

## IC 22-4.1-21 Chapter 21. Postsecondary Proprietary Educational Institution Authorization Code Reference Index

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## **IC 22-4.1-21 Chapter 21. Postsecondary Proprietary Educational Institution Authorization**

### **C 22-4.1-21-1**

#### **Definitions**

Sec. 1. [IC 21-18.5-1-3](#), [IC 21-18.5-1-4](#), and [IC 21-18.5-1-5](#) apply to this chapter.

*As added by P.L.107-2012, SEC.61.*

### **IC 22-4.1-21-2**

#### **"Authorization"**

Sec. 2. As used in this chapter, "authorization" means a formal determination by the department that a:

- (1) noncredit bearing; and
- (2) nondegree granting;

postsecondary proprietary educational institution may offer courses or training in Indiana.

*As added by P.L.107-2012, SEC.61. Amended by P.L.178-2016, SEC.4; P.L.157-2023, SEC.7.*

### **IC 22-4.1-21-3**

#### **"Agent"**

Sec. 3. As used in this chapter, "agent" means a person who:

- (1) enrolls or seeks to enroll a resident of Indiana through:
  - (A) personal contact;
  - (B) telephone;
  - (C) advertisement;
  - (D) letter; or
  - (E) publications;

in a course offered by a postsecondary proprietary educational institution; or

- (2) otherwise holds the person out to the residents of Indiana as representing a postsecondary proprietary educational institution.

*As added by P.L.107-2012, SEC.61.*

### **IC 22-4.1-21-4**

#### **"Agent's permit"**

Sec. 4. As used in this chapter, "agent's permit" means a nontransferable written authorization issued to a person by the department to solicit a resident of Indiana to enroll in a course offered or maintained by a postsecondary proprietary educational institution.

*As added by P.L.107-2012, SEC.61. Amended by P.L.178-2016, SEC.5.*

### **IC 22-4.1-21-5**

#### **"Application"**

Sec. 5. As used in this chapter, "application" means a written request for authorization or an agent's permit on forms supplied by the department.

*As added by P.L.107-2012, SEC.61. Amended by P.L.178-2016, SEC.6; P.L.157-2023, SEC.8.*

### **IC 22-4.1-21-6**

#### **"Course"**

Sec. 6. As used in this chapter, "course" means a plan or program of instruction or training, whether conducted in person, by mail, or by any other method.

*As added by P.L.107-2012, SEC.61.*

**IC 22-4.1-21-7****"Fund"**

Sec. 7. As used in this chapter, "fund" refers to the student assurance fund established by section 18 of this chapter.

*As added by P.L.107-2012, SEC.61.*

**IC 22-4.1-21-8****"Person"**

Sec. 8. As used in this chapter, "person" means an individual, a partnership, a limited liability company, an association, a corporation, a joint venture, a trust, a receiver, or a trustee in bankruptcy.

*As added by P.L.107-2012, SEC.61.*

**IC 22-4.1-21-9****"Postsecondary proprietary educational institution"**

Sec. 9. As used in this chapter, "postsecondary proprietary educational institution" means a person doing business in Indiana by offering to the public, for a tuition, fee, or charge, instructional or educational services or training in a technical, professional, mechanical, business, or industrial occupation, in the recipient's home, at a designated location, or by mail. The term does not include the following:

- (1) A postsecondary credit bearing proprietary educational institution accredited by the board for proprietary education under [IC 21-18.5-6](#).
- (2) A state educational institution or another educational institution established by law and financed in whole or in part by public funds.
- (3) A postsecondary proprietary educational institution approved or regulated by any other state regulatory board, agency, or commission.
- (4) An elementary or secondary school attended by students in kindergarten or grades 1 through 12 and supported in whole or in part by private tuition payments.
- (5) Any educational institution or educational training that:
  - (A) is maintained or given by an employer or a group of employers, without charge, for employees or for individuals the employer anticipates employing.
  - (B) is maintained or given by a labor organization, without charge, for its members or apprentices.
  - (C) offers exclusively instruction that is clearly self-improvement, motivational, or avocational in intent (including instruction in dance, music, or self-defense, and private tutoring); or
  - (D) is a Montessori or nursery school.
- (6) A privately endowed two (2) or four (4) year degree granting institution that is regionally accredited and whose principal campus is located in Indiana.
- (7) All educational institutions offering programs requiring approval by the Indiana state board of nursing under [IC 25-23-1-7](#).

