4(e)(2)(v) a student shall achieve a cumulative average of 2.0 to graduate from the
265 program.

266 126.4(e)(3) Each school shall have a written policy concerning tardiness and early dismissal.

267 126.4(e)(4) For purposes of determining the proportion of the time a student was enrolled in
268 a course or curriculum when such student leaves before finishing the entire course or
269 curriculum, the school may regard as attendance such absences and tardiness as may have
270 occurred between the first and last day of attendance.

271 126.4(e)(5) Any make-up session for attendance purposes shall be approved by the licensed
272 school director, and shall consist of instruction in that portion of the course or curriculum
273 which was not received by the student as a result of absences. A record of make-up sessions
274 shall be maintained in the attendance register. Any charge for make-up sessions shall be
275 expressed on the enrollment agreement and in the school's catalog.

276 126.4(e)(6) In the case of a prolonged illness or accident, death in the family, or other special
277 circumstances that make attendance impossible or impractical, a leave of absence may be
278 granted to the student if requested in writing by the student or his designee. The approval of

279 such leaves of absence shall be in writing by the school director. No monetary charges or
280 accumulated absences may be assessed to the student during a leave of absence. When a
281 student returns from an approved leave of absence, the student shall be placed in the
282 instructional program at the point commensurate with the skill level retained by the student at
283 the time of his or her return in accordance with the following:

284 126.4(e)(6)(i) for leaves of absence less than 30 calendar days, the school shall assess the
285 student's retention level either through a counseling session with the student or by
286 employing a written or oral evaluation instrument designed to measure a student's level of
287 retention in the instructional program; or

288 126.4(e)(6)(ii) for leaves of absence 30 calendar days or longer, the school shall assess a
289 student's retention level either through a written or oral evaluation instrument designed to
290 measure a student's level of retention in each course in the curriculum; and

291 126.4(e)(6)(iii) documentation that such evaluation took place pursuant to subparagraphs
292 (i) or (ii) of this paragraph along with the actual evaluation instruments, student results
293 and evidence the student was appropriately placed according to skill level shall be placed
294 in the student's permanent file.

295 126.4(e)(7) Schools may establish attendance requirements permitting less absence and
296 tardiness.

297 126.4(e)(8) School policy and regulations relating to attendance and leaves of absence shall
298 be submitted to the department for approval prior to implementation, and shall be published
299 in the school catalog.

300 126.4(f) Any required orientation to school policies or practices, or a general overview of
301 courses shall not be included in the total instructional hours of a course or curriculum, unless
302 such orientation is necessary for the successful completion of the program, given within the
303 first week of instruction as defined in section 126.7 of this Part and approved by the
304 commissioner.

305 126.4(g) All courses or curricula offered at no cost to a student by a school shall comply with
306 all requirements of this Part.

307 126.4(h) Schools may provide instruction in English as a second language in accordance with
308 the following:

309 126.4(h)(1) all teachers shall be appropriately licensed pursuant to section 126.6(g) of this
310 Part.

311 126.4(h)(2) where an English as a second language component is combined with an
312 occupational education component into one program and the student signs an enrollment
313 agreement for such a program, the following conditions shall be met:

314 126.4(h)(2)(i) prior to initiating the occupational education component the student shall

315 have completed the English as a second language component and shall have attained a
316 score on a reading test, approved by the commissioner, demonstrating sufficient
317 proficiency in reading English as required by the commissioner for such a program;

318 126.4(h)(2)(ii) the English as a second language component shall not exceed 50 percent
319 of the total clock hours for the program;

320 126.4(h)(2)(iii) upon application for approval of such a curriculum, when a school
321 requests permission to accept students at the beginning or basic English as a second
322 language level, the school shall demonstrate that the English as a second language
323 component is designed to provide the student with the necessary reading skills to comply
324 with the provisions of subparagraph (i) of this paragraph; and

325 126.4(h)(2)(iv) the English as a second language component shall be coterminous with a
326 quarter or term as defined in section 5002(3) of the Education Law unless otherwise
327 approved by the commissioner. In all instances, the student's enrollment agreement shall
328 clearly state that if a student fails to pass the reading test as required in subparagraph (i)
329 of this paragraph, then the student may not continue in the program.

330 126.4(i) Notwithstanding any other provisions of this Part, non-occupational courses, as
331 defined in section 126.1(t) of this Part, shall be subject to the following alternate educational
332 and curriculum standards:

333 126.4(i)(1) an application for a non-occupational course shall be submitted in a format
334 prescribed by the commissioner;

335 126.4(i)(2) upon receipt of a completed application, the department shall notify a school
336 within 20 business days as to whether the application is approved;

337 126.4(i)(3) students may be admitted into a non-occupational course based upon a
338 personal interview, except where a specialized skill is needed by the applicant in order to
339 successfully complete the course;

340 126.4(i)(4) teachers of non-occupational courses shall meet the requirements of section
341 126.6 of this Part, except that teachers who provide instruction in non-occupational
342 courses only shall meet the requirements for a special lecturer as set forth in section
343 126.6(m) of this Part;

344 126.4(i)(5) an enrollment agreement for a non-occupational course shall conform to the
345 requirements set forth in section 126.7 of this Part and in addition, shall include the
346 statement: "This course is not intended to provide instruction which will result in the
347 student's acquisition of occupational skills. Placement assistance by the school is not
348 available for this course.";

349 126.4(i)(6) non-occupational courses shall be clearly identified as such within the school
350 catalog and shall include the statement: "Non-occupational courses are not intended to
351 provide instruction which will result in the student's acquisition of occupational skills.";

352 and

353 126.4(i)(7) certificates of completion or diplomas awarded for the completion of a non-
354 occupational course shall include the term “non-occupational” or “personal enrichment”
355 on that certificate or diploma.

SECTION 126.5. EQUIPMENT AND HOUSING

356 126.5(a) A school shall have classrooms, laboratories, shops and other facilities for instruction
357 and administration which, in the judgment of the commissioner, are satisfactory for the proper
358 conduct of the school.

359 126.5(b) The instructional devices, machines, apparatus, supplies and other equipment shall be
360 adapted to the courses of study being offered and adequate for satisfactory instruction, as
361 approved by the commissioner. Any course or curriculum containing a skill component
362 involving the use of machines shall maintain a student-to-machine ratio of one-to-one, unless
363 otherwise approved by the commissioner.

364 126.5(c) In addition to adequate and satisfactory classrooms, laboratories and shops, a private
365 school shall, as appropriate, provide a library, administrative and supervisory offices,
366 restrooms and toilet facilities and a checkroom and/or lockers for student use. Such rooms or
367 space shall be properly equipped and large enough to meet the needs of students and faculty.

368 126.5(d) The buildings, rooms or space in which staff and students are housed for any purpose
369 while attending a school, and all facilities and equipment therein, shall meet the standards for
370 school purposes of local fire, health and building authorities.

371 126.5(e) Schools shall have their facilities approved by the commissioner upon initial
372 application for a license and every renewal of a license thereafter, sale or transfer of a school
373 license, relocation of a school, renovation or alteration of a school's facilities or reorganization
374 of instructional space or equipment.

SECTION 126.6.
QUALIFICATIONS OF TEACHING AND MANAGEMENT PERSONNEL

375 126.6(a) Each applicant shall submit, in a format specified by the commissioner, such data
376 concerning the education, training, experience and other qualifications, including supporting
377 documentation, of the administrative, supervisory and instructional staff of the school as the
378 commissioner may require. Upon submission of an application for a director, the owner shall
379 attest to the applicant's ability to comply with the provisions of this section. Pursuant to section
380 5002(6) of the Education Law, all applications for teachers and directors shall be mailed or
381 submitted electronically to the commissioner four days prior to employment at the school, and
382 must be completed, with all supporting materials and fees required for evaluation of the file,
383 within 20 days thereafter. However, the commissioner, for good cause shown, may extend the
384 time within which to complete the application. When a complete application is made, the
385 commissioner shall act upon such application within 30 days. If no written denial is made
386 within 30 days, the application shall be deemed to be approved until the commissioner acts
387 upon it or until the end of the term or semester, whichever occurs first. If a written denial is
388 made after the 30-day period, the commissioner may allow the applicant to teach at the school
389 for the remainder of the term or semester if the commissioner determines that the removal of
390 the teacher would not be in the best interest of students. If a teacher or director application,
391 submitted to the department is mailed and postmarked, or electronically submitted less than
392 four days prior to the employment of such individual, is evaluated and is subsequently
393 determined that the applicant is not qualified pursuant to the provisions of this section, the
394 school may be subject to disciplinary action pursuant to section 5003 of the Education Law, if
395 such conduct constitutes a pattern of abuse. As used in this subdivision, a pattern of abuse is
396 defined as violations which occur three or more times in a 12-month period.

397 126.6(b) The commissioner shall issue the following types of licenses and permits:

398 126.6(b)(1) Director's license or permit--issued to qualified directors.

399 126.6(b)(2) Teacher's license or permit--issued to qualified instructors or supervisors.

400 126.6(c) Directors' licenses shall be valid only for the school for which they are issued. No
401 individual may be employed as a director at more than one school without the approval of the
402 commissioner.

403 126.6(c)(1) Teachers' permits or licenses, issued on or after December 15, 2012, shall be
404 valid at any licensed private career school only for the curricula, courses/content areas or
405 occupations listed on the license.

406 126.6(c)(2) Teachers' permits or licenses issued prior to December 15, 2012, including
407 licenses for teaching specific occupational subjects or specific subjects certified by a
408 nationally recognized vendor, or the licenses approved pursuant to subdivision (k) of this
409 section shall be valid only for the school or schools, curricula, courses/content areas or
410 occupation indicated on the license, except that a teacher's license issued to a teacher in a
411 registered business school/computer training facility on or after January 1, 1987 shall be
412 valid at all licensed private career schools for the courses, curricula/content areas or

413 occupation indicated on the license. Teachers holding valid private school teacher licenses
414 valid at only one school location shall have them replaced, at no cost, with licenses valid at
415 any licensed school in the same subject or subjects and with the same expiration date as was
416 listed on the previous teaching license.

417 126.6(d) Each licensed private career school shall employ a director who shall be responsible
418 for all activities of the school or done in the name of the school. A director shall meet the
419 requirements of this subdivision to be licensed by the department and, pursuant to section
420 5004(4-a) of the Education Law, may apply for a private school agent's certificate on forms
421 prescribed by the commissioner without incurring the agent application fees.

422 126.6(d)(1) Preparation. Directors shall meet the preparation requirements for licensure
423 prescribed in subparagraph (i) or (ii) of this paragraph, as applicable, and also the preparation
424 requirement in subparagraph (iii) of this paragraph.

425 126.6(d)(1)(i) Directors of licensed private career schools shall meet the following
426 preparation requirements:

427 126.6(d)(1)(i)(a) have completed an approved four-year high school program or hold
428 a high school equivalency diploma; and

429 126.6(d)(1)(i)(b) have at least five years of acceptable practical experience in one or
430 more of the courses taught in the school, or five years of acceptable teaching
431 experience in one or more of the courses taught in the school, or five years of
432 acceptable administrative or supervisory experience, or a combination of such
433 acceptable experience amounting to at least five years; or

434 126.6(d)(1)(i)(c) have received an appropriate baccalaureate or higher degree upon
435 completion of an approved college program in the field of business administration,
436 educational administration, or public administration.

