



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Oversight of Private Career Schools

State Education Department



Report 2011-S-51

August 2013

Executive Summary

Purpose

To determine whether the State Education Department's (Department) Bureau of Proprietary School Supervision (Bureau) provided sufficient oversight of private career schools in New York State. The audit covers the period January 1, 2009 through June 27, 2012.

Background

The New York State Education Law (Law) requires the Bureau to oversee and monitor non-degree granting private career schools in New York State. The intent of these career schools is to provide graduates with technical and other skills necessary to find and maintain employment. In general, the Law requires such schools, which charge tuition, to be registered or licensed. The Bureau works with prospective schools to guide them through the application and licensing process. Once licensed, the Bureau should monitor the schools to protect students' financial and educational interests against fraudulent or substandard programs. In addition, the Bureau is responsible for identifying and investigating unlicensed schools. The Law authorizes the Department to take disciplinary actions against private career schools that violate the applicable provisions of the Law or Regulations of the Commissioner of Education.

The Bureau has about 20 employees and is funded through application fees and assessments collected from private career schools. From April 1, 2009 through December 31, 2011, the Bureau collected fees and assessments totaling \$9.3 million.

Key Findings

- The Bureau has not provided adequate oversight of private career schools in New York State. The Bureau often did not comply with provisions of the Education Law and internal policies designed to ensure the adequacy of programs offered by private career schools. As a result, the Bureau has not used its resources in the most effective manner to protect the interests of students and taxpayers.
- Of the 148 pending applications for new schools and/or programs, the Bureau had not acted on 66 (45 percent) of them within one year, as required. Of these 66 applications, 20 were pending for at least two years.
- Of 1,328 investigations of potentially unlicensed schools, 724 (55 percent) remained open for at least 10 years. Further, from a sample of 100 pending investigations, we identified 18 schools that appeared to be operating without a State license. These schools provided instruction in a range of careers, including computer software, cosmetology and credit granting. We referred these schools to Bureau officials for appropriate follow-up action.
- Of 491 licensed schools, 292 (59 percent) did not submit required statistical reports showing required job placement, enrollment and graduation data. The Bureau did not follow up with any of the delinquent schools.
- The Bureau's automated management information systems are outdated and limit the Bureau's ability to identify priorities and ensure that limited staff resources are used in the most efficient manner.

Key Recommendations

- Ensure that license applications for private career schools are processed within one year of initiation.
- Establish time frames and implement procedures for completing investigations of private career schools in a timely manner. Provide immediate attention to those cases which involve the most significant issues.
- Develop and implement a formal plan to use information technology to improve the Bureau's ability to integrate and retrieve data vital to the oversight of private career schools.

Other Related Audits/Reports of Interest

[State Education Department: Unlicensed Business Schools \(1997-S-36\)](#)

[State Education Department: Use of Information Technology for Professional Licensing and Renewal \(2006-S-22\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

August 7, 2013

Dr. John B. King, Jr.
Commissioner
State Education Department
89 Washington Avenue
Albany, NY 12234

Dear Dr. King:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Oversight of Private Career Schools*. The audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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This report is also available on our website at: www.osc.state.ny.us

Background

Non-degree granting private career schools (also known as proprietary schools) provide training in a broad range of disciplines such as computer programming, cosmetology, business, real estate, and plumbing. The intent of these schools is to provide graduates with technical and other skills necessary to find and maintain employment. The New York State Education Law (Law) requires all non-degree granting private career schools that charge tuition to be registered or licensed by the State, unless they meet certain exemption criteria. The Law also requires the State Education Department (Department) to enforce all laws relating to the educational system in the State.

At the time of our audit, there were 491 licensed non-degree granting private career schools in New York State. There were an additional 148 schools that had submitted license applications that were pending disposition. During the year ended June 30, 2010, about 46,000 students attended licensed private career schools. The Department's Bureau of Proprietary School Supervision (Bureau) is responsible for ensuring the programs offered by private career schools provide students with the skills needed for meaningful employment and for protecting students' financial interests. The Bureau has about 20 employees and maintains offices in Albany and New York City. The Bureau derives its funding through application fees and annual assessments collected from private career schools. From April 1, 2009 through December 31, 2011, the Bureau collected about \$9.3 million in fees and assessments. In 2011, the legislature transferred about \$300,000 from the Bureau's Special Purpose Revenue Fund to the State's General Fund.