*As added by P.L.107-2012, SEC.61. Amended by P.L.174-2018, SEC.40.*

**IC 22-4.1-21-10****Establishment of office for career and technical school; administration**

Sec. 10. (a) The office for career and technical schools is established to carry out the responsibilities of the department under this chapter.

(b) The department may employ and fix compensation for necessary administrative staff.

(c) The department may adopt reasonable rules under [IC 4-22-2](#), including emergency rules in the manner provided under [IC 4-22-2-37.1](#), to implement this chapter.

*As added by P.L.107-2012, SEC.61. Amended by P.L.273-2013, SEC.29; P.L.178-2016, SEC.7.*

**IC 22-4.1-21-11****Purpose**

Sec. 11. The general assembly recognizes that the private school is an essential part of the educational system. It is the purpose of this chapter to protect students, educational institutions, the general public, and honest and ethical operators of private schools from dishonest and unethical practices.

*As added by P.L.107-2012, SEC.61.*

**IC 22-4.1-21-12****Doing business without authorization**

Sec. 12. A person may not do business as a postsecondary proprietary educational institution in Indiana without having obtained authorization under this chapter.

*As added by P.L.107-2012, SEC.61. Amended by P.L.157-2023, SEC.9.*

**IC 22-4.1-21-13****Applications; fee**

Sec. 13. Applications for authorization under this chapter must be filed with the department and accompanied by an application fee of at least one hundred dollars (\$100) for processing the application and evaluating the postsecondary proprietary educational institution.

*As added by P.L.107-2012, SEC.61. Amended by P.L.178-2016, SEC.8; P.L.157-2023, SEC.10.*

**IC 22-4.1-21-14****Applications; contents**

Sec. 14. An application for authorization under this chapter must include at least the following information:

- (1) The name and address of the postsecondary proprietary educational institution and the institution's officers.
- (2) The places where the courses are to be provided.
- (3) The types of courses to be offered, the form of instruction to be followed with the class, shop, or laboratory, and the hours required for each curriculum.
- (4) The form of certificate, diploma, or degree to be awarded.
- (5) A statement of the postsecondary proprietary educational institution's finances.
- (6) A description of the postsecondary proprietary educational institution's physical facilities, including classrooms, laboratories, library, machinery, and equipment.
- (7) An explicit statement of policy with reference to:
  - (A) solicitation of students;
  - (B) payment and amount of student fees; and
  - (C) conditions under which students are entitled to a refund in part or in full of fees paid, including a statement concerning the existence of the fund.
- (8) Provisions for liability insurance of students.
- (9) Maximum student-teacher ratio to be maintained.
- (10) Minimum requirements for instructional staff.

*As added by P.L.107-2012, SEC.61. Amended by P.L.157-2023, SEC.11.*

**IC 22-4.1-21-15****Application; bond**

Sec. 15. (a) This section is subject to section 16 of this chapter.

(b) An application for authorization under this chapter must include a surety bond in a penal sum determined under section 16 of this chapter. The bond must be executed by the applicant as principal and by a surety company qualified and authorized to do business in Indiana as a surety or cash bond company.

(c) The surety bond must be conditioned to provide indemnification to any student or enrollee who suffers a loss or damage as a result of:

(1) the failure or neglect of the postsecondary proprietary educational institution to faithfully perform all agreements, express or otherwise, with the student, enrollee, one (1) or both of the parents of the student or enrollee, or a guardian of the student or enrollee as represented by the application for the institution's authorization and the materials submitted in support of the application;

(2) the failure or neglect of the postsecondary proprietary educational institution to maintain and operate a course or courses of instruction or study in compliance with the standards of this chapter; or

(3) an agent's misrepresentation in procuring the student's enrollment.

