

DEPARTMENTAL AUDITS

4.**EDUCATION AND CULTURE - REGULATION OF
PRIVATE TRADE SCHOOLS****BACKGROUND**

4.1 The Minister of Education and Culture is responsible for the Trade Schools Regulation Act enacted in 1986. The Act requires the registration of any school or home study course teaching a trade as defined in the Regulations.

4.2 The requirement to register does not apply to universities or schools established under separate legislation such as community colleges. Registration is also not required for schools that do not teach a trade. Registration is optional for trade schools offering programs with hours of instruction under certain minimums or with tuition fees under a certain dollar value.

4.3 The Act establishes the position of Superintendent of Private Trade Schools for the day to day administration of the Act. This position, reporting to the Director of Adult Learning and Innovation of the Department of Education and Culture (DOE&C), was being filled on a part-time basis at the time of our audit.

4.4 The Act also establishes the Provincial Private Trade School Board. The role of the Board is to provide advice to the Minister and decide appeals of Department decisions and includes the following:

- reviewing registration applications and recommending to the Minister whether a certificate should be granted;
- recommending to the Minister criteria for industry operating and performance standards including curricula, instructor qualifications and certification and diplomas; and
- recommending to the Minister legislative and policy initiatives.

4.5 Staffing consists of a Superintendent and three other staff. Only one of the three staff positions were filled at the time of our audit. Registration revenues total approximately \$9,000 per year. Exhibit 4.1 on page 51 includes several key statistics for the program.

4.6 Thirty private trade schools were registered under the Act in 1987 and the number had increased to 98 by 1996. The increase in the number of private trade schools operating in the province attests to the growth of the private training industry in the Province. A 1993 Canadian Federation of Independent Business survey of small and medium sized business operator/owners ranked private trainers as the most effective post-secondary training path in preparing young people for their role in the workplace.

RESULTS IN BRIEF

4.7 The following are the principal observations from our examination.

- The Department of Education and Culture prepared a strategic plan entitled *Toward a Learning Culture...* in 1994-95. This plan does not specifically address the role of private trade schools in achieving the Department's strategic goals or the role of the Department in regulating the private training industry in the post secondary education system. There is no mission statement or other study which identifies stakeholder groups, establishes regulatory needs and defines roles, responsibilities and accountability relationships in light of the strategic direction of the Department.
- Standards, for several occupations we encountered, had not been developed for many important areas including whether course curriculum meets minimum occupational requirements, in-service training, examinations, certification and diplomas. As a result, there is a danger of inappropriate or subjective judgements about these matters when recommending a registration application for approval. We have recommended that the Board prepare an inventory of those areas and occupations where standards are not in place and develop a plan to develop required standards.
- The Board has not recommended performance standards for trade schools to the Minister. As a result, the Department does not obtain and monitor performance and outcome measures for trade schools such as graduation rates and employment rates after graduation.
- The practice of registering non-trade schools exceeds the regulatory jurisdiction defined in the Act. We have recommended that the Department study the implications of broadening the scope of those subject to regulation and to seek appropriate legislative amendments.
- Registration information was verified in the past by performing a pre-registration inspection. Pre-registration inspections are no longer carried out because of staff shortages. In addition, at the time of our audit, post-registration inspections were carried out infrequently, usually triggered by a student complaint. Without the ability to at least spot check registration information, we have concluded that controls over the registration process are not adequate.
- Department staff historically conducted inspections to ensure school operations comply with the Act. The frequency of inspections has declined over the last year due to staff shortages. At the time of our audit, inspections were only being carried out in reaction to a student complaint. There is no Department policy regarding the frequency of inspections or the circumstances that might warrant an audit. We have recommended that the Department conduct a risk analysis and establish policies concerning the frequency of inspections and audits.

AUDIT SCOPE

4.8 The objectives of this assignment were to:

- determine whether the DOE&C is complying with the provisions of the Trade Schools Regulation Act and Regulations;

- determine whether registration systems and procedures are sufficient to ensure that all trade schools are registered and all revenue to which the Province is entitled under the Act is collected and accounted for; and
- determine whether procedures for certifying private trade schools are sufficient to provide for due regard for economy and efficiency in the expenditure of public funds.

4.9 The following general criteria were used in our review.

- Roles and responsibilities should be adequately defined and communicated.
- The Trade Schools Regulations Act and Regulations should be complied with.
- There should be adequate systems for registering and monitoring private trade schools which should ensure that schools are fulfilling agreed upon roles and responsibilities.
- The registration process should provide for a review of proposed courses by the relevant professional association to ensure that courses include the basic requirements for the occupation. In cases where there is no established professional association, there should be an alternate method of reviewing course proposals and content.

