PERFORMANCE AUDIT

ARIZONA STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION

Report to the Arizona Legislature
By the Auditor General
June 1994
Report 94-2

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June 2, 1994

Members of the Arizona Legislature

The Honorable Fife Symington, Governor

Mr. James A. Dugan, Chairman
Arizona State Board for Private Postsecondary Education

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Arizona State Board for Private Postsecondary Education. This report is in response to a May 5, 1993, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the Sunset review set forth in A.R.S. §§ 41-2951 through 41-2957.

We found that past abuses in the proprietary school industry, as well as numerous school closures, have demonstrated a need for regulation. However, the Board's effectiveness is limited by its small staff size and lack of resources. We also found that the Student Tuition Recovery Fund has never had sufficient revenues to pay all the claims from students whose schools have closed. Currently there is a five to six year backlog of claims against the Fund. Steps need to be taken to see that students are better protected financially and that the burdens created by "problem" schools are not continually shifted onto the remaining schools.

My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on June 3, 1994.

Sincerely,

Douglas R. Norton

Douglas R. Norton
Auditor General

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Summary

The Office of the Auditor General has conducted a performance audit and Sunset review of the Arizona State Board for Private Postsecondary Education, pursuant to a May 5, 1993, resolution of the Joint Legislative Audit Committee. This audit was conducted under the authority vested in the Auditor General by A.R.S. §§41-2951 through 41-2957.

The Board is responsible for licensing and regulating approximately 120 private postsecondary institutions that provide education and training to students in both nondegree and degree-granting programs. Past abuses in the proprietary school industry, as well as numerous school closures, have demonstrated a need for the Board's oversight. Students impacted by school closures have been left with incomplete educations or training, and are thousands of dollars in debt.

More Can Be Done To Protect Students From Financial Harm (see pages 5 through 9)

The Student Tuition Recovery Fund (STRF), which offers full tuition reimbursement to students displaced by a school closure, does not have sufficient monies to satisfy the hundreds of claims filed in recent years. With approximately $900,000 in outstanding claims and an annual revenue source of about $150,000, students may have to wait anywhere from three to six years to receive a refund. To address this backlog, the Legislature should consider increasing revenues to the fund by raising fees, and the Board should consider providing partial rather than full tuition refunds to students. In addition, the Board should shift more of the financial responsibility to those schools which create the financial harm by strengthening existing bonding requirements to have all schools post a bond in an amount commensurate with their operational and financial risk.

Additional Resources Would Enable The Board To Improve Enforcement (see pages 11 through 15)

Limited staff resources impact the Board's ability to provide effective oversight of licensed schools and take timely intermediate action to protect students. Only one professional staff person is available to conduct investigations of problem schools, investigate consumer complaints, and review license applications. As a result of limited staff resources, the Board has repeatedly postponed enforcement actions against schools so that staff can obtain more information. An in-depth review of three individual cases found that students are harmed by these postponements. For example, our review found that during these delays:

- 228 new students enrolled at two schools unaware of problems that could, and did, lead to their closure after the students enrolled, and

- Approximately 800 students were subsequently displaced by the closure of these same two schools, resulting in approximately $600,000 in STRF claims being filed.

These cases are indicative of situations where the Board could not play a useful enforcement role. By the time the Board has sufficient information to act, it is "too little, too late." Either schools close, displacing hundreds of students, or many students enroll in a school unaware of its problems and potential for closing.

Another professional-level staff person would enhance the Board's oversight function. This additional employee could allow the Board to conduct timely and thorough investigations of schools, improve its complaint-handling process, and possibly prevent future problems by permitting more thorough license application reviews.

Consumer Education Can Enhance The Board's Effectiveness (see pages 17 through 18)

The Board can further enhance its consumer protection role by providing more information to students. Consumer education materials that identify factors students should consider when selecting a school, such as cost, length of programs, and retention rates, offer a cost-effective, efficient way to protect students from harm.

The Board could develop its own informational pamphlets for distribution, or redistribute informational materials already in use by other states and the U.S. Department of Education. These materials could be distributed to high schools, private postsecondary schools, consumer groups, libraries, and the Better Business Bureau.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit and Sunset review of the Arizona State Board for Private Postsecondary Education, pursuant to a May 5, 1993, resolution of the Joint Legislative Audit Committee. This audit was conducted under the authority vested in the Auditor General by A.R.S. §§41-2951 through 41-2957.

In 1971, the Board of Private Technical and Business Schools was established to license private vocational programs which were designed to provide students with sufficient skills for entry into a paid occupation. The Board's regulatory authority, however, was expanded in 1984 when it was reconstituted as the Board for Private Postsecondary Education. Under its present authority established by A.R.S. §§32-3001 through 32-3077, the Board licenses and regulates approximately 120 private vocational and degree-granting institutions serving approximately 79,000 students annually.[1] These schools offer a variety of programs ranging from dog-grooming and massage therapy to the University of Phoenix, which provides bachelor's and master's degrees in a number of disciplines.

The Board consists of seven members appointed by the Governor for four-year terms. Five of the seven members hold executive or managerial positions in institutions licensed by the Board. The remaining two members are required to have at least three years' experience in commerce or industry.

Need For Regulation

Past and potential abuses experienced in the proprietary school industry at both the national and state level demonstrate the need for regulatory oversight. During the 1980's, some schools, eager to receive federal financial aid, recruited and enrolled students based on false representations. While promising high-paying jobs, many schools provided little or no training, instead pocketing thousands of dollars in student loans.[2] In response to such abuses, the federal government strengthened its oversight activities of schools receiving federal financial aid monies. As a result of this strengthened oversight, many schools closed, leaving students with incomplete educations or training, and thousands of dollars in debt.

In Arizona, since 1983, 120 schools have closed; 71 in the last five years. These school closures, impacting over 5,000 students, have been attributed to a poor economy as well as stricter federal financial aid and state licensing requirements. The following comments illustrate the impact school closures can have on students:

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(1) The Board does not have jurisdiction over cosmetology, barber, real estate, and professional driving schools. These schools are regulated by the Board of Cosmetology, the Board of Barbers, the Arizona Real Estate Department, and the Department of Transportation, respectively.

(2) Consumer Reports, "Schools For Scandal," May 1992.

- One woman enrolled in an Arizona vocational program at the age of 52. After she attended the school for 11 months, it closed, leaving her "physically, mentally, and financially broke." She is now 54 and has "nothing except $7,000 in student loans to pay and no job." She felt this program was her "ace in the hole, ... the thought of another 36 months (in school) is devastating."

- Another student had only one class remaining prior to receiving his certification. He had received his last installment of financial aid, which he signed over to the school only two days prior to its closure. He now pays over $150 a month on three loans, totaling over $8,500, which he obtained to receive training that would enable him to get a better paying job.

- Another student indicated that she had to go on public assistance as a result of the school's closure. She has continually deferred her loans. And, although she is continuing her education in a public institution, many of the credits she obtained at her previous school were not transferrable, meaning that she basically had to start over.