(d) A surety on a bond may be released after the surety has made a written notice of the release directed to the department at least thirty (30) days before the release. However, a surety may not be released from the bond unless all sureties on the bond are released.

(e) A surety bond covers the period of the authorization.

(f) Authorization under this chapter shall be suspended if a postsecondary proprietary educational institution is no longer covered by a surety bond or if the postsecondary proprietary educational institution fails to comply with section 16 of this chapter. The department shall notify the postsecondary proprietary educational institution in writing at least ten (10) days before the release of the surety or sureties that the authorization is suspended until another surety bond is filed in the manner and amount required under this chapter.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.9; P.L. 157-2023, SEC. 12.*

**IC 22-4.1-21-16****Bond amount; determination; contributions to fund**

Sec. 16. (a) Subject to subsections (b), (d), and (e), the department shall determine the penal sum of each surety bond required under section 15 of this chapter based upon the following guidelines:

(1) A postsecondary proprietary educational institution that has no annual gross tuition charges assessed for the previous year shall secure a surety bond in the amount of twenty-five thousand dollars (\$25,000).

(2) If at any time the postsecondary proprietary educational institution's projected annual gross tuition charges are more than two hundred fifty thousand dollars (\$250,000), the institution shall secure a surety bond in the amount of fifty thousand dollars (\$50,000).

(b) After June 30, 2006, and except as provided in:

(1) section 19 of this chapter; and

(2) subsection (e);

and upon the fund achieving at least an initial one million dollar (\$1,000,000) balance, a postsecondary proprietary educational institution that contributes to the fund when the initial quarterly contribution is required under this chapter after the fund's establishment is not required to make contributions to the fund or submit a surety bond.

(c) The department shall determine the number of quarterly contributions required for the fund to initially accumulate one million dollars (\$1,000,000).

(d) Except as provided in section 19 of this chapter and subsection (e), a postsecondary proprietary educational institution that begins making contributions to the fund after the initial quarterly contribution as required under this chapter is required to make contributions to the fund for the same number of quarters as determined by the department under subsection (c).

(e) If, after the fund acquires one million dollars (\$1,000,000), the balance in the fund becomes less than five hundred thousand dollars (\$500,000), all postsecondary proprietary educational institutions not required to make contributions to the fund as described in subsection (b) or (d) shall make contributions

to the fund for the number of quarters necessary for the fund to accumulate one million dollars (\$1,000,000).

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.10.*

#### **IC 22-4.1-21-17**

##### **Curriculum catalog and promotional brochure; contents**

Sec. 17. The department shall require each postsecondary proprietary educational institution to include in each curriculum catalog and promotional brochure the following:

- (1) A statement indicating that the postsecondary proprietary educational institution is regulated by the department under this chapter.
- (2) The department's mailing address and telephone number.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.11.*

#### **IC 22-4.1-21-18**

##### **Student assurance fund; administration**

Sec. 18. (a) The student assurance fund is established to provide indemnification to a student or an enrollee of a postsecondary proprietary educational institution who suffers loss or damage as a result of an occurrence described in section 15(c) of this chapter if the occurrence transpired after June 30, 1992, and as provided in section 35 of this chapter.

(b) The department shall administer the fund.

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

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains available to be used for providing money for reimbursements allowed under this chapter.

(f) Upon the fund acquiring fifty thousand dollars (\$50,000), the balance in the fund must not become less than fifty thousand dollars (\$50,000). If:

(1) a claim against the fund is filed that would, if paid in full, require the balance of the fund to become less than fifty thousand dollars (\$50,000); and

(2) the department determines that the student is eligible for a reimbursement under the fund;

the department shall prorate the amount of the reimbursement to ensure that the balance of the fund does not become less than fifty thousand dollars (\$50,000), and the student is entitled to receive that balance of the student's claim from the fund as money becomes available in the fund from contributions to the fund required under this chapter.

(g) The department shall ensure that all outstanding claim amounts described in subsection (f) are paid as money in the fund becomes available in the chronological order of the outstanding claims.