4.10 This was our first audit of this function at the DOE&C.

PRINCIPAL FINDINGS

Scope of Regulatory Activity

4.11 *Background* - Activities contemplated under the Act can be summarized as follows:

- a registrar function requiring the registration of private trade schools, their agents, and home study courses; and maintaining information about trade schools operating in the Province;
- a protection function for students including the regulation of prices charged for text books, the content of contracts between the school and the student, tuition refund policies and security bonds from schools; and
- a standards setting function including standards for curricula, instructor qualifications, equipment and facilities, text books, examinations and certificates and diplomas.

4.12 Trade schools must register under the Act to qualify students for Canada and Nova Scotia student loans, for Provincial and Federal sales tax exemptions, to issue income tax receipts to students, and to qualify for Federally funded training programs.

4.13 *Registration of non-trade schools* - Section 12(4) of the Regulations under the Act permits voluntary registration of trade schools offering programs with less than 81 hours of instruction or tuition of less than \$351. There is no provision under the Act or Regulations for the registration of schools which do not teach a trade.

4.14 We found 25 of 97 schools registered as of November 1996 did not meet the definition of a trade school as outlined in the Act and Regulations. Non-trade schools offer General Equivalency Diploma (GED) programs, general upgrading courses, and instruction on general purpose computer software. Non-trade schools seek registration under the Act for the reasons outlined in paragraph 4.12.

4.15 We have concluded that the practice of registering non-trade schools exceeds the regulatory authority defined in the Act. We have recommended that the Department study the implications of broadening the scope of those subject to regulation and to seek appropriate legislative amendments.

4.16 *Standards of operation* - Section 22 of the Act requires the Board to recommend to the Minister criteria for developing standards for trade schools and home study courses. Criteria include student recruitment, instructor qualifications, in-service training, curricula, text books, equipment, examinations, certification and diplomas. Establishing standards is a necessary first step to objectively assess whether a certificate of registration should be recommended for approval.

4.17 As a practical measure, the Department and the Board rely on the training standards set forth by professional associations. In addition, the certification and regulatory policies of other Federal and Provincial government departments often become minimum standards for certain occupations. If a professional association does not exist for an occupation or if criteria, standards or certification requirements have not been established by the professional association or by legislation, then it is the responsibility of the Board to recommend appropriate criteria.

4.18 At the time of our audit there were 89 registered trade schools teaching 17 occupations. Of the 17 occupations, 12 did not have professional associations to establish standards. Existing regulations contain standards for certain matters such as advertising practices, tuition refund policies and surety bonds. Additional standards for instructor qualifications, certification and diplomas are contained in draft regulations but have not been approved. We also found evidence that the Department contacts other government departments to determine certification requirements although these were not always documented and formally approved.

4.19 However, standards have not been developed for many important areas including whether course curriculum meets minimum occupational requirements, in-service training and examinations. As a result, there is a danger of inappropriate or subjective judgements about these matters when recommending a registration application for approval.

4.20 We have recommended that the Board inventory those areas and occupations where standards are not in place and prepare a plan to develop the required standards.

4.21 *Performance standards for trade schools* - Section 22 (1)(d) of the Act requires the Board to recommend to the Minister performance standards for trade schools and home study courses. The Board has not recommended performance standards for trade schools to the Minister. As a result, the Department does not obtain and monitor performance and outcome measures for trade schools such as graduation rates and employment rates after graduation.

4.22 *Other matters of non-compliance* - We found several other examples of non-compliance with legislation which are of lesser significance but which require remedial action by management. These included the areas of student age restrictions, the timing of board meetings, the requirement for the Superintendent to approve or initiate certain actions and defining the publication used to define a trade. Amendments to regulations under the Act were drafted in 1993 but have not received the approval of Executive Council. In some cases, staff are operating in accordance with the draft regulations rather than Regulations approved by Executive Council. We have recommended that the Department seek approval of proposed amendments to the regulations and ensure that operating practices are consistent with approved legislation.

Roles and Responsibilities

4.23 *Linkage of regulatory activity to Department strategic plan* - The Department of Education and Culture prepared a strategic plan entitled *Toward a Learning Culture...* in 1994-95. This plan does not specifically address the role of private trade schools in achieving the Department's strategic goals or the role of the Department in regulating the private training industry in the post secondary education system.