In addition, some schools have engaged in misleading advertising and recruitment practices. For example, a federal investigation of one Arizona school, conducted in February 1991, found that it advertised courses that were not available or not licensed; recruited at unapproved sites, such as plasma centers, homeless shelters, and unemployment offices; used an employment agency to recruit students; misrepresented potential earnings; and unethically counseled students that they could receive free food at a local food bank.

Personnel and Budget

Although regulation is needed, the Board lacks the staff and resources to adequately perform its regulatory activities. Currently, the Board is assisted by only three staff, consisting of an executive director, a part-time administrative assistant, and an administrative secretary. These three employees are responsible for numerous tasks, including reviewing all license applications, investigating complaints, supporting enforcement activities, retrieving and maintaining student records from closed schools, and administering the Student Tuition Recovery Fund.

Monies for Board operations are appropriated from the Board for Private Postsecondary Education Fund. The fund comprises fees collected for license applications and renewals that average approximately $117,000 annually. In addition to the license application and renewal fees, licensed schools pay an assessment to the Board for the Student Tuition Recovery Fund. Approximately $100,000 to $150,000 in assessments is collected each year for this purpose. The Board retains 90 percent of the fees it collects, while the remaining 10 percent is deposited in the state General Fund. As shown in Table 1 (see page 3), the Board has continually collected revenues that are less than its operational costs, further

depleting its fund balance each year. Currently, the Board spends approximately $7,000 more per year than it receives in revenue. The Board proposed a fee increase to raise an additional $7,000 in revenues, however, the bill was not heard during the 1994 legislative session.

TABLE 1

Board For Private Postsecondary Education
Statement of Revenues, Expenditures,
and Changes In Fund Balance
Fiscal Years 1991-92, 1992-93 Actual,
And 1993-94 Budgeted
(unaudited)

	1991-92 (Actual)	1992-93 (Actual)	1993-94 (Budgeted)
Revenues	$112,225	$114,875	$123,300
Expenditures			
Personal Services	73,392	77,374	81,600
Employee-related expense	16,198	17,869	17,900
Professional services	4,479	1,669	5,000
Travel, in-state	3,024	2,241	4,000
Travel, out-of-state	275	0	0
Equipment	6,454	0	0
Other operating expenses	21,319	23,721	22,100
Total Expenditures	125,141	122,874	130,600
Excess of expenditures over revenues	12,916	7,999	7,300
Beginning fund balance	77,138	64,222	56,223
Ending fund balance	$ 64,222	$ 56,223	$ 48,923

Source: Arizona Financial Information Systems Fiscal Years 1991-92 and 1992-93 Financial Reports and the State of Arizona Appropriations Report for the Fiscal Year Ended June 30, 1993.

Scope and Methodology

The purpose of the audit was to determine whether the Board for Private Postsecondary Education is needed and the extent to which it has accomplished its statutory goals. Our work included a review of the Board's licensure requirements and application review process, complaint handling, utilization of its Student Tuition Recovery Fund, and its effectiveness in taking action against licensees in violation of Board statutes. In addition, we contacted ten states[1] and reviewed recommendations made in a 1991 report of the State Higher Education Executive Officers (SHEEO).[2]

Our report, focusing on the Board's ability to provide adequate consumer protection, presents findings and recommendations in three areas:

- Several options the Board and Legislature should consider to provide students greater protection from financial harm,
- The useful oversight role the Board could play if it had adequate staff resources and,
- Steps the Board can take to improve its consumer education efforts.

The report also presents other pertinent information on a new federally mandated program requiring increased oversight and scrutiny of postsecondary schools eligible to receive federal financial aid (see pages 19 through 20).

This audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the Board and its staff for their cooperation and assistance during the audit.

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(1) States contacted, identified by several national accrediting bodies as having strong regulatory programs, include: California, Connecticut, Florida, Illinois, Indiana, Missouri, Ohio, Oklahoma, Texas, and Wisconsin.

(2) SHEEO is a nonprofit, nationwide association of the chief executive officers serving statewide coordinating and governing boards of postsecondary education. SHEEO prepared a report dated September 1991, based on a survey of 20 states, addressing ***"The Methods and Effectiveness of State Licensing of Proprietary Institutions."***

FINDING I

MORE CAN BE DONE TO PROTECT STUDENTS FROM FINANCIAL HARM

While financial remedies have been established to assist students, more can be done to protect them from financial harm. The Student Tuition Recovery Fund (STRF), designed to cover student losses resulting from school closures, is overwhelmed and unable to meet the nearly $900,000 in claims filed against it. The Board and Legislature should consider several options to address current deficiencies with the recovery fund.

Recovery Fund Is Overwhelmed

While the STRF was created to assist students in the event of school closures, claims against the fund have eroded its adequacy and ability to serve students in a timely manner.

STRF created to offer financial protection - In 1989, the Student Tuition Recovery Fund was created, providing a mechanism to protect students from financial harm in the event of school closure. Prior to the STRF, limited protection was offered to students in the form of performance bonds posted by some schools. The impact of this limited protection was evidenced when numerous schools closed, leaving hundreds of students with no recourse for recovering their tuition.

Currently, the STRF offers full tuition reimbursement to students who have been displaced by a school closure and cannot or choose not to pursue a "teach out" at another institution. A "teach out" means that a student from a closed school is able to complete his or her training at a different school. The Board attempts to secure these opportunities at no additional cost to the students or the state. Schools pay an assessment to the Board for deposit in the STRF based on a percentage of their tuition revenue. In fiscal year 1993-94, approximately 80 out of 120 schools[1] (representing approximately 47,000 students) were assessed fees totaling $157,330.

STRF protection inadequate - Revenues generated for the STRF have never been sufficient to satisfy claims, resulting in untimely tuition refunds. As shown in Table 2 (page 6),

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(1) Approximately 20 baccalaureate or higher-degree institutions, the largest of which include the University of Phoenix and DeVry Institute, are exempt from fund participation on the premise that these institutions stand a remote chance of closing. The approximately 32,000 students who attend these schools are also exempted from STRF eligibility. Additionally, approximately 20 other schools were not assessed fees because they had no new students or were in their first year of operation.

numerous school closures in recent years have resulted in claims that far surpass fund revenues. Less than one-third of the STRF claims received over the past four-and-one-half years have been satisfied, leaving an estimated $900,000 in outstanding claims with a current fund balance of only $33,400. As a result, many students will now have to wait a minimum of five to six years for their tuition refunds. However, this waiting period could be reduced to about three years by recent legislation establishing a federal loan forgiveness program. Although the program has not been formally implemented, some Arizona students will be eligible, and the Board has already begun submitting names for loan forgiveness. The Board anticipates that the STRF backlog could be reduced by 50 percent through this program. In addition, new legislation requiring STRF assessment from cosmetology and professional driving schools will assist even further in reducing the backlog, providing no additional schools close during this period.[1]

TABLE 2

Comparison of STRF Revenues To Claims Received, Paid, and Outstanding Fiscal Years 1989-90 through 1993-94 (as of December 31, 1993)

Fiscal Year	Fee Revenues	Claims Received (a)	Claims Paid	Claims Outstanding Balance
1989-90	$ 0	$ 124,243	$ 0	$ 124,243
1990-91	103,137	227,404	99,346	252,301
1991-92	106,872	157,246	100,829	308,718
1992-93	97,933	798,058	88,267	1,018,509
1993-94	157,330	0 (b)	129,911 (c)	$ 888,598
Total	$ 465,272	$1,306,951	$428,353	

(a) Claims received from students for a particular school are identified in the fiscal year that the school closed. Students have one year, from the date of school closure, to file a claim.