437 126.6(d)(1)(ii) In addition to meeting the preparation requirements of subparagraph (i) of
438 this paragraph all directors shall have completed an approved 15 clock-hour course
439 offered by the department in private school administration prior to receiving a full
440 director license.

441 126.6(d)(1)(iii) Upon a finding by the commissioner that an applicant for licensure
442 possesses education, training and/or experience that is substantially equivalent to a
443 preparation requirement of this paragraph, the commissioner may accept such education,
444 training and/or experience in lieu of meeting the preparation requirement of this
445 paragraph.

446 126.6(d)(2) Directors shall be of good moral character, as determined by the commissioner.

447 126.6(d)(3) Directors shall have the administrative and educational competency to operate a
448 school, as determined by the commissioner. The factors considered by the commissioner in
449 evaluating administrative and educational competency shall include, but not be limited to,

450 patterns of violations of the duties and responsibilities of a director relating to the
451 administration of a school, as set forth in this Part and article 101 of the Education Law.

452 126.6(d)(4) Temporary permit requirements. Individuals who meet the preparation
453 requirements of subparagraph (1)(i) of this subdivision may be issued a temporary permit,
454 valid for one year, during which the requirement of subparagraph (1)(ii) of this subdivision
455 shall be met. A full director's license shall not be issued until the candidate meets all
456 applicable preparation requirements, prescribed in paragraph (1) of this subdivision.

457 126.6(d)(5) Duration of license.

458 126.6(d)(5)(i) A full director's license issued on or after May 25, 2000 shall be valid for
459 the same period for which the school is licensed or registered and a renewal application
460 for such license shall be submitted with the renewal application for the employing school.

461 126.6(d)(5)(ii) A permanent director's license issued prior to May 25, 2000, shall
462 continue to be valid without renewal until such time as the director leaves the school and
463 location for which the license is valid.

464 126.6(e) All teachers who have been issued a license or permit pursuant to the requirements of
465 this section shall successfully complete an orientation to classroom management program
466 within four weeks of employment at a licensed private career school, according to the
467 following requirements:

468 126.6(e)(1) The orientation to classroom management program shall be developed by the
469 licensed private school or registered business school/computer training facility and offered to
470 all licensed teachers or teachers holding a permit.

471 126.6(e)(2) The topics for the orientation to classroom management program shall include,
472 but not be limited to, information on adult learning styles, introduction to the syllabus,
473 writing lesson plans, testing, the maintenance of attendance records, grading, discipline and
474 teacher licensing requirements.

475 126.6(e)(3) A one-page checklist in a format prescribed by the commissioner, certifying the
476 teacher's completion of the program, must be provided to the teacher and placed in the
477 teacher's personnel file for review by department staff upon request.

478 126.6(f) All teachers in licensed private career schools shall meet the requirements of this
479 subdivision.

480 126.6(f)(1) Teachers shall meet the following requirements:

481 126.6(f)(1)(i) have completed an approved four-year high school program or hold a valid
482 high school equivalency diploma; and

483 126.6(f)(1)(ii) have the required preparation and training set forth in either clause (a) or
484 (b) of this subparagraph:

485 126.6(f)(1)(ii)(a) at least two years of practical experience acceptable to the
486 commissioner in the subject area or occupation to be taught. Teaching experience
487 will not be accepted in lieu of practical experience; or

488 126.6(f)(1)(ii)(b) for specific business subject areas only:

489 126.6(f)(1)(ii)(b)(1) the candidate shall hold a valid permit:

490 126.6(f)(1)(ii)(b)(1)(i) for a permit in general academic, an applicant shall
491 have been awarded a baccalaureate or equivalent degree from an
492 institution whose programs are registered or recognized by the
493 department;

494 126.6(f)(1)(ii)(b)(1)(ii) for a permit in accounting, office skills, or
495 management and marketing, an applicant shall have been awarded a
496 baccalaureate or equivalent degree and 18 semester hour credits in
497 approved course work appropriate for the instructional area of the permit
498 from an institution whose programs are registered or recognized by the
499 department. Such 18 semester hour credits may be earned in the
500 baccalaureate or equivalent program or may be credits earned in addition
501 to credits earned in such a program;

502 126.6(f)(1)(ii)(b)(1)(iii) for a permit in English for speakers of other
503 languages (ESOL), an applicant shall have been awarded a baccalaureate
504 or equivalent degree from an institution whose programs are registered or
505 recognized by the department; and either:

506 126.6(f)(1)(ii)(b)(1)(iii)(A) shall have successfully completed an
507 approved 30-clock-hour course in teaching English for speakers of
508 other languages (ESOL) from a proprietary school association
509 recognized by the commissioner; or

510 126.6(f)(1)(ii)(b)(1)(iii)(B) shall have been awarded three semester
511 hour credits in teaching ESOL from an institution whose programs are
512 registered or recognized by the department;

513 126.6(f)(1)(ii)(b)(1)(iv) for a permit in computer applications or computer
514 programming, an applicant either:

515 126.6(f)(1)(ii)(b)(1)(iv)(A) shall have been awarded a baccalaureate or
516 equivalent degree and 18 semester hour credits in approved course
517 work appropriate for the instructional area of the permit from an
518 institution whose programs are registered or recognized by the
519 department; provided that such 18 semester hour credits may be earned
520 in the baccalaureate or equivalent program or may be credits earned in
521 addition to credits earned in such a program and that appropriate work

522 experience may be substituted for up to six of the 18 semester hour
523 credits; or

524 126.6(f)(1)(ii)(b)(1)(iv)(B) shall have been awarded an associate
525 degree in computer science from an institution whose programs are
526 registered or recognized by the department and shall have completed
527 two years of appropriate work experience in the instructional area of
528 the permit;

529 126.6(f)(1)(ii)(b)(1)(v) for a permit in hospitality management, an
530 applicant either:

531 126.6(f)(1)(ii)(b)(1)(v)(A) shall have been awarded a baccalaureate in
532 hospitality management from an institution whose programs are
533 registered or recognized by the department; or

534 126.6(f)(1)(ii)(b)(1)(v)(B) shall have been awarded a baccalaureate or
535 equivalent degree in another field and 12 semester hour credits in
536 approved course work appropriate for a permit in hospitality
537 management from an institution whose programs are registered or
538 recognized by the department; provided that such 12 semester hour
539 credits may be earned in the baccalaureate or equivalent program or
540 may be credits earned in addition to credits earned in such a program,
541 and shall have completed four years of appropriate work experience in
542 hospitality management; or

543 126.6(f)(1)(ii)(b)(1)(v)(C) shall have been awarded an associate degree
544 in hospitality management from an institution whose programs are
545 registered or recognized by the department and shall have completed
546 two years of appropriate work experience in hospitality management;

547 126.6(f)(1)(ii)(b)(1)(vi) for a permit in court reporting or paralegal, the
548 applicant shall have been awarded a high school diploma or its equivalent,
549 completed successfully an approved program in the instructional area of
550 the permit, and completed two years of appropriate work experience;

551 126.6(f)(1)(ii)(b)(1)(vii) for a permit for travel and tourism, an applicant
552 either:

553 126.6(f)(1)(ii)(b)(1)(vii)(A) shall have been awarded a high school
554 diploma or its equivalent and shall have completed four years of
555 appropriate work experience in travel and tourism; or

556 126.6(f)(1)(ii)(b)(1)(vii)(B) shall have been awarded an associate
557 degree in travel and tourism from an institution whose programs are
558 registered or recognized by the department and shall have completed
559 two years of appropriate experience in the field of travel and tourism;

560 126.6(f)(1)(ii)(b)(1)(viii) for a permit to teach a specific subject from a
561 curriculum certified by a nationally recognized vendor, an applicant shall
562 hold certification as an instructor by the vendor, in accordance with
563 section 5002(6)(c) of the Education Law;

564 126.6(f)(1)(iii) an exception may be made by the commissioner for an applicant who
565 does not meet the requirements of subparagraph (i) or (ii) of this paragraph, if such
566 applicant possesses qualifications sufficiently unique in the judgment of the
567 commissioner to warrant such exception;

568 126.6(f)(1)(iv) if an occupationally required credential is required for the
569 performance of any occupation other than teaching, the teacher shall also be required
570 to hold such credential;

571 126.6(f)(1)(v) be of good moral character, as determined by the commissioner; and

572 126.6(f)(1)(vi) have the instructional competency to provide the instruction
573 authorized by the license, as determined by the commissioner, based on factors to be
574 considered by the commissioner which shall include, but shall not be limited to,
575 patterns of violations of the requirements of this Part or article 101 of the Education
576 Law, relating to the instruction of students.

577 126.6(f)(2) Teachers who meet the requirements of paragraph (1) of this subdivision and
578 apply for a permit or license may be issued:

579 126.6(f)(2)(i) a temporary teacher's permit valid for one year, during which time a 30-
580 clock-hour approved course in general teaching methods from a proprietary school
581 association recognized by the commissioner or a three-semester-credit-hour course in
582 general teaching methods from an institution whose programs are registered or
583 recognized by the department shall be completed;

584 126.6(f)(2)(ii) a provisional teacher's license valid for a period of three years after
585 completion of the requirements set forth in subparagraph (i) of this paragraph;

586 126.6(f)(2)(iii) a full teacher's license after completion of two additional 30-clock-hour
587 approved professional education courses from a proprietary school association
588 recognized by the commissioner or three additional semester credit hours in appropriate
589 professional education from an institution whose programs are registered or recognized
590 by the department during the period of validity of the provisional license. Such full
591 teacher's license shall be valid for a period of four years, and a teacher shall apply for the
592 renewal of such teacher's license every four years.

593 126.6(f)(3) A permanent teacher's license issued prior to May 25, 2000, shall continue to be
594 valid without renewal until such time as the teacher leaves the school and location for which
595 the license is valid.

596 126.6(f)(4) Provisional licenses. Applicants for a provisional license shall meet the
597 appropriate requirements set forth in subparagraph (1) of this subdivision and shall also meet
598 the following requirements:

599 126.6(f)(4)(i) For a provisional license for all instructional areas identified in paragraph
600 (1) of this subdivision with the exception of English for speakers of other languages
601 (ESOL), an applicant shall have successfully completed either three semester credit hours
602 of study in approved course work in general teaching methods from an institution whose
603 programs are registered or recognized by the department, or an approved 30-clock-hour
604 course in general teaching methods from a proprietary school association recognized by
605 the commissioner.

606 126.6(f)(4)(ii) For a provisional license for English for speakers of other languages
607 (ESOL), an applicant shall have successfully completed either three semester credit hours
608 of study in approved course work in general teaching methods from an institution whose
609 programs are registered or recognized by the department, or an approved 30-clock-hour
610 program in general teaching methods or methods of teaching English for speakers of
611 other languages (ESOL) from a proprietary school association recognized by the
612 commissioner.

