



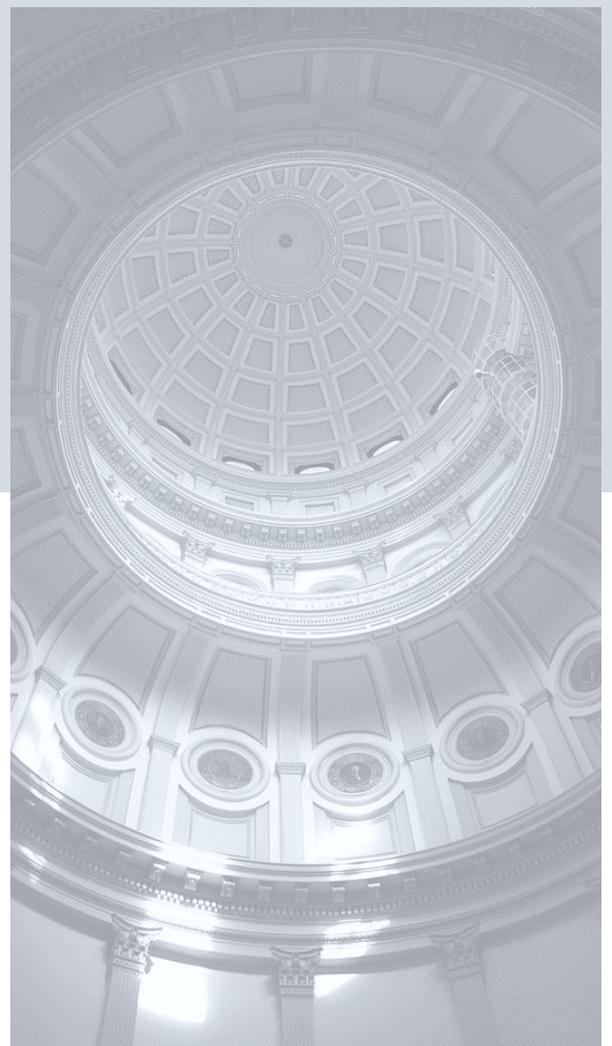
COLORADO

**Department of
Regulatory Agencies**

Colorado Office of Policy, Research &
Regulatory Reform

2023 Sunset Review

Private Occupational Education
Act of 1981



October 13, 2023



COLORADO

Department of
Regulatory Agencies

Executive Director's Office

October 13, 2023

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Pursuant to section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) at the Department of Regulatory Agencies (DORA) undertakes a robust review process culminating in the release of multiple reports each year on October 15.

A national leader in regulatory reform, COPRRR takes the vision of their office, DORA and more broadly of our state government seriously. Specifically, COPRRR contributes to the strong economic landscape in Colorado by ensuring that we have thoughtful, efficient, and inclusive regulations that reduce barriers to entry into various professions and that open doors of opportunity for all Coloradans.

As part of this year's review, COPRRR has completed an evaluation of the Private Occupational Education Act of 1981. I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2024 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Article 64 of Title 23, C.R.S. The report also discusses the effectiveness of the Private Occupational School Board in carrying out the intent of the statutes and makes recommendations for statutory changes for the review and discussion of the General Assembly.

To learn more about the sunset review process, among COPRRR's other functions, visit coprrr.colorado.gov.

Sincerely,

Patty Salazar
Executive Director





Sunset Review: Private Occupational Education Act of 1981

Background

What is regulated?

The Private Occupational Education Act of 1981 (Act) is created in section 23-64-101, *et seq.*, Colorado Revised Statutes, and provides regulatory oversight of private occupational schools. Private occupational schools, which are also referred to as vocational or trade schools, charge tuition for postsecondary education and training, offering services or credentials that constitute occupational education.

Why is it regulated?

The purpose of the Act is to provide standards for and to foster and improve private occupational schools and their educational services and to protect Coloradans against fraudulent or substandard schools.

Who is regulated?

To operate a private occupational school in Colorado, an applicant is required to obtain a certificate of approval from the Private Occupational School Board (Board) in the Department of Higher Education. Agents who are associated with in-state private occupational schools are required to be registered.

How is it regulated?

The Board consists of seven members, all of whom are appointed by the Governor with the consent of the Senate and serve four-year terms provides oversight of private occupational schools in Colorado.

What does it cost?

In fiscal year 21-22, the Division of Private Occupational Schools expended \$1,436,022 and allotted 9.8 full-time equivalent employees to implement the program.

What disciplinary activity is there?

In fiscal years 17-18 through 21-22, there were 352 complaints filed against private occupational schools and registered agents, and 149 disciplinary actions were imposed by the Board.

Key Recommendations

- Continue the Act for 11 years, until 2025.
- Amend the Act to require a change of ownership to be approved by the Board prior to the change.

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Background

Sunset Criteria

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria¹ and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are guided by statutory criteria and sunset reports are organized so that a reader may consider these criteria while reading. While not all criteria are applicable to all sunset reviews, the various sections of a sunset report generally call attention to the relevant criteria. For example,

- In order to address the first criterion and determine whether the program under review is necessary to protect the public, it is necessary to understand the details of the profession or industry at issue. The Profile section of a sunset report typically describes the profession or industry at issue and addresses the current environment, which may include economic data, to aid in this analysis.
- To address the second sunset criterion--whether conditions that led to the initial creation of the program have changed--the History of Regulation section of a sunset report explores any relevant changes that have occurred over time in the regulatory environment. The remainder of the Legal Framework section addresses the fifth sunset criterion by summarizing the organic statute and rules of the program, as well as relevant federal, state and local laws to aid in the exploration of whether the program's operations are impeded or enhanced by existing statutes or rules.
- The Program Description section of a sunset report addresses several of the sunset criteria, including those inquiring whether the agency operates in the public interest and whether its operations are impeded or enhanced by existing statutes, rules, procedures and practices; whether the agency or the agency's board performs efficiently and effectively and whether the board, if applicable, represents the public interest.
- The Analysis and Recommendations section of a sunset report, while generally applying multiple criteria, is specifically designed in response to the fourteenth criterion, which asks whether administrative or statutory changes are necessary to improve agency operations to enhance the public interest.

¹ Criteria may be found at § 24-34-104, C.R.S.

These are but a few examples of how the various sections of a sunset report provide the information and, where appropriate, analysis required by the sunset criteria. Just as not all criteria are applicable to every sunset review, not all criteria are specifically highlighted as they are applied throughout a sunset review. While not necessarily exhaustive, the table below indicates where these criteria are applied in this sunset report.