(b) As of December 31, 1993, no schools have closed during fiscal year 1993-94 which would result in STRF claims.

(c) Total claims paid as of December 31, 1993.

Source: Board for Private Postsecondary Education STRF claims, accounting files, and reports for fiscal years 1989-90 through 1993-94 (to date).

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[1] Effective July 1, 1994, all cosmetology schools are required to pay into the Student Tuition Recovery Fund. Currently, there are approximately 1,500 cosmetology students attending 32 schools. These students would then be eligible for a tuition refund should a cosmetology school close. Likewise, the legislation allows professional driving schools (there are four schools currently licensed), if they so choose, to participate in the STRF.

The impact of this three- to six-year wait for tuition refunds will be most severely felt by displaced students. Many students, have taken out federal loans to pursue an education, and will be required to pay back these loans without the benefit of finishing their educations. If students are unable to pay on their loans while awaiting refunds, their credit could be damaged and they may become ineligible for additional federal financial aid.

Several Options Should Be Considered

To ensure students are adequately protected, the Board and Legislature should consider several options. First, the Board should consider ways to address the current backlog of STRF claims. Additionally, to provide greater financial protection in the future and place more of the financial responsibility on schools, the Board should strengthen its bonding requirements.

Options for reducing STRF backlog - The Legislature and the Board should consider raising STRF fees, at least temporarily, to reduce the current backlog in claims. As required by statute, each nonexempt licensed school pays two-tenths of 1 percent of the total tuition for each new student. Individual program tuition costs range from $105 to $15,750, averaging approximately $5,100. However, the statute limits assessments to not more than $10 per-student. Therefore, schools with tuition costs over $5,000 pay less than the two-tenths of 1 percent. Total assessments, by individual school, range from as little as $2 to more than $20,000.

Removing this statutory limit would generate significant additional revenue for the fund. If the $10 per-student limit were removed, the current fee of two-tenths of 1 percent of tuition would raise $236,000 in revenue annually, a $79,000 increase over the current amount. If the fee was raised to three-tenths of 1 percent, $347,000 in annual revenues could be generated. This represents $190,000 in additional revenues that could be raised. While all participating schools would be impacted by such fee increases, one school could be assessed as much as an additional $50,000 in fees.

A majority of the Board members have also expressed an interest in broadening participation in the fund by assessing fees from currently exempted schools (i.e. baccalaureate or higher-degree institutions). However, it is unclear how these schools' tuition would be assessed, as their students enroll on a semester basis as opposed to a one-time enrollment into a specific program.

In addition, to further reduce the backlog in claims, the Board should consider providing partial rather than full tuition refunds. Currently, the Board maintains a policy of reimbursing students at 100 percent of the tuition paid to a closed school, regardless of the amount of training received by the student prior to closure. By contrast, several of the

states we contacted offer alternatives to full refunds.[1] For example, Connecticut and Oklahoma prorate tuition refunds based on the amount of training the student has already completed, and Florida and Ohio base refund payments on the availability of a "teach out."

The rationale behind a partial refund is that training, whether partially or fully completed, has value and students should not be reimbursed for that portion of training already completed. At least one Board member agrees with this rationale. Another Board member explained that tuition refunds should be prorated because the fund can go further and students would be reimbursed faster.

Bonding requirements should be revised - In addition to addressing the current STRF backlog, the Board should consider requiring all schools to post bonds. This would shift more of the financial responsibility to those schools which create the financial harm and strengthen the financial protection offered to students. Currently, by relying almost entirely on the recovery fund, the "good" schools must pay for the failures of insolvent schools. Utilizing both the recovery fund and bonds would ease the pressure on the recovery fund when a significant dollar amount of claims are submitted against it, protecting both the students and the other schools. According to SHEEO, employing the use of recovery funds or surety bonding separately may not be sufficient protection for students. SHEEO recommends that recovery funds serve as the primary vehicle for repaying students who are financially harmed by the sudden closure of a school, but that bonds serve as a backup for the recovery fund in the event of a rash of sudden closures.

Arizona has experienced just such a rash of school closures in recent years. During the past five years, more than one-third (71) of Arizona's private postsecondary schools have closed, resulting in more than $1.3 million in total claims against the recovery fund. In this unstable environment, the state should maintain a dual system in which the recovery fund is supplemented by bonding requirements.

To strengthen its bonding program, the Board should consider requiring all schools to post a performance bond. Contrary to other states, accredited schools in Arizona are not required to post bonds and over one-half of the schools in the state are accredited. Arizona requires the remaining nonaccredited schools to post a $15,000 bond or the cash equivalent and then only during the first two years of operation. Based on this policy, only 17 of the 120 licensed schools currently have bonds in place. However, it has been the accredited schools that have caused the most financial harm. All the claims filed against the STRF in the past two years have resulted from accredited school closures.

In addition, the Board should require schools to post bonds in an amount that reflects the financial and operational risk associated with the school. (If the Board obtains additional financial information from schools as recommended on page 14, it may be better able to assess financial risk and determine an appropriate bond amount.) Five of the states we

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[1] Seven of the ten states contacted currently operate a tuition recovery fund.

contacted assess risk and require bonds based on tuition or unearned tuition revenues.[1] Schools with larger tuition or unearned tuition revenues post higher bonds, which reflect the risk to the student and the state if the school were to close. The average bond required in these states is between $20,000 and $50,000, amounts considerably higher than what is required by Arizona. While the cost of a bond varies depending on a school's financial condition and the level of risk the bonding company is willing to assume, a school in good financial standing might expect to pay an annual fee of 1 to 5 percent of the bond's face value. For a $50,000 bond, this annual fee would range from $500 to $2,500.

Some Board members agree that strengthening bond requirements would alleviate some of the pressure on the recovery fund, as well as providing assurances regarding a school's ability to operate. One Board member commented that bond requirements for large schools would be particularly important, while two Board members indicated that schools displaying a questionable financial position should also be required to post higher bonds. In fact, in two specific instances, schools posted larger bonds or the cash equivalent as a condition of licensure. In one of these cases, a $200,000 bond was posted, well in excess of the $15,000 requirement.

RECOMMENDATIONS

1. To address the current backlog of claims, the Legislature should consider amending A.R.S. §32-3072(C) to allow the Board to raise STRF fees and remove the $10 per-student limit.

2. The Board should consider revising its recovery fund tuition reimbursement policy to allow for partial refunds.

3. To shift more of the financial responsibility to those schools which create financial harm, the Board should consider requiring all schools to post a bond in an amount commensurate with the level of financial and operational risk associated with each school.