613 126.6(f)(5) Full licenses. Applicants for a full license shall meet the appropriate requirements
614 set forth in subparagraphs (i) and (ii) of this paragraph, including any required coursework.
615 Applicants shall also complete the following:

616 126.6(f)(5)(i) For a full license for all instructional areas with the exception of English
617 for speakers of other languages (ESOL), applicants shall have successfully completed
618 either:

619 126.6(f)(5)(i)(a) an additional three semester credit hours of appropriate study in
620 professional education from an institution whose programs are registered or
621 recognized by the department; or

622 126.6(f)(5)(i)(b) an approved 60-clock-hour program(s) in professional education
623 from a proprietary school professional association recognized by the
624 commissioner.

625 126.6(f)(5)(ii) For a full license to teach English for speakers of other languages (ESOL),
626 an applicant shall have successfully completed:

627 126.6(f)(5)(ii)(a) coursework in methods of teaching ESOL totaling 60 clock hours
628 from a proprietary school association recognized by the commissioner or three
629 semester credits from a program registered or recognized by the department; and

630 126.6(f)(5)(ii)(b) coursework in general teaching methods totaling 30 clock hours
631 from a proprietary school association recognized by the commissioner or three
632 semester credits from a program registered or recognized by the department.

633 126.6(g) Notwithstanding the provisions of subdivision (f) of this section, instructors and/or
634 examiners in home study, internet or correspondence schools must have appropriate education
635 and experience qualifications acceptable to the commissioner to meet the requirements for a
636 license.

637 126.6(h) A \$100 nonrefundable application fee in the form of a check or money order payable
638 to the State Education Department shall accompany all applications for teachers' permits and
639 licenses, directors' permits and licenses, renewals thereof, and amendments of temporary
640 permits and licenses. Applications for licenses issued to teachers may be submitted by the
641 applicants or the directors of the schools.

642 126.6(i) Upon a finding by the commissioner that an applicant possesses sufficiently unique
643 and exceptional training and/or experience that are the substantial equivalent of the preparation
644 and experience requirements of this section, a variance may be granted from any such
645 requirements established in this section.

646 126.6(j) All teachers or directors licensed pursuant to this section who hold a permit or a
647 provisional license shall submit an application for the next level of licensure at least 30 days
648 prior to the expiration of the existing permit or license. All full license holders shall submit
649 appropriate license renewal applications at least 90 days prior to the expiration of the existing
650 license.

651 126.6(k) An applicant for licensure pursuant to the requirements of subdivision (f) of this
652 section shall be exempt from the required general teaching methods course and the professional
653 education courses, if the applicant meets one of the following criteria:

654 126.6(k)(1) possesses a degree in doctor of law (J.D.), doctor of medicine (M.D.), doctor of
655 philosophy (Ph.D.) or doctor of education (Ed.D); or

656 126.6(k)(2) is identified by the commissioner as a special lecturer for a non-occupational
657 course who is employed by the school as an expert in the field to provide instruction for a
658 limited component of a course or curriculum.

659 126.6(l) Proprietary school professional associations approved by the commissioner to conduct
660 teacher training courses as specified in this section may have such approval rescinded if the
661 courses are not provided as approved including but not limited to the failure to conduct such
662 courses the approved number of times.

663 126.6(m) Substitute teachers. Only a teacher licensed pursuant to this section may act as a
664 substitute teacher in a school under the following conditions:

665 126.6(m)(1) Except as otherwise noted in paragraph (2) of this subdivision, a substitute
666 teacher shall be licensed in the course, curriculum or instructional area for which he or she is
667 providing instruction.

668 126.6(m)(2) A school may utilize the services of a substitute teacher who is licensed but not
669 licensed for the appropriate course, curriculum or instructional area, if such substitute teacher

670 meets the following requirements:

671 126.6(m)(2)(i) the school's director appoints an appropriately licensed teacher
672 employed at the school to serve as a mentor for such substitute teacher, and such
673 mentor meets with the substitute teacher at least one hour each week to review lesson
674 plans, resolve problems, explain school policies and provide the necessary support for
675 the substitute teacher; and

676 126.6(m)(2)(ii) such substitute teaching shall not exceed 10 percent of the total hours
677 of the course or curriculum offering.

678 126.6(n) Vendor demonstrator. In cases where the curricula/courses offered require the
679 assistance of a vendor demonstrator, the need for a demonstrator must be included and
680 approved in the specific course or curriculum approval. Vendor demonstrators are not
681 recognized as teachers, may not assume the routine function of teachers, and can only be used
682 with a licensed teacher present.

SECTION 126.7. ENROLLMENT AGREEMENT AND STUDENT REFUND POLICIES

683 126.7(a) All conditions for enrollment in or completion of a curriculum or course shall be set
684 forth in an enrollment agreement which shall be fully completed, dated and signed by both an
685 authorized agent of the school and the student prior to the time instruction begins. The school
686 shall retain a signed copy of the enrollment agreement and one signed copy shall be delivered
687 to the student at the time of execution. The enrollment agreement may not be transferred or
688 assigned to a third party. Acknowledgment of the receipt of a copy of the enrollment
689 agreement by the student shall be made on the copy retained by the school.

690 126.7(b) The enrollment agreement shall be printed in no less than 10-point type, shall contain
691 no advertising or extraneous material and shall set forth briefly and clearly the following:

692 126.7(b)(1) the name of the school;

693 126.7(b)(2) the title of the curriculum, course of courses as approved;

694 126.7(b)(3) the length of the curriculum, course or courses in instructional hours;

695 126.7(b)(4) the schedule of sessions or hours per week or the number of lessons for home
696 study, internet or correspondence instruction;

697 126.7(b)(5) the name and date of birth and social security number of the student;

698 126.7(b)(6) the amount of the tuition fee and the amount of the application or registration fee
699 set forth separately. Any portion of the application or registration fee that is nonrefundable
700 shall be stated separately and shall be clearly identified as a nonrefundable application or
701 registration fee;

702 126.7(b)(7) the amount of any and all other fees and charges required for completion of the
703 course. Fees and charges, such as student fee for kit, textbooks, tools, equipment and
704 supplies, make-up fees, laboratory fees and deposits, shall be itemized separately and shall
705 not be included in tuition;

706 126.7(b)(8) the total cost of the course of instruction;

707 126.7(b)(9) provision for the method or methods of payment;

708 126.7(b)(10) the conditions of any approved cooperative practical experience outside the
709 school premises;

710 126.7(b)(11) the following statement “while placement service may be provided, it is
711 understood that the school cannot promise or guarantee employment to any student or
712 graduate” or a similar statement acceptable to the commissioner;

713 126.7(b)(12) such reasonable rules, regulations and conditions as the school may desire to set
714 forth in the agreement;

715 126.7(b)(13) the names and certificate numbers of the agents responsible for procuring,
716 soliciting or enrolling the student or enrollee. The enrollment agreement shall contain an
717 appropriate place in which the student shall by signature, confirm the names of such agents;

718 126.7(b)(14) a separately signed acknowledgment by the student that he or she has received
719 the disclosure material, as required by section 5005 of the Education Law; and

720 126.7(b)(15) the refund a school will make in the event a student fails to enter, withdraws, or
721 is discontinued from instruction consistent with the provisions set forth in subdivision 3 of
722 section 5002 of the Education Law and subdivision (d) of this section; or for schools using
723 the correspondence, internet or home study method of instruction, subdivision (c) of this
724 section.

725 126.7(c) Enrollment agreements for curricula and courses offered by schools using the
726 correspondence, internet or home study method of instruction shall meet the requirements of
727 the Personal Property Law, section 412-a.

728 126.7(d) Enrollment agreements shall provide for a reasonable adjustment of tuition and other
729 fees. Except as otherwise provided in subdivision (e) of this section and Education Law,
730 section 5002(3), a refund policy not consistent with the following shall not be approved:

731 126.7(d)(1) Definitions. As used in this subdivision:

732 126.7(d)(1)(i) *Quarter* means up to 14 weeks of instruction.

733 126.7(d)(1)(ii) *Term or semester* means between 15, 16, 17 or 18 weeks of instruction.

734 126.7(d)(1)(iii) Except as otherwise provided in paragraph (2) of this subdivision, a *week*
735 *of instruction* means between 2 and 30 clock hours of instruction within seven
736 consecutive days. Upon approval of the commissioner, a school may exceed such hours
737 provided that: the school has submitted an educational justification for exceeding 30
738 hours per week; and the program provides for one hour off for each student within each
739 day of instruction.

740 126.7(d)(2) If in calculating the weeks of instruction pursuant to subparagraph (1)(iii) of this
741 subdivision, the total number of calendar weeks is six or less, then a week of instruction shall
742 be defined as follows:

743 126.7(d)(2)(i) *the first week of instruction* means 0 to 15 percent of the program's total
744 clock hours;

745 126.7(d)(2)(ii) *the second week of instruction* means 16 to 30 percent of the program's
746 total clock hours;

747 126.7(d)(2)(iii) *the third week of instruction* means 31 to 45 percent of the program's total
748 clock hours;

749 126.7(d)(2)(iv) *the fourth week of instruction* means 46 to 60 percent of the program's
750 total clock hours;

751 126.7(d)(2)(v) *the fifth week of instruction* means 61 to 75 percent of the program's total
752 clock hours;

753 126.7(d)(2)(vi) *the sixth week of instruction* means 76 to 90 percent of the program's total
754 clock hours; and

755 126.7(d)(2)(vii) *the seventh week of instruction* means 91 to 100 percent of the program's
756 total clock hours.

757 126.7(d)(3) A school shall divide all courses or curricula into quarters or terms. In
758 establishing such quarters or terms, the school shall take into account the educational
759 purposes of the program, and to the maximum extent possible, ensure that units of instruction
760 or courses are coterminous with a quarter or term.

761 126.7(d)(4) The student refund policy for the first term or quarter of any program, as set forth
762 in section 5002(3)(b) of the Education Law, shall be clearly stated in the enrollment
763 agreement.

764 126.7(d)(5) For those programs with a second term or quarter, the student refund policy for
765 such second term or quarter shall be the same as the first quarter or term unless the school
766 demonstrates that there were no significant educational changes in the student's educational
767 program at the time of a student's termination, in which case the student refund policy for the
768 second term or quarter shall be the policy set forth in section 5002(3)(c)(1) of the Education
769 Law.

770 126.7(d)(6) For those programs with a third or subsequent term or quarter, the tuition refund
771 policy for such third or subsequent term or quarter shall be the policy set forth in section
772 5002(3)(c)(1) of the Education Law.

773 126.7(d)(7) Fees and charges as described in paragraph (b)(7) of this section, and paid to the
774 school for goods or services which have not been provided by the school and accepted by the
775 student, shall be refunded.

776 126.7(d)(8) Notwithstanding any other provision of this subdivision, an application or
777 registration fee not to exceed 10 percent of the tuition cost of the program or \$100,
778 whichever is less, may be retained by the school, in whole or in part, if the student signs the
779 enrollment agreement, except for schools using the correspondence, internet or home study
780 method of instruction which shall comply with subdivision (c) of this section.

781 126.7(d)(9) In the case of a school in which the instruction is given in residence, a student
782 may cancel the agreement at no penalty, with the exception of the loss of that portion of the
783 application or registration fee which is designated in the agreement as nonrefundable, by
784 notifying the school in writing within seven days after midnight of the day on which the

785 agreement was signed, provided the student has not yet entered into instruction. Before
786 entering into instruction, a student may cancel the agreement after the seven-day period. In
787 such a case, the student will be liable only for the nonrefundable application or registration
788 fee and any books or supplies that have been accepted.

