

ARIZONA STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION

LETTERS OF CREDIT, BONDS OR CASH DEPOSITS

Before granting or renewing a private vocational program license or license to grant degrees, the Arizona State Board for Private Postsecondary Education ("Board") shall require applicants to submit a letter of credit, a surety bond in a form acceptable to the Board, or a cash deposit pursuant to Arizona Revised Statutes Title 32, Chapter 30 if the program or institution is not accredited, and may require applicants to submit a letter of credit, a surety bond in a form acceptable to the Board, or a cash deposit if the program or institution is accredited. A.R.S. § 32-3023.

PURPOSE

The purpose of this Policy is to establish the guidelines used by the Board in calculating the amount of the Surety Bond, Letter of Credit, or Cash Deposits required of all non-accredited educational institutions and some accredited educational institutions. The statutory bonding requirement exists to provide Arizona students with one means of timely financial restitution if they are financially injured as a result of a school closure. The bond is subject to claims by the Board for failure to pay any amount required pursuant to Arizona Revised Statutes Title 32, Chapter 30 and by any Arizona student who is damaged by the failure of the institution to provide educational services pursuant to its published catalogs, brochures, or other publications.

POLICY

Pursuant to Arizona Administrative Code R4-39-108(C)(1), the letter of credit, surety bond or deposit shall not be less than fifteen thousand dollars.

As specified in A.A.C. R4-39-108(C)(2) and (3), additional amounts are specified as follows:

For an accredited institution – if the annual Gross Tuition Revenue ("GTR") is less than \$400,000.00, the surety bond shall not exceed 15% of the annual GTR. And if the annual GTR is more than \$400,000.00, the surety bond shall not exceed 10% of the annual GTR.

For an unaccredited institution – if the annual Gross Tuition Revenue ("GTR") is less than \$400,000.00, the surety bond shall not exceed 20% of the annual GTR. And if the annual GTR is more than \$400,000.00, the surety bond shall not exceed 15% of the annual GTR.

However, Board may also consider the following in determining the amount of the Surety Bond:

1. Under A.R.S. § 32-3023(C), the Board may consider any relevant evidence in making this determination, including the following: the applicant's GTR, the length of time an applicant has been in operation, and the applicant's financial position.
2. Under A.A.C. R4-39-108(B), the Board shall also consider: whether the institution has sources of funding other than tuition and the percentage of the institution's funding contributed by the other sources, the amount of time programs offered by the institution require for completion, and criteria regarding financial responsibility specified in A.A.C. R4-39-108(H)(2).

For example: Board Staff will use the standard calculation contained in A.A.C R4-39-108(C) to determine the amount of the bond required. The Board may then evaluate some or all of the following criteria to see if the evidence is in favor of increasing or reducing the amount of the bond:

- Gross Tuition Revenue
- Length of time an applicant has been in operation
- Applicant's financial position
- Sources of funding other than tuition
- Percentage of the institution's funding contributed by the other sources
- Length of the program
- Current ratio of assets to liabilities
- Current negative net worth
- Net losses during each of the last two years
- Subject to Department of Education reporting
- Composite score
- Sufficiency of current cash reserves
- Current financial obligations being met
- Any history of revocation or negative action with this Board or the licensing Board of another state
- Any history with Department of Education, Department of Justice, or any federal agency of this government
- Conviction of a crime related to the operation of an educational institution by any court of competent jurisdiction
- Final judgment or order in a civil action or administrative proceeding if the court or agency makes findings that applicant was liable for misconduct in the operation of an educational institution
- Current negative cash flow
- Financial responsibility
- Administrative capability
- Accreditation history
- Cash infusion
- Net Tuition Revenue
- Student outcomes
- Student loan default rates

**This list is based on statute, rule, and previous Board discussions and is not all inclusive. The Board may consider other relevant evidence pursuant to A.R.S. § 32-3023 and must consider certain criteria pursuant to A.A.C. R4-39-108.*

Approved by the Board: 8/24/17