**Table 1
Application of Sunset Criteria**

Sunset Criteria	Where Applied
(I) Whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare.	<ul style="list-style-type: none"> • Profile of the Industry • History of Regulation • Recommendations 1 and 2
(II) Whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less, or the same degree of governmental oversight.	<ul style="list-style-type: none"> • History of Regulation • Recommendation
(III) If the program is necessary, whether the existing statutes and regulations establish the least restrictive form of governmental oversight consistent with the public interest, considering other available regulatory mechanisms.	<ul style="list-style-type: none"> • Legal Framework
(IV) If the program is necessary, whether agency rules enhance the public interest and are within the scope of legislative intent.	<ul style="list-style-type: none"> • Legal Framework
(V) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters.	<ul style="list-style-type: none"> • Legal Framework • Program Description and Administration
(VI) Whether an analysis of agency operations indicates that the agency or the agency’s board or commission performs its statutory duties efficiently and effectively.	<ul style="list-style-type: none"> • Program Description and Administration
(VII) Whether the composition of the agency’s board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.	<ul style="list-style-type: none"> • Legal Framework • Program Description and Administration
(VIII) Whether regulatory oversight can be achieved through a director model.	<ul style="list-style-type: none"> • Program Description and Administration • Recommendation 1
(IX) The economic impact of the program and, if national economic information is not available, whether the agency stimulates or restricts competition.	<ul style="list-style-type: none"> • Profile of the Industry

Sunset Criteria	Where Applied
(X) If reviewing a regulatory program, whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession or regulated entity.	<ul style="list-style-type: none"> Program Description and Administration
(XI) If reviewing a regulatory program, whether the scope of practice of the regulated occupation contributes to the optimum use of personnel.	<ul style="list-style-type: none"> Program Description and Administration
(XII) Whether entry requirements encourage equity, diversity, and inclusivity.	<ul style="list-style-type: none"> Not Available
(XIII) If reviewing a regulatory program, whether the agency, through its licensing, certification, or registration process, imposes any sanctions or disqualifications on applicants based on past criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subsection (5)(a) of this section must include data on the number of licenses, certifications, or registrations that the agency denied based on the applicant's criminal history, the number of conditional licenses, certifications, or registrations issued based upon the applicant's criminal history, and the number of licenses, certifications, or registrations revoked or suspended based on an individual's criminal conduct. For each set of data, the analysis must include the criminal offenses that led to the sanction or disqualification.	<ul style="list-style-type: none"> Not Applicable
(XIV) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.	<ul style="list-style-type: none"> Not Applicable

Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated industry and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review on COPRRR's website at coprrr.colorado.gov.

The functions of the Private Occupational School Board (Board) and Division of Private Occupational Schools (DPOS), as enumerated in Article 64 of Title 23, Colorado Revised Statutes (C.R.S.), shall terminate on September 1, 2024, unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the Board pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation should be continued and to evaluate the performance of the Board and DPOS. During this review, the Board must demonstrate that the program serves the public interest. COPRRR's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

Methodology

As part of this review, COPRRR staff interviewed DPOS staff, practitioners, and officials with state and national professional associations; and reviewed complaint file summaries, Colorado statutes and rules, and the laws of other states.

The major contacts made during this review include, but are not limited to:

- Colorado School of Healing Arts
- Distance Education Accrediting Commission
- Division of Private Occupational Schools staff
- Minnesota Office of Higher Education
- National Accrediting Commission of Arts & Sciences, Inc.
- North Dakota University
- Private Occupational Schools Board members
- Texas Higher Education Coordinated Board

In July 2023, COPRRR staff conducted a survey of all schools operating under a certificate of authority as well as regulated agents. The survey was sent to 243 schools and regulated agents. The survey received 625 responses, which is a 13 percent response rate. Survey results may be found in Appendix A.

Profile of the Industry

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by the sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The first criterion asks whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare.

To understand the need for regulation, it is first necessary to recognize what the industry does, who it serves and any necessary qualifications.

Private occupational schools, which are also referred to as vocational or trade schools, charge tuition for postsecondary education and training, offering services or credentials that constitute occupational education.² Occupational education is,

any education or training designed to facilitate the vocational, technical or occupational development of individual persons which is conducted as part of a program of training, instruction or study designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations requiring less than a four-year baccalaureate degree.³

There are a variety of schools that offer a credential to students who complete a program of study. Currently, in Colorado, there are more than 250 in-state private occupational schools and 20 out-of-state schools that deliver education or training in a variety of occupational areas. Out-of-state schools represent those schools that are located wholly outside of Colorado, but which solicit, recruit, and enroll students within the state of Colorado. The out-of-state schools are ultimately regulated by the state where they are domiciled. However, Colorado does regulate agents who represent out of state schools.

The types of private occupational schools include, but are in no way limited to:

- Automobile technician,
- Bartending,
- Construction,
- Culinary,
- Cosmetology,
- Dental assistant,
- Electrician,
- Heating/ventilation/air conditioning,

² Colorado Department of Higher Education. *Frequently Asked Questions for Schools*. Retrieved July 19, 2023, from cdhe.colorado.gov/school-resources/frequently-asked-questions-for-schools

³ Colorado Department of Higher Education. *Frequently Asked Questions for Schools*. Retrieved July 19, 2023, from <https://cdhe.colorado.gov/school-resources/frequently-asked-questions-for-schools>

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- Message therapy,
 - Pharmacy technician, and
 - Real estate.

Many of the schools that offer a credential to students utilize a classroom learning component, a practical application component or both. Many will use the same or similar equipment while training that a student will use on the job. The instructors are individuals who have extensive practical workforce experience in the areas in which they teach.

In Colorado, private occupational schools are regulated by the Private Occupational School Board in the Department of Higher Education. There is also direction from the federal government and accreditation by nongovernmental organizations. Online education services are regulated by the state in which they have a physical presence.

To be eligible for federal financial aid money, the U.S. Department of Education (DOE) directs that a facility must be accredited by a DOE-approved accrediting organization.

The accrediting organizations are generally nationally- or regionally based, nongovernmental organizations that approve the subject matter being presented at the facility. Accreditation is a status granted to a facility that meets or exceeds the stated criteria of educational quality demanded by the accrediting organization. Aside from the financial aid piece, the purposes of accreditation are to assess and augment the educational value of a facility, to promote consistency among facilities, and provide measures for accountability.

States generally regulate the business aspects of the facility. Facility advertising, its financial solvency, instructor qualifications, and the physical facility are among the concerns attended to by regulators in Colorado. If a facility chooses not to accept federal financial aid money, then it is only subject to business regulation by the state. In those cases, the Board is the sole regulating entity responsible for ensuring the quality of each educational operation.

The ninth sunset criterion questions the economic impact of the program and, if national economic information is not available, whether the agency stimulates or restricts competition.

