

Policy Type: Refund Calculations

Policy Name: Licensed Private Career School Statutory Refund Policy

Policy Covers: Students who withdraw from school after beginning attendance at any private career schools which license with OHE.

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Policy Background and Statutory References with OHE Interpretations:

Minnesota Statutes 136A.82 to 136A.834 may be cited as the Private Career School Act (the Act). The Act includes a mandated minimum refund policy which schools must use when a student withdraws before completing a program.

The 2017 Legislature made several changes to the Act. One change clarified which private career schools were required to use the refund calculation under MS 136A.827. Prior to July 1, 2017, certain schools (e.g. cosmetology, barber, trucking, etc.) which were licensed to operate in Minnesota by other agencies or boards sometimes used refund calculations as required by those other agencies or boards. Some of these schools also chose to be licensed by OHE for the sole purpose of participating in Minnesota financial aid programs.

As of July 1, 2017, any private career school which is licensed by OHE must use the MS 136A.827 refund calculation as a minimum standard. Any private career school may choose to use a refund policy which is more beneficial to a student withdrawing from a program without further notice to or approval by the Agency. The updated statutory language is:

MS 136A.822 Licensure Subd. 13. Private career schools licensed by another state agency or board. If a school is licensed to participate in state financial aid under this chapter, the school must follow the refund policy in section 136A.827, even if that section conflicts with the refund policy of the licensing agency or board.

MS 136A.827 Subd. 4. Proration. When a student has been accepted by a private career school and gives written notice of cancellation after the program of instruction has begun, but before completion of 75 percent of the program, the amount charged for tuition, fees and all other charges shall be prorated based on the number of days in the term as a portion of the total charges for tuition, fees and all other charges. An additional 25 percent of the total cost of the program may be added but shall not exceed \$100. After completion of 75 percent of the program, no refunds are required.

OHE's Interpretation of "Days" in Subd. 4 Proration: The Agency has interpreted the reference to "...the number of days..." as calendar days including breaks, holidays, and weekends. Title IV schools may elect to use the following exception.

OHE-Provided Optional "Days" Exception for Title IV Schools: A school which participates in Federal Title IV programs and is also subject to the Return of Title IV Funds (R2T4) process when a student withdraws during a term, may elect for the purposes of this OHE policy to also omit scheduled breaks of five or more consecutive days from both the numerator and denominator as later described in the calculation steps. Choosing to omit these days would be more beneficial to the school than to the student. If a school chooses to use this exception, then the school must clearly disclose this in its refund policy.

OHE Interpretation of "Term" in Subd.4 Proration: While many licensed career school programs are relatively short in length and are less than or equal to one academic term, others extend for two or more terms. However, a student typically signs an enrollment agreement or contract in advance of attending in which the student agrees to pay the full cost of the program as opposed to incurring the charges for one term at a time based on actual enrollment. While a school may allow a student to break up the total charges for a program into multiple terms for the purpose of matching financial aid disbursements to charges and for the convenience of paying the charges, the student is still responsible for all of the contracted charges.

Based on the statute's requirement that a student must complete at least "...75% of the program..." before a school can retain 100% of the student's program charges, the current known universe of schools to which this policy applies, and in order to simplify the required calculations under this policy, OHE has interpreted the word "term" to equate to "program" no matter what the program length is. OHE reserves the right to review exceptions to this interpretation based on individual schools' circumstances.

MS 136A.827 Subd. 5. Equipment and supplies. The fair market retail price, if separately stated in the catalog and contract or enrollment agreement, of equipment or supplies furnished to the student, which the student fails to return in condition suitable for resale, and which may reasonably be resold, within ten business days following cancellation may be retained by the private career school and may be deducted from the total cost for tuition, fees and all other charges when computing refunds. An overstatement of the fair market retail price of any equipment or supplies furnished the student shall be considered inconsistent with this provision.

MS 136A.827 Subd. 8. Cancellation occurrence. Written notice of cancellation shall take place on the date the letter of cancellation is postmarked or, in the cases where the notice is hand carried, it shall occur on the date the notice is delivered to the private career school. If a student has not attended class for a period of 21 consecutive days without contacting the private career school to indicate an intent to continue in the private career school or otherwise making arrangements concerning the absence, the student is considered to have withdrawn from the private career school for all purposes as of the student's last documented date of attendance.

OHE's Interpretation and Guidance on Cancellation Issues in Subd.4 and Subd.8: The following is not, and is not intended to be, a comprehensive review/discussion of R2T4 requirements. Users of this policy must consult the proper year's Federal Student Aid Handbook, the underlying regulations, and Federal authorities in order to fully understand the many complexities of the R2T4 process.

There are a number of differences in related requirements between the R2T4 and the Minnesota statutory refund processes. Users of this policy must understand the important differences between the two sets of requirements since they pertain to two very distinct and separate processes.