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[1] Unearned tuition revenue represents tuition prepaid by students for classes or training they have not yet received.

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FINDING II

ADDITIONAL RESOURCES WOULD ENABLE THE BOARD TO IMPROVE ENFORCEMENT

Inadequate resources have limited the Board's effectiveness. Because it has only one professional staff person to oversee over 100 schools statewide, the Board is unable to gather and review the necessary information to investigate schools and take timely enforcement actions. An additional professional staff member would enhance Board oversight by allowing more school investigations, improving the complaint-handling process, and expanding license application reviews.

The Board can play a useful oversight role by taking timely, intermediate action to protect students when problems at schools are identified. Intermediate actions should be taken as soon as problems surface, well before conditions deteriorate and schools must close. These actions include: prohibiting enrollment of new students, requiring schools to notify current and prospective students of problems, or requiring schools to post surety bonds. For example, these actions can be taken when schools display fiscal or operational problems, or when the Board learns of pending actions against schools by other regulatory agencies, such as the U.S. Department of Education (USDOE) and accrediting bodies. Intermediate actions protect students against a possible disruption in their training or financial loss if the school cannot correct its problems.

The Board Lacks Resources

The Board lacks adequate staff resources to gather and review information about schools it regulates. As a result, the Board often lacks the information it needs to take effective and timely intermediate regulatory action. Insufficient Board resources also restrict thorough complaint investigations.

Limited staff resources - While the Board employs three staff, there is only one professional staff member, the executive director. Thus, one person reviews license applications and financial statements for approximately 120 Board-regulated schools, handles complaint investigations, and conducts special investigations of schools with problems, including site visits. However, according to SHEEO, in addition to an executive director and support staff, investigative/field staff, accounting/financial staff, education and training specialists, and legal staff are all needed for effective regulation.

Arizona's Board is significantly understaffed compared to some other states. For example, Indiana, which regulates the same number of schools as Arizona, has a staff of ten; three of whom are dedicated to license renewals, complaints, and site visits, and one individual

who is dedicated to the review of financial information.[1] Ohio, which regulates slightly over twice the number of schools, has 8 full-time and 6 part-time staff. Ohio maintains an investigative unit of three staff to investigate complaints, school closures, and nonregistered schools, and to conduct site visits. One Ohio employee is also solely dedicated to reviewing financial information submitted by schools.

Lack of resources hinders Board action - As a result of inadequate resources, the Board often lacks the necessary information to take timely enforcement actions. Our review of Board meeting minutes for January 1991 through September 1993 shows the Board postponed action in 36 of 175 cases it reviewed. Most of the 175 cases involved routine license renewal actions. However, for 24 of the 36 cases that involved schools experiencing problems, Board action was postponed because it needed additional information. The average length of each postponement was approximately two months, with the longest postponement lasting five months. We also conducted an in-depth review of three individual cases where the Board was unable to prevent or reduce harm to hundreds of students through effective intermediate action. In these cases, the Board had to repeatedly postpone action while waiting for staff to conduct investigations, for the school to submit additional information, or to obtain the results of other regulatory agency investigations.

Postponing Board action yielded the following results:

- After the Board became aware of problems at two schools that could lead to student harm, a total of 228 students enrolled, unaware of these problems. These two schools subsequently closed within 5 months after these students enrolled. The closure of these two schools displaced 800 students and resulted in STRF claims totaling approximately $600,000.

- In another instance, the Board required a school to develop an enrollment addendum notifying prospective students of pending federal action against the school. However, the addendum was not approved by the Board until two separate classes of students enrolled, unaware of the addendum and the pending federal action.

As these cases indicate, by the time the Board has sufficient information to act, it is often "too little, too late." Either schools close, displacing hundreds of students, or many students enroll unaware of the school's problems and potential for closing.

Limited resources affect complaint investigations - Inadequate Board resources also restrict thorough complaint investigations and may lead to undetected violations. Currently, the Board limits complaint investigations by requiring a student to "exhaust all available grievance procedures established by the institution" before filing a complaint with the Board. As a result, the Board does not investigate over a third of the complaints received

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[1] Indiana's Commission on Proprietary Education is supported by the state's General Fund. In fiscal year 1991-92, it spent over $300,000 for Personal Services alone.

annually. When the Board does investigate a complaint, it usually only reviews the documents submitted by the complainant and the school. The executive director reviews this documentation and reports any findings to the Board. There are not enough staff available to regularly conduct further investigative work such as on-site visits, record reviews, and interviews of school staff and students, which may independently verify information submitted by either party.

We found several states, however, that conduct more comprehensive investigations of all complaints. Seven of the ten states we contacted initially review all written complaints received. Six of the ten states contacted include site visits as part of the complaint investigation process.

Additional Staff Resources Will Improve Board's Oversight Role

Adding a professional staff member could improve the Board's ability to regulate schools in three ways. **First**, the Board could conduct more timely and thorough investigations of schools experiencing problems. **Second**, the Board could improve its complaint-handling process. **Finally**, increased staff resources may help prevent future problems by allowing for expanded license application reviews.

Improved school investigations - If the Board had an additional professional position, it could more easily investigate schools that are subject to possible action. As mentioned earlier, the Board often needs more information before they are able to take action. One way to obtain this information is through site visits of schools. During site visits, the Board can inspect a school's programs, facilities, and equipment, and interview staff and students. In addition to site visits, staff can also obtain information by reviewing other regulatory agency investigative reports, such as USDOE reviews.

Other states, with greater staff resources, are able to conduct more in-depth investigations of schools experiencing problems. For example, in Oklahoma, staff conduct site visits of schools. During visits, investigators interview 5 to 10 percent of the student population, review student refunds to ensure students actually received the money, and spot-check 10 percent of student files. Indiana assigns schools to specific field investigators, to better ensure that schools are appropriately monitored. These investigators handle all complaint investigations, site visits, and license renewals for their assigned schools.

Improved complaint-handling process - With an additional staff person the Board could improve its complaint-handling process. The Board would be able to more thoroughly investigate complaints by verifying information provided by the complainant and the school, and by independently gathering additional information. The Board could follow other states' examples and include site visits as part of complaint investigations.

More thorough complaint investigations and tracking of complaints could help the Board identify problems before they reach the crisis stage. Currently, the Board logs only

complaints filed by student and accepted by the Board. Rejected complaints and complaints made by nonstudents are not logged.[1] As a result, the Board is limited in its ability to know if any school in particular exhibits, through the number and type of complaints, any patterns of abuse or other problems. SHEEO found that many states act on complaints on a case-by-case basis, possibly failing to detect long-term or repeated problems associated with a particular institution. SHEEO recommends that states maintain and update records about the frequency and nature of complaints filed against specific institutions.

More thorough license reviews - Finally, an additional staff position would enable the Board to conduct more thorough license reviews. Currently, staff licensing reviews do not include background checks of owners or an in-depth review of financial information. With an additional staff position, the Board could collect and review more complete and reliable financial information as part of the licensing process. A more thorough review of each school's financial position could reduce risks to students and the need for subsequent enforcement actions.

