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### SURETY INDEMNIFICATION AMOUNT GUIDELINES

Please be advised that effective July 29, 2018, RSA 188-G:3 (adopted 2018) requires a school to:  
[Secure] a bond in an amount sufficient to reimburse the tuition of any student contract which cannot be fulfilled, and taking into account the number of students or potential students to be reimbursed and the expenses for investigating and processing claims. The bond shall not be less than \$10,000.

To assist you in providing the Office of Career School Licensing with indemnification that is compliant with the law, please use the guidelines found on pages 2-3.

Please review RSA 188-G:3 (adopted 2018), available at <http://www.gencourt.state.nh.us/rsa/html/XV/188-G/188-G-mrg.htm>, in its entirety. If you have questions, we recommend you contact your legal counsel.

## SURETY INDEMNIFICATION AMOUNT GUIDELINES

The information presented below may assist you in determining the indemnification amount that complies with RSA 188-G:3 (adopted 2018).

### **DEFINITION AND PURPOSE OF NEW SURETY INDEMNIFICATION CLAUSE**

Effective July 29, 2018, **RSA 188-G:3 (adopted 2018)** includes amendments to indemnification.

A private postsecondary career school shall secure a bond\* in an amount sufficient to reimburse the tuition of any student contract which cannot be fulfilled, and taking into account the number of students or potential students to be reimbursed and the expenses for investigating and processing claims. The bond shall not be less than \$10,000.

*\*Pursuant to RSA 188-G:3(IV), an irrevocable letter of credit or a term deposit account held in the state treasury may be furnished to the commission as alternate forms of indemnification.*

Purpose: to provide a more accurate, meaningful measurement of tuition at risk with the intent to expand student protection.

### **OLD CLAUSE VERSUS NEW CLAUSE**

The old formula failed to account for differences between program/course lengths, and single or concurrent cohorts. The requirements of the new clause provide better financial protection for students should a school fail.

New Formula Example:

A school anticipates the following factors for the upcoming year: A single cohort of 20 students enrolled in a 1-year program at a tuition of \$10,000 per student. The following calculation would be used to determine the maximum tuition at risk:

→ 20 students x 10,000 tuition per student = **\$200,000** of required indemnification

Old Formula Example:

A school used financial information from its most recent completed fiscal year to determine the indemnification amount required for the upcoming year. The formula was 10% of the school's Annual Gross Tuition (AGT). Assuming a \$200,000 AGT, the following calculation was used:

→ 10% x 200,000 AGT = **\$20,000** of required indemnification was required.

The amount was deemed insufficient for long-term programs and excessive for short-term programs.

### **MORE EXAMPLES UNDER NEW CLAUSE**

Consider the following:

*Example 1:*

2 cohorts with 20 students in each, \$10,000 tuition per student, **no overlap** in enrollment or payments between cohorts. Tuition indemnification for 20 students would be required.

→ 20 students x 10,000 tuition per student = **\$200,000**.

*Example 2:*

2 cohorts with 20 students in each, \$10,000 tuition per student, **an overlap by 30 days** in enrollment or payments between cohorts. Tuition indemnification for 40 students would be required.

→ 40 students x 10,000 tuition per student = **\$400,000**.

*Example 3:*

2 cohorts with 20 students in each, \$10,000 tuition per student, **an overlap by 1 day** in enrollment or payments between cohorts. Tuition indemnification for 40 students would still be required.

→ 40 students x 10,000 tuition per student = **\$400,000**.

*Example 4:*

20 students, **rolling admissions**. A school would need to identify a single point in the upcoming year with greatest number of enrolled students, assuming that all students are paying the same tuition. Examining the peak tuition at risk from the previous year may be a starting point.

## COMPLEX EXAMPLES

To further assist you in identifying the peak tuition at risk, consider examining figures from the school's most recent completed fiscal year.

*Example 1:*

If a school offers only short-term programs at a length of approximately 1 week each, consider identifying the single week in the recent completed fiscal year with the maximum tuition at risk. Take that figure and add or subtract a value determined by the projected enrollment for the upcoming year.

*Example 2:*

If a school offers only short-term programs at a length of approximately 1 month each, consider identifying the single month in the most recent completed fiscal year with the maximum tuition at risk. Take that figure and add/subtract a value determined by the projected enrollment for the upcoming year.

*Example 3:*

If a school offers only programs at a length of approximately two or more months each, use the same type of analysis indicated in the first two scenarios. You may also reconsider the baseline example provided in the previous section that based is on examples with 20 students at \$10,000 tuition each.

*Example 4:*

If a school offers a combination of long and short-term programs, consider identifying the largest enrollment for the long-term program(s) in the most recent completed fiscal year, and then add the maximum tuition at risk for the other long and short-term program(s) that *overlapped* with the long-term program(s). Take the aggregate maximum tuition at risk and add or subtract a value determined by the projected enrollment of the upcoming year.

## ADDITIONAL TECHNICAL ADVISORY

Pursuant to RSA 188-G:3, **the cost of a program/course is based on the contract cost that the student and school sign, not payment plans.**

Even if a student has invested only a portion of the program cost, it is the *full cost* listed in the student contract that a school is required to factor in determining the amount of indemnification. Otherwise, a reported increase in maximum tuition at risk may consequently increase indemnification at various intervals. Should anticipated figures increase throughout the year, a school is required to obtain a surety rider to bring the bond into compliance with RSA 188-G:3.

Forms made available prior to July 2018 are no longer valid. Please use the examples in the *Surety Bond Guidelines* available at <https://www.education.nh.gov/highered/career/licensing.htm> for examples of forms.