According to the Bureau of Labor Statistics, the median annual salary for technical and vocational school careers is more than \$59,000. Also, in 2009, the National Center for Education Statistics reported that professionals with an occupational credential benefited from higher employment rates than persons with an academic credential.⁴

Many vocational professions offer competitive salaries for persons who complete the

⁴ Accredited Schools Online. *Trade School vs. College: Which Should You Go?* Retrieved September 1, 2023, from <https://www.accreditedschoolsonline.org/resources/trade-school-vs-college/#:-:text=Most%20vocational%20programs%20take%20two,a%20variety%20of%20career%20paths>.

training. For example, the following are the median salary, nationally, for some vocational professions:⁵

- Plumber - \$55,160
- Electrician - \$56,180
- Dental hygienist - \$76,220

⁵ Best Colleges. *The Value of Trade Schools in Today's Economy*. Retrieved August 21, 2023, from <https://www.bestcolleges.com/trades/the-value-of-trade-schools/>

Legal Framework

History of Regulation

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by the sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The first sunset and second sunset criteria question:

Whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare; and

Whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less or the same degree of governmental oversight.

One way that COPRRR addresses this is by examining why the program was established and how it has evolved over time.

Regulation of private occupational schools began in 1966 with the State Board for Community Colleges and Occupational Education. Subsequently, the General Assembly adopted the Private Occupational Education Act of 1981 (Act).

The Division of Private Occupational Schools (DPOS) was created inside the Colorado Department of Higher Education (CDHE) in 1990. DPOS was created specifically for the purpose of providing regulatory oversight of this type of educational facility. In 1998, the Private Occupational School Board (Board) was created. The Board was created to provide regulatory oversight of private occupational schools and DPOS provides administrative support to the Board.

COPRRR conducted a sunset review in 2014, which was the first sunset review completed concerning the Act. The 2014 sunset report, among other things, recommended that the Board be authorized to issue cease and desist orders to facilities that are operating in violation of the Act. The recommendation was enacted by the General Assembly.

Legal Summary

The third, fourth, fifth and seventh sunset criteria question:

Whether the existing statutes and regulations establish the least restrictive form of governmental oversight consistent with the public interest, considering other available regulatory mechanisms;

Whether agency rules enhance the public interest and are within the scope of legislative intent;

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters; and

Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.

A summary of the current statutes and rules is necessary to understand whether regulation is set at the appropriate level and whether the current laws are impeding or enhancing the agency's ability to operate in the public interest.

The Act is created in section 23-64-101, *et seq.*, C.R.S., and provides regulatory oversight of private occupational schools.

The purpose of the Act is to provide standards for and to foster and improve private occupational schools and their educational services and to protect Coloradans against fraudulent or substandard schools.⁶

Private occupational schools are defined in the Act as,

Any entity or institution for profit or not for profit located within or without Colorado that offers educational credentials or educational services that constitute occupational education in Colorado and that is not specifically exempt from the Act.⁷

Occupational education is defined as,

Any education designed to facilitate the vocational, technical or occupational development of individual persons, including, but not limited to, vocational or technical training or retraining that is given in schools or classes, including field or laboratory work incident thereto, that is conducted as part of a program designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations requiring less than a four-year baccalaureate degree.⁸

The Board enforces the Act. The Board consists of seven members, all of whom are appointed by the Governor with the consent of the Senate and serve four-year terms.⁹ Three members must be owners or operators of private occupational schools that receive Title IV funds (Title IV funds refer to federal student aid programs authorized

⁶ § 23-64-102(1), C.R.S.

⁷ § 23-64-103(20), C.R.S.

⁸ § 23-64-103(17), C.R.S.

⁹ §§ 23-64-107(3) and (5), C.R.S.

under Title IV of the federal Higher Education Act of 1965). Four members must represent the general public. At least one public member must be employed by a lending institution which is located in Colorado and must be familiar with federal loans and funds authorized in Title IV. At least two public members must be owners or operators of Colorado businesses that employ students who are enrolled in schools subject to the Act.¹⁰

The powers and duties of the Board, include, but are not limited to:¹¹

- Establish minimum criteria in conformity with minimum standards established in the Act, including quality of education, ethical business practices and fiscal responsibility that an applicant for certificate of approval must meet before the certificate of approval is issued and continued in effect;
- Establish criteria that an applicant for an agent's permit must meet before the agent's permit is issued and continued in effect;
- Consult with DPOS staff concerning interstate reciprocity agreements;
- Receive, investigate and evaluate as it deems necessary, and act upon applications for certificates of approval, agent permits and changes of ownership;
- Require the posting of appropriate notices on the school premises notifying students of any school closure by operation of law;
- Investigate any entity that is within the jurisdiction of the Act and the Board, to subpoena any persons, books, records or documents pertaining to an investigation;
- Require answers in writing, under oath, to questions propounded by the Board;
- Administer an oath or affirmation to any person in connection with an investigation; and
- Deny or revoke an out-of-state agent's permit if it is determined that the agent is not in compliance with the Act.

The Board is required to have at least four meetings per year.¹²

DPOS is responsible for administrative functions related to the Board.¹³ Specifically, DPOS has the following powers and duties:¹⁴

- Publish a list of schools and maintain a list of agents authorized to operate in Colorado;
- Receive or cause to be maintained a permanent file, copies of educational, financial and other records; and

¹⁰ § 23-64-107(3), C.R.S.

¹¹ § 23-64-108(1), C.R.S.

¹² § 23-64-107(6), C.R.S.

¹³ § 23-64-105, C.R.S.

¹⁴ § 23-64-106, C.R.S.

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- Negotiate and enter into interstate reciprocity agreements with similar agencies whenever, in the judgement of DPOS and the Board, such agreements will be helpful in effecting the purpose of the Act.

To operate a private occupational school in Colorado, and applicant is required to obtain a certificate of approval from the Board. An application for a certificate of approval must include the following:¹⁵

- A catalog published or proposed to be published by the school containing the information specified in the criteria promulgated by the Board;
- A description of the school's placement assistance, if any;
- Documentation necessary to establish the applicant's financial stability as required by the minimum standards and bond requirements specified in the Act;
- Copies of media advertising and promotional literature;
- Copies of all student enrollment or contract forms and instruments evidencing indebtedness;
- A surety bond as required by the Act;
- A fee as required by the Act; and
- The name and Colorado address of a designated agent upon whom any process, notice or demand may be served.

Once a private occupational school obtains a certificate of approval it is required to comply with minimum standards established by the Board, which include:¹⁶

- The private occupational school must demonstrate that it has sufficient resources to fulfill its commitments to students, make refunds of tuition and fees to the extent and in the manner set forth in the Act and meet the school's financial obligations;
- The private occupational school is required to furnish and maintain the required surety bond;
- The educational services are such as will adequately achieve the stated objectives for which the educational services are offered;
- The private occupational school has adequate facilities, equipment, instructional materials, instructional staff and other personnel to provide educational services necessary to meet the stated objectives for which the educational services are offered;
- The education and experience qualifications of administrators, instructional staff and other personnel are such as will adequately ensure that students will receive educational services consistent with the stated objectives for which the educational services are offered;
- The private occupational school provides each prospective student with a school catalog and other printed information describing the educational services offered and describing entrance requirements, program objectives, length of

¹⁵ § 23-64-114(1), C.R.S.