For example, if a school has Title IV aid and is not required to take attendance, then the school is prohibited by Federal regulations from requiring a student to submit a notice of withdrawal in writing. However, both Subd.4 and Subd.8 make references to "written notice of cancellation" and the date of receipt of that "notice" is critical to applying the MS 136A.827 refund policy. While OHE strongly encourages schools to err in favor of the student's best interest, schools do have the right under statute to require a written notice of cancellation in order to set the student's date of withdrawal subject to the exception in the next paragraph.

A related example concerns the number of consecutive days of non-attendance by a student and what actions are triggered. If a Title IV school which is required to take attendance notes that a student has been absent for 14 days and has not received any communication from the student, then if the school determines that the student has withdrawn (even if the determination occurs beyond the 14 days), the end of that original 14 day period is considered the point at which the school determined the student had withdrawn. However, under Subd.8, if a student is absent for 21 days without making any contact with the school, then the school must consider the student withdrawn as of the student's last date of actual attendance. The statutory refund policy must be calculated using the student's last date of attendance when there is no written notice provided.

One can see that there could be different withdrawal dates used to calculate the R2T4 and the MS 136A.827 refund amounts. And, that is perfectly acceptable.

Procedures to Calculate MS 136A.827 Refunds

Type of School/Program Determines Required Procedures of Calculation

Licensed career schools include various types of institutions and programs. Some programs are term based with defined start and end dates for academic terms or even an entire program. Some of these term-based schools may still track a student's progress in clock hours, but the clock hours are intentionally scheduled to fit within the pre-set term dates.

Other schools and programs are purely based on clock hours of instruction with a defined start date, but without a set end date. These programs will have an estimated end date which assumes a student will attend consistently on a full-time, half-time, or other basis, but the actual end date can vary based on an individual student's actual enrollment pattern. There are two methods which may be used to calculate the required refund under this circumstance with one being more precise but the other also being acceptable if consistently applied to the benefit of the student.

The following explains each of the three methods of calculation in detail.

Procedure for Programs with Defined Start and End Dates (Term Method)

- 1) Determine if the student completed at least 75% of the program prior to withdrawing.
 - a. Denominator: Count the number of days in the term including the start and end dates per OHE Interpretation of "Days" in MS 136A.827 Subd. 4 (use the Optional Exception if applicable).
 - b. Numerator: Count the number of days from the start date of the term through the student's withdrawal date as determined by Subd.8 Cancellation occurrence (either receipt (as defined) of written notice or last date of attendance).
 - c. Divide the number of days in the numerator by the number of days in the denominator and round to the nearest one-tenth of one percent. Example: $33/92 = .3586$ which rounds to 35.9% of program completed by student and the percentage of charges to be retained by the school. If this percentage is 75.0% or higher, the school may retain 100% of all program charges and the school does not need to do any further calculations.
- 2) If the result from 1) was less than 75.0%, then the school must multiply that result individually against each of the total program tuition, total fees, and any other charges (including room and meal plan charges) to determine the dollar amount the school can retain for each type of charge. The only exception to this is covered under MS 136A.827 Subd.5 Equipment and supplies.
- 3) The school must then make the necessary entries on the student's account so that the net amount for each type of charge (tuition, fees, etc.) equals the amounts calculated in 2).
- 4) Per MS 136A.827 Subd. 4, the school is allowed to add an additional fee of up to 25% of the total cost of the program but not to exceed \$100. This fee must be itemized separately on the student's account if the school chooses to charge it.

Procedure for Clock-Hour Programs with No Defined End Date (Precise Method)

The procedures for the Precise Method are the same as the Term Method. However, additional steps are required under 1)a. to estimate the student's program end date.

Instructions to complete Step 1)a:

- A. Calculate the student's average number of hours attended per day of actual attendance from the first day of attendance through the last day of attendance.
 - 1) Determine the total number of hours the student actually attended at the school during this program enrollment attempt (do not include transfer hours from any source including from previous enrollment attempts at the school itself).
 - 2) Count the number of days the student actually attended. For this step, the number of days includes only the days on which the student actually attended the hours in the previous step. However, within any given week (Sunday-Saturday), the maximum number of days allowed shall be five.
 - 3) Divide the total hours completed from A.1) by the total days attended from A.2) to determine the average hours of attendance per day.
- B. Determine how many hours the student still had left to complete the program (the program length is either the total program length for new students or the total number less transfer hours accepted in advance for transfer students). Subtract the hours completed from the program length.
- C. Divide the result from B. by the average hours of attendance per day calculated in A. This result will show how many more days of attendance the student would have had to complete based on his/her average daily attendance in order to complete the program.
- D. Use the result from C., the school's academic calendar, and the student's attendance pattern (e.g. five days per week; Mondays and Wednesdays only, etc.) to project on what day the student would have completed the total hours in the program. For example, if the student had 500 hours yet to complete and had attended an average of five hours per day, then the student would have 100 days of attendance yet to complete. If the student typically attended Monday-Friday, and there were no scheduled school breaks, then the student's last date of attendance would be projected to be about 20 weeks after the last date of attendance.
- E. Denominator: Once an end date has been projected, count every calendar day including the first day of instruction per the student's enrollment contract through and including the projected end date. As with the Term Method, the school may use the Optional Exception.

