Frequently Asked Questions re: Surety Bonds
Private Business and Vocational Schools (PBVS)

1. What is required pursuant to Illinois statute and administrative rules?

- Section 55 of the Private Business and Vocational Schools Act of 2012 (105 ILCS 426)

  Maintenance of approval. Institutions covered under this Act must meet the following requirements to receive and maintain approval:

  (1) Provide a surety bond. A continuous surety company bond, written by a company authorized to do business in this State, for the protection of contractual rights, including faithful performance of all contracts and agreements for students and their parents, guardians, or sponsors. The Board shall establish the bond amount by rule. The amount of the bond must be sufficient to provide for the repayment of full tuition to all students enrolled at the institution in the event of closure of the institution. Evidence of the continuation of the bond must be filed annually with the Board. The surety bond must be a written agreement that provides for monetary compensation in the event that the school fails to fulfill its obligations to its students and their parents, guardians, or sponsors. The surety bonding company shall guarantee the return to students and their parents, guardians, or sponsors of all prepaid, unearned tuition in the event of school closure. A condition of the bond shall be that the bond agent shall notify the Board in the event the bond is no longer in effect.

- Section 1095.210 of the Private Business and Vocational Schools Administrative Rules (23 Ill. Adm. Code 1095)

  Each school shall provide evidence to the Board of a surety bond to protect the interests of the students. *The amount of the bond must be sufficient to provide for the repayment of full tuition to all students enrolled at the institution in the event of closure of the institution. Evidence of the continuation of the bond must be filed annually with the Board* (105 ILCS 426).

  a) A school shall supply the Board with a copy of a fully executed, continuous surety bond written by a company authorized to do business in Illinois in an amount sufficient to provide cumulative unearned prepaid tuition for the Illinois students enrolled at any one time. The amount shall be no less than $10,000.

  b) The school shall submit its projection of greatest amount of unearned prepaid tuition with its initial application for a certificate and the actual amount, based upon the record of the previous fiscal year, with each succeeding application.

  c) Should the Board determine after applying the provisions of this Section that the school must increase the amount of bond coverage, the school shall file a bond rider acknowledging increased coverage within 30 calendar days of receipt of the Board's notice requiring such increase.

d) In the event of cancellation of the bond by a bonding company, the school shall furnish a fully executed replacement bond to the Board within 30 calendar days of the Board's receipt of the notice of cancellation.

e) The bonding company shall on the Board's request provide reasons for bond termination within 30 calendar days of the Board's receipt of notice of such termination.

f) Termination of the school's surety bond coverage shall be grounds for revocation of its permit of approval.

g) When the school provides instruction at extensions, the surety bond or riders attached thereto shall indicate coverage for all Illinois students at all sites where instruction is or will be given.

2. What is a surety bond?

A surety bond is a three-party agreement that legally binds together a principal who needs the bond, an obligee who requires the bond and a surety company that sells the bond. The bond guarantees the principal will act in accordance with certain laws. If the principal fails to perform in this manner, the bond will cover resulting damages or losses.

Pursuant to the PBVS Act of 2012, the principal is the Private Business and Vocational Schools and the obligee is the State of Illinois through the Illinois Board of Higher Education <u>and the students served by the schools</u>.

3. How do I locate a company that is authorized to do business in Illinois?

The Illinois Department of Insurance provided the following resources:

- Market Share Reports (under Property and Casualty (P&C)) www.insurance.illinois.gov/Reports/Report_Links.asp
  - All Illinois Licensed Companies (see Surety)
  - Top 25 Illinois Licensed Companies (See Surety)
- Insurance agents and brokers
- Surety Association of Illinois www.suretyillinois.com (focus is primarily construction surety bonds)
- Surety and Fidelity Association of America www.surety.org (a good resource for general information on surety bonds)
- National Association of Surety Bond Producers www.nasbp.org (provides a search function by city and state of firms that regularly engage on a commission basis as agent-producer or broker of surety bonds)

4. How do I select a company?

The Illinois Department of Insurance recommends:

- Check the financial rating of an insurance company to ensure the company has a rating of A- or higher (one of the most frequently used credit rating organization is A.M. Best Company at www.ambest.com);
- Get quotes from different companies (rates are not filed in Illinois); and
- Consider whether the company can provide good service.

5. What bond amount is required?

Section 1095.210. A school shall supply the Illinois Board of Higher Education with a copy of a fully executed, continuous surety bond written by a company authorized to do business in Illinois in an amount sufficient to provide cumulative unearned prepaid tuition for the Illinois students enrolled at any one time. The amount shall be no less than $10,000.

For example, a school receives $250,000 each term from the students. The amount of the surety bond must be no less than $250,000. "Term" means the school's billing cycle for student enrollment.

6. What information will the company require?

Each surety company has its own guidelines and underwriting criteria. However, the following basic factors will be taken into consideration in some format.

- Capacity. Does the applicant [school] have the skill and ability to perform the obligation?
- Capital. Does the financial condition of the applicant [school] justify approval of the particular risk?
- Character. Does the applicant's record show him/her [school's owners] to be of good character and likely to perform the obligation he or she assumes?

Answer provided by The Surety and Fidelity Association of America (www.surety.org)

7. What documentation does the Illinois Board of Higher Education require?

A copy of a fully executed, continuous surety bond written by a company authorized to do business in Illinois. The copy will include the calculation of the bond amount either in the text of the bond or an attachment provided by the school.

Frequently Asked Questions added after the first FAQs (June 8, 2012)

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8. Where can the bond form be located?

The surety bond form is posted on the IBHE website www.ibhe.org/PBVS/default.htm.

If your bond company used the bond form provided by the Illinois State Board of Education (ISBE) and the bond continues beyond July 1, 2012, a rider must be added to ensure the following:

A. Obligee is the State of Illinois, Illinois Board of Higher Education and the students served by the school, not ISBE.

B. Pursuant to the new law, the bond company shall guarantee the return to students and/or their parents, guardians, or sponsors of all prepaid, unearned tuition in the event of school closure or other failure of the school to deal with students in a fair and honest manner.

C. The amount of the bond must in an amount sufficient to provide all prepaid, unearned tuition in the event of school closure. See Questions #5 and #9.

D. The surety bond must be approved by the IBHE prior to the issuance of the Administrative Extension of Approval and the Permit of Approval.

9. How do I calculate the tuition amount for the bond?

The amount of the bond is all prepaid, unearned tuition. Tuition is defined by rule to include "the total student cost of the course of instruction and all other fees for services and facilities furnished or made available to the student by or through the school in connection with the student's matriculation and study and completion of a non-degree program of study, including all charges made by the school for tuition; room and board; books; materials; supplies; laboratory, shop and studio fees; and other expenses."

The amount of the bond is based on all costs charged to the enrolled students, not just tuition. See Question #5.