¹⁶ §§ 23-64-112(1)(a-j), C.R.S.

programs, schedule of tuitions, fees, all other charges and expenses necessary for the completion of the program of study, cancellation and refund policies and other such material facts concerning the school and the program of instruction that are likely to affect the decision of a student to enroll therein as required by the Board and that the information is provided to a prospective student prior to the commencement of classes and the execution of any enrollment agreement or contract;

- The private occupational school must provide the student, upon satisfactory completion of training, the educational appropriate credentials by the school;
- The private occupational school is required to maintain adequate educational, financial and other records;
- The private occupational school must adhere to procedures, standards and policies set forth in the school catalog and other printed materials; and
- The private occupational school must be maintained and operated in compliance with all pertinent ordinances and laws, including rules adopted concerning the health and safety of all persons on the premises.

The Act requires instructional staff teaching students under the age of 16 at private occupational schools to submit to a fingerprint-based criminal history check by the Colorado Bureau of Investigation and the Federal Bureau of Investigation.¹⁷

Additionally, private occupational schools, as part of their application for a certificate of approval, are required to provide evidence of a savings account, deposit of certificate of deposit that meets the minimum financial requirements or provide a surety bond.¹⁸ A surety is necessary to indemnify students, or a parent or guardian of a student, who suffers a loss of tuition or fees as a result of a violation or if a facility ceases operation. It is also available for the cost of student “train-out.”^{19 20}

The Act requires that the amount of the surety must be equal to a reasonable estimate of the maximum unearned, prepaid tuition and fees for a term during the school training year. It must be recalculated annually. No bond can be less than \$5,000.²¹ The Board has custodial responsibility of the surety funds when a school ceases operation. If a student declines the offer of a train-out, they can file a claim for all unearned, prepaid tuition and fees with the Board.²² If the bond amount is insufficient to cover all unearned, prepaid tuition and fees, the bond is prorated among the students.²³

¹⁷ § 23-64-110(1)(a)(I), C.R.S.

¹⁸ § 23-64-121(1), C.R.S.

¹⁹ §§ 23-64-121(2), and 121(10)(a), C.R.S.

²⁰ Train-out is the opportunity for a student of a school ceasing operation to receive their training at another facility that is approved by DPOS.

²¹ § 23-64-121(3), C.R.S.

²² §§ 23-64-121(5)(a) and (b), C.R.S.

²³ § 23-64-121(5)(c), C.R.S.

A student has two years from the time training ends to file a claim that a school violated the minimum standards of the Act and they are due reimbursement of tuition and fees.²⁴

The Board is authorized to hold a hearing on claims of lost tuition or fees in cases where a school does not cease to operate. If the Board finds in favor of the claimant, it is authorized to make demand on the school or its surety. If the school or surety fails or refuses to pay, the Board is directed to bring action in a court within six years from the date of the original violation.²⁵ All hearings conducted pursuant to the Act must be conducted according to the State Administrative Procedure Act.²⁶

Agents who are associated with in-state private occupational schools are required to be registered by the Board. The requirements to obtain a registration are as follows:²⁷

- A statement signed by the applicant that they have read the provisions of the Act and applicable rules, and
- Pay applicable fee.

The agents who represent more than one school are required to obtain a separate credential for each school represented; however, agents are not required to obtain a separate credential if the school they represent has multiple locations.²⁸

Agents who are associated with out-of-state private occupational schools are required to submit:²⁹

- An application for registration,
- A statement signed by the applicant that they have read the provisions of the Act and applicable rules,
- A surety bond, and
- Pay applicable fee.

Each private occupational school must have a designated agent who is the school's representative to DPOS for all legal and administrative matters, a designated on-site resident director, and a designated contact person for instructional staff matters.

Private occupational schools located outside of Colorado are required to have their agent's application for a permit to be accompanied by a \$50,000 bond and copies of documents relating to the school's authorization to operate in its home state and any accreditations or other approvals held by the school. The purpose of the school supplying the bond is to indemnify students against deceptive trade or sales practices.

²⁴ § 23-64-121(4)(b), C.R.S.

²⁵ § 23-64-121(7), C.R.S.

²⁶ § 23-64-129, C.R.S.

²⁷ § 23-64-117(1)(a), C.R.S.

²⁸ § 23-64-117(1)(b), C.R.S.

²⁹ § 23-64-117(2), C.R.S.

In these cases, a student has 180 days after the discontinuance of training to file a claim with the Board for loss of fees and tuition.³⁰

If a school terminates its operations, the owner is responsible for giving all school records to DPOS, including all educational and financial records. If it appears that any records may be destroyed, secreted, mislaid, or otherwise made unavailable, the Board may obtain a court order to seize them.³¹ The Board may initiate a civil action against an entity in violation of this provision. A finding of fault carries a fine of up to \$100 per violation.³² Additionally, any entity that violates this recordkeeping provision commits a class 2 misdemeanor which may carry a fine of up to \$1,000 and up to six months in jail.³³

One of the main reasons for the creation of the Act is to protect students from fraud. The Act lists several actions that are considered deceptive trade or sales practices when committed by a school or an agent. The offenses include making any oral or written statement when it reasonably should have known it was false, substantially inaccurate, or misleading;³⁴ providing prospective students with testimonials, endorsements, or other information about school practices, conditions for employment, or probable earnings which are inclined to mislead or deceive prospective students or the public;³⁵ and referring to sales representatives as “counselors” or “advisors.”³⁶ Other violations include a school or agent falsely, directly or by implication:

- Using a “Help Wanted” advertisement or a trade or business name to conceal that it is a school;³⁷
- Signifying that program completion qualifies the student for admission to a labor union or receipt of a state license;³⁸
- Stating that a lack of high school education, prior training, or experience is not an impediment to completing a program or obtaining employment in the field;³⁹
- Indicating that an out-of-state school is approved or accredited by the state;⁴⁰ and
- Indicating that successful program completion means that transfer credit will be given at any institution of higher education.⁴¹

Also, no school or agent may enroll a student when it is reasonably obvious that the student is unlikely to successfully complete the program or is unlikely to qualify for

³⁰ § 23-64-121(6), C.R.S.

³¹ §§ 23-64-125(1) and (2), C.R.S.

³² § 23-64-127, C.R.S.

³³ § 23-64-128, C.R.S.

³⁴ § 23-64-123(1)(a), C.R.S.

³⁵ § 23-64-123(1)(h), C.R.S.

³⁶ § 23-64-123(1)(k), C.R.S.

³⁷ § 23-64-123(1)(b), C.R.S.

³⁸ § 23-64-123(1)(c), C.R.S.

³⁹ § 23-64-123(1)(d), C.R.S.

⁴⁰ § 23-64-123(1)(j), C.R.S.