The Bureau works with prospective career schools to guide them through the application and licensing process. This includes review and approval of a school's curriculum, personnel and physical space to determine whether they are sufficient to fulfill the school's training objectives. Bureau officials also review financial documents to ascertain a school's financial viability. When initially granted, a career school's license is valid for two years. Thereafter, licenses can be renewed for a period of four years. Bureau staff monitors licensed schools to protect students' interests as well as the general public against fraudulent or substandard training programs. The Bureau is also responsible for identifying and investigating unlicensed schools. According to Bureau officials, the Bureau takes action when a school operates a program that could be harmful to the health and welfare of its students. Bureau officials encourage such schools to become licensed or to apply for an exemption.

The Law also authorizes the Department to take disciplinary actions against private career schools that violate the applicable provisions of the Law or Regulations of the Commissioner of Education, as determined by a formal hearing process. The disciplinary actions can include civil penalties (fines) and a range of administrative sanctions (including a cease and desist order, suspension or revocation of a license, or an order of restitution).

In August 2012, legislation was signed into law (effective December 2012) that increased the application fee for career schools from \$250 to \$5,000. In passing this law, the legislature concluded that the Department needed to strengthen efforts to protect students enrolled in certain non-degree granting private career schools from inadequate job training and school closures. In

addition, the legislature concluded that the Department needed to better align its oversight of private career schools with the growing needs and demands of business and industry. The new law also created “candidate schools,” whereby a school can operate during the application process (or prior to formal Department approval of its application). Furthermore, pursuant to the Law, the Bureau can use any additional revenues to add staff and improve information technology.

In 1997, we issued a report to the Department entitled Unlicensed Business Schools (Report 1997-S-36). In that report, we concluded the Bureau lacked the resources to properly oversee schools that were subject to the Law. We also identified deficiencies in Bureau records for certain schools.

Audit Findings and Recommendations

The Bureau often did not comply with pertinent provisions of the Education Law and internal policies designed to ensure the adequacy of training programs offered by private career schools in New York State. In addition, there were significant deficiencies in the data and data systems used by the Bureau to oversee and monitor private career schools. Consequently, the Bureau did not use its resources in the most effective manner to protect the interest of students and taxpayers. Moreover, the Department had limited assurance that private career schools consistently provided students with the training they need to find jobs.

In 1997, we issued a report that concluded the Bureau's oversight of private career schools was insufficient. Our current audit indicates that some of the same issues, identified more than 15 years ago, still exist. We recognize that the Bureau has limited resources. However, officials need to take steps to ensure that the Bureau's limited resources are used in the most efficient manner to maximize its ability to oversee private career schools throughout the State.

Non-Compliance With Program Requirements

The Bureau is required to oversee the licensing of private career schools. This includes ensuring that applications are processed timely, complaints about unlicensed schools are investigated expeditiously, and annual statistical reports are submitted as required by schools. However, the Bureau did not adequately fulfill these prescribed responsibilities. Bureau officials attributed deficiencies to a lack of sufficient staff resources. Officials further indicated that they plan to hire more staff with the additional funding anticipated from the aforementioned increase in application fees.

Timeliness of Application Processing

Providers of career training programs must apply for a license to start or significantly change a program. The Bureau requires new career schools to submit an initial application - and then a complete application within eight months of the initial application. Further, the Law requires the Bureau to render a decision within four months of receipt of the completed application. Consequently, the Bureau should render decisions within one year of receipt of an initial application. As of April 10, 2012, the Bureau listed 148 pending applications for new schools and/or programs, as summarized in Table 1.

Table 1

Years in Pending Status	Number of Applications
Up to One Year	82
Between One and Two Years	46
Between Two and Three Years	12
Between Three and Four Years	7
Over Four Years	1
Total	148
Total Over One Year	66

As Table 1 illustrates, 66 (45 percent) of the 148 applications were in pending status for more than one year. This included 20 applications that were pending for at least two years - and one for more than four years. As a result of this delay, there is increased risk that certain schools that would not be approved for a license are actually operating programs, and that viable owners may have refrained from operating programs.

Further, we found that the Bureau's current application process is cumbersome and labor intensive. Often, it involves extensive communication between Bureau and school officials to clarify information submitted on applications. Virtually all of the pertinent records and communication are maintained in paper files, which at times are voluminous. Use of contemporary information technology, such as imaging, could improve the efficiency and effectiveness of this process.

In December 2006, we issued a report to the Department entitled Use of Information Technology for Professional Licensing and Renewal (2006-S-22). In their response to that report, officials noted that the Department had made progress on an imaging system in the Office of Professions to provide for easier and more efficient access to applicant and licensee data. A similar technology improvement initiative could be of benefit to the Bureau. Also, we address other information technology concerns later in this report.