789 126.7(e) Notwithstanding the provisions of subdivision (d) of this section, a school accredited
790 by a nationally recognized accrediting agency may use the refund policy of such agency only
791 to the extent that such policy offers the student less tuition liability than the provisions of
792 section 5002(3) of the Education Law and is approved by the commissioner. A school required
793 by Federal law to follow a predetermined student refund policy may do so only to the extent
794 that such student refund policy offers the student less tuition liability than the provisions of
795 section 5002(3) of the Education Law and is approved by the commissioner.

796 126.7(f) If a transcript, diploma, certificate, or other document evidencing satisfactory program
797 or course completion is to be withheld until all fees and charges have been met, the enrollment
798 agreement must so state, and such documents may then be withheld except as otherwise
799 provided by law.

800 126.7(g) Any refunds due to students who cancel, withdraw or are discontinued shall be made
801 within 45 days of such action pursuant to section 5002(3)(g) of the Education Law.

SECTION 126.8. RESOURCES

802 126.8(a) The owners, or chief administrative officer of a private career school shall submit to
803 the commissioner such evidence as he may require to determine the adequacy of resources
804 beyond all indebtedness available for instruction purposes and to ensure financial viability of
805 the school to meet its obligations to all enrolled students as defined in their enrollment
806 agreements. Schools failing, in the judgment of the commissioner, to maintain such adequacy
807 of resources may be subject to suspension or revocation of the school's license, or the
808 Commissioner may require the cessation of student enrollment, pursuant to section 5001(6) of
809 the Education Law.

810 126.8(b) Financial reports.

811 126.8(b)(1) The initial application for licensure of a school organized as or owned by a
812 corporation or partnership shall be accompanied by the following financial reports:

813 126.8(b)(1)(i) a balance sheet of the corporate entity or partnership with a certification of
814 accuracy signed by the individual shareholders of the corporation or partners, and dated
815 not more than 30 days prior to the date of the license application;

816 126.8(b)(1)(ii) a certificate of incorporation for the corporate entity or a partnership
817 agreement for the partnership;

818 126.8(b)(1)(iii) a statement indicating the location and type of all bank accounts held by
819 the corporate owner or partners in their official capacity;

820 126.8(b)(1)(iv) a projected operating statement including projected profits and losses for
821 the school for a 12-month period;

822 126.8(b)(1)(v) such other information as the commissioner may require.

823 126.8(b)(2) The initial application for licensure of all other schools shall be accompanied by
824 a financial report prescribed by the commissioner.

825 126.8(b)(3) Pursuant to section 5001(4)(e) of the Education Law, schools shall be required to
826 submit to the commissioner an annual financial statement and shall meet the following
827 requirements with respect to the submission of such annual financial statement:

828 126.8(b)(3)(i) Any school which received \$500,000 or more in gross tuition or whose
829 combined state and federal student financial aid is \$100,000 or more in a school fiscal
830 year shall submit an audited financial statement to the commissioner for that fiscal year.

831 126.8(b)(3)(ii) Any school which received less than \$500,000 and less than \$100,000 in
832 combined Federal and State student financial aid in a school fiscal year shall submit
833 either an unaudited reviewed financial statement in a format prescribed by the
834 commissioner or an audited financial statement to the commissioner for that fiscal year
835 provided that a reviewed financial statement cannot be submitted for two consecutive

836 fiscal years. An audited financial statement must be filed for the year following the fiscal
837 year for which a reviewed financial statement was filed.

SECTION 126.9. CATALOGS

838 126.9(a) Each licensed private career school shall publish a catalog or bulletin, which shall be
839 furnished to each prospective or enrolled student, which shall include the following:

840 126.9(a)(1) identifying data, such as volume number and date of publication;

841 126.9(a)(2) names of the school and its governing body, officials and faculty, and other
842 instructional personnel and their qualifications;

843 126.9(a)(3) a calendar of the school showing legal holidays, beginning and ending dates of
844 each quarter, term, or semester, and other important dates;

845 126.9(a)(4) school policy and regulations on enrollment with respect to enrollment dates and
846 specific entrance requirements for each course;

847 126.9(a)(5) school policy and regulations relative to leaves of absence, class cuts, makeup
848 work, tardiness and interruptions for unsatisfactory attendance;

849 126.9(a)(6) school policy and regulations relative to standards of progress required of the
850 student by the school. Such policy shall define the grading system of the school, the marking
851 periods used at the school, the minimum grades considered satisfactory, conditions for
852 interruption for unsatisfactory grades or progress; and shall describe the probationary period,
853 if any, allowed by the school, conditions for reentrance for those students dismissed for
854 unsatisfactory progress, and the student progress records kept by the school and furnished to
855 the student. Such standards of progress shall conform with the requirement set forth in
856 section 126.4 of this Part;

857 126.9(a)(7) school policy and regulations relating to student conduct and conditions for
858 dismissal for unsatisfactory conduct;

859 126.9(a)(8) a detailed schedule of fees or charges for registration, tuition, books, supplies,
860 tools, student activities, laboratory use, rentals, deposits, uniforms, equipment, taxes and all
861 other charges associated with the program;

862 126.9(a)(9) school policy and regulations relative to the refund of the unused portion of
863 tuition, fees and other charges in the event the student does not enter the course, or withdraws
864 or is discontinued. Catalogs shall contain the following statement “the failure of a student to
865 immediately notify the school director in writing of the student's intent to withdraw may
866 delay a refund of tuition to the student pursuant to section 5002(3) of the Education Law”;

867 126.9(a)(10) a description of the available space, facilities and equipment including any
868 special facilities and services available to students with disabilities or handicapping
869 conditions;

870 126.9(a)(11) a description of each course or curriculum including program objectives, the
871 length of the total program and, if applicable, the length and description of the individual

872 courses within the curriculum;

873 126.9(a)(12) school policy and regulations relative to granting credit for previous educational
874 training;

875 126.9(a)(13) financial assistance information to be disseminated to enrolled and prospective
876 students, including:

877 126.9(a)(13)(i) a description of all State, Federal and school financial aid programs
878 including scholarship or grant programs offered by the school. Such description shall also
879 include the procedures for the preparation of forms to apply for such aid, student
880 eligibility requirements, and criteria for selecting recipients and determining the amount
881 of a student's award. Standard current descriptions of State and Federal financial
882 assistance programs will be provided by the Education Department in cooperation with
883 the Higher Education Services Corporation to the schools subject to the provisions of this
884 Part. Such descriptions, or other equivalent descriptions providing the required
885 information, along with current procedures and definitions related to emancipated student
886 status, shall be provided by the schools to enrolled and prospective students. Where
887 summary information is provided, a school office where detailed information can be
888 obtained shall be identified;

889 126.9(a)(13)(ii) a statement of the rights and responsibilities of students receiving
890 financial aid under the programs listed above. This information shall include:

891 126.9(a)(13)(ii)(a) criteria for continued eligibility for each program, including the
892 financial conditions which must be met;

893 126.9(a)(13)(ii)(b) criteria for determining that a student is in good standing and
894 maintaining satisfactory progress in his course of study, and the criteria by which a
895 student who has failed to maintain satisfactory progress or good standing may
896 reestablish his or her eligibility for aid;

897 126.9(a)(13)(ii)(c) the means by which payment of awards will be made to students,
898 and the frequency of such payment;

899 126.9(a)(13)(ii)(d) the terms, and expected schedules, of repayment of any loan
900 received by a student as a part of the student's financial aid; and

901 126.9(a)(13)(ii)(e) the general conditions and terms of any employment provided to a
902 student as part of the student's financial aid;

903 126.9(a)(13)(iii) the designated employee or group of employees, by title, who are
904 available to assist students in obtaining the information specified above; and

905 126.9(a)(14) data regarding student completion and job placement as set forth in subdivision
906 (f) of section 126.10 of this Part for the two most recent reporting periods. Such reporting
907 periods shall be defined by the commissioner;

908 126.9(a)(15) the pass rate of the school's graduates for any license or certificate examination
909 required by the State for employment in a specific vocational, trade or career field for which
910 the school provides training programs. Such information shall be for a reporting period
911 defined by the commissioner;

912 126.9(a)(16) the names of associations, agencies or governmental bodies which accredit,
913 approve or license the school;

914 126.9(a)(17) a description of the complaint procedures pursuant to section 5003 of the
915 Education Law;

916 126.9(a)(18) a description of the process for obtaining a tuition refund from the tuition
917 reimbursement fund pursuant to section 5007 of the Education Law;

918 126.9(a)(19) a weekly tuition liability chart for each program that indicates the amount of
919 refund due the student in the event of withdrawal; and

920 126.9(a)(20) such other information as the commissioner may require.

921 126.9(b) Each school catalog or bulletin shall be approved by the commissioner prior to its use,
922 except as provided in section 5002(5)(f) of the Education Law.

SECTION 126.10. SCHOOL LICENSE; LICENSING PROCEDURE

923 126.10(a) Every applicant shall submit an application for licensure of a private career school
924 upon forms provided by the commissioner, together with such other information as the
925 commissioner may require, including applications for approval of curricula or courses of study,
926 quarters or facilities, required personnel licenses, and documentation of ownership and
927 adequacy of resources. The application shall be accompanied by the statutory fee. In
928 accordance with section 5001(4) of the Education Law, the applicant shall receive a written
929 approval or denial, together with the reasons for a denial of such application.

930 126.10(b) An application for renewal of any license shall be submitted at least 120 days prior
931 to the expiration date of the current authorization, on a form prescribed by the commissioner
932 and accompanied by the statutory fee; annual financial reports on forms prescribed by the
933 commissioner; and such other information as the commissioner may require. When complete
934 and timely application for renewal of any license has been made, the school shall receive a
935 written approval or denial, together with the reasons for denial of renewal, from the
936 commissioner no less than 30 days prior to the date such license expires.

937 126.10(c) Pursuant to section 5001(7) of the Education Law, no license granted under this Part
938 shall be transferable or assignable without the approval of the commissioner. Upon transfer or
939 assignment of any interest totaling 25 percent or more, whether direct or indirect, in the total
940 equity or assets of a school shall be deemed a new school required to submit a new school
941 application and obtain a new license pursuant to the requirements of this Part. However, upon
942 such a substantial change in interest, the previous school license shall remain in effect until the
943 new license is issued or denied or the previous license expires or is revoked, whichever comes
944 first.

945 126.10(d) Each school shall display, near the entrance to the school, the license which has been
946 issued to it. Such authorization shall be displayed only during the period of its validity.

947 126.10(e) A school shall be subject to an annual assessment based on the school's gross tuition
948 from the previous year, in accordance with the requirements of sections 5001(9) and 5007(10)
949 of the Education Law. For a school in operation in the year prior to the issuance of its license,
950 such assessment shall begin in its initial year of licensure, based on the school's gross tuition
951 from such previous year, in accordance with the requirements of sections 5001(9) and
952 5007(10) of the Education Law.