⁴¹ § 23-64-123(1)(f), C.R.S.

employment in the field. There is no violation if the concerns are affirmatively disclosed to the student.⁴²

If a person claims an economic loss because of a deceptive trade or sales practice, they may file a written complaint with the Board. The complaint must lay out the alleged violation and other relevant information. It may be filed any time prior to the commencement of training up to two years following the discontinuance of training.⁴³

The Board is required to investigate complaints and, at its discretion, may hold a hearing on the matter. After considering the evidence, the Board may issue a cease and desist order for a specified process or practice and it may obtain a court order for enforcement.⁴⁴ The Board also has the discretion to order an award for restitution from a loss, or bring a civil action against the school or agent.⁴⁵ The Board may also deny, suspend, revoke, issue an administrative fine, or place on probation a school or agent for violations of the Act and the Board's rules.

⁴² § 23-64-123(1)(i), C.R.S.

⁴³ § 23-64-124(1), C.R.S.

⁴⁴ § 23-64-124(2), C.R.S.

⁴⁵ § 23-64-124(3), C.R.S.

Program Description and Administration

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The fifth, sixth and seventh sunset criteria question:

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;

Whether an analysis of agency operations indicates that the agency or the agency's board or commission performs its statutory duties efficiently and effectively; and

Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.

In part, COPRRR utilizes this section of the report to evaluate the agency according to these criteria.

The purpose of the Private Occupational Education Act of 1981 (Act) is to provide standards for and to foster and improve private occupational schools and their educational services and to protect Coloradans against fraudulent or substandard schools.⁴⁶

The Division of Private Occupational Schools (DPOS) and the Private Occupational School Board (Board), located in the Department of Higher Education (CDHE), regulate the business of operating a private occupational school. The Act, among other things, ensures the financial solvency of a facility, confirming physical facilities are adequate, and confirming faculty and curriculum, among other responsibilities.

The Board consists of seven members, all of whom are appointed by the Governor with consent of the Senate and serve four-year terms.⁴⁷ Three members must be owners or operators of private occupational schools that receive Title IV funds (Title IV funds refer to federal student aid programs authorized under Title IV of the federal Higher Education Act of 1965). Four members must represent the general public. At least one public member must be employed by a lending institution which is located in Colorado and must be familiar with federal loans and funds authorized in Title IV. At least two public members must be owners or operators of Colorado businesses that employ students who are enrolled in schools subject to the Act.⁴⁸

⁴⁶ § 23-64-102(1), C.R.S.

⁴⁷ §§ 23-64-107(3) and (5), C.R.S.

⁴⁸ § 23-64-107(3), C.R.S.

The regulation of private occupational schools involves approving the individual schools, monitoring schools for continuing compliance with the Act, investigating and acting on complaints, overseeing school closures and student train-out, and making certain school recordkeeping is acceptable. Each school is assigned to a program specialist (PS) who commonly is the major connection with DPOS. The PS advises the school throughout the multidimensional approval process and frequently continues as the DPOS contact throughout the school’s tenure as an approved facility. Since the regulatory process can be complex at times, DPOS maintains that assigning an individual PS to advise each facility saves time in the long term and presents a better image of the regulatory process.

Each PS staff member is charged with evaluating:

- Applications for new school certificates of approval and existing school renewals,
- Program and course curriculum,
- Instructor qualifications and agent permits,
- Surety coverage, and
- Marketing and advertising.

Evaluations determine if facilities meet the educational and financial standards necessary to fulfill the contractual obligations made to students.

DPOS is cash-funded through fees assessed to the schools. Table 2 highlights the personnel and administrative expenditures made during fiscal years 17-18 through 21-22.

**Table 2
Agency Fiscal Information**

	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Expenditures	\$880,483	\$973,498	\$1,078,570	\$1,197,390	\$1,436,022
FTE	9.8	9.8	9.8	9.8	9.8

The program currently employs seven full-time and two part-time employees.

As highlighted in Table 2, the total expenditures increased in each of the fiscal years reported. The increase in expenditures is attributable to DPOS staff receiving cost of living increases. Additionally, over the past five years, DPOS has been working to obtain and manage a new database system. The process of obtaining a database was also costly and required an increase in expenditures.

School Certification and Agent Permits

The eleventh sunset criterion questions whether the scope of practice of the regulated occupation contributes to the optimum use of personnel.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

In fiscal year 21-22, there were 280 private occupational schools providing services to students.

Any new school that wishes to operate in Colorado must complete the application process before obtaining a provisional certification. When an individual contacts DPOS about obtaining a certificate of approval, DPOS directs them to the new on-line application process. Then DPOS assigns a PS to the applicant to review the application to ensure compliance with regulations prior to submittal to the Board. Each application packet has a checklist with several items that must be completed prior to licensing. Among those are:

- Information concerning the surety used to guarantee student tuition,
- Information concerning the physical location of the school,
- Information concerning the business operations of the school,
- Information concerning the school advertising,
- Copies of enrollment agreements, and
- A course catalog.

The approval process requires a completed application packet, a site visit by DPOS staff (typically the PS), payment of application fees, and approval by the Board at an open hearing. Accreditation by a private accreditation agency is not necessary for approval.

Private occupational schools must have a designated agent who is the school's representative to DPOS for all legal and administrative matters, a designated on-site resident director, and a designated contact person for instructional staff matters.

The Act requires instructional staff who teach students under the age of 16 at private occupational schools to submit to a fingerprint-based criminal history check by the Colorado Bureau of Investigation and the Federal Bureau of Investigation.⁴⁹

New schools are granted a provisional certificate to operate for up to two years, at the Board's discretion, but one year is typical. After the provisional period, the school may renew. A renewed or "standard" certificate is granted for three years.

Out-of-State Schools represent those schools that are located wholly outside of Colorado, but which solicit, recruit, and enroll students within the state of Colorado.

⁴⁹ § 23-64-110(1)(a)(I), C.R.S.

The current fee for an In-State certificate of approval is \$5,000 per school and \$2,500 per campus, and the renewal fee is \$2,000. An Out-of-State certificate of approval is \$2,500.

Private occupational schools must file assessments and annual reports to DPOS. Annual reporting is one way for DPOS to audit compliance with important information related to the minimum standards (financial stability, quality of education and ethical business standards). The information gathered via annual reporting and assessments allows DPOS to measure compliance and create reports for CDHE, other state agencies, federal reporting, legislative proposals, and other matters.

Table 3 delineates the number of approved schools regulated by the Board in fiscal years 17-18 through 21-22.

Table 3
Approved Private Occupational Schools in
Fiscal Years 17-18 through 21-22

Fiscal Year	Total Approved Schools	Total Out-of-State Schools	New Schools Approved	Renewals
17-18	319	24	12	110
18-19	308	18	24	91
19-20	292	17	12	107
20-21	270	24	21	100
21-22	280	21	19	103

As Table 3 indicates, the total number of private occupational schools operating in Colorado has remained fairly constant in the five fiscal years reported.