Complaints and Investigations

The Bureau identifies potentially unlicensed schools mainly through complaints received from the general public. The Bureau is responsible for investigating the complaints and, as warranted, requiring schools to comply with licensing requirements. To help manage its investigations, the Bureau maintains an electronic database of investigation activity. At the time of our audit, there were 1,976 complaints identified for investigation. The database indicated that investigations of 648 complaints were complete. Bureau officials concluded that 536 of these 648 complaints pertained to schools that were closed or exempt from licensure requirements.

More importantly, the Bureau's other 1,328 (1,976 - 648) investigations remained open. We determined that 1,080 (81 percent) of the open investigations were initiated prior to 2009, and 724 (54 percent) investigations had been open for at least 10 years. Thus, the Bureau often did not conclude its investigations of complaints in a timely manner. Table 2 summarizes the 1,328 open investigations according to the year they were initiated.

Table 2

Year Initiated	Number of Open Investigations	Cumulative Total of Open Investigations	Percent of Total Open Investigations	Cumulative Percentage of Open Investigations
2001 and Prior	724	724	54%	54%
2002	116	840	9%	63%
2003	31	871	2%	65%
2004	47	918	4%	69%
2005	40	958	3%	72%
2006	46	1,004	3%	75%
2007	49	1,053	4%	79%
2008	27	1,080	2%	81%
2009	127	1,207	10%	91%
2010	50	1,257	4%	95%
2011	30	1,287	2%	97%
Subtotal	1,287		97%	
Date Not Indicated	41	1,328	3%	100%
Total	1,328		100%	

Further, we judgmentally selected a sample of 100 of the 1,328 open investigations to identify unlicensed schools. From these 100 cases, we identified 18 schools that appeared to be operating without a State license. These schools provided instruction in a range of careers, including computer software, cosmetology and credit granting. We referred the 18 schools to Bureau officials for appropriate follow-up action. Also, based on the results of the sample we reviewed, we believe there is considerable risk that a significant number of other career schools are operating without a license. When an unlicensed school is identified, the Bureau sends a form letter informing school officials of State licensure requirements and requesting a response from them. However, if school officials do not respond, the Bureau generally takes no further action. The case remains on the Bureau's database, and there is no timetable for closing it. Moreover, without sufficient enforcement of licensing requirements, there is less incentive for a private career school to obtain a State license.

According to Bureau officials, the investigation of unlicensed schools is not a high priority, primarily due to staffing limitations. Consequently, the Bureau should use a formal risk assessment process to focus its limited resources on those schools that pose the greatest risks to students and the public. Bureau officials told us that schools providing health-related programs and/or with

multiple complaints are given higher priority for investigation. However, the Bureau's database does not identify schools that offer health-related programs or include information on the number of complaints received. Therefore, it is unclear how Bureau officials prioritize cases and allocate staff to those schools most in need of investigation based on risk assessment.

Required Statistical Reporting

The Bureau should ensure that the overall educational quality of the programs offered by career schools provide students with the skills necessary to secure meaningful employment. The Law requires the Department to consider outcome-based factors such as student course completion and job placement rates before re-approving schools' curriculums. Accordingly, the Law requires all licensed private career schools to submit annual statistical reports including enrollment data, and graduation and job placement rates.

However, the Bureau does not ensure that private career schools report enrollment, graduation, and job placement information, as required by the Law. We reviewed the statistical reports submitted by schools for the 2008-2009 year. Of 491 licensed schools, 292 (59 percent) did not submit the required report. These schools provided instruction in a range of careers, including skin care, culinary arts and broadcasting. Further, the Bureau did not follow-up with any of the 292 non-compliant schools or review the reports that were submitted.

A properly functioning performance measurement system can provide a means to evaluate how well schools are operating and help improve underperforming schools. However, we concluded that the Bureau does very little to monitor school performance once a school is licensed. Bureau officials told us that due to limited resources, they rarely review performance measures, such as graduation or job placement rates. Nevertheless, these measures are crucial to ensuring that private career schools properly serve their students, and Bureau officials should assess them when schools seek license renewals. Schools with poor performance indicators, such as low graduation and job placement rates, should be identified so corrective actions can be taken as needed. If poor performing schools are unable to improve their programs, the Bureau should consider revocation of licenses or denial of license renewals.

Recommendations

1. Ensure that license applications for private career schools are processed within one year of initiation. Take steps to resolve timely the 66 applications which have been pending final determinations for more than a year.
2. Establish time frames and implement procedures for completing investigations of private career schools in a timely manner. Provide immediate attention to those cases which involve the most significant issues.
3. Develop and implement formal processes to prioritize investigations to help ensure the most effective use of limited staff resources.