4.24 There are several stakeholder groups with an interest in the regulatory environment affecting private trade schools. These include industry associations, the Student Assistance Section of the Department which is responsible for the issue of student loans, Provincial and Federal government agencies that fund student placements in training programs, the private trade schools, the Superintendent and the Board. It is important that the roles, responsibilities and accountability relationships between these various groups be clearly defined. There is no mission statement or other study which identifies stakeholder groups, establishes regulatory needs and defines roles, responsibilities and accountability relationships in light of the strategic plans of the Department.

4.25 *Policies and procedures* - There is a lack of approved policies and procedures to direct Department staff in their day to day activities. A draft policies and procedures manual has been prepared but not yet implemented because it is based on proposed regulations not yet approved.

4.26 The draft policy and procedures manual appears to be complete and well written with the exception that it lacks a policy concerning confidentiality of applicant information. A confidentiality policy is important because private trade schools compete with community colleges and other post-secondary institutions funded by the DOE&C. Material received by the Department from private trade schools may contain confidential information about course content. We have recommended that the policies and procedures manual be approved as soon as possible. We have also recommended the development of a policy concerning confidentiality of applicant information.

4.27 *Accountability reporting* - The Board does not prepare a document outlining its plans and objectives for the upcoming year. Consequently the Board does not prepare periodic reports on its activities and accomplishments. Adequate accountability reporting should include a requirement to periodically articulate objectives and plans and report on achievements.

4.28 *Position descriptions* - Position descriptions of Department staff carrying out regulatory duties under the Act were prepared many years ago and are significantly out of date. Inaccurate position descriptions fail to define position accountabilities of staff and are ineffective in evaluating performance. Updated job descriptions were drafted three to five years ago, but never received approval. We have recommended that position descriptions be updated.

Registration Process

4.29 *Background* - Section 5 of the Act requires the registration of all trade schools and home study courses operating in the Province. Applications for registration and supporting documentation are submitted to the Superintendent. Documentation is reviewed for adequacy together with health and fire inspection reports. In addition, the applicant is required to post a performance bond. When the Superintendent is satisfied with the application, it is submitted to the Board for review. The Board, if satisfied, recommends that the Minister issue a certificate of registration which is signed by the Minister and Superintendent and issued to the applicant.

4.30 *Verification of registration information* - Registration information was verified, in the past, by performing a pre-registration inspection. Pre-registration inspections are no longer carried out

because of staff shortages. In addition, at the time of our audit, post-registration inspections were carried out infrequently, usually triggered by a student complaint. Without the ability to at least spot check registration information, we have concluded that controls over the registration process are not adequate.

4.31 *File documentation* - Registration information is retained in files organized by school. We examined 15 school files and found two cases where an inventory of training equipment was absent and one case where a student list did not contain student addresses. In another case, we could not locate board minutes or a copy of the registration certificate proving that the school had been properly registered. In some cases we had difficulty locating fire inspection reports. We have recommended that file documentation standards be strengthened.

Inspections and Audits

4.32 *Background* - Department staff historically conducted inspections to verify the accuracy and completeness of registration information and to ensure school operations comply with the Act. Inspections were usually conducted on a surprise basis and were typically up to one day in duration and documented in a one or two page inspection report. Until approximately one year ago, schools were inspected 2-3 times each year. The frequency of inspections has declined over the last year due to staff shortages. At the time of our audit, inspections were only being carried out in reaction to a student complaint. In addition, Section 15 of the Act permits the Minister to conduct audits.

4.33 *Follow-up of inspection concerns* - We examined all inspections carried out in calendar years 1995 (39 inspections) and 1996 (1 inspection). Only 7 inspections contained findings that required follow-up by the inspector. In one case, in May 1995, the inspector had concerns about classroom occupancy capacity and the storage of paints and oils which the inspector considered a fire hazard. There was no documentation in the file that these matters were followed up although the school did pass a subsequent fire inspection. We have recommended that the Department strengthen controls to ensure that all inspection findings are subject to prompt follow-up and that follow-up actions are clearly documented in the files.

4.34 *Inspection checklists* - There are no written inspection checklists in Department files. It was therefore difficult to determine what exactly had been verified during an inspection. In addition, inspection reports contained ratings of “very good”, “good”, “OK”, or “unsatisfactory”. Without a checklist it was difficult to determine how a particular assessment had been determined. We have recommended that an inspection checklist be developed to ensure the completeness, consistency and objectivity of the inspection process.

4.35 *Frequency of inspections and audits* - As indicated above, inspections were very infrequent at the time of our audit. Inspections were only being carried out as staff were available or when a student complaint was received. Department staff informed us that audits under Section 15 of the Act had never been conducted. There is no Department policy regarding the frequency of inspections or the circumstances that might warrant an audit. Department staff informed us that schools should be inspected at least once annually. We have recommended that the Department conduct a risk analysis and establish a policy concerning the frequency of inspections and audits.