(h) A claim against the fund may not be construed to be a debt of the state.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.12.*

**IC 22-4.1-21-19****Quarterly contributions to fund; determination; bond**

Sec. 19. (a) Subject to section 16 of this chapter, each postsecondary proprietary educational institution shall make quarterly contributions to the fund. The quarters begin January 1, April 1, July 1, and October 1.

(b) For each quarter, each postsecondary proprietary educational institution shall make a contribution equal to the STEP THREE amount derived under the following formula:

STEP ONE: Determine the total amount of tuition and fees earned during the quarter.

STEP TWO: Multiply the STEP ONE amount by one-tenth of one percent (0.1%).

STEP THREE: Add the STEP TWO amount and sixty dollars (\$60).

(c) Notwithstanding section 16 of this chapter, for a postsecondary proprietary educational institution beginning operation after September 30, 2004, the department, in addition to requiring contributions to the fund, shall require the postsecondary proprietary educational institution to submit a surety bond in an amount determined by the department for a period that represents the number of quarters required for the fund to initially accumulate one million dollars (\$1,000,000) as determined under section 16(c) of this chapter.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.13.*

**IC 22-4.1-21-20****Investigation**

Sec. 20. (a) Upon receipt of an application for authorization under this chapter, the department shall make an investigation to determine the accuracy of the statements in the application to determine if the postsecondary proprietary educational institution meets the minimum standards for authorization.

(b) During the investigation under subsection (a), the department may grant a temporary status of authorization. The temporary status of authorization is sufficient to meet the requirements of this chapter until a determination on authorization is made.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.14; P.L. 157-2023, SEC.13.*

**IC 22-4.1-21-21****Inspection fee**

Sec. 21. The cost of performing a team onsite investigation for purposes of section 20 of this chapter shall be paid by the applicant postsecondary proprietary educational institution. However, the total cost of an inspection, including room, board, and mileage that does not require travel outside Indiana, may not exceed one thousand dollars (\$1,000) for any one (1) postsecondary proprietary educational institution.

*As added by P.L. 107-2012, SEC.61.*

**IC 22-4.1-21-22****Student records; contents; submit records to department**

Sec. 22. (a) A postsecondary proprietary educational institution shall maintain at least the following records for each student:

- (1) The program in which the student enrolls.
- (2) The length of the program.
- (3) The date of the student's initial enrollment in the program.
- (4) The student's period of attendance.
- (5) The amount of the student's tuition and fees.
- (6) A copy of the enrollment agreement.

(b) Upon the request of the department, a postsecondary proprietary educational institution shall submit the records described in subsection (a) to the department.

(c) If a postsecondary proprietary educational institution ceases operation, the postsecondary proprietary educational institution shall submit the records described in subsection (a) to the department not later than thirty (30) days after the institution ceases to operate.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.15.*



### **IC 22-4.1-21-23**

#### **Authorization standards**

Sec. 23. Full authorization under this chapter may not be issued unless and until the department finds that the postsecondary proprietary educational institution meets minimum standards that are appropriate to that type or class of postsecondary proprietary educational institution, including the following minimum standards:

- (1) The postsecondary proprietary educational institution has a sound financial structure with sufficient resources for continued support.
- (2) The postsecondary proprietary educational institution has satisfactory training or educational facilities with sufficient tools, supplies, or equipment and the necessary number of work stations or classrooms to adequately train, instruct, or educate the number of students enrolled or proposed to be enrolled.
- (3) The postsecondary proprietary educational institution has an adequate number of qualified instructors or teachers, sufficiently trained by experience or education, to give the instruction, education, or training contemplated.
- (4) The advertising and representations made on behalf of the postsecondary proprietary educational institution to prospective students are truthful and free from misrepresentation or fraud.
- (5) The charge made for the training, instruction, or education is clearly stated and based upon the services rendered.
- (6) The premises and conditions under which the students work and study are sanitary, healthful, and safe according to modern standards.
- (7) The postsecondary proprietary educational institution has and follows a refund policy approved by the department.
- (8) The owner or chief administrator of the postsecondary proprietary educational institution has not been convicted of a felony.
- (9) The owner or chief administrator of the postsecondary proprietary educational institution has not been the owner or chief administrator of a postsecondary proprietary educational institution that has had its authorization revoked or has been closed involuntarily in the five (5) year period preceding the application for authorization. However, if the owner or chief administrator of the postsecondary proprietary educational institution has been the owner or chief administrator of a postsecondary proprietary educational institution that has had its authorization revoked or has been closed involuntarily more than five (5) years before the application for authorization, the department may issue full authorization at the department's discretion.