4. Formally follow-up with private career schools which do not submit the required statistical reports, including enrollment, graduation and job placement data, to the Department. Take actions against those schools which do not submit the required reports.
5. Develop and implement a system to assess school performance. Take actions, as appropriate, to improve underperforming schools.
6. As provided for by the State Education Law, take disciplinary actions against private career schools that are in material non-compliance with applicable laws and regulations. This could include (but not be limited to) cease and desist orders, fines, and suspensions/revocations of licenses for schools committing serious violations.

Management Information Systems

Organizations must maintain and use mission-critical information to ensure employees perform their job responsibilities efficiently and effectively. In part, we attribute the problems identified in this report to deficiencies in pertinent Bureau data and the automated systems the Bureau used to maintain such data. Further, because of these deficiencies, Bureau officials had limited ability to use data to establish priorities and ensure that limited resources were employed in the most efficient manner.

The Bureau's primary management information system is a mainframe application developed in 1988. It has limited functionality and is used mainly as an indexing system to help locate a school's paper files, where much Bureau information is maintained. Also, over the years, Bureau employees have developed about 20 databases for various elements of the private career school program. The databases are maintained by several different employees, at the Bureau's Albany and New York City offices, and they are not integrated with each other or the Bureau's mainframe application. Consequently, it is difficult to obtain a complete profile (including, for example, payments of licensing fees, complaints, violations, etc.) for any particular school.

We also found that the information within the databases was often incorrect and/or incomplete. For example, in the Bureau's unlicensed School Database, eight schools were, in fact, licensed. Further, in the Bureau's Change of Status Database, there was no date of initial licensure for 402 (60 percent) of the 671 schools career schools listed.

According to Bureau officials, they plan to use anticipated revenue increases to improve the Bureau's information technology capabilities, including a web-based application system. This will help increase the accuracy, completeness, and overall quality of critical data maintained by the Bureau.

Recommendation

7. Develop and implement a formal plan to use information technology to improve the Bureau's ability to integrate and retrieve data vital to the oversight of private career schools.

Audit Scope and Methodology

We audited the Bureau's oversight of private career schools in New York State. Our audit objective was to determine whether the Bureau provided sufficient oversight to ensure private career schools were licensed and complied with regulatory reporting requirements. Our audit period was from January 1, 2009 through June 27, 2012. To accomplish our objective, we interviewed Bureau officials and staff and reviewed pertinent hard copy and automated records. We also reviewed applicable sections of the State Education Law and examined the Bureau's relevant policies and procedures.

To evaluate the Bureau's oversight of private career schools, we reviewed the Bureau's management information systems, which consisted of a mainframe application and several Access databases. We also selected a judgmental sample of 100 schools from the Unlicensed School Database for review. We eliminated schools that were exempt, closed, out of state, or referred to another agency. We also visited the Bureau's New York City office to assess procedures for identifying and investigating unlicensed schools. This included reviews of document files for certain unlicensed schools.

To identify additional unlicensed schools, we obtained a public listing of private career schools from the United States' Department of Education. We compared these schools to private career schools licensed by the Bureau or pending licensure. Also, we reviewed the Bureau's Pending Schools Database of 148 schools with applications for licenses.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members (some of whom have minority voting rights) to certain boards, commissions and public authorities. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements

We provided a draft copy of this report to Department officials for their review and formal comment. We considered the Department's comments in preparing this report and have included them in their entirety at the end of it. In their response, Department officials agreed with our recommendations and indicated the actions they will take to improve their oversight of private career schools.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where the recommendations were not implemented, the reasons why.

Contributors to This Report

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Vision

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To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

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June 24, 2013

Mr. Brian Mason
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236

Dear Mr. Mason:

The following is the New York State Education Department's (Department) response to the draft audit report (2011-S-51) of the *State Education Department Oversight of Private Career Schools*. It includes some general comments and then responses to the specific recommendations.

Overall Comments

Much has changed in the area of Private Career Schools since this audit was initiated in November of 2011. Legislation to align Education Law with the current state of the industry became effective December 17, 2012. The provisions of the law will address some concerns identified in the audit findings. A school that is currently operating illegally may apply to become a candidate school. The school will be allowed 12 months in which to become licensed, the "business" will not need to close during that period, and the students will be informed that the school is in the process of becoming licensed. Teachers are now independent and are not tied to a school. The fee for a school license has risen to \$5,000. Audited financial statements are now to be completed using the GAAP method, which is a higher standard.