To improve its financial reviews, the Board needs to increase its financial reporting requirements and develop review criteria. Currently, the Board requires submission of compiled financial statements which yield limited information. By contrast, several other states (Indiana, Texas and Oklahoma) require submission of reviewed or audited financial statements. Unlike compiled statements, these statements provide independent verification and testing of financial information. Although increased financial reporting will increase costs to some schools, the Board could adjust the requirement according to circumstances. For example, a smaller school might be allowed to submit reviewed statements which are less expensive than audited statements.

To analyze the increased financial information, evaluative guidelines are also needed. For example, several states demand at least a 1:1 ratio of current assets to current liabilities to ensure that all current obligations can be met. Other guidelines might address sufficiency of assets, level of profit, and any significant changes in enrollment or other factors which affect a school's financial condition. The Board could develop a questionnaire addressing these guidelines which could be completed by the schools' auditors.

Additional staff could also help ensure licensing files are complete. A review of license renewal files for schools which closed in the last two years revealed that half did not contain all the necessary information for licensure. For example, the files contained outdated financial information or were missing required financial statements.

Fee increase - Adding a staff position, however, will require an increase in fees. Even though the Board proposal to increase its fees was not heard during the 1994 legislative session, this increase only provided enough revenue to maintain its current level of operation. Future proposals to increase fees should be expanded to include an additional

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[1] Including rejected complaints, seventy-two of the 120 licensees (60 percent) received at least one complaint over the two-year time period for a total of 153 complaints.

professional staff position at a cost of approximately $30,000 to $40,000 annually, covering salary, employee-related expenses and other expenses such as travel. To provide the revenues for the additional staff position and to maintain operations, current license renewal fees would need to increase by approximately 30 percent. Fees currently range from $250 to $1,800 and are based on a school's tuition revenue.

RECOMMENDATIONS

1. The Legislature should consider revising A.R.S. §32-3027 which would allow the Board to raise fees to add another professional position. This should enable the Board to enhance many of its regulatory activities, such as investigating problem schools and complaints.

2. The Board should track all complaints in order to identify any patterns or trends that may develop among schools. Schools identified through the complaint-tracking process could then be subject to further review by the Board.

3. The Board should impose stricter financial reporting requirements on schools. Also, the Board should establish evaluative criteria to review the financial status of schools. Improved financial reviews will allow the Board to identify schools with potential problems and to take appropriate action.

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FINDING III

CONSUMER EDUCATION CAN ENHANCE THE BOARD'S EFFECTIVENESS

The Board can better protect students through consumer education. Consumer education offers a proactive, economical method to provide consumers the necessary information to make informed educational choices. According to SHEEO,

> *"One of the most effective ways in which states can improve the education standards in private career schools is through policies that promote informed choice among students."*

A SHEEO official further explained that private postsecondary schools are much more likely to close or file for bankruptcy than their public counterparts, and that the training provided may not lead to the high-paying jobs expected. Therefore, students need to be aware of these issues and the fact that some schools may misrepresent, manipulate, or hide critical information.

Consumer education tools - The Board could develop consumer education tools used in other states to effectively inform consumers and assist them in their educational choices:

- **PAMPHLETS** - The Indiana Commission on Proprietary Education distributes pamphlets with the intent of increasing consumer awareness of its many functions, as well as factors students should consider when selecting a school. In addition, Brooklyn Legal Services in New York indicated that it receives numerous complaints regarding private postsecondary schools, prompting it to distribute a pamphlet detailing items to consider when choosing a school. Finally, USDOE distributes a pamphlet providing information on choosing a career, finding the right school, and obtaining financial aid. These pamphlets are distributed to high schools, private postsecondary schools, consumer groups, libraries, and the Better Business Bureau.

- **TOLL-FREE NUMBER** - One state even established a toll-free 800 telephone number to facilitate consumer inquiries to its Commission. In response to a Sunset review, the Indiana Commission on Proprietary Education established an 800 number to become more visible to consumers. Proprietary schools in the state are required to publish this number in their school catalogs and the number is also found in Commission brochures, directories, and annual reports. According to the Commission's 1992 annual report, this has allowed it to provide assistance regarding the many facets of private postsecondary education to school personnel, other state agencies, current and prospective students, business and industry, and the general public.

Minimal cost - The cost for any one of these consumer education options would be minimal. According to the Department of Administration's print shop, it would cost less than $500 to print 5,000 pamphlets.

To produce and distribute these informational materials, the Board could solicit assistance from various schools and other state agencies. For instance, the Board could seek assistance from licensed schools to help design and develop pamphlets. The Board might also consider a joint effort with the Arizona State Commission on Postsecondary Education to develop these materials. The Commission currently produces a directory listing educational opportunities in the state and may be able to assist the Board in developing and distributing informational materials. (See Other Pertinent Information, page 19, for additional information on the Commission.) Finally, an additional consideration might involve the redistribution of informational materials already in use by other states and the USDOE.

RECOMMENDATIONS

1. The Board should expand its consumer education efforts by providing informational materials, such as a pamphlet detailing factors to consider when selecting a school, the Board's role in regulating schools, and its available data for comparing schools.

2. Facilitate consumer inquiries to the Board and increase its public visibility by:

   - Prominently displaying the Board's telephone number in literature or written information provided to students by the Board or licensed schools, and

   - Having schools post the Board's telephone number in common areas of the school frequented by students.

OTHER PERTINENT INFORMATION

During our audit we reviewed the federal government's requirement for state review of postsecondary schools participating in federal financial aid programs.

State Program Review Entity

The federal government has recently shifted to states the primary review of schools receiving federal financial aid. Each state must designate an agency as its State Postsecondary Review Entity (SPRE). The SPRE's role and activities may impact the Board's activities, as both will review many of the same schools.

Responsibility given to states - The federal government's 1992 Reauthorization of the Higher Education Act, Part H, designates, "*one State postsecondary review entity in each state to be responsible for the conduct or the coordination of the review...of institutions of higher education.*" This act responded to concerns that USDOE could not effectively conduct institutional program reviews. Congress believes states are better able to review the schools operating within their state.

The act also provides federal funds for standards development and SPRE operational costs. Arizona will be reimbursed up to $81,000 for planning activities and $400,000 a year to operate the SPRE. States not establishing an entity will not receive this money, and more importantly, institutions in these states cannot participate in federal student aid programs.

The SPRE in each state will develop standards for continued participation in financial aid programs. Minimum standards covering the following general areas must be established:

- Consumer protection
- Consumer information
- Fiscal and administrative responsibilities
- Compliance with federal and state laws
- Due process and review procedures
- Performance standards
- Information sharing

The SPRE will review schools experiencing problems such as high student default rates, a failure to meet financial responsibility standards, or a pattern of student complaints. The SPRE will recommend financial aid program termination for schools not meeting its standards.

