

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF EDUCATION  
February 1, 1991

SUBJECT: LICENSED PRIVATE SCHOOLS MEMORANDUM #30  
Board-Approved Private Surety Fund

TO: Chief Executive Officers/Directors  
Licensed/Registered Private Schools

FROM: Dr. Jane A. Stockdale  
Coordinating Secretary  
State Board of Private Licensed Schools

The State Board of Private Licensed Schools Regulation §73.54 requires a school to file with the Board evidence that it has surety available. The purpose of surety is to reimburse unearned tuition due students when a school closes. Regulation §73.54 also prescribes required surety levels and accepted forms of surety. There are two accepted forms of surety: (1) a surety bond and (2) participation in a Board-approved private surety fund.

SCHOOL ADMINISTRATORS WHO ARE REQUIRED TO PROVIDE COLLATERAL FOR THE FULL AMOUNT OF THEIR SURETY BONDS MAY NOW PARTICIPATE IN A BOARD-APPROVED PRIVATE SURETY FUND INSTEAD. SCHOOLS ELECTING TO PARTICIPATE IN SUCH A FUND CAN DO SO BY DOING THE FOLLOWING:

1. A school may become part of, or create, a private school surety fund by depositing in a bank account the full amount of its surety requirement as prescribed in Regulation §73.54.
2. The account must be in the form of an IRREVOCABLE ADMINISTRATIVE TRUST. This trust must be payable to the Pennsylvania Department of Education, State Board of Private Licensed Schools within thirty calendar days of the date the school closes. After the Board determines that all student claims have been satisfied, the remaining monies will be returned to the depositor. Or, if the school makes satisfactory teach out arrangements, the money reverts to the depositor.
3. A school must submit to the Board a statement which has been executed and signed by a bank providing assurance that:
  - a. The full amount (dollar amount must be specified) of the required surety amount has been deposited in an irrevocable administrative trust fund.
  - b. The Pennsylvania Department of Education, State Board of Private Licensed Schools is the beneficiary if the school closes without having provided a teach out.
  - c. When a school closes, the full amount of the irrevocable trust fund is payable to the Pennsylvania Department of Education, State Board of Private Licensed Schools, within 30 calendar days, unless the Board is satisfied that

all students were provided an opportunity for a teach out. In this case, the Board will authorize return of the full amount of the trust to the depositor.

- d. If student claims exceed the amount of the trust, the amount available will be prorated among all valid claims.
- e. If student claims are less than the full amount of the trust fund, the Board will only request the amount to satisfy the valid student claims. The remaining amount will be returned to the depositor once the Board determines that all valid student claims have been satisfied.
- f. Cancellation of the agreement by the bank must be made by giving the Board written notice 30 days in advance of the cancellation. The notice must be delivered to the Board by certified mail, return receipt requested.
- g. The bank shall provide the Board with an annual statement of account indicating the balance in the trust fund.

These criteria take effect immediately. Any school administrator who wishes to use this option should contact Mr. James Hobbs at (717) 783-8228 for details.

JAS/pse/9/D0732