953 126.10(f) Each school shall submit annual statistical reports on forms prescribed by the
954 commissioner. Such statistical reports shall be certified by the owner that they are true and
955 accurate, in a manner established by the commissioner. The commissioner may require audited
956 statistical reports upon a determination that a school has provided false or inaccurate statistical
957 reports. Statistical reports shall be submitted annually for a reporting period established by the
958 commissioner and shall include the following information:

959 126.10(f)(1) number of applicants, by program of instruction, who were accepted for
960 enrollment during the reporting period;

961 126.10(f)(2) number of applicants, by program of instruction, who applied for, but were
962 denied, enrollment because they failed to satisfy the entrance requirements;

963 126.10(f)(3) number of full-time and part-time students, by program of instruction, enrolled
964 at the beginning of the reporting period;

965 126.10(f)(4) number of full-time and part-time students, by program of instruction, who
966 enrolled during the reporting period;

967 126.10(f)(5) number of full-time and part-time students, by program of instruction, who were
968 still enrolled at the end of the reporting period;

969 126.10(f)(6) number of full-time and part-time students, by program of instruction, who
970 graduated during the reporting period;

971 126.10(f)(7) number of full-time and part-time students, by program of instruction, who
972 withdrew without completing the program of instruction during the reporting period;

973 126.10(f)(8) number of full-time and part-time students, by program of instruction, who
974 received financial assistance from Federal and/or State programs during the reporting period;
975 and

976 126.10(f)(9) the employment or educational status, by program, of students graduating during
977 the reporting period.

978 126.10(g) Schools conducted for profit which provide instruction in English as a second
979 language or preparation for the high school equivalency examinations to out-of-school youth or
980 adults which are required to be licensed under section 5001 of the Education Law, pursuant to
981 chapter 887 of the Laws of 1990, shall comply with the provisions of this Part, article 101 of
982 the Education Law and all other applicable laws and regulations, in a time frame established by
983 the commissioner. Such schools in operation prior to September 1, 1990 may be granted a
984 variance from any provision of this Part relating to an initial or renewal application for
985 licensure, if in the judgment of the commissioner, the educational quality of the program or
986 financial viability of the school will not be impaired.

987 126.10(h) Alternate licensing procedures for correspondence, internet or home study schools.
988 Pursuant to section 5001(4)(f) of the Education Law, correspondence, internet or home study
989 schools in which all approved programs and courses are under 300 hours shall be subject to all
990 of the requirements of article 101 of Education Law and this Part, except that they shall be
991 exempt from the following provisions:

992 126.10(h)(1) paragraphs (8) and (9) of subdivision (f) of this section relating to the reporting
993 of financial assistance and placement information;

994 126.10(h)(2) section 5002(1)(c)(1) of the Education Law relating to the passing of an
995 entrance examination, provided that the commissioner determines that such action will not
996 impair a student's ability to successfully complete the program;

997 126.10(h)(3) section 5002(1)(c)(2) of the Education Law relating to the required counseling
998 plan for schools admitting students who do not possess a high school diploma or its
999 equivalent, provided that the commissioner determines that such action will not impair a
1000 student's ability to successfully complete the program;

1001 126.10(h)(4) section 126.4(a) of this Part relating to student-to-teacher ratio;

1002 126.10(h)(5) section 126.4(e) of this Part relating to attendance requirements;

1003 126.10(h)(6) section 126.5 of this Part relating to equipment and housing;

1004 126.10(h)(7) section 126.7 relating to enrollment agreements with the exception of section
1005 126.7(c) relating to refund policies for correspondence schools;

1006 126.10(h)(8) section 126.9(a)(13) of this Part relating to financial information in a school's
1007 catalog;

1008 126.10(h)(9) placement data as required in section 126.9(a)(14) of this Part for a school's
1009 catalog;

1010 126.10(h)(10) section 126.9(a)(10) of this Part relating to facilities and equipment
1011 information in a school's catalog;

1012 126.10(h)(11) section 5005(a)(7) of the Education Law relating to a description of facilities
1013 and equipment in the student disclosure material; and

1014 126.10(h)(12) section 5005(c) of the Education Law relating to a description of financial
1015 information in the student's disclosure material.

1016 126.10(i) Alternate licensing procedures for schools exempt from licensure pursuant to
1017 subdivision (2) of section 5001 of the Education Law which elect to be licensed.

1018 126.10(i)(1) Exempt schools operated, licensed, regulated, approved by or contracting with a
1019 governmental agency or authority, which elect to be licensed.

1020 126.10(i)(1)(i) Exempt schools operated, licensed, regulated, approved by or contracting
1021 with a governmental agency or authority, which elect to be licensed, shall meet all of the
1022 requirements of article 101 of the Education Law and this Part, except that such schools
1023 may meet the requirement for a certificate of occupancy by meeting the requirement in
1024 paragraph (3) of this subdivision and except that such school shall be subject to an
1025 alternate requirement established by the governmental agency or authority, provided that
1026 the commissioner determines that such requirement is equivalent to a requirement
1027 established in one or more of the following provisions:

1028 126.10(i)(1)(i)(a) subdivisions (4) and (5) of section 5002 of the Education Law and
1029 section 126.4(a)-(d) and (f)-(g) of this Part relating to curriculum approval and

1030 reapproval;

1031 126.10(i)(1)(i)(b) subdivision (6) of section 5002 of the Education Law and section
1032 126.6 of this Part relating to teacher and director licensing;

1033 126.10(i)(1)(i)(c) section 5004 of the Education Law and section 126.12 of this Part
1034 relating to school agents, for only those schools which enroll students solely on the
1035 basis of a contract with an organization or business, which do not solicit enrollment
1036 through communication aimed at the prospective student, and where there is no
1037 tuition liability to the student;

1038 126.10(i)(1)(i)(d) section 126.4(e)(2) of this Part relating to academic standards of
1039 progress; and

1040 126.10(i)(1)(i)(e) section 126.11 of this Part relating to school and student records.

1041 126.10(i)(1)(ii) The commissioner shall consult with the governmental agency or
1042 authority which operates, licenses, regulates, approves or contracts with such a school
1043 before implementing the provisions of section 5003(6) of the Education Law relating to
1044 civil penalties and administrative action against such school.

1045 126.10(i)(2) Other exempt schools which elect to be licensed. All exempt schools which elect
1046 to be licensed, with the exception of those specified in paragraph (1) of this subdivision, shall
1047 meet all of the requirements of article 101 of the Education Law and this Part, except that
1048 such schools may meet the requirement for a certificate of occupancy by meeting the
1049 requirement in paragraph (3) of this subdivision.

1050 126.10(i)(3) For any exempt school which elects to be licensed pursuant to article 101 of the
1051 Education Law and this Part and is in existence prior to such licensure, a certificate of
1052 occupancy which was in effect at the time of application for licensure shall be acceptable to
1053 the commissioner, provided that the governmental authority issuing such certificate of
1054 occupancy has determined that the certificate of occupancy is valid as of that date.

1055 126.10(j) Alternate licensing requirements for nonpublicly funded ESL schools.

1056 126.10(j)(1) General provisions.

1057 126.10(j)(1)(i) Nonpublicly funded ESL schools shall be exempt from the requirements
1058 of this Part and Article 101 of the Education Law, except as provided in this subdivision
1059 and subdivisions 126.1 and 126.18 of this Part and paragraphs (b) and (c) of subdivision
1060 (1) of section 5001 of the Education Law, and subdivision (3) of section 5004 of the
1061 Education Law.

1062 126.10(j)(1)(ii) Schools that meet the requirements of this subdivision shall receive initial
1063 certification for a two-year period and renewal certification for a four-year period and
1064 shall be listed in the *New York State English as a Second Language School Registry*.

1065 126.10(j)(1)(iii) Schools shall be subject to unscheduled visits by the commissioner or the
1066 commissioner's designee to ensure the school's compliance with the requirements of this
1067 subdivision.

1068 126.10(j)(1)(iv) Upon request by the department, schools shall provide any and all
1069 records necessary to review compliance with the requirements of this subdivision.

1070 126.10(j)(1)(v) The payment of all fees and assessments required by this subdivision
1071 shall be considered a condition of certification.

1072 126.10(j)(1)(vi) The definitions in section 126.1 of this Part shall be applicable to such
1073 schools.

1074 126.10(j)(2) Application procedures.

1075 126.10(j)(2)(i) Initial certification.

1076 126.10(j)(2)(i)(a) Every applicant and renewal applicant shall apply for
1077 certification on an application form prescribed by the commissioner and shall
1078 submit with such application a nonrefundable and nontransferable \$5,000
1079 certificate fee of which \$3,000 shall accrue to the credit of the proprietary
1080 vocational school supervision account and \$2,000 shall accrue to the tuition
1081 reimbursement account. For additional locations of currently certified
1082 operating schools, the application fee shall be \$2,500 which shall accrue to the
1083 credit of the proprietary vocational school supervision account.

1084 126.10(j)(2)(i)(b) Schools shall submit the following information with a
1085 completed application for initial certification:

1086 126.10(j)(2)(i)(b)(1) sample enrollment agreements, which meet the
1087 requirements in paragraph (6) of this subdivision, used for each English as
1088 a second language curriculum offered by the school;

1089 126.10(j)(2)(i)(b)(2) a complete description of the content of all English as
1090 a second language curricula offered by the school in a form prescribed by
1091 the commissioner;

1092 126.10(j)(2)(i)(b)(3) a description of refund policies which pertain to
1093 English as a second language curricula in the event a student fails to enter,
1094 withdraws or is discontinued from instruction;

1095 126.10(j)(2)(i)(b)(4) educational and administrative policies and
1096 procedures that are provided students in English as a second language
1097 curricula upon enrollment;

1098 126.10(j)(2)(i)(b)(5) disclosures required to be made to students, pursuant
1099 to paragraph (5) of this subdivision;

1100 126.10(j)(2)(i)(b)(6) evidence, satisfactory to the commissioner, that the
1101 school meets the requirements relating to personnel in paragraph (3) of
1102 this subdivision;

1103 126.10(j)(2)(i)(b)(7) evidence, satisfactory to the commissioner, that the
1104 school meets the requirements relating to facilities and equipment in
1105 paragraph (4) of this subdivision; and

1106 126.10(j)(2)(i)(b)(8) an unaudited statement of revenue, as prescribed by
1107 the commissioner, for the previous fiscal year.

1108 126.10(j)(2)(ii) Renewal of certification.

1109 126.10(j)(2)(ii)(a) Schools shall apply for renewal of certification at least 120
1110 days prior to the expiration of the current certificate on an application form
1111 prescribed by the commissioner and shall submit with such an application a
1112 nonrefundable and nontransferable fee in accordance with the provisions of
1113 section 5001(4)(b) of the Education Law.

1114 126.10(j)(2)(ii)(b) Schools which received \$500,000 or more in gross tuition
1115 in the previous school fiscal year shall submit with such completed
1116 application an audited statement of revenue to the commissioner for that fiscal
1117 year, and schools which received less than \$500,000 in gross tuition in the
1118 previous school fiscal year shall submit either an audited statement of revenue
1119 or an unaudited reviewed statement of revenue, as prescribed by the
1120 commissioner, for that fiscal year provided that the school choosing to submit
1121 an unaudited reviewed statement of revenue had submitted an audited
1122 statement of revenue in the preceding year.

