

Summary of Proposed Revisions to WAC 490-105

The amendments to the WAC are for the purpose of implementing the provisions of HB2228 (2014), that effective January 1, 2016, allow a Washington resident/student that has tuition paid by a state agency or business to file a complaint alleging an unfair business practice or in the event a school closes. In the event of a determination finding a student suffered a loss of compensation as result of an unfair business practice or school closure, the Workforce Board may obligate restitution of tuition and fees from the Tuition Recovery Trust Fund to the sponsoring agency or business. In addition, the purpose is to clarify and revise definitions; improve language; correct technical errors and omissions; and reflect further development of Workforce Board policies regarding the conduct of its work and the implementation of the Act.

1. Revise WAC Section headings. Remove question format and restate header for clarity.
2. Combine 490-105-010 (purpose of regulations), and 490-105-020 (who administers the rules) for simplicity and clarity (eliminate 490-105-020)
3. 490-105-030 "Definitions"
 - 490-105-030(1)(a),(b),& (c) clarifying exemptions under RCW 28C.10.030 moved to 490-105-100(2),(3), & (4)
 - 490-105-030(5), "At risk" moved to 490-105-175(2)

Add new definitions:

- Accreditation
 - Admission requirement
 - Auxiliary location
 - Externship/internship
 - Just Cause
 - Ownership [moved from 490-105-040(1)(e)]
 - Out-of-State school
 - Physical presence
 - Provisional license
 - Sponsored student
 - Tuition
 - Washington resident
4. 490-105-040. Clarify minimum standards and create separate WAC sections for primary licensing requirements from section 040 as follows:

490-105-040 Initial School Licensure Requirements

490-105-041 Annual License Renewal Requirements

490-105-042 Catalog Requirements [moved from 040(5)]

490-105-043 Enrollment Agreement Requirements [moved from 040(6)]

490-105-044 Instructor and Administrator Qualifications [moved from 040(7)]

5. 490-105-050 Sales agent registration
Minor clarification to subparagraphs (1) and (6)
6. 490-105-060 Licensing Off-campus Activities
 - New subparagraph (1) establishes criteria that constitute educational activities conducted at an off-campus location that require that require approval as a licensed auxiliary facility location.
 - Subparagraph (2) clarifies exemption criteria for situational off-campus activities .
7. 490-105-070 License Fees (combine 090 with 070 and eliminate 490-105-090)
8. 490-105-080 Tuition Recovery Trust Fund Fees
Amend section as a result of HB 2228-14:
 - New subparagraph (1)(c), agency may use the TRTF to pay for a learning assessment to determine viable teach-out opportunity at another school.
 - New subparagraph (1)(d), if the agency and student determine that a teach-out at another school is not available, a student may be entitled to a full refund of tuition and fees.

Amend Subparagraph (4) to change TRTF contribution schedule from semi-annual fee to annual fee to coincide with a school's annual license renewal to align TRTF payments to the license renewal due date to accommodate schools that desire to make one annual payment for all fees. A school may elect to remain on a semi-annual payment basis.

9. 490-105-090 How often must a license be renewed?
Eliminate sec 090 and combine with 490-105-070.
10. 490-105-100 Exemptions from Licensing Requirements
Moved 490-105-030(1)(a),(b), & (c) to 490-105-100(2),(3) & (4)
Clarified "conducting educational programs" from RCW 28C.10.030(1), to include courses offered by a third party pursuant to written contract with a trade, business, or professional organization for the training of its employees or members for which the employee or member are not charged a fee.

11. 490-105-110 Display of Licenses and Notice of Status Change
No changes
12. 490-105-120 Ownership Change
Amend (2)(b) to include statement of responsibility of new ownership to respond to student complaints and comply with agency orders.
13. 490-105-130 Minimum Requirements for Student Refunds
- New subparagraphs (2), (3), & (4) requirements to calculate student termination or withdraw from school;
 - Clarify existing refund language for resident/classroom program, distance education, and discontinued programs
14. 490-105-140 Student Admission Standards
No changes.
15. 490-105-150 Program, Facility, and Equipment Standards
- New subparagraph (4) approval of education programs and withdrawal of a program from another approving agency
 - New subparagraph (5) externship/internship requirements as part of an approved program
16. 490-105-160 Annual Student Data Reporting
New additional reporting criteria
- New subparagraph (11), Veteran Status;
 - New (12), GPA or Pass/Fail;
 - New (13), If completed, type of credential earned;
17. 490-105-170 Unfair Business Practices
Further defined and clarified an unfair business practices:
- (2) In addition to the actions described in RCW 28C.10.110 it is an unfair business practice for a private vocational school or its agent to:
- New subparagraph (2)(b), Represent, directly or by implication, that there is a substantial demand for persons completing any programs offered by the school unless the school has reasonable basis for the representation, documented by objective and statistically valid data;
 - New (2)(c), Make, or perpetuate any false or deceptive statements in regard to any other postsecondary school, whether private or public;
 - New (4)(d), Fail to follow the Private Vocational School Act or its supporting regulations;
 - New (2)(h), Discriminate against students or potential students on the basis of race, creed, color, national origin, sex, veteran or military status, sexual

orientation, or the presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a person with a disability.

- New (4)(e), A school shall not advertise as an employment agency;
- New (4)(f), A school shall not deceptively advertise in conjunction with any other business or establishment;

18. 490-105-175 Conditions for Placing a School in an “At risk” status

- Move definition of “At risk” from 490-105-030(5) to this section, 490-105-175(2). Moved 490-105-040(4)(a) to 490-105-175(1);
- New subparagraph (8) requires that a school deemed “at-risk” that met its corrective action plan to be issued a provisional license until the next renewal

19. 490-105-180 Student complaints

Revise subparagraph (3)(a) and include new subsection(i): to reflect 2014 legislation (HB2228), that effective January 1, 2016, allows a Washington resident/student that has tuition paid by a state agency or business to file a complaint alleging an unfair business practice or if a school closes. In the event of a determination finding a student suffered a loss of compensation as result of an unfair business practice or school closure, the Workforce Board may obligate restitution of tuition and fees from the Tuition Recovery Trust Fund to the sponsoring agency or business.

20. 490-105-190 Actions a School can Appeal

No changes.

21. 490-105-200 Requirements for Records Retention

- New subparagraph (3) to require schools to maintain student transcripts in electronic format as primary form of record;
- Revise subparagraph (4) revise subsection to require schools to maintain catalog for ten years (from one-year);

22. 490-105-210 School Closure

- New subparagraph (7) to require a closed school to ensure all advertising activities have ceased, including school website to be deactivated;
- New subparagraph (8) to require a school upon giving notice to close to report annual student data

23. 490-105-220 Notice of Adverse Actions and Change of Circumstances.

No changes.

24. 490-105-230 Application of Rules to Degree-granting private vocational schools
Corrected reference to HECB to reflect WSAC