The SPRE in Arizona - The Arizona State Commission for Postsecondary Education has been designated as Arizona's SPRE, with all Arizona postsecondary schools participating in federal student aid programs subject to its oversight. Prior to this designation, the Commission acted as an advisory council to the Governor and operated within the Board of Regents. As the SPRE, the Commission will be a separate agency and its membership reconstituted, to eliminate the affiliation with public postsecondary education and allow for objective school reviews.[1] The Commission includes representatives from public and private universities, community colleges, private career colleges, vocational and cosmetology schools, and private business.

Impact of the SPRE - The SPRE's role and activities will impact Board activities in several ways:

- **BOARD MEMBER INVOLVEMENT** - Some Board members will be directly involved, either by serving on the SPRE Advisory Committee, charged with developing the SPRE's standards, or as actual Commission members.

- **ADDITIONAL INFORMATION MADE AVAILABLE** - Information obtained during SPRE reviews of schools also under the Board's jurisdiction can be shared with the Board to enhance its decision-making efforts.

- **BOARD MAY NEED TO REVISE STANDARDS** - According to a SHEEO official, the Board may eventually have to develop more rigorous standards to ensure consistency in reviews of all schools.

- **BOARD MAY NEED TO RESPOND TO ADDITIONAL SCHOOL CLOSURES** - The increased scrutiny from an additional agency providing oversight could ultimately lead to more school closures.

Board activities still important - While the Board and SPRE will have some activities in common, the SPRE's primary responsibility is to protect the federal government's financial aid investment. The Board's role, however, extends beyond the SPRE's in that its overall purpose is to protect consumers. In this capacity, the Board must continue to oversee all schools (regardless of whether they participate in federal financial aid programs), operate the STRF to reduce student financial losses, and arrange teach-outs and obtain student records to assist students impacted by school closures.

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(1) Approximately 70 schools under the Board's jurisdiction participate in federal financial aid programs and will be subject to SPRE review.

SUNSET FACTORS

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 factors in determining whether the Board for Private Postsecondary Education should be continued or terminated.

1. *The objective and purpose in establishing the Board*

In 1984, the Board for Private Postsecondary Education was established, replacing its predecessor agency, the Board of Private Technical and Business Schools. Due to the significant growth in the industry and subsequent abuses, it was determined that increased regulation was needed. As a result, the Board was provided expanded regulatory authority over private vocational schools and was mandated to license all private degree-granting institutions.

The intent in establishing the Board was to provide consumer protection and to standardize private postsecondary educational practices by setting minimum standards of operation and principles of good practice. The Board does this by:

- Establishing licensure requirements,
- Considering and approving license applications,
- Assessing institutional compliance with federal and state regulations,
- Investigating and acting upon complaints,
- Administering a recovery fund for students suffering loss from a school closure, and
- Maintaining student educational records from closed schools.

2. *The effectiveness with which the Board has met its objectives and purpose and the efficiency with which it has operated*

While the Board is generally effective in licensing private postsecondary institutions, we found that it could do more to further prevent and protect students from financial harm:

- First, to provide more equitable and timely financial assistance to students impacted by school closures, the Board should address the backlog in the Student Tuition Recovery Fund. (See Finding I, page 5.)

- Second, to provide greater protection in the future, the Board could place more of a burden on the schools themselves by requiring bonding of all schools in amounts that would adequately reflect the financial and operational risk associated with the school. (See Finding I, pages 5 through 9.)

- Third, the Board could play a more useful role in overseeing and monitoring schools by taking more timely, intermediate action against schools that could potentially harm students. (See Finding II, pages 11 through 15.)

- Fourth, the Board should strengthen its complaint-handling process to assist it in identifying problems and taking actions before harm to students occurs. (See Finding II, page 12.)

- Finally, the Board should assist prospective students in making informed choices. (See Finding III, page 17.)

The Board feels it is adversely impacted in carrying out its functions due to a limited budget and staff size. Additionally, numerous school closures in recent years have negatively impacted its efficiency, not only due to the administrative work that results from a school closure, but also the depletion of the recovery fund, which impacts its ability to issue student refunds in a timely manner.

3. *The extent to which the agency has operated within the public interest*

While the Board has generally operated within the public interest through its licensing and regulatory activities, the Legislature might want to review the Board's composition. Currently, five of the seven Board members represent schools licensed by the Board. In contrast, we found other states relied less on industry representatives for Board membership. In fact, of the eight states we talked to regarding Board representation, Arizona has one of the highest numbers of industry representatives on its Board.

SHEEO recommends a more independent representation on postsecondary school governing bodies. Representatives from industries hiring private postsecondary school graduates, vocational education and training specialists, state agency representatives, and members of the general public may be more appropriate for postsecondary regulatory Board service. Furthermore, people with expertise in such areas as accounting, financial aid administration, and state and federal law may be beneficial to a Board.

4. ***The extent to which rules and regulations promulgated by the Board are consistent with the legislative mandate***

According to the Board, all required rules have been promulgated. However, as part of its five-year rule review process, the Board is currently amending rules.

5. ***The extent to which the Board has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public***

In addition to required public notice of rules, the Board notifies licensees and industry associations of proposed rules by mail and/or verbal communication.

6. ***The extent to which the Board has been able to investigate and resolve complaints that are within its jurisdiction***

The Board believes that, given its resources, it adequately responds to student and consumer complaints. However, we found the Board's complaint-handling process could be strengthened, thereby providing greater protection to students by identifying problem schools and taking action before harm occurs. (See Finding II, pages 11 through 15.)

7. ***The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under enabling legislation***

The Attorney General's Office or applicable City or County Attorney can prosecute actions under the Board's statutes. Since the Board has limited authority to enforce its actions, it must rely on the Attorney General's Office. However, the Board has had little success in pursuing further action through the Attorney General's Office. In the last three years, the Board has referred three cases (subsequent to each school's closure) for prosecution of school owners for fraud and other criminal and civil offenses. Combined, the actions of the school owners and the subsequent school closures impacted over 1,000 students and resulted in a financial loss to students of at least $250,000. To date, the Attorney General's Office has declined to prosecute due to budgetary constraints and resource limitations.

8. ***The extent to which the Board has addressed deficiencies in the enabling statutes which prevent it from fulfilling its statutory mandate***

Although not initiated by the Board, it supported legislation establishing the Student Tuition Recovery Fund in 1989. This was seen as a big step in providing greater protection against financial harm to students.

The Board proposed legislation during the 1994 legislative session that would have increased license renewal fees, enabling it to maintain its current level of operation, however, the legislation was not heard.

Additionally, the Board is considering the following issues that may require revisions to current laws and rules:

- Collection, processing, and maintenance of closed school student records
- Fund sources for the Student Tuition Recovery Fund and student refund policies and,
- Agency staffing and the possible addition of another FTE.

9. ***The extent to which changes are necessary in the laws of the Board to adequately comply with the factors listed in the subsection***

In addition to what the Board is already considering, there may be other statutory changes needed. For example, while the Board is already considering increasing license renewal fees to maintain its current level of operation, it may need to reconsider the fee amounts based on the recommendations made in this report.