Additionally, one of the primary purposes of the Act is to protect consumers from unauthorized and fraudulent schools or “diploma mills.” The Act requires that all entities offering educational services as defined as “occupational in nature” to the public be approved by the Board to operate in Colorado. When an unauthorized entity or school comes to the attention of DPOS that may be operating illegally within the jurisdiction of the Board, the entity is contacted by DPOS and requested to respond in writing to a Regulation Determination Questionnaire and include requested documentation. If a determination is made by DPOS that the unauthorized entity meets the statutory criteria of a postsecondary private occupational school and offers such educational services, the school is requested to submit an application and work with DPOS staff to ensure all minimum standards and requirements are satisfied.

Also, the entity may request consideration for a statutory exemption and provide documented verification of the exempt criteria claimed. If an entity meets the exemption provision contained in section 23-64-104, C.R.S., an exemption letter is granted to the entity citing the specific statutory exemption and explanation. Entities not meeting exemption requirements and not wishing to pursue approval as an

occupational school may decide to cease offering the occupational education and training. If an entity fails to comply and respond to DPOS, the Act provides legal measures the Board may exercise, including referring the matter to the Office of the Attorney General for a cease-and-desist order and injunctive relief.

Generally, DPOS relies on information reported from approved schools of alleged unauthorized schools operating, as they are seen as a business threat and competitor. Occasionally, DPOS receives consumer complaints regarding unauthorized schools and diploma mills, but the greatest source of complaints is the approved schools monitoring the competition.

Table 4 shows the total number of unauthorized private occupational schools of which DPOS was informed, in fiscal years 17-18 through 21-22.

**Table 4
Unauthorized Operations in
Fiscal Years 17-18 through 21-22**

Fiscal Year	Unauthorized Entities Contacted	Approved to Operate	Exemption Issued	Ceased Operating	Division Analysis/Non jurisdictional
17-18	20	0	9	1	10
18-19	37	0	12	1	24
19-20	33	0	10	2	21
20-21	19	0	16	0	3
21-22	16	1	10	0	5

Table 4 shows that there were several exemptions issued to unauthorized entities that were contacted by DPOS. The most common statutory exemptions granted are for entities offering avocational educational services. Avocational exemptions go to entities that offer personal interest, hobby or recreation educational services. An example is a cooking class for the nonprofessional cook.

Additionally, all private occupational schools are required to have all persons engaged in the performance of duties as an agent or admission representative associated with the recruitment, solicitation and enrollment of students be registered with DPOS as an approved agent of the school pursuant to section 23-64-117, C.R.S.

An agent's permit is valid for the term of the school's certificate of approval. An agent is the only authorized school official approved by the state allowed to enroll or attempt to secure enrollment for educational services and approved to enter and execute enrollment agreements or contracts with prospective students. A school's failure to ensure its enrollment agents are approved is a violation of the Act and subject to disciplinary action by the Board.

There are no limits on the number of individual agents that can represent a single school. A person may be an agent for multiple facilities simultaneously regardless of the school’s location but must be permitted for each.

To become a permitted agent, a person must complete an application and pay a fee. The application consists of nine parts that require information concerning the applicant’s address, employer, employment history, criminal history, and attestations. Among the attestations, the applicant’s employer must certify that a copy of the Act was supplied to the applicant and the applicant must swear that they have read the Act.

In-State agents are approved for a three-year period and Out-of-State agents are approved for a one-year period. The current fee for both In-State and Out-of-State Agent permits is \$300.

Table 5 includes the number of agents permitted in Colorado during the period covered for this sunset review.

Table 5
Total Agent Permits in
Fiscal Years 17-18 through 21-22

	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
In-State Agent Permits	559	278	286	531	731
Out-of-State Agent Permits	15	34	25	39	69

Table 5 shows that the total number of permitted agents providing services in Colorado in fiscal years 17-18 through 21-22 has increased, which is attributable to the increased interest in private occupational schools from consumers.

Complaints

The eighth and tenth sunset criteria require COPRRR to examine whether regulatory oversight can be achieved through a director model, and whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession or regulated entity.

In part, COPRRR utilizes this section of the report to evaluate the program according to these criteria.

Anyone may file a complaint with the Board concerning a private occupational school and a permitted agent. Most commonly, the complaints received by the Board are related to financial issues pertaining to matters such as misrepresentation or tuition.

The Board is responsible for investigating student complaints as set forth in section 23-64-124, C.R.S. A student wishing to file a complaint against a school must submit the complaint to DPOS online and such complaint must be filed within two years after the student discontinues in order to be considered timely and jurisdictional.

DPOS has systematic procedures for the investigation and management of student complaints. The Board may deny, suspend, revoke, issue an administrative fine, or place on probation a school or agent for violations of the Act and the Board's rules.

Once DPOS staff receives a complaint, an initial investigation ensues to gather basic information to identify the issues for the Board. The alleged violations generally fall within three categories enumerated in the Act: minimum standards, loss of tuition and fees, and deceptive sales or trade practice. Deceptive trade or sales practices include unlawful activities such as knowingly making false representations or enrolling a student who obviously will not be able to complete the program of study.

Once a complaint is received, staff sends the school's director a copy of the complaint requesting a written response within 20 days. A copy of the 20-day letter is also provided to the complainant.

Once a response is received from the school, staff provides the complainant with the reply. The complainant then has 10 days to answer back. This allows the complainant the opportunity to provide additional information that they may deem necessary or that DPOS may request. A copy of the 10-day letter is also provided to the school's director.

Once all the information is gathered on a valid complaint, it is forwarded to the Board for formal action. The Board will hold a hearing and make a determination based on the information provided.

If the violation purported in a complaint is not monetary in nature, i.e., a school is operating without a certificate of approval or other such violation of the Act, staff performs the investigation and forwards the complaint and information to the Board which may, or may not, pursue the complaint on behalf of the people of Colorado.

Table 6 highlights the complaints filed with the DPOS during fiscal years 17-18 through 21-22.

Table 6
Complaints Filed in
Fiscal Years 17-18 through 21-22

Fiscal Year	Complaints Filed
17-18	79
18-19	115
19-20	102
20-21	31
21-22	25

Table 6 shows the total number of complaints decreased dramatically from fiscal year 19-20 to 20-21 and then again in fiscal year 21-22. According to DPOS, the decrease may have been attributable to the COVID-19 pandemic.

Table 7 highlights the results of the complaints filed with DPOS in fiscal years 17-18 through 21-22. As Tables 6 and 7 indicate, many of the complaints can be resolved at the DPOS staff level; however, there are some complaints that are referred to the Board for review and potential disciplinary action.