*As added by P.L.107-2012, SEC.61. Amended by P.L.178-2016, SEC.16; P.L.157-2023, SEC.14.*

### **IC 22-4.1-21-24**

#### **Issuance of authorization; renewal**

Sec. 24. (a) After an investigation and a finding that the information in the application is true and the postsecondary proprietary educational institution meets the minimum standards, the department shall issue an authorization to the postsecondary proprietary educational institution upon payment of an additional fee of at least twenty-five dollars (\$25).

(b) The department may waive inspection of a postsecondary proprietary educational institution that has been authorized by an authorizing unit whose standards are approved by the department as meeting or exceeding the requirements of this chapter.

(c) A valid license, approval to operate, or other form of authorization issued to a postsecondary proprietary educational institution by another state may be accepted, instead of inspection, if:

- (1) the requirements of that state meet or exceed the requirements of this chapter; and
- (2) the other state will, in turn, extend reciprocity to postsecondary proprietary educational institutions authorized by the department.

(d) An authorization issued under this section expires one (1) year following the authorization's issuance.

(e) An authorized postsecondary proprietary educational institution may renew the institution's authorization annually upon:

- (1) the payment of a fee of at least twenty-five dollars (\$25); and

(2) continued compliance with this chapter.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.17; P.L. 157-2023, SEC. 15.*

#### **IC 22-4.1-21-25**

##### **Revocation**

Sec. 25. Authorization under this chapter may be revoked by the department:

- (1) for cause upon notice and an opportunity for a department hearing; and
- (2) for the authorized postsecondary proprietary educational institution failing to make the appropriate quarterly contributions to the fund not later than forty-five (45) days after the end of a quarter.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.18; P.L. 157-2023, SEC. 16.*

#### **IC 22-4.1-21-26**

##### **Hearing; filing objection to order; commissioner ultimate authority**

Sec. 26. (a) A postsecondary proprietary educational institution, after notification that the institution's authorization has been refused, revoked, or suspended, may apply for a hearing before an administrative law judge of the department concerning the institution's qualifications. The application for a hearing must be filed in writing with the department not more than thirty (30) days after receipt of notice of the denial, revocation, or suspension.

(b) The department shall give a hearing promptly and with not less than ten (10) days notice of the date, time, and place. The postsecondary proprietary educational institution is entitled to be represented by counsel and to offer oral and documentary evidence relevant to the issue. The hearing shall be conducted in the manner provided under [IC 4-21.5-3](#).

(c) Not more than fifteen (15) days after a hearing, the administrative law judge shall make written findings of fact, a written decision, and a written order based solely on the evidence submitted at the hearing, either granting or denying authorization to the postsecondary proprietary educational institution.

(d) Not more than fifteen (15) days after the issuance of a written order by the administrative law judge under subsection (c), any party adversely affected by the order may file an objection to the order in writing with the commissioner and request that the commissioner review the order. The party must identify the basis of the objection with reasonable particularity. Not later than thirty (30) days after the objection is filed with the commissioner, the commissioner shall issue a final order affirming, modifying, or dissolving the administrative law judge's order. The commissioner may remand the matter, with or without instructions, to the administrative law judge for further proceedings.

(e) In the absence of an objection under subsection (d), the commissioner shall affirm the administrative law judge's order.