1123 126.10(j)(2)(iii) A school shall submit to the commissioner any changes in the
1124 information, policy or programs which it has submitted in support of an application for
1125 initial certification or an application for renewal of certification 14 days prior to the date
1126 on which such changes take effect.

1127 126.10(j)(3) Personnel.

1128 126.10(j)(3)(i) Director.

1129 126.10(j)(3)(i)(a) Each school shall employ a director who shall meet the
1130 requirements in section 126.6(d)(1)(i), (2) and (3) of this Part and this
1131 subparagraph.

1132 126.10(j)(3)(i)(b) Directors' permits or licenses, issued on or after May 25,
1133 2000, shall be renewable and valid only for the school for which they are
1134 issued. No individual may be employed as a director at more than one school
1135 without the approval of the commissioner. An ESL school director's license,

1136 issued on or after May 25, 2000, shall be valid for the same period for which
1137 the school is licensed or registered.

1138 126.10(j)(3)(i)(c) Individuals shall apply for a director's license, or renewal
1139 thereof, on an application form prescribed by the commissioner. Such
1140 application form shall be submitted to the commissioner with a nonrefundable
1141 and nontransferable application fee of \$100. A school director's license
1142 renewal application shall be submitted with the renewal application of the
1143 employing school.

1144 126.10(j)(3)(i)(d) Any permanent director's license, issued prior to May 25,
1145 2000, shall continue to be deemed approved without renewal until such time
1146 as the director leaves the school and location for which the license is valid.

1147 126.10(j)(3)(ii) Private school agent.

1148 126.10(j)(3)(ii)(a) Each school shall employ at least one private school agent
1149 who meets the requirements in this subparagraph.

1150 126.10(j)(3)(ii)(b) Each agent shall produce his or her agent certificate upon
1151 the request of the commissioner, the commissioner's designee, or any
1152 prospective student.

1153 126.10(j)(3)(ii)(c) A school shall submit an application for licensure for an
1154 agent on or before the first day of employment of such individual, in
1155 accordance with the requirements of section 126.12(a) of this Part.

1156 126.10(j)(3)(ii)(d) A school or its private school agent, as applicable, shall
1157 meet the requirements in section 126.12(b)-(e) of this Part.

1158 126.10(j)(3)(ii)(e) A private school agent meeting the requirements of this
1159 paragraph shall take responsibility for enrolling each student enrolled in an
1160 English as a second language curriculum.

1161 126.10(j)(3)(iii) Teachers.

1162 126.10(j)(3)(iii)(a) Teachers providing instruction in English as a second
1163 language programs at a nonpublicly funded ESL school shall have been
1164 awarded a baccalaureate or equivalent degree from an institution licensed or
1165 recognized by the department; and have successfully completed either an
1166 English as a second language training program recognized by the department
1167 or one year of teaching experience in an English as a second language
1168 program.

1169 126.10(j)(3)(iii)(b) Upon a finding by the commissioner that the applicant
1170 possesses sufficiently unique and exceptional training and/or experience that
1171 are substantially the equivalent of the requirements set forth in clause (a) of

1172 this subparagraph, a variance may be granted from such requirements.

1173 126.10(j)(4) Facilities and equipment. The buildings, rooms or space in which staff and
1174 students are housed for any purpose while attending school, and all facilities and equipment
1175 therein, shall meet the applicable standards of local fire, health and building authorities.

1176 126.10(j)(5) Disclosure to students. For all students enrolled in English as a second language
1177 curricula, schools shall provide the following information to students in a format prescribed
1178 by the commissioner prior to the execution of the enrollment agreement with them:

1179 126.10(j)(5)(i) a description of the status of the school as a nonpublicly funded English as
1180 a second language school certified by the New York State Education Department as
1181 meeting alternative licensing requirements and not subject to all of the licensing
1182 standards and requirements in article 101 of the Education Law and this Part which are
1183 applicable to licensed private career schools;

1184 126.10(j)(5)(ii) a description of the complaint procedures established pursuant to
1185 Education Law, section 5003(1)(c); and

1186 126.10(j)(5)(iii) a description of the process for obtaining a refund from the tuition
1187 reimbursement fund.

1188 126.10(j)(6) Enrollment agreement.

1189 126.10(j)(6)(i) An enrollment agreement shall be completed for all students enrolled in
1190 English as a second language curricula. Such an enrollment agreement shall meet the
1191 requirements in section 126.7(a) of this Part.

1192 126.10(j)(6)(ii) The enrollment agreement shall be printed in no less than 10-point type,
1193 shall contain no advertising or extraneous material and shall set forth briefly and clearly
1194 the following:

1195 126.10(j)(6)(ii)(a) the name of the school;

1196 126.10(j)(6)(ii)(b) the title of the curriculum, course or courses for which the
1197 student is contracting;

1198 126.10(j)(6)(ii)(c) the length of the curriculum, course or courses in
1199 instructional hours;

1200 126.10(j)(6)(ii)(d) the name and address of the student;

1201 126.10(j)(6)(ii)(e) the full contract price for instruction, including all fees,
1202 tuition, and costs of textbooks, materials, and equipment;

1203 126.10(j)(6)(ii)(f) the method of payment;

1204 126.10(j)(6)(ii)(g) such reasonable rules, regulations and conditions as the
1205 school may desire to set forth in the agreement;

1206 126.10(j)(6)(ii)(h) a separately signed acknowledgment by the student that he
1207 or she has received disclosure material, as required by paragraph (5) of this
1208 subdivision;

1209 126.10(j)(6)(ii)(i) the refund the school will make in the event a student fails
1210 to enter, withdraws or is discontinued from instruction which is consistent
1211 with the refund policy submitted to the department, pursuant to the
1212 requirement in subclause (2)(i)(b)(3) of this subdivision; and

1213 126.10(j)(6)(ii)(j) the name and certificate number of the school agent
1214 responsible for enrolling the student.

1215 126.10(j)(7) Advertising. A school shall meet the requirements of section 126.3 of this Part
1216 and shall be subject to section 5002(7) of the Education Law.

1217 126.10(j)(8) Records. Records and files of a school pertaining to English as a second
1218 language curricula shall be maintained for three years at the location of the school or other
1219 principal place of business in New York State, unless specific disposition is authorized by the
1220 commissioner, and shall include:

1221 126.10(j)(8)(i) copies of all advertising, bulletins and other promotional materials;

1222 126.10(j)(8)(ii) the attendance register for each class, laboratory or session;

1223 126.10(j)(8)(iii) records of instructional staff showing qualifications and teaching
1224 schedules;

1225 126.10(j)(8)(iv) a completed copy of the student enrollment agreement contract signed by
1226 both an authorized agent of the school and the student prior to the time instruction begins;

1227 126.10(j)(8)(v) records of all tuition and fees owed and paid by the student; and

1228 126.10(j)(8)(vi) date of student completion or discontinuance.

1229 126.10(j)(9) Teachout plans. A school may submit a teachout plan for English as a second
1230 language curricula to the commissioner for approval, subject to the requirements of section
1231 5006 of the Education Law and section 126.16 of this Part.

1232 126.10(j)(10) Disciplinary actions and penalties. Section 5003 of the Education Law shall be
1233 applicable to nonpublicly funded ESL schools, except that subparagraph (2) of paragraph (b)
1234 of subdivision (1) of such section shall not be applicable and in lieu of that requirement good
1235 cause shall include violation of any provision of this subdivision, including requirements of
1236 this Part and article 101 of the Education Law made applicable by this subdivision. Section
1237 126.14 of this Part shall be applicable.

1238 126.10(j)(11) Supervision account and tuition reimbursement account assessments.

1239 126.10(j)(11)(i) The commissioner shall annually assess each school an assessment equal
1240 to five-tenths of one percent of its gross tuition, as determined by the audited statement of
1241 revenue or the unaudited reviewed statement of revenue, as required by this subdivision,
1242 of which three-tenths of one percent shall accrue to the benefit of the proprietary
1243 vocational school supervision account. Any school which received \$500,000 or more in
1244 gross tuition in a school fiscal year shall be required to submit to the commissioner an
1245 annual audited statement of revenue prepared in accordance with generally accepted
1246 accounting principles for that fiscal year. In addition, any school which has a gross tuition
1247 of less than \$500,000 in a school fiscal year shall file with the commissioner either an
1248 audited statement of revenue or an unaudited reviewed statement of revenue provided,
1249 however, that any such school shall file an audited statement of revenue the fiscal year
1250 after an unaudited reviewed statement of revenue is submitted. For such schools, audited
1251 statements of revenue are required every two years, at minimum, with unaudited
1252 reviewed statements of revenue allowed during the alternate year. Upon a determination
1253 by the commissioner that a school has submitted false or inaccurate statements or that a
1254 significant, unsubstantiated decline in gross tuition has occurred, the commissioner may
1255 require any such school to file an audited statement of revenue pursuant to this paragraph
1256 even during alternate years when unaudited reviewed statements would ordinarily be
1257 allowed.

1258 126.10(j)(11)(ii) The commissioner shall also assess each school additional assessments
1259 as applicable under subdivision (10) of section 5007 of the Education Law.

1260 126.10(j)(11)(iii) For ESL schools in operation in the year prior to the issuance of their
1261 certification, such annual assessments prescribed in this paragraph shall begin in their
1262 initial year of certification, based on the schools' gross tuition from such previous year.
1263 For new ESL schools, the commissioner shall base the assessments prescribed in this
1264 paragraph on the annualized gross tuition of the school computed by the department from
1265 financial reports from the school as required by the department, and the assessments shall
1266 be prorated based upon the number of quarters that the school has operated in the
1267 assessment year.

1268 126.10(j)(11)(iv) The assessments prescribed in subparagraphs (i) and (ii) of this
1269 paragraph shall be based upon each school's gross tuition from the previous year, and
1270 shall be payable in equal installments which shall be due on June 1st, September 1st,
1271 December 1st and March 1st.

1272 126.10(j)(12) Tuition reimbursement account.

1273 126.10(j)(12)(i) For all English as a second language curricula, schools shall comply with
1274 subdivisions (1) through (8) of section 5007 of the Education Law, except that paragraph
1275 (a) of subdivision (3) and paragraph (b) of subdivision (4) of such section shall not be
1276 applicable. Subparagraph (3) of paragraph (b) of subdivision (3) of such section shall not
1277 be applicable and in lieu of that requirement claimants shall be required to show that the

1278 school has failed to make the refund within the time period required by school policy.

1279 126.10(j)(12)(ii) A student enrolled in an English as a second language curriculum in a
1280 school which has not closed or ceased operation, and who has not dropped out, is entitled
1281 to a full refund, provided that:

1282 126.10(j)(12)(ii)(a) the student has submitted a complaint form to the
1283 commissioner; and

1284 126.10(j)(12)(ii)(b) the commissioner has determined that the school has
1285 committed one or more of the following violations:

1286 126.10(j)(12)(ii)(b)(1) operating a school with a registry certificate which
1287 has been suspended, revoked or not renewed;

1288 126.10(j)(12)(ii)(b)(2) using false, misleading, deceptive or fraudulent
1289 advertising;

1290 126.10(j)(12)(ii)(b)(3) having no licensed private agent responsible for
1291 enrolling the student;

1292 126.10(j)(12)(ii)(b)(4) using fraudulent or improper claims by a licensed
1293 agent or school representative to enroll the student;

1294 126.10(j)(12)(ii)(b)(5) misrepresenting the school or failing to comply
1295 with the requirements of paragraph (2) of this subdivision;

1296 126.10(j)(12)(ii)(b)(6) dismissing or terminating a student for other than
1297 just cause; or

1298 126.10(j)(12)(ii)(b)(7) committing any additional violation for which the
1299 commissioner demonstrates that the student would not have enrolled in the
1300 curriculum but for the commission of that violation.