Table 7
Complaint Outcomes in
Fiscal Years 17-18 through 21-22

Outcome	FY17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Dismiss, No Violation	23	32	15	11	11
Dismiss, DPOS negotiated Settlement	19	35	24	5	4
Dismiss Settlement and Cautionary Letter	22	7	4	2	0
No Jurisdiction	10	12	7	7	7
Referred to Board for Review and Action	3	21	37	1	0
Complaint Withdrawn by Student	2	1	0	1	3
Settlement with Bond	0	8	15	4	0

The outcomes listed in the category, “Dismiss, DPOS negotiated Settlement,” are complaints resolved to the mutual satisfaction of the parties. Many refund disputes are resolved in this manner once DPOS explains and calculates the refund policy contained in the Act.

Outcomes are listed in the category, “Dismiss with Cautionary Letter,” when there is no statutory violation, but issues of concern are uncovered during the investigation and DPOS issues a cautionary letter addressing those concerns.

The majority of complaints made against private occupational schools are dismissed. One of the main reasons for dismissal is that the complainant does not demonstrate a violation of the minimum standards highlighted in the Act. Examples of complaints that fall outside of the purview of the Act and are dismissed are complaints concerning federal Title IV financial aid, personality conflicts involving school personnel, or most commonly, when there is a refund dispute that has been settled correctly according to provisions of the Act.

Disciplinary Activity

The tenth sunset criterion requires COPRRR to examine whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession or regulated entity.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

Table 8 delineates the actions the Board has taken on cases in fiscal years 17-18 through 21-22.

**Table 8
Board Actions in
Fiscal Years 17-18 through 21-22**

Action	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Notice of Noncompliance	1	10	2	3	5
Revocation/Surrender	1	0	1	0	0
Suspension	0	1	0	1	0
Denial (Application)	0	1	1	0	2
Probation Monitoring	0	2	1	1	1
Fines Assessed	0	0	0	0	0
Fines Collected	\$0	\$0	\$0	\$0	\$0
Fees Assessed	56	39	17	0	0
Fees Collected	\$16,200	\$14,050	\$7,000	\$0	\$0
Stipulations	0	3	0	0	2
Total Board Actions	58	54	22	5	10

Table 8 shows that “Notice(s) of Noncompliance” actions represent the largest number of actions taken by the Board. Generally, a “Notice of Noncompliance” informs a private

occupational school to address an identified issue related to noncompliance with the Act or applicable rules.

Table 8 also highlights many fees assessed to private occupational schools. Generally, fees were assessed to private occupational schools that filed assessments and annual reports late to DPOS. Annual reporting is one way for DPOS to audit compliance with important information related to the minimum standards (financial stability, quality of education and ethical business standards). The information gathered via annual reporting and assessments allows DPOS to measure compliance and create reports for CDHE, other state agencies, federal reporting, legislative proposals, and other matters.

Site Visits/Inspection Information

DPOS conducts private occupational school site visits/inspections for all provisional applications, renewal applications, and change of location applications. School site visits/inspections include inspection/review of the following:

- Equipment, supplies and teaching aids;
- Facility/Classrooms;
- Curriculum;
- Enrollment process;
- Student records; and
- Instructor records.

Table 9 highlights the total number of site visits/inspections in fiscal years 17-18 through 21-22.

Table 9
Site Visits/Inspections in
Fiscal Years 17-18 through 21-22

	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
School Site Visit/Inspection	150	135	130	139	143
Compliance Visit/Inspection	27	24	10	0	16
Technical Support Visit	12	15	10	83	124

As indicated in Table 9, there was a substantial increase in the number of technical support visits in fiscal years 20-21 and 21-22. During the COVID-19 pandemic in fiscal year 20-21, the Board required private occupational schools to provide their methodology to ensure that they were teaching students effectively while operating a remote schooling environment.

Finally, school inspections occur when an application for a certificate of approval is submitted. Compliance visits occur when there is a complaint filed to the Board against a private occupational school.

Analysis and Recommendations

The final sunset criterion questions whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest. The recommendations that follow are offered in consideration of this criterion, in general, and any criteria specifically referenced in those recommendations.

Recommendation 1 – Continue the Private Occupational Schools Act of 1981 for 11 years, until 2035.

The purpose of the Private Occupational Education Act of 1981 (Act) is to provide standards for and to foster and improve private occupational schools and their educational services and to protect Coloradans against fraudulent or substandard schools.⁵⁰

The Division of Private Occupational Schools (DPOS) and the Private Occupational School Board (Board) within the Department of Higher Education, regulate the business of operating a private occupational school. The Act, among other things, ensures the financial solvency of a facility, confirming physical facilities are adequate, and confirming faculty and curriculum are acceptable.

The Board consists of seven members, all of whom are appointed by the Governor with consent of the Senate and serve four-year terms.⁵¹ Three members must be owners or operators of private occupational schools that receive Title IV funds (Title IV funds refer to federal student aid programs authorized under Title IV of the federal Higher Education Act of 1965). Four members must represent the general public. At least one public member must be employed by a lending institution which is in Colorado and must be familiar with federal loans and funds authorized in Title IV. At least two public members must be owners or operators of Colorado businesses that employ students who are enrolled in schools subject to the Act.⁵²

The regulation of private occupational schools involves approving the individual schools, monitoring schools for continuing compliance with the Act, investigating and acting on complaints, overseeing school closures and student train-out, and making certain school recordkeeping is acceptable. Each school is assigned to a program specialist (PS) who commonly is the major connection with DPOS. The PS advises the school throughout the multidimensional approval process and frequently continues as the DPOS contact throughout the school's tenure as an approved facility. Since the regulatory process can be complex at times, DPOS maintains that assigning an individual PS to advise each facility saves time in the long term and presents a better image of the regulatory process.

⁵⁰ § 23-64-102(1), C.R.S.

⁵¹ §§ 23-64-107(3) and (5), C.R.S.

⁵² § 23-64-107(3), C.R.S.

The types of schools include, but are in no way limited to:

- Automobile technician,
- Bartending,
- Construction,
- Culinary,
- Cosmetology,
- Dental assistant,
- Electrician,
- Heating/ventilation/air conditioning,
- Message therapy,
- Pharmacy technician, and
- Real estate.

The Board and DPOS are charged with providing regulatory oversight of schools that offer vocational education in Colorado. The Private Occupational Education Act of 1981 (Act) states that the purpose of regulation is, “... to protect the citizens of this state against fraudulent or substandard private occupational schools...”⁵³

During fiscal year 21-22 there were more than 250 Board-approved vocational education facilities in Colorado. The Board also registered approximately 800 agents who recruited students.

The Board must approve a school before it is allowed to operate in Colorado. Along with an application, a prospective school must supply information regarding advertising, the physical location of the school, the business operations of the school, a course catalog, a copy of enrollment agreements, and have enough surety in place to cover all the prepaid tuition it may collect. Following a completed application, each facility must undergo a site visit by the DPOS staff.

In addition to the rigorous application process, each school must have at least one Board-registered agent who recruits students and is authorized to sign enrollment agreements with students.