(f) The commissioner is the ultimate authority (as defined by [IC 4-21.5-1-15](#)) for the department.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.19; P.L. 157-2023, SEC. 17.*

#### **IC 22-4.1-21-27**

##### **Suspension**

Sec. 27. A postsecondary proprietary educational institution's authorization shall be suspended at any time if the authorized postsecondary proprietary educational institution denies enrollment to a student or makes a distinction or classification of students on the basis of race, color, or creed.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 157-2023, SEC.18.*

**IC 22-4.1-21-28****Representations**

Sec. 28. A person may not do the following:

- (1) Make, or cause to be made, a statement or representation, oral, written, or visual, in connection with the offering or publicizing of a course, if the person knows or should reasonably know the statement or representation is false, deceptive, substantially inaccurate, or misleading.
- (2) Promise or guarantee employment to a student or prospective student using information, training, or skill purported to be provided or otherwise enhanced by a course, unless the person offers the student or prospective student a bona fide contract of employment agreeing to employ the student or prospective student for a period of at least ninety (90) days in a business or other enterprise regularly conducted by the person in which that information, training, or skill is a normal condition of employment.
- (3) Do an act that constitutes part of the conduct of administration of a course if the person knows, or should reasonably know, that the course is being carried on by the use of fraud, deception, or other misrepresentation.

*As added by P.L. 107-2012, SEC.61.*

**IC 22-4.1-21-29****Agent's permit; liability of institution**

Sec. 29. (a) A person representing a postsecondary proprietary educational institution doing business in Indiana by offering courses may not sell a course or solicit students for the institution unless the person first secures an agent's permit from the department. If the agent represents more than one (1) postsecondary proprietary educational institution, a separate agent's permit must be obtained for each institution that the agent represents.

(b) Upon approval of an agent's permit, the department shall issue a pocket card to the person that includes:

- (1) the person's name and address;
- (2) the name and address of the postsecondary proprietary educational institution that the person represents; and
- (3) a statement certifying that the person whose name appears on the card is an authorized agent of the postsecondary proprietary educational institution.

(c) The application must be accompanied by a fee of at least ten dollars (\$10).

(d) An agent's permit is valid for one (1) year from the date of its issue. An application for renewal must be accompanied by a fee of at least ten dollars (\$10).

(e) A postsecondary proprietary educational institution is liable for the actions of the institution's agents.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.20.*

**IC 22-4.1-21-30****Temporary permit; revocation of permit**

Sec. 30. (a) An application for an agent's permit must be granted or denied by the department not more than fifteen (15) working days after the receipt of the application. If the department has not completed a determination with respect to the issuance of a permit under this section within the fifteen (15) working day period, the department shall issue a temporary permit to the applicant. The temporary permit is sufficient to meet the requirements of this chapter until a determination is made on the application.

(b) A permit issued under this chapter may, upon ten (10) days notice and after a hearing, be revoked by the department:

- (1) if the holder of the permit solicits or enrolls students through fraud, deception, or misrepresentation; or
- (2) upon a finding that the permit holder is not of good moral character.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.21.*

**IC 22-4.1-21-31****Remedy; damages or other relief**

Sec. 31. The fact that a bond is in force or that the fund exists does not limit or impair a right of recovery and the amount of damages or other relief to which a plaintiff may be entitled under this chapter. *As added by P.L.107-2012, SEC.61.*

**IC 22-4.1-21-32****Remedy; void contracts**

Sec. 32. An obligation, negotiable or nonnegotiable, providing for payment for a course or courses of instruction is void if the postsecondary proprietary educational institution is not authorized to operate in Indiana.

*As added by P.L.107-2012, SEC.61. Amended by P.L.157-2023, SEC.19.*

**IC 22-4.1-21-33****Misrepresentation**

Sec. 33. The issuance of an agent's permit or any authorization may not be considered to constitute approval of a course, a person, or an institution. A representation to the contrary is a misrepresentation.

*As added by P.L.107-2012, SEC.61. Amended by P.L.157-2023, SEC.20.*

**IC 22-4.1-21-34****Claims by students for loss or damage; investigation; limitations; claim against balance of fund**

Sec. 34. (a) This section applies to claims against the surety bond of a postsecondary proprietary educational institution.