The Department has taken significant steps to bolster the oversight of licensed private career schools in New York State. Four additional positions have been added to the Bureau of Proprietary School Supervision (Bureau). A senior attorney has joined the staff in NYC to assist with investigations and disciplinary action. An investigator has filled a long-time vacancy. An additional staff person, an Education Professional Assistant, has joined the Albany office to assist in the review of curriculum and to take on some of the administrative paperwork of the Education Team. This is intended to move along pending schools and school renewals. An Education Supervisor has assumed the supervision of the Education Team with one goal being to find ways to reduce the backlog of school renewals and pending schools.

A modern management information system is under construction. This will permit the Bureau to consolidate the various independent databases so that information is readily available. It will allow the public to access consumer information, such as what schools teach programs they are seeking. Paper files will be significantly reduced over time, resulting in more accuracy and accessibility. The Bureau will have access to information on schools from the first point they are identified. This will create a

sophisticated tracking system for unlicensed schools and their status, as well as the entire history of licensed schools.

Recommendation 1:

Ensure that license applications for private career schools are processed within one year of initiation. Take steps to resolve timely the 66 applications which have been pending final determinations for more than a year.

Department Response:

We agree with this recommendation. As various staff members work on the three components of the license application, it is the intent of staff to license the school within that one-year period. In the past, we have not denied a license application if the school is actively working on the application, particularly if materials have been submitted and are awaiting our review. This will no longer be true; we will enforce the denial date for new school licensure at one year as is our policy. The 66 applications will be addressed in this manner.

Recommendation 2:

Establish time frames and implement procedures for completing investigations of private career schools in a timely manner. Provide immediate attention to those cases which involve the most significant issues.

Recommendation 3:

Develop and implement formal processes to prioritize investigations to help ensure the most effective use of limited staff resources.

Department Response to Recommendation 2 and 3:

We agree with these recommendations. A monthly meeting will be held with the Bureau Director, the Education Supervisor, Sr. Attorneys, and the Investigations Unit to discuss which cases remain outstanding as well as what potential hot spots might arise. A short memo will summarize the results of the meeting for documentation. A procedural manual describing the steps required in conducting an investigation will be created. While this appears to be a good suggestion, a review of this process will take place after 12 months to determine its effectiveness. A review of investigations as they proceed is being conducted to determine how much evidence needs to be collected for a strong case, which will reduce the amount of time spent and bring the case to a quicker resolution. Investigations involve so many factors which can deter resolution. Some of these factors can include staffing, number of investigations occurring concurrently, other agency intervention, FOIL requests, etc.

Recommendation 4:

Formally follow-up with private career schools which do not submit the required statistical reports, including enrollment, graduation, and job placement data to the Department. Take actions against those schools which do not submit the required reports.

Department Response:

We agree with this recommendation; however, we are currently unable to track these reports in an efficient manner due to our computer system. In an attempt to better track these reports, a database has been created and follow up will take place. We recognize the importance of these statistical reports and are resolved to improve their collection. We will allow the schools a limited period of time in which to respond. If no response is received, the school will be fined for the violation.

Recommendation 5:

Develop and implement a system to assess school performance. Take actions, as appropriate, to improve underperforming schools.

Department Response:

We agree with this recommendation. Implementation will be related to the computer build, which will allow the Bureau to collect completion and placement data. This is the best means to assess performance. At this time, we are unable to collect this information in an efficient or meaningful manner. We will be analyzing the return of this information by the schools, with the intent to follow-up with schools who have not responded. This will position the Bureau better when the computer system is up and running.

Recommendation 6:

As provided for by the State Education Law, take disciplinary actions against private career schools that are in material non-compliance with applicable laws and regulations. This could include (but not be limited to) cease and desist orders, fines, and suspensions/revocations of licenses for schools committing serious violations.

Department Response:

We agree with this recommendation. Implementation will be related to the establishment of additional procedures for investigations; regular meetings to review active and future cases; and the analysis of cases to bring them to action more quickly.

Recommendation 7:

Develop and implement a formal plan to use information technology to improve the Bureau's ability to integrate and retrieve data vital to the oversight of private career schools.

Department Response:

We agree with the recommendation. As mentioned above, a modern management information system is under construction. This will permit the Bureau to consolidate the various independent data bases so that information is readily available. It will allow the public to access consumer information, such as what schools teach programs they are seeking. Paper files will be significantly reduced over time, resulting in more accuracy and accessibility. The Bureau will have access to information on schools from the first point they are identified. This will create a sophisticated tracking system for unlicensed schools and their status, as well as the entire history of licensed schools.

Sincerely,



Sharon Cates-Williams

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