10. ***The extent to which the termination of the Board would significantly harm the public health, safety, and welfare***

While the Board has sole responsibility for licensing and consumer protection, there are several other entities that maintain an interest in the financial and academic operations of private postsecondary schools. First, USDOE monitors schools to ensure they are administratively and financially capable of handling federal funds. This function has recently been delegated to states with the establishment of State Program Review Entities, charged with reviewing schools receiving federal financial aid. In addition, national accrediting bodies, concerned with both the academic and financial operation of schools, regularly monitor them. Finally, the Veteran's Administration has dedicated resources to identify and approve schools toward which veterans may apply their educational benefits.

Despite the involvement of other agencies, termination of the Board could significantly harm the public health, safety, and welfare as it could lead to more

abuse within the industry and less consumer protection. In addition, schools must be licensed in order to maintain eligibility for federal financial aid. Finally, the Board feels that deregulation of private postsecondary institutions could negatively impact student access to alternative educational opportunities and federal student loan and grant programs by eliminating the state's role in eligibility determination.

11. The extent to which the level of regulation exercised by the Board is appropriate and whether less or more stringent levels of regulation would be appropriate

The Board feels that its current level of regulation is appropriate. However, we feel that more stringent financial requirements should be placed on schools to further prevent and protect students from financial harm. (See Finding I, page 5.)

12. The extent to which the agency has used private contractors in the performance of its duties and how effective use of contractors could be accomplished

The Board currently utilizes private sector consultants and individuals to perform specific tasks on a case-by-case basis. For instance, it occasionally employs temporary clerical help, process servers, and experts such as financial aid consultants, educational program consultants, and professional investigators. In addition, on an annual basis, the Board utilizes hearing officers under contract and a Student Tuition Recovery Fund consultant.

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Agency Response

ARIZONA STATE BOARD
FOR
PRIVATE POSTSECONDARY EDUCATION

1624 West Adams, Room 110
Phoenix, Arizona 85007
602-542-5709

May 26, 1994

Douglas R. Norton
Auditor General
Arizona State Office of
the Auditor General
2910 North 44th Street, Suite 410
Phoenix, Arizona 85018

RE: Agency Response to 1994 Performance Audit and Sunset Review

Dear Mr. Norton:

Enclosed is the Arizona State Board for Private Postsecondary Education's response to the performance audit and sunset review conducted by you office.

Sincerely,

Dona Marie Markley
Executive Director

DMM/dmm
enclosure

AGENCY RESPONSE

PERFORMANCE AUDIT AND SUNSET REVIEW

1994

ARIZONA STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION
1624 WEST ADAMS, ROOM 110
PHOENIX, ARIZONA 85007
602-542-5709

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INTRODUCTION

Within the State of Arizona over 100,000 students annually attend private postsecondary schools, colleges, and universities.

The Arizona State Board for Private Postsecondary Education is one of several State Agencies with jurisdiction over private postsecondary education. The Board is a 90/10 state agency responsible for the licensure and regulation of 115 private postsecondary educational institutions not otherwise regulated in the State of Arizona. These institutions include trade schools, career colleges, and degree-granting universities. The Board is also responsible for the administration of the Arizona State Student Tuition Recovery Fund, which is a pool of monies collected from designated institutions which is used to provide financial restitution to students injured by the closure of a private postsecondary educational institution.

It is the mission of the Board to protect the public and to provide adequate private postsecondary educational opportunities within the state. The Board strives to:

- Protect the public health, safety and welfare and assist those injured by private postsecondary institutions.
- Standardize private postsecondary education offerings, create reliable standards of good practice and foster quality education, in order to provide a consistent and usable educational training base.
- Ensure public access to alternative higher educational opportunities and employment training opportunities, in order to meet the needs of a diverse population seeking self fulfillment, academic improvement, career advancement, and employment.

RESPONSE TO FINDING I

MORE CAN BE DONE TO PROTECT STUDENTS FROM FINANCIAL HARM

The Board recognizes that its primary purpose is to protect students and ensure their receipt of an acceptable level of postsecondary education. To this end the Board is responsible for several consumer protection activities. These include administering the State Student Tuition Recovery Fund, obtaining student records from closed schools, making student records available to students, and accepting and investigating student complaints.

It should be noted that the Board has also devoted considerable resources to other consumer protection and consumer assistance measures such as exploring alternate sources of student assistance such as federal loan forgiveness, assisting students in seeking these alternative funds, and assisting students in dealing with creditors. In addition, the State Board's retrieval of student records from closed schools and processing of student records requests is a major and costly consumer protection activity that is not separately funded and is financed through the State Board's limited operating budget.

COMMENTS:

In reviewing the Board's consumer protection initiatives, the Audit Team has concluded that the Student Tuition Recovery Fund provides inadequate financial assistance to injured students and that the Board has not adequately acted to protect students financially injured when a licensed private institution closes. The Audit Team's recommendations are to (1) increase the STRF assessments paid by institutions; (2) provide students with pro-rata STRF refunds rather than full STRF refunds; and (3) require individual licensees to have secured funds capable of providing refunds (in addition to the STRF funds) to students should they close.

Institutional STRF Assessments:

The Board agrees that the financial protection of students injured by closed institutions is of paramount importance and deserves continuous review and revision to ensure that adequate assistance is available. To this end, the Board has twice supported legislation to increase STRF fee assessments; has supported legislation to expand the scope of the STRF to include protection for students attending institutions otherwise regulated in Arizona, and has assisted students in securing federal financial restitution as well as State restitution. The Board continues to investigate

methods of improving the level of student protection available through the STRF and continues to support changes that will increase the funds available for student restitution.

Student Refunds through the STRF:

The Board does not agree with the Audit Team's recommendation to provide pro-rata refunds rather than full refunds to all students seeking financial assistance through the STRF. The Board has the authority to determine the refund amount appropriate in each student case. Although on occasion the Board has determined that a pro-rata refund was warranted, the Board generally supports full refunds of all cash payments and loan indebtedness. It is the Board's position that full refunds provide maximum student protection by significantly reducing student loan debt and by enhancing the students ability to utilize additional financial aid for continuing education purposes.

While issuing pro-rata refunds would result in a greater number of refunds being issued in a shorter period of time, pro-rata refunds would neither eliminate the student's loan debt nor enhance the student's ability to utilize additional financial aid for continuing education purposes. Partial refunds create a loan balance due that the student may not be able to repay and that may lead to a defaulted student loan. A defaulted student loan would irreversibly destroy a student's credit history and would make the student ineligible for additional financial aid. For the majority of students, the unavailability of financial aid would preclude the continuation of the student's educational training. Such an outcome would negate the consumer protection purpose of the STRF.

Institutional Bonding Requirements:

The Board supports increasing institutional financial reporting requirements and the use of surety bonds to offset reliance upon the STRF for student restitution. The Board does not agree that all institutions should have bonds, but rather that an institution's history, operational status and financial position should dictate if a bond is required and if so the amount of the bond.