Surety Bonds

4.36 *Background* - Each private trade school must provide a surety bond or irrevocable letter of credit as a condition of registration. Surety bonds expire yearly. The required amount of the bond is defined in the Regulations under the Act. The maximum and minimum bond amounts are \$50,000

and \$2,000 respectively. There has been only one instance since 1986 where a surety bond was liquidated due to a business failure. The primary purpose of surety bonds is to enable the refund of student tuition fees should the school cease to operate.

4.37 *Amount of surety bonds* - Regulation 9 of the Act requires the bond amount to be calculated as the tuition amount multiplied by the number of students from the previous year or the number of student places. The Department follows the practice of not including in the bond calculation students placed by Federally funded training programs. This exclusion is not specified in the Regulations and the impact can be significant depending on the number of Federally funded students. For four schools examined, the required bond amount was reduced by \$30,000 to \$40,000 by excluding these students. We have recommended that the Department review the existing Regulations and seek appropriate changes where required.

4.38 *Documentation of bond calculation* - We could not determine whether the amount of surety bonds for three schools examined complied with the Regulations because of inadequate documentation in the files. We have recommended that all school files document how the amount of a surety bond is calculated.

CONCLUDING REMARKS

4.39 A quality post secondary education system is important to ensure that the Province has a well trained work force capable of attracting business investment. The Department's strategic plan should consider the role of the private training industry in the post secondary education system and ensure that the regulatory activities of the Department are consistent with these plans.

4.40 There may be an assumption on the part of many, because of the wording of Section 22 of the Act, that the registration of a school provides assurance about quality of course content and teaching facilities and instructor qualifications. However because of the lack of quality standards in many areas, no such assurances can be given. Quality standards contemplated in the Act should be developed as soon as possible.

4.41 The Act requires regulation only of private trade schools. The Department has extended regulatory activity to include non-trade schools. The scope of the Department's regulatory jurisdiction requires reexamination.

4.42 The ability to effectively regulate private trade schools is dependent on the ability to maintain a certain level of inspection and audit activity. The Department has not rationalized its requirements concerning frequency of inspections and audits. There is a danger that inspection and audit activity will only take place when resources are available which may not be sufficient.

*Exhibit 4.1***SUMMARY OF KEY STATISTICS**

	1994-95	1995-96	1996-97
Number of trade schools registered	84	90	98
Budgeted expenditures of DOE&C related to Private Trade School regulation	\$287,900	\$162,700	\$168,900
Number of inspections completed	172	104	9*
Number of Canada/NS Student Loans issued to Private Trade School students	1,730	2,145	1,611*
Value of Canada/NS Student Loans issued to Private Trade School students	\$13,629,157	\$16,699,910	\$11,562,477*
Number of students attending Private Trade Schools	Not available	6,586	Not available
Annual tuition fees at Private Trade Schools			
High	Not available	Not available	\$13,600
Low	Not available	Not available	\$150

*These figures are for the 9 months ended December 31, 1996.

DEPARTMENT OF EDUCATION AND CULTURE'S RESPONSE

The Department of Education and Culture is responsible for the Administration of the Trade Schools Regulation Act. An audit, conducted by the Office of the Auditor General, presented a series of observations to the Department in January, 1997.

The Adult Learning and Innovation Division within which the Private Trade School section is located has established an action plan to address concerns raised by the Audit.

Recent reorganization within the Department will result in a new branch being established focusing on adult learning and training. The Private Trade School section will be located in this branch. Future departmental strategic plans will, therefore, have a specific reference to adult education activities.

There are a number of issues which are in various stages of completion that were observed as requiring attention in the audit. The Department is working with a number of professional associations, groups, and agencies to establish standards for program curriculum. A number of the issues identified will be dealt with via new regulations which are presently in draft form. A Policy and Procedures manual has been drafted, and will be published with the changes in the regulatory regime. The role of the Private Trade School Board is currently in the beginning phase of being reviewed by the Board and as this evolves, changes may be required to legislation and/or policies of the section. Other areas highlighted are in various stages of analysis; for example, the file documents and contents review is in progress; job descriptions have been completed and forwarded for review and approval.

The Department of Education and Culture will be taking action to review and implement actions to address the concerns that were raised and identified as requiring direct and/or immediate attention. The monitoring of private trade schools will become a priority in the 1997/98 fiscal year with a full complement of staff in place. A review of third party registration will be conducted by fall. The private training industry is a growth industry in Nova Scotia, and with this growth an ongoing review of administration requirements and legislation has been established as a priority for the Department of Education and Culture.
