

**WAC 490-105-170 Unfair business practices.** (1) The term "unfair business practice" under RCW 28C.10.110(11) is further defined to mean those practices described as prohibited under RCW 28C.10.090.

(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:

(a) Advertise, offer, sell, or award any educational credential without requiring the consumer to enroll in and successfully complete a prescribed program of study, as outlined in the school's catalog or brochure;

(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;

(c) Make, or perpetuate any false or deceptive statements in regard to any other postsecondary school, whether private or public;

(d) Fail to follow the Private Vocational School Act or its supporting regulations;

(e) Sell, discount, or transfer contracts or promissory notes for tuition to third parties without the signed consent of the student or the student's financial sponsors, and a statement notifying all parties that the cancellation and refund policy continues to apply;

(f) Use the availability of financial aid as an inducement to recruitment or enrollment;

(g) Misrepresent to students the potential amount of federal financial aid available;

(h) Employ the term "accredited" in advertising unless:

(i) The school holds a current grant of accreditation; and

(ii) The term "accredited" is accompanied with equal prominence by the full name and/or seal of the agency from whom the school holds a current grant of accreditation.

(iii) If the accrediting agency is not recognized by the United States Secretary of Education under the provisions of the Higher Education Act (Chapter 34 C.F.R.), as amended, the school must provide the agency with documentation of its grant of accreditation and other related information required by the agency to establish the nature and scope of the accrediting agency. The agency will approve or disapprove its use in advertising after reviewing submitted documentation. Upon approval, the agency may ask for additional language in the catalog to notify the students that the school does not qualify for federal financial aid.

(i) 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.

(3) Schools are prohibited under RCW 28C.10.110(3) from advertising educational programs under the "help wanted" section of publications. Schools may, however, advertise under a help wanted classification for the purposes of:

(a) Recruiting for bona fide job openings; or

(b) Soliciting job opportunities for available graduates.

(4) To establish consistency in the implementation of this section, the following definitions will apply:

(a) "Advertise" means the publishing by a school of information that establishes its identity, location, and nature of its training programs. It may or may not contain an offer of training.

(b) "Help wanted" section means any classified advertising section in a publication that contains job listings. The particular wording the publication uses to identify such a section is not material.

(c) "Newspaper" means a printed publication containing news, editorials, advertisements, etc. The definition extends to tabloids such as "nickel-savers" that contain primarily or exclusively advertising. It is not material whether the publication is sold or given away.

(d) For purposes of this section, it is not considered "advertising" if a school inserts a notice in a "help wanted" section referring the reader to a different classified heading in the same issue of the same publication, as long as:

(i) An offer of training is being made by the school under an appropriate other section in the same issue of the same publication; and

(ii) The referral notice contains only the name of the school and not its address, telephone number, or description of program(s); and

(iii) The overall size and general appearance of what appears as a notice is consistent with its purpose only to refer readers elsewhere.

(e) A school shall not advertise as an employment agency or its equivalent.

(f) A school shall not deceptively advertise in conjunction with any other business or establishment.

(5) Schools are prohibited from advertising and making offers of training without including the full name under which the school is licensed by the agency. Permutations of the name and/or d/b/a such as initials or nicknames can be used only with prior written permission of the agency.

(6) The agency is authorized to deny, revoke, or suspend the license of any school found to have engaged in a "substantial number" of unfair business practices or "significant" unfair business practices. Those two quoted terms are further defined as follows:

(a) The agency may conclude that a substantial number of unfair business practices have occurred when a pattern of persistent violations exists and there are multiple complaints alleging various unfair business practices.

(b) The agency may conclude that unfair business practices are significant when it determines that their egregious nature threaten the operation of the school and/or jeopardize the ability of students to secure contracted services. An abrupt school closure which fails to comply with WAC 490-105-210 provisions may also be considered as significant.

[Statutory Authority: RCW 28.10.040 [28C.10.040]. WSR 15-24-088, § 490-105-170, filed 11/30/15, effective 12/31/15; WSR 01-23-078, § 490-105-170, filed 11/21/01, effective 12/22/01. Statutory Authority: RCW 28C.10.040(2). WSR 98-22-033, § 490-105-170, filed 10/29/98, effective 11/29/98.]