RECOMMENDATIONS:

1. Support legislation to increase STRF assessment fees by raising ceiling from $10.00 to $15.00.
2. Support legislation to allow the State Board to accept donations, financial contributions, general funds into the STRF fund.
3. Support legislation to broaden institutional participation in the STRF
4. Support legislation to allow the Board to require surety bonds for certain types of schools or under certain conditions.

RESPONSE TO FINDING II

ADDITIONAL RESOURCES WOULD ENABLE THE BOARD TO IMPROVE ENFORCEMENT

The Board, as currently organized, funded, and staffed, plays a useful oversight role. The Board has always acted within its statutory framework to protect current and prospective students from injury and to enforce regulatory laws governing private postsecondary institutions. The Board has consistently taken timely enforcement actions designed to reduce harm to the public. The Board's insistence that correct and timely information be used in its deliberations and its insistence on acting within its legal authority are positive factors in considering the Board's enforcement role, rather than negative factors. The Board agrees with the Audit Team, however, that the Board's oversight capabilities could be enhanced by increased resources and funding.

COMMENTS:

In reviewing the Board's resources and enforcement actions, the Audit Team has concluded that inadequate Board resources have limited the Board's effectiveness. The Audit Team's recommendations are to (1) raise licensure fees and add another professional position; (2) track student complaints to identify patterns of non-compliance; and (3) impose stricter financial reporting requirements on institutions.

Licensure Fees/Professional Position:

The Audit Team has stated that an additional professional position funded through a licensee fee increase is imperative to correct Board inadequacies. Although the Board agrees that additional resources could enhance enforcement, it does not believe that it has failed to adequately protect the public. The Board has always acted to move prudently and to minimize the damage resulting from institutional closures and acts of institutional noncompliance. The Board has policies in place to require that students are informed of problems faced by licensed institutions and to limit or prohibit new enrollment in institutions under serious review. In addition, the fate of institutions is often the result of external factors, such as United States Department of Education actions, which the Board can neither impact nor control.

Since 1986, there has been a significant decline (20%) in the number of private institutions licensed by the Board and a corresponding decline in Board revenues. To offset declining revenues and maintain its current level of operation, the Board

must take timely action to increase its revenues by raising licensure fees by 20%. A 20% increase in licensure fees should increase Board revenues from approximately $105,000 (actual FY94) to $120,000.

The Board agrees that the addition of another full-time professional position could increase Board efficiency and improve enforcement. However, the required $40,000 funding for the position would require an additional 33% increase in licensure fees ($120,000 to $160,000). This would represent a total fee increase of 50% ($105,000 to $160,000). Although the additional position could benefit the public by decreasing processing time and improving investigatory activities, the Board believes that the corresponding fee increase could represent an undue financial burden on licensees. Therefore, the Board believes that the addition of a full-time professional position should be considered only after re-examining the agency's organizational structure and staff responsibilities, conducting a cost-benefit analysis, and exploring alternative funding sources.

Student Complaints and Patterns of Non-Compliance:

Regarding student and consumer complaints, the Board does track complaints to identify patterns and trends of abuse or fraud. The Board reviews and considers all student complaints through a three-step process involving Staff review, Complaint Committee review, and full Board review. The Board reviews and considers non-student complaints through a two-step process involving Staff review and Board review.

Financial Reporting Requirements:

The Board supports increasing institutional financial reporting requirements and the use of surety bonds to ensure the financial responsibility of licensees. The Board is currently developing financial evaluation criteria to be used in reviewing financial statements and in determining financial responsibility.

RECOMMENDATIONS:

1. Support legislation to increase licensing fees.
2. Support the addition of a full-time Assistant Director to deal primarily with consumer issues such as STRF, Student Complaints, Student Records, and School Closure coordination, as funds become available.
3. Support imposing stricter financial reporting requirements through new legislation, rule revisions, or changes in internal Board policy.

RESPONSE TO FINDING III

CONSUMER EDUCATION CAN ENHANCE THE BOARD'S EFFECTIVENESS

The Board believes that consumer information tools can increase consumer awareness and assist individuals with educational choices. Given the Board's limited resources, however, the Board has chosen to commit resources to more immediate consumer protection issues, such as student records and the STRF fund. The Board would be happy to provide consumer education information if mandated by statute and if funding were available.

COMMENTS:

In reviewing the Board's consumer education efforts, the Audit Team has concluded that the Board can better protect students through consumer education. The Audit Team's recommendations are to (1) have the Board provide informational materials to students, including comparative information and (2) require private institutions to display and post the Boards address and telephone.

Consumer Information Materials:

An effective consumer awareness program, involving published literature regarding higher educational alternatives and financial assistance programs, would cost considerably more than $500 in production and mailing costs. Mailing alone would be in excess of $1000 per year. The Board could neither solicit nor rely on licensee donations or resources to produce documents, as such activities would be illegal in the State of Arizona. In addition, since the Board annually responds to over 1000 telephone calls and written inquiries for information on schools and school selection, it appears that much of the information is already being provided to the public.

It should also be noted that comparative institutional data for Arizona does not exist and would be costly to develop and distribute. The State of Arizona has previously attempted to compile this data, but the project did not succeed due to cost, time, and resource factors.

Public Display of Board Address and Telephone Number:

Requiring the Board address and telephone number on all licensee information would require a statutory change. Since the Board annually receives over 3000 telephone calls and written inquiries

for information on schools, school selection, STRF, student records, and financial aid practices, it appears that public visibility is not a problem. The Board would support, however, the inclusion of the Board's address and telephone number on Board generated documents such as license certificates. In addition, the Board would support a state-wide consumer hot-line for student financial aid questions.

RECOMMENDATIONS:

1. To support working with the Commission for Postsecondary Education to develop state-wide public information regarding higher educational opportunities.
2. To support development or revision of Board generated documents to display the Board's address and telephone number.

SUNSET FACTORS

The Board has reviewed the Audit Team's sunset factor responses. The State Board agrees with the information provided for factors 1,4,5,7,8,9,10,11, and 12.

Regarding factor 2, the Board believes that it is effective in meeting its objectives and purpose. As the Board's response to the Audit Team's performance audit identifies, the Board's effectiveness could be increased if the Board:

- Had increased revenues and increased staff
- Strengthened licensee financial reporting requirements
- Required institutional bonds in certain cases
- Increased the funds available through the STRF

Regrading factor 3, the Board believes that it has operated within the public interest. The Board disagrees that the composition of the Board limits or hinders the Board's ability to act in the public interest. The composition of the Board, with 5 sector specific members and 2 public members is representative of the State of Arizona's approach to the composition of State Regulatory Boards. In reviewing the membership composition of 12 State Regulatory Boards (State Agencies whose authority is assigned to Boards), all of the Boards had a majority of sector specific members. Boards with 5 members were found to have 3 or 4 sector specific representatives; boards with 7 members were found to have 5 sector specific members; and boards with 9 members were found to have 6 sector specific members. The State of Arizona's commitment to Boards that include sector representatives is a cornerstone of the State's regulatory framework.

Regarding factor 6, the Board believes that it adequately responds to student and consumer complaints.