(b) A student who believes that the student is suffering loss or damage resulting from any of the occurrences described in section 15(c) of this chapter may request the department to file a claim against the surety of the postsecondary proprietary educational institution or agent.

(c) The request must state the grounds for the claim and must include material substantiating the claim.

(d) The department shall investigate all claims submitted to the department and attempt to resolve the claims informally. If the department determines that a claim is valid, and an informal resolution cannot be made, the department shall submit a formal claim to the surety.

(e) A claim against the surety bond may not be filed by the department unless the student's request under subsection (b) is commenced not more than five (5) years after the date on which the loss or damage occurred.

(f) If the amount of the surety bond is insufficient to cover all or part of the claim, a claim for the balance of the claim against the surety bond in the amount that is insufficient must be construed to be a claim against the balance of the fund under section 35 of this chapter.

*As added by P.L.107-2012, SEC.61. Amended by P.L.178-2016, SEC.22.*

**IC 22-4.1-21-35****Claims against balance of fund for reimbursement of tuition and fees; determination; priorities**

Sec. 35. (a) This section applies:

- (1) to claims against the balance of the fund; and
- (2) in cases in which a student or an enrollee of a postsecondary proprietary educational institution is protected by both a surety bond and the balance of the fund, only after a claim against the surety bond exceeds the amount of the surety bond.

(b) A student or an enrollee of a postsecondary proprietary educational institution who believes that the student or enrollee has suffered loss or damage resulting from any of the occurrences described in section 15(c) of this chapter may request the department to file a claim with the department against the balance of the fund. If there is a surety bond in an amount sufficient to cover a claim or part of a claim under this section, a claim against the balance of the fund must be construed to be a claim against the surety bond first to the extent that the amount of the surety bond exists and the balance of the claim may be filed against the balance of the fund.

(c) A claim under this section is limited to a refund of the claimant's applicable tuition and fees.

(d) All claims must be filed not later than five (5) years after the occurrence that results in the loss or damage to the claimant.

(e) Upon the filing of a claim under this section, the department shall review the records submitted by the appropriate postsecondary proprietary educational institution described under section 22 of this chapter and shall investigate the claim and attempt to resolve the claim as described in section 34(d) of this chapter.

(f) Upon a determination by the department that a claimant shall be reimbursed under the fund, the department shall prioritize the reimbursements under the following guidelines:

- (1) A student's educational loan balances.
- (2) Federal grant repayment obligations of the student.
- (3) Other expenses paid directly by the student.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.23.*

**IC 22-4.1-21-36****Relief; injunction**

Sec. 36. The prosecuting attorney of the county in which an offense under this chapter occurred shall, at the request of the department or on the prosecuting attorney's own motion, bring any appropriate action, including a mandatory and prohibitive injunction.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.24.*

**IC 22-4.1-21-37****Review**

Sec. 37. An action of the department concerning the issuance, denial, or revocation of a permit or authorization under this chapter is subject to review under [IC 4-21.5](#).

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.25; P.L. 157-2023, SEC.21.*

**IC 22-4.1-21-38****Violations**

Sec. 38. (a) Except as provided in subsection (b), a person who knowingly, intentionally, or recklessly violates this chapter commits a Class B misdemeanor.

(b) A person who, with intent to defraud, represents the person to be an agent of a postsecondary proprietary educational institution commits a Level 5 felony.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 158-2013, SEC.253.*

**IC 22-4.1-21-39**

**Establishment of proprietary educational institution authorization fund; collection of fees**

Sec. 39. (a) The proprietary educational institution authorization fund is established.

(b) The proprietary educational institution authorization fund shall be administered by the department.

(c) Money in the proprietary educational institution authorization fund at the end of a state fiscal year does not revert to the general fund.

(d) All fees collected by the department under this chapter shall be deposited in the proprietary educational institution authorization fund.

(e) Money in the proprietary educational institution authorization fund shall be used by the department to administer this chapter.

*As added by P.L. 107-2012, SEC.61. Amended by P.L. 178-2016, SEC.26; P.L. 157-2023, SEC.22.*