Generally, there are two types of major problems that occur with approved facilities, and both involve refunds of prepaid tuition. One of the challenging issues is when a business ceases to operate. When that occurs, the Board oversees either the refunding of each student’s prepaid unearned tuition or train-out of the student. Train-out occurs when the Board and student agree on an alternate educational facility to finish the training begun at the original, out-of-business facility. Also, at times there are disputes concerning prepaid tuition when a student leaves the program prior to completion. Even though the formula is written into the Act, the Board or the DPOS must sometimes intercede to ensure that the process proceeds acceptably.

⁵³ § 23-64-102(1), C.R.S.

One of the Board's main duties is to impose discipline on private occupational schools and registered agents for violations of the Act or applicable rules. As evidenced by the number of disciplinary actions imposed in Table 8 of the Program Description Section of this report, the Board has imposed discipline.

The first sunset criterion asks whether regulation is necessary to protect the public health, safety and welfare. As highlighted above, the Board serves to protect the public by, among other things, imposing discipline including fees to private occupational schools for violations of the Act or applicable rules.

Additionally, the eighth sunset criterion asks whether regulatory oversight can be achieved through a director model. As previously highlighted, the Board has imposed discipline for violations of the Act or applicable rules, which has demonstrated its effectiveness, as well as highlighting the transparent and public process of providing regulatory oversight of private occupational schools as well as their registered agents.

During the course of this sunset review, the Board demonstrated that there is robust debate and thoughtful discourse related to its duties. As such, the public is protected from the negligent actions of private occupational schools and at times registered agents.

Therefore, the General Assembly should continue the Act for 11 years, until 2035.

Recommendation 2 – Amend the Act to require a change of ownership to be approved by the Board prior to the change.

Currently, section 23-64-116(1), Colorado Revised Statutes, requires

the seller in any change of ownership of a private occupational school to notify the Board, in writing, and the buyer, prior to or within 30 days after the change of ownership....

According to DPOS staff, there have been instances in the recent past where a change of ownership of a private occupational school has occurred and the new owner did not comply with all of the requirements to operate a private occupational school outlined in statute such as securing the appropriate surety bond.

The first sunset criterion asks whether regulation is necessary to protect the public. In order to ensure that private occupational schools are in compliance with the current requirements highlighted in the Act and applicable rules, any change of ownership of a private occupational school should be approved by the Board prior to its commencement. Doing so, will ensure that the new ownership is in compliance with all requirements in Colorado.

As such, the General Assembly should require all changes of ownership of private occupational schools to be approved by the Board prior to its commencement.

Appendix A – Customer Service Survey

In July 2023, Colorado Office of Policy, Research and Regulatory Reform staff conducted a survey of all schools operating under a certificate of authority as well as regulated agents. The survey was sent to 243 schools and regulated agents. The survey received 625 responses, which is a 13 percent response rate. Survey results may be found below.

What is your relationship to the Private Occupational Schools program?

Relationship	Percentage
Approved School	84.75%
Approved School, Permitted Agent	15.25%

If you are a member of the profession or occupation that is regulated by the Private Occupational Schools Board, please indicate your years of experience.

Number of Interactions	Percentage
1 to 2 years	13.5%
2 to 5 years	15.4%
5 to 10 years	9.6%
10 to 15 years	5.7%
15 to 20 years	17.3%
20 plus years	38.5%

In the past year, how many times have you interacted with the Division of Private Occupational Schools? Please count all forms of interaction (telephone, e-mail, internet or website, regular mail, in person).

Number of Interactions	Percentage
I have not interacted	0%
1 to 2 times	1.6%
2 to 4 times	18.6%
4 to 6 times	15.3%
6 to 8 times	15.3%
8 or more times	49.2%

If you have interacted with the Private Occupational Schools Board, what was your primary purpose in doing so?

Purpose of Interaction	Percentage
Licensing or registration	44.1%
Inspection, audit or examination	6.8%
To file a complaint	0%
To learn about the requirements for a profession/occupation	1.7%
To learn about the functions of (insert name of program/agency)	0%
To obtain help with an issue	13.6%
Respond to a complaint	0%
Respond to a request made to you	6.8%
Participate in a board, committee, commission, taskforce or working group for the agency	5.1%
Comment on or learn about existing/proposed rules or legislation	1.6%
Continuing education	1.6%
Update my information	10.2%
Questions about the scope of practice	3.4%
Not applicable	5.1%
Other	0%

Overall please rate the service provided by the Division of Private Occupational Schools.

Service Provided	Percentage
Excellent	35.6%
Good	42.4%
Fair	13.6%
Poor	5.1%
Unacceptable	3.3%
Not Applicable	0%

Please rate the usefulness of the Division of Private Occupational Schools website in answering your questions or providing needed information.

Website Usefulness	Percentage
Excellent	28.8%
Good	35.6%
Fair	25.4%
Poor	5.1%
Unacceptable	5.1%
Not Applicable	0%

Please rate the usefulness of the Division of Private Occupational School's communications in answering your questions or providing needed information.

Communications Usefulness	Percentage
Excellent	40.7%
Good	33.9%
Fair	15.3%
Poor	6.8%
Unacceptable	3.3%
Not Applicable	0%

Regardless of the outcome of your most recent issue, do you feel the Division of Private Occupational Schools listened to your concerns?

Listening to Concerns	Percentage
Excellent	42.4%
Good	33.9%
Fair	16.9%
Poor	3.4%
Unacceptable	3.4%
Not Applicable	0%

Please rate the timeliness of the Division of Private Occupational Schools in responding to your issues.

Response Timeliness	Percentage
Excellent	37.3%
Good	33.9%
Fair	20.3%
Poor	5.1%
Unacceptable	3.4%
Not Applicable	0%

Please provide the number and types of interactions that were required to resolve or address your most recent issue. (Please select all applicable types of interactions used AND the number times for each type of interaction selected.)

Number of Interactions	Type of Interaction				
	Phone	Website	E-mail	In Person	Regular Mail
0 times	11	8	1	26	34
1 to 2 times	24	14	14	10	2
3 to 4 times	9	8	16	2	0
5 to 6 times	3	6	12	0	0
7 or more times	4	6	13	2	0

Please rate the helpfulness of the Division of Private Occupational Schools in resolving your issue or need.

Helpfulness	Percentage
Excellent	39%
Good	37.3%
Fair	16.9%
Poor	5.1%
Unacceptable	1.7%
Not Applicable	0%

Please rate the professionalism of the program's staff.

Professionalism	Percentage
Very professional	56.9%
Professional	31%
Somewhat professional	5.2%
Not very professional	6.9%
Unprofessional	0%
Not applicable	0%

Please rate the accuracy of information provided by the agency.

Professionalism	Percentage
Very accurate	42.4%
Accurate	37.3%
Somewhat accurate	13.6%
Not very accurate	5.1%
Inaccurate	1.6%