

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 A condition of the bond shall be that the bond agent shall notify the Board in the event the bond is no longer in effect.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 and the students served by the schools.

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.

The surety bond amount is the highest amount of prepaid tuition paid during a term or whatever academic calendar is used by the institution.

Tuition is defined by rule as “the total 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 and/or third parties, including, without limitation, corporate partners or donors, in connection with a student's matriculation and study and completion of a non-degree program of study, including all charges or expenditures made by the school and/or third parties, including, without limitation, corporate partners or donors, for tuition, room and board, books, materials, supplies, laboratory, shop and studio fees, and other expenses.”

The most basic example would be an institution has a 3 month program (April, May, June) that costs \$1000 (includes tuition, books, fees, etc.). Fifteen students enroll in the program. Ten of the students (payments could be received from the student directly, or from anyone who is paying on behalf of the student) pay the cost of the program up front. The remaining 5 have made payment arrangements with the school and are going to pay \$400 (fees for the payments arrangement included) on the 1st of April, May & June. Here is a basic excel sheet example:

	Payments		
	April	May	June
Student 1	1000		
Student 2	1000		
Student 3	1000		
Student 4	1000		
Student 5	1000		
Student 6	1000		
Student	1000		

7			
Student 8	1000		
Student 9	1000		
Student 10	1000		
Student 11	400	400	400
Student 12	400	400	400
Student 13	400	400	400
Student 14	400	400	400
Student 15	400	400	400
	12000	2000	2000

Based on this example, the institution would need to have a surety bond in place for \$12000, as this was the highest amount of tuition received. Please note, the PBVS rules state the minimum amount of a bond is \$10000, even if prepaid tuition falls below the \$10000 amount.

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.

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

Bond No. _____

Illinois Board of Higher Education Private Business and Vocational School Surety Bond

KNOW ALL PERSONS BY THESE PRESENTS:

That, _____
of _____ including any and
all locations in the State of Illinois, as Principal, and _____
_____, a corporation duly organized and existing under the laws of the State of _____
and duly authorized to transact business in the State of Illinois, as Surety, are held and firmly bound unto the
People of the State of Illinois in the penal sum of \$ _____, lawful money of the United
States, for the payment of which said Principal and Surety bind themselves, their heirs, administrators,
executors, successors and assigns, firmly by these presents.

WHEREAS, the Principal has applied for a Permit of Approval pursuant to the Private Business and Vocational
Schools Act of 2012 (105 ILCS 426) which Act provides for an applicant for a Permit of Approval to conduct a
private business or vocational school in the State of Illinois to file a surety bond for the protection of the
contractual and statutory right of students and their parents, guardians, or sponsors.

NOW, THEREFORE, the condition of this obligation is such that if the Illinois Board of Higher Education shall issue
to the Principal a Permit of Approval, and if Principal shall conduct its business and each and every obligation of
trust and service entered into by it in a faithful and honest manner, and shall save the People of the State of
Illinois harmless from any wrongful act of said Principal, or any violation of the provisions of the statute
mentioned above, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED FURTHER, that the Surety may cancel its liability by furnishing 90 days written notice by registered or
certified mail to the Illinois Board of Higher Education of the State of Illinois with reason for such cancellation,
but the Surety shall not be discharged from any liability already accrued under this bond or which shall accrue
hereunder before the expiration of the 90 day period; and

PROVIDED FURTHER, that termination of this surety bond shall be grounds for revocation of the Principal's
Permit of Approval; and

PROVIDED FURTHER, that the aggregate accumulated liability of the Surety hereunder on all claims whatsoever
shall not exceed the penal sum of this surety bond in any event.

IN WITNESS WHEREOF, we have duly executed the foregoing obligation this ____ day of _____, 20____.

Principal (School)

Surety (Corporation)

Attorney in Fact