1301 126.10(k) Alternate licensing requirements for non-profit licensed careers schools that are
1302 exempt from taxation and whose programs are funded exclusively through donations.

1303 Pursuant to Education Law section 5001(4)(f)(3), non-profit licensed career schools that are
1304 exempt from taxation under section 501(c)(3) of the Internal Revenue Code and whose
1305 programs, including registration fees, the sale of books, supplies, services, kits, uniforms or
1306 equipment are funded entirely through donations, exclusive of public sources, from individuals
1307 or philanthropic organizations, or endowments, and interest accrued thereon, shall be subject to
1308 all of the requirements of article 101 of Education Law and this Part, except that:

1309 126.10(k)(1) such schools shall be exempt from the following requirements of Education
1310 Law:

- 1311 126.10(k)(1)(i) Education § 5002(3), relating to tuition liability;
- 1312 126.10(k)(1)(ii) Education Law § 5001(4)(e)(i), relating to the inclusion in
1313 financial statements of refunds due and owing to past or presently enrolled
1314 students;
- 1315 126.10(k)(1)(iii) Education Law § 5002(2)(b)(5), relating to the inclusion in any
1316 school record of the amount of any refund paid to any student;
- 1317 126.10(k)(1)(iv) Education Law § 5005(a)(4), relating to disclosure to prospective
1318 and enrolled students of any refund policy;
- 1319 126.10(k)(1)(v) Education Law §§ 5005(e) and 5005(f), relating to a tuition
1320 reimbursement fund claim form.
- 1321 126.10(k)(2) Such schools shall also be exempt from the following requirements of this
1322 Part:
- 1323 126.10(k)(2)(i) section 126.4(c)(6) of this Part, relating to data required to be
1324 submitted about tuition and other charges and method of payment;
- 1325 126.10(k)(2)(ii) sections 126.7(b)(6) through (9) of this Part, relating to the
1326 inclusion in enrollment agreements of any tuition charges or fees or method of
1327 payment;
- 1328 126.10(k)(2)(iii) section 126.7(b)(15) of this Part, relating to any refund a school
1329 will make under certain prescribed circumstances;
- 1330 126.10(k)(2)(iv) section 126.7(d) of this Part, except section 126.7(d)(3) thereof,
1331 relating to the inclusion in enrollment agreements of a reasonable adjustment of
1332 tuition and other fees, and any refund policies;
- 1333 126.10(k)(2)(v) section 126.7(e) of this Part, relating to the option to use the
1334 refund policy of a nationally recognized accrediting agency and the use of the
1335 refund policy required by federal law;
- 1336 126.10(k)(2)(vi) section 126.7(g) of this Part, relating to when refunds must be
1337 paid to students who withdraw, cancel, or are discontinued;
- 1338 126.10(k)(2)(vii) section 126.9(a)(8) of this Part, relating to the inclusion in the
1339 school catalog of a schedule of fees or charges;
- 1340 126.10(k)(2)(viii) section 126.9(a)(9) of this Part, relating to the inclusion in the
1341 school catalog of school policies and regulations governing the refund of any
1342 unused portion of tuition, fees and other charges in certain circumstances;
- 1343 126.10(k)(2)(ix) section 126.9(a)(13)(i) of this Part, relating to state and federal

1344 financial aid only, except that any private grant, scholarship, or other financial
1345 assistance offered to students by the school, which shall not expose the student to
1346 any tuition liability, shall be included in such school's catalog;

1347 126.10(k)(2)(x) section 126.9(a)(13)(ii)(d) of this Part, relating to the terms and
1348 expected schedules of repayment of any loan received by the student as a part of
1349 the student's financial aid;

1350 126.10(k)(2)(xi) section 126.9(a)(18) of this Part, relating to the inclusion in the
1351 school catalog of information about tuition refunds from the Tuition
1352 Reimbursement Account (TRA);

1353 126.10(k)(2)(xii) section 126.9(a)(19) of this Part, relating to the inclusion in the
1354 school catalog of requirement to include a weekly tuition liability chart for each
1355 program that indicates the amount of refund due the student in the event of a
1356 withdraw; and

1357 126.10(k)(2)(xiii) section 126.11(a)(10) of this Part, relating to the maintenance
1358 of records of tuition, fees, public loans and grants, and their disbursement, by a
1359 school for seven years.

SECTION 126.11. RECORDS

- 1360 126.11(a) All records and files of a school shall be maintained for seven years, except for
1361 permanent student records as provided in subdivision (b) of this section, unless specific
1362 disposition is authorized by the commissioner, and shall include:
- 1363 126.11(a)(1) all approved courses of study, accompanied by letters from the department
1364 granting such approval;
- 1365 126.11(a)(2) all correspondence with the department and other supervisory agencies;
- 1366 126.11(a)(3) copies of all advertising, bulletins and other promotional materials;
- 1367 126.11(a)(4) the attendance register, for each class, laboratory or session, progress in training
1368 and payments made to the school either by the student or on his behalf;
- 1369 126.11(a)(5) records of administrative, supervisory and instructional staffs showing
1370 qualifications, approval by the department, teaching schedules and pupil load, attendance,
1371 contract salary and salary payments;
- 1372 126.11(a)(6) inventories of equipment and consumable supplies;
- 1373 126.11(a)(7) financial records in such form and kept in such manner as may be specified by
1374 the commissioner to facilitate the determination of the quality of instruction given and the
1375 ability of the school to discharge its obligations to its students;
- 1376 126.11(a)(8) documentation of entrance requirements for each course or curriculum for
1377 which the student has enrolled;
- 1378 126.11(a)(9) a completed copy of the student enrollment agreement contract signed by both
1379 an authorized agent of the school and the student prior to the time instruction begins;
- 1380 126.11(a)(10) records of all tuition and fees owed and paid by the student; all loans and
1381 grants from public sources received by the student or the school on behalf of the student; and
1382 the complete record of the disbursement of such public funds;
- 1383 126.11(a)(11) documentation of the award of any advanced credit due to previous academic
1384 or practical experience, and a record of any substitutes to the course or curriculum approved
1385 by the department as a result thereof;
- 1386 126.11(a)(12) records of employment or educational status of each student graduating during
1387 a reporting period established by the commissioner, which include the name, address and
1388 telephone number of hiring employer, the job title and the starting date of employment, or the
1389 name and address of the educational institution and the date when the student started
1390 instruction at that institution.
- 1391 126.11(b) Student permanent records, compiled at the time of course or curriculum completion,

1392 discontinuance or withdrawal, shall be maintained in a single file for each student, for a period
1393 of not less than 20 years after the student completes the program, and contain the following
1394 information:

1395 126.11(b)(1) name, address, and date of birth;

1396 126.11(b)(2) date of enrollment;

1397 126.11(b)(3) name of curriculum, course or courses taken;

1398 126.11(b)(4) record of all final tests and grades earned for each course or curriculum;

1399 126.11(b)(5) date of completion or discontinuance; and

1400 126.11(b)(6) a notation whether a certificate or diploma was issued and the date issued.

1401 126.11(c) No school shall discontinue operation or surrender its license or registration unless
1402 written notice of its intention to do so and a plan for maintenance of safe keeping of the records
1403 of the school is provided to the commissioner at least 30 days prior to such discontinuance or
1404 surrender. Such plan shall provide for the transportation of all student records set forth in
1405 subdivision (b) of this section in a manner and to a location prescribed by the commissioner.
1406 The cost of such transfer of records shall be paid for by the school. Schools with common
1407 ownership may, with the approval of the commissioner, store such records at another school
1408 with common ownership.

1409 126.11(d) Upon the approval of the commissioner, schools may maintain student permanent
1410 records via electronic means or microfilm. Such media shall be in a format acceptable to the
1411 commissioner and transferred upon school closure or discontinuance of operation, in
1412 accordance with section 5001(8) of the Education Law and subdivision (c) of this section.

1413 126.11(e) Schools receiving Federal funds shall maintain records required by the applicable
1414 Federal statutes and regulations.

SECTION 126.12. PRIVATE SCHOOL AGENT'S CERTIFICATE

1415 126.12(a) No person shall receive any form of compensation or remuneration from any
1416 representative, agent, employee or officer of a licensed private career school for the purpose of
1417 soliciting, procuring, or enrolling students, unless such person is a salaried employee of the
1418 school and holds a valid private school agent's certificate. Each agent shall produce his or her
1419 agent certificate upon the request of the commissioner, the commissioner's designee, or any
1420 prospective student. A school shall submit an application for licensure for an agent on or
1421 before the first day of employment of such individual. Upon submission of a complete initial
1422 agent application for licensure, the commissioner shall issue a temporary approval certificate
1423 within five days of receipt of the application by mail, or on the same day at offices and times
1424 designated by the commissioner. Upon receipt of a temporary approval certificate, an applicant
1425 may procure, solicit or enroll any student. A temporary approval certificate shall be effective
1426 for up to 60 days, as determined by the commissioner, and shall be destroyed by the school
1427 upon the issuance or denial of the applicant's three-year certificate. An *initial agent application*
1428 shall mean an application submitted on behalf of an individual having never held an agent's
1429 certificate for the submitting school.

1430 126.12(b) Application for a certificate shall be made on forms furnished by the commissioner.
1431 It may be made only by the school or schools which the agent is to represent. If an agent
1432 represents more than one school, each school must apply for a certificate. If the school employs
1433 more than one agent, a separate application must be filed for each agent. The application shall
1434 request such information as the commissioner may require, including information about
1435 whether the applicant has ever been convicted of a crime or whether criminal charges are now
1436 pending. The application must be accompanied by: two full-face photographs which are a good
1437 likeness of the applicant and are one inch by one inch in dimension; certification by two
1438 persons other than employers or coworkers attesting to the good moral character of the
1439 applicant; and a nonrefundable \$200 fee payable to the Education Department except that,
1440 pursuant to Section 5004(4-a), the school director may apply for an agent's certificate without
1441 incurring the application fee. In making application for an agent's certificate, the school shall
1442 certify that through the medium of sales manuals, bulletins or other similar means, the agent is
1443 fully informed as to its courses, services, charges, enrollment conditions and operating policies,
1444 including the refund policy. The school must further certify that it assumes full responsibility
1445 for the actions, statements and conduct of its agent, acting in its behalf, and that it uses an
1446 acceptable plan for the selection, training and supervision of the agent.

1447 126.12(c) Application for the renewal of an agent's certificate shall be filed by mail no later
1448 than 30 days before the expiration of the current certificate at an office designated by the
1449 commissioner. A *renewal application* shall mean an application submitted prior to the
1450 expiration date of the current certificate. All other applications shall be filed as new
1451 applications. Certificates which have been renewed shall be valid for a period of three years
1452 from the expiration date of the certificate which has been renewed. It shall be accompanied by
1453 a nonrefundable \$200 fee payable to the Education Department.

