

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 305, 5501 through 5010 and Chapter 475 of the Laws of 2016.

1. New subdivisions (bb), (cc) and (dd) shall be added to section 126.1 of the Regulations of the Commissioner of Education, to read as follows:

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

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

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

2. Subparagraph (i) of paragraph (1) of section 126.10 of the Regulations of the Commissioner of Education, shall be amended to read as follows:

(i) Nonpublicly funded ESL schools shall be exempt from the requirements of this Part and Article 101 of the Education Law, except as provided in this subdivision and subdivisions 126.1 and 126.18 of this Part and paragraphs (b) and (c) of subdivision (1)

of section 5001 of the Education Law, and subdivision (3) of section 5004 of the Education Law.

3. A new section 126.18 shall be added to the Regulations of the Commissioner of Education, to read as follows:

§126.18 Online education marketplaces.

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

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

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

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

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

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

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

