

**MASSACHUSETTS DIVISION OF PROFESSIONAL LICENSURE  
OFFICE OF PRIVATE OCCUPATIONAL SCHOOL EDUCATION  
POLICY REGARDING THE LICENSURE OF SALES REPRESENTATIVES**

**Effective June 21, 2017**

Pursuant to M.G.L. c. 112, § 263, the Division of Professional Licensure, Office of Private Occupational School Education (OS) licenses sales representatives of private occupational schools (Schools). Pursuant to this same statute, OS approves staff of Schools, including admissions representatives and administrators. This policy establishes guidelines for Schools regarding who meets the definition of a sales representative, an admissions representative, or an administrator. This policy is not intended to be comprehensive as the nature of each applicant's job is unique and requires a case-by-case analysis to determine accurately which classification is appropriate. If Schools have additional questions after reading this policy, please contact Executive Director Clinton Dick at 617-727-5970 or at [clinton.w.dick@massmail.state.ma.us](mailto:clinton.w.dick@massmail.state.ma.us)

**Policy: OS guidance regarding the definition of a Sales Representative.**

**Purpose:** To provide guidance to applicants and Schools regarding the definition of a Sales Representative; to explain when a Sales Representative, as opposed to an Admissions Representative or an Administrator, must solely represent the School when communicating with a prospective student; and to clarify the meaning of Solicitation.

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**A. DEFINITIONS**

The following definitions are all found in 230 CMR 12.00.

**Administrator** – “An individual: (1) who directs or manages the day-to-day operation of a School; and (2) whose job responsibilities do not include Solicitation.”

**Admissions Representative** – Any person: (1) who assists in the process of admitting and enrolling students in a School; and (2) whose job responsibilities do not include Solicitation.”

**Sales Representative** – “Any person who engages in Solicitation within the Commonwealth of Massachusetts regardless of the location of the School, provided however that Administrators and Admissions Representatives are not considered Sales Representatives.”

**Solicitation** – “Contact with an individual that includes an attempt to obtain his or her enrollment in a School, provided however that supplying information in response to a request shall not be considered Solicitation.”

**B. CONSUMER PROTECTION**

The mission of OS is to protect prospective and enrolled students while also ensuring that businesses are not subject to vague and overly burdensome rules and regulations. As part of this

charge, it is incumbent upon OS to ensure Schools and licensed Sales Representatives are given clear and understandable regulations that will allow them to meet their obligations to students. Therefore, OS welcomes this opportunity to define more clearly the roles, obligations, and defining criteria for Administrators, Admissions Representatives, and Sales Representatives.

### **C. HYPOTHETICALS**

Sales Representatives are employed or affiliated with a School and who initiate contact with an individual for the purposes of obtaining his or her enrollment in that school. A person is not a Sales Representative if s/he is employed or affiliated with a School and responds to a request for information. In order to elucidate more clearly the boundary between these two actions—initiating contact versus responding to an individual's initiation—OS has provided some examples below.

#### **Question #1**

A high school or vocational school hosts a career fair and invites colleges, universities, and Schools to set up a booth with information for students about their programs. Does a School need to license a staff person as a sales representative if s/he will be providing information to individuals at the career fair?

#### **Answer #1**

No. OS considers the invitation of the high school or vocational school to be at the behest of interested students. Therefore, School staff will be “supplying information in response to a request”, which is an exception to the definition of Solicitation.

#### **Question #2**

A career center hosts a career fair and invites colleges, universities, and Schools to set up a booth with information for students about their programs. Does a School need to license a staff person as a sales representative if s/he will be providing information to individuals at the career fair?

#### **Answer #2**

No. Similar to high schools or vocational schools, OS considers the invitation of the career center to be at the behest of interested individuals. Therefore, School staff will be “supplying information in response to a request”, which is an exception to the definition of Solicitation.

#### **Question #3**

An instructor or staff member of a School invites enrolled students to recommend the School to their friends or family members. The instructor or staff member does not offer any inducement to the enrolled students, does not condition grades or progress reports on a successful recommendation, and does not exert any type of pressure on the enrolled students.

Subsequently, a prospective student contacts the School based on his friend's recommendation. Does the instructor or staff member need to be licensed as a sales representative in order to make this invitation to enrolled students?

### **Answer #3**

No. OS considers the enrolled student to be free to make the recommendation based on his or her own evaluation of the School. However, a School staff member or instructor may not pressure or induce enrolled students to make such a recommendation. If such pressure or inducement is made, the School can be held liable under both G. L c. 112, sec. 263 and 230 CMR 12.00-17.00 whether or not it is an instructor, staff member, or licensed sales representative that engages in the abusive practice.

### **Question #4**

An individual clicks on an internet ad for a School in order to obtain more information about the School's programs. She provides her contact information. In turn, a School employee contacts the individual and provides her with information about the School's program. Does the School employee need to be licensed as a sales representative?

### **Answer #4**

No. The prospective student initiated contact with the School by clicking on the internet advertisement. Therefore, the School employee was supplying information in response to a request.

### **Question #5**

Same scenario as Example #4, except after the School employee contacts the individual she says she is no longer interested. If the School wanted to follow-up with that student six months later to see if she has changed her mind, would the School need to use a licensed sales representative?

### **Answer #5**

Yes. Since the individual stated that she was no longer interested in the School's programs, then any future contact with that individual would be considered Solicitation and Unsolicited Contact.

### **Question #6**

Same scenario as Example #4, except after the School employee contacts the individual she says she is no longer interested, but asks the School to follow-up with her in six months. If the School wanted to follow-up with that student six months later, would the School need to use a licensed sales representative?

### **Answer #6**

No. Since the individual stated that she wanted to be contacted by the School six months later, then the School was supplying information in response to a request.

### **Question #7**

A School's Administrator is asked to take a prospective student on a tour of the facility, although that is not his primary job duty. However, the prospective student stopped by unannounced as

she heard a radio advertisement and is anxious to learn more about the School's massage therapy program. Does the School Administrator need to be licensed?

**Answer #7**

No. Since the prospective student stopped by on her own volition, the School Administrator can conduct the tour, answer questions, and supply information to the prospective student without needing to be licensed as a sales representative.

**Question #8**

A School's Sales Representative called an individual who had not initiated contact with the School and provided that person with information about the School's programs. Based on this conversation, the individual agreed to come to the School for a tour. However, on the day of the scheduled tour, the Sales Representative called in sick and the School had no other Sales Representatives employed. Does a Sales Representative need to give the tour?

**Answer #8**

Yes. Since the individual was solicited by the School through its Sales Representative only a licensed Sales Representative may conduct the tour and answer questions. The relationship between this individual and the School continues to be one where the School has initiated contact for the purposes of soliciting enrollment.