1454 126.12(d) In the event of the dismissal or resignation of an agent, the school shall notify the
1455 commissioner in writing within 10 days thereof. The agent's certificate shall be returned with
1456 such notification.

1457 126.12(e) Agents shall not identify themselves or be identified as counselors or by other titles
1458 which mislead or tend to mislead the prospective student.

1459 126.12(f) No school may procure, solicit or enroll students unless at least one salaried
1460 employee of the school is in receipt of an agent's certificate pursuant to this section.

SECTION 126.13. EXEMPTIONS

1461 Entities that are exempt from article 101 of the Education Law and this Part are prescribed in
1462 section 5001(2) of the Education Law.

SECTION 126.14. DISCIPLINARY ACTIONS AND PENALTIES

1463 126.14(a) Disciplinary action against schools.

1464 In determining the penalty to be imposed upon a finding that disciplinary action against a
1465 school is warranted, in accordance with the provisions of Education Law, section 5003, the
1466 commissioner shall take into account the effect of the conduct which formed the basis for the
1467 disciplinary proceeding upon the students attending the school, the general public and any
1468 other affected individual or group. Prior to initiating action against schools during the initial
1469 two-year licensing period, the commissioner shall take into consideration the factors set forth
1470 in section 5003(1)(d) of the Education Law.

1471 126.14(b) Disciplinary actions against private school agents.

1472 126.14(b)(1) The commissioner, after affording a certified private school agent notice and an
1473 opportunity to be heard, may fine such agent, or suspend or revoke such agent's certificate at
1474 any time for failure to comply with the requirements of the Education Law or of this Part or
1475 for any other good cause.

1476 126.14(b)(2) Revocation or suspension of a private school agent's certificate. Where the
1477 commissioner seeks to revoke or suspend a private school agent's certificate, the certificate
1478 holder shall be given reasonable notice of the nature of the proceeding and a statement
1479 sufficiently particular to give notice of the transactions and occurrences involved and the
1480 material elements of each cause of action against the certificate holder. The certificate holder
1481 shall also be given notice of an opportunity for a hearing in accordance with subparagraph (i)
1482 of this paragraph.

1483 126.14(b)(2)(i) If a hearing is requested, the certificate holder shall be given reasonable
1484 notice of the time, place and nature of the hearing. The certificate holder may appear in
1485 person or may be represented at the hearing by an attorney, may respond and present
1486 evidence and argument on the issues involved, and may cross-examine witnesses. The
1487 hearing, at which a verbatim record shall be taken, shall be held before a hearing officer
1488 designated by the commissioner, who shall have the powers of a presiding officer in
1489 accordance with section 304 of the State Administrative Procedure Act. The strict rules of
1490 evidence shall not apply to such hearings, but the decision of the hearing officer shall be
1491 supported by substantial evidence in the record. Disposition may be made in any hearing
1492 by stipulation, agreed settlement, consent order, default or other informal method. The
1493 decision of the hearing officer shall be delivered or mailed forthwith to the certificate
1494 holder and to his or her attorney of record.

1495 126.14(b)(2)(ii) If a hearing is not requested, the commissioner shall issue a
1496 determination based upon the evidence submitted in support of the charges and any
1497 additional evidence submitted by the certificate holder.

1498 126.14(b)(3) Fines. Where the commissioner seeks to impose a fine on a certified private
1499 school agent for misconduct not warranting a more severe disciplinary penalty, the
1500 department shall serve notice of the charges upon the certificate holder either by personal

1501 service or certified mail. Such notice shall specify the basis for the charges with sufficient
1502 particularity to apprise the certificate holder of the nature of the incidents or transactions
1503 leading to the charges, and shall contain a statement that unless an answer to the charges is
1504 received by the department within 20 days after personal service of the notice or within 25
1505 days after service by certified mail, the charges will be deemed to be true and a fine will be
1506 imposed. The certificate holder may answer the charges and may submit evidence in written
1507 form, including affidavits, in support of such answer. If the commissioner finds that the
1508 charges of misconduct are supported by substantial evidence, the commissioner shall impose
1509 an appropriate fine and shall notify the certificate holder of such determination by mail.
1510 Failure to pay such a fine within four months after receipt of such notice shall constitute good
1511 cause for suspension or revocation of a private school agent's certificate.

1512 126.14(b)(4) Indemnification. No employer of a private school agent other than a school may
1513 indemnify or otherwise reimburse an agent for fines imposed on the agent pursuant to this
1514 subdivision and Education Law, section 5004(7). If the agent demonstrates, to the
1515 satisfaction of the commissioner, that the action for which the agent was fined was
1516 undertaken because of explicit instructions from the school owner, director, or other school
1517 administrator, the commissioner shall take appropriate disciplinary action against the school
1518 in accordance with Education Law, section 5003, to require the school to indemnify or
1519 reimburse the agent the amount of the fine and pay to the commissioner an additional fine of
1520 an equal amount.

1521 126.14(c) Pursuant to section 5001(9) of the Education Law, any annual assessment fees
1522 submitted by the schools to the department after the due date shall be subject to an interest
1523 penalty. The commissioner shall calculate the amount of the interest penalty as follows:

1524 126.14(c)(1) For each due date, payments made within 30 days following such due date
1525 shall be subject to an interest penalty of one percent above the prevailing prime rate.

1526 126.14(c)(2) Interest penalties not paid within 15 days of notification of the amount of
1527 the penalty may be increased in accordance with the method used by the commissioner to
1528 compute the interest penalty in the first instance.

SECTION 126.15. DISCLOSURE TO STUDENTS

1529 126.15(a) For all prospective or enrolled students, schools shall provide the following
1530 information:

1531 126.15(a)(1) all items required pursuant to section 5005 of the Education Law;

1532 126.15(a)(2) pursuant to section 5005 of the Education Law, the materials required to be
1533 disseminated to all prospective or enrolled students shall be written in the language
1534 principally used in the sales presentation, the language of instruction as approved by the
1535 commissioner and English; and

1536 126.15(a)(3) a statement, approved by the commissioner, which indicates that a student
1537 should review the approved school catalog to determine factual information about the school.

SECTION 126.16. TEACHOUT PLANS

1538 All teachout plans developed pursuant to section 5006 of the Education Law shall be submitted
1539 to the department at least 30 days prior to the implementation of the teachout plan. Teachout
1540 plans submitted less than 30 days prior to the teachout may be denied based upon a school's
1541 inability to meet such a timeline.

SECTION 126.17. TUITION REIMBURSEMENT ACCOUNT

1542 126.17(a) Pursuant to section 5007 of the Education Law, a student who was enrolled in a
1543 school which has not closed or ceased operation, and who has dropped out, is entitled to a full
1544 refund if the student has submitted a complaint form to the commissioner and the
1545 commissioner has determined that one or more of the following violations have occurred:

1546 126.17(a)(1) any violation enumerated under section 5003(6)(b) of the Education Law;

1547 126.17(a)(2) use of an unlicensed teacher in one or more of a student's courses;

1548 126.17(a)(3) use of a substitute teacher contrary to the provisions contained in section
1549 126.6(q) of this Part;

1550 126.17(a)(4) use of an unlicensed agent to procure, solicit or enroll the student;

1551
1552 126.17(a)(5) use of fraudulent or improper claims by a licensed agent or school
1553 representative to procure, solicit or enroll the student;

1554 126.17(a)(6) dismissal or termination of the student for other than just cause;

1555 126.17(a)(7) failure of the school to offer the program as approved by the commissioner;
1556 and

1557 126.17(a)(8) any additional violation in which the commissioner demonstrates that the
1558 student would not have enrolled in the school but for the commission of that violation.

1559 126.17(b) Schools ceasing operation shall be responsible for paying the assessment charged
1560 for the tuition reimbursement account for the quarter in which the school ceases operation by
1561 the due date for such quarterly payment.

1562 126.17(c) New schools. New schools, which did not operate in the year prior to licensure, will
1563 have no gross tuition upon which to be assessed until either the end of their first fiscal year or
1564 March 31st of the year after the school was licensed, whichever comes first. For schools
1565 whose fiscal year end comes before March 31st of the year after the school was licensed, a
1566 complete financial statement in compliance with the provisions set forth in section 5001(4)(e)
1567 of the Education Law is required. For new schools whose fiscal year comes later than March
1568 31st after their initial licensure date, the school shall submit an unaudited reviewed income
1569 statement for the time period between initial licensure and March 31st, detailing the amount of
1570 gross tuition received during that period. Thereafter, complete financial statements shall be
1571 required as prescribed in section 5001(4)(e) of the Education Law.

1572 126.17(d) For the purpose of calculating the balance of the tuition reimbursement account in
1573 accordance with section 5007(10)(g) of the Education Law, the commissioner shall determine
1574 the balance of the tuition reimbursement account on a quarterly basis on June first, September
1575 first, December first and March first, as defined for the collection of school assessments under
1576 section 5001(9) of the Education Law.

SECTION 126.18. ONLINE EDUCATION MARKETPLACES

1577 126.18(a) If a prospective student pays all or part of his/her tuition and/or fees to an online
1578 education marketplace in connection with such student's enrollment at a school, the
1579 prospective student and the school shall execute an enrollment agreement in accordance with
1580 section 126.7 of this Part within 30 calendar days of receipt of such monies by the online
1581 education marketplace. If an enrollment agreement is not executed within 30 calendar days,
1582 then the online education marketplace shall refund all monies received to such prospective
1583 student within 40 calendar days of receipt of such monies.

1584 126.18(b) If an enrollment agreement is executed within 30 calendar days of receipt of such
1585 monies, as described in subdivision (a) of this section, then the online education marketplace
1586 shall pay all monies it has received to the school with 10 calendar days of receipt of
1587 notification that an enrollment agreement has been executed. If the enrollment agreement is
1588 canceled pursuant to section 126.7(d)(9) of this Part, then the online education marketplace or
1589 school shall refund such monies to the student within 20 days of the cancellation of the
1590 agreement.

1591 126.18(c) An online education marketplace shall not receive from a prospective student an
1592 amount greater than the tuition or fees to be charged by the school to the student.

1593 126.18(d) An online education marketplace shall separately account for monies received from
1594 a prospective student for the payment of tuition or fees, and any remuneration and/or
1595 compensation received by the online education marketplace from a school in payment for
1596 services rendered to such school by the online education marketplace.

1597 126.18(e) A school shall also separately account for tuition or fees transferred to the school by
1598 an online education marketplace on behalf of a student in payment of tuition or fees, and any
1599 payments made by the school to an online education marketplace for services rendered to the
1600 school by the online education marketplace.

1601 126.18(f) Pursuant to section 5004(3)(b)(i)(5) of the Education Law, the Commissioner may
1602 take disciplinary action against an online education marketplace pursuant to section 5003 of
1603 the Education Law in accordance with the due process procedures set forth in subdivision (b)
1604 of section 126.14 of this Part, except that the Commissioner may impose any of the penalties
1605 set forth in section 5003 of the Education Law except those penalties set forth in subdivisions
1606 (6)(c)(3) and (6)(e) thereof.

1607 126.18(g) An online education marketplace is prohibited from offering advertising/marketing
1608 services to an unlicensed private career school or uncertified ESL school.