Return to the Term Method and follow the remaining steps beginning with Step 1)b.

Procedure for Clock-Hour Programs with No Defined End Date (Alternate Method)

The use of the Alternate Method is more favorable to a student who withdraws. If a school chooses to use the Alternate Method, it must use it for all students who withdraw and it must clearly disclose its methodology in its refund policy.

The Alternate Method can work well for clock-hour schools with students who mainly attend on a full-time basis (at least 30 hours per week).

Under the Alternate Method, a school intentionally increases the calendar-day length of the program prior to a student's first date of attendance so that it can avoid having to project individual term end dates as under the Precise Method. In other words, the school makes a worst-case assumption about a student's enrollment pattern. For a given cohort of students who begin attendance on the same date with the same enrollment pattern, the school projects out the end date of the term based on the contracted enrollment level. Then, the school extends that date further into the future to include the maximum allowable student absences and additional days for weather closures, etc. This has no impact on students who complete the program. However, for students who withdraw, the inflated denominator results in a lower percentage of program completion and a higher refund amount. It will take students longer in calendar time to reach the 75% cut-off. The Alternate Method exceeds the minimum standards required by MS 136A.827.

Under the Alternate Method, once the school has determined the estimated end date for a given student/cohort of students, then the school can follow the steps of the Term Method to complete the refund calculations.

Audit Requirements

Review the school's refund policy to confirm that it meets the minimum standards required under MS 136A.827.

Review and confirm the school's calculations and student account entries for any students in OHE's sample(s) who withdrew from school after beginning attendance.

Example Using the Precise Method:

Student A signed an enrollment agreement to attend a 1350 hour clock hour program. The tuition and fees charged were \$12,000. The school charged an additional \$1,500 for equipment and none of the equipment was eligible to be returned at the time of the student's withdrawal.

Student A made personal payments totaling \$13,500 such that the account was paid in full on the date of withdrawal.

The student's first day of instruction was Monday, July 3, 2017. The student signed up to attend 30 hours per week on a Monday-Thursday schedule. The student missed three full days of attendance in addition to the scheduled holiday closures during the period July 3 to December 21 before officially withdrawing from the program on Friday, December 22, 2017. The school was scheduled to be closed on Tuesday, July 4, Monday, September 4, Thursday, November 23, Monday, December 25, and Monday January 1, 2018.

Using the Precise Method steps, here is how to perform the calculations.

Step 1)a. can be completed in various ways, but the spreadsheet on the next page is one possibility.

Week Beginning on Monday	Total Hours Attended in Week	Number of Days Attended in Week (Capped at Five)	Average Hours Attended per Day
July 3	22.5	3	
July 10	30	4	
July 17	30	4	
July 24	30	4	
July 31	30	4	
August 7	22.5	3	
August 14	30	4	
August 21	30	4	
August 28	30	4	
September 4	22.5	3	
September 11	30	4	
September 18	30	4	
September 25	30	4	
October 2	30	4	
October 9	30	4	
October 16	30	4	
October 23	30	4	
October 30	22.5	3	
November 6	30	4	
November 13	30	4	
November 20	22.5	3	
November 27	30	4	
December 4	30	4	
December 11	22.5	3	
December 18	30	4	
Totals	705	94	7.5

Remaining Program in Hours: 1350 clock hour program less 705 hours completed equals 645 hours remaining.

Remaining Program Hours/Average Hours Attended Per Day: $645/7.5 = 86$ class days left to finish program.

Project the Estimated Program End Date:

The following spreadsheet shows the projection.

Week Beginning on Monday	Number of Class Days in Week	Running Total of Days
December 25, 2017	3	3
January 1, 2018	3	6
January 8	4	10
January 15	4	14
January 22	4	18
January 29	4	22
February 5	4	26
February 12	4	30
February 19	4	34
February 26	4	38
March 5	4	42
March 12	4	46
March 19	4	50
March 26	4	54
April 2	4	58
April 9	4	62
April 16	4	66
April 23	4	70
April 30	4	74
May 7	4	78
May 14	4	82
May 21	4	86

The 86th class day was projected to occur on the fourth class day of the week scheduled to begin on Monday, May 21, 2018. Therefore, the 86th class date would be Thursday, May 24.

Complete Steps 1)a., 1)b., and 1)c.

Denominator: The program start date was July 3, 2017 and the estimated program end date was determined to be May 24, 2018.

Numerator: The student attended from July 3 to December 22, 2017.

The denominator, numerator, and the percentage of program completed are shown in the spreadsheet below.

Month	Program Days (Denominator)	Days Attended (Numerator)	Percentage of Program Completed
July	29	29	
August	31	31	
September	30	30	
October	31	31	
November	30	30	
December	31	22	
January	31	0	
February	28	0	
March	31	0	
April	30	0	
May	24	0	
Totals	326	173	53.1%

Since Student A did not complete at least 75% of the program based on calendar days in the program, the school is required to complete the remaining steps (2 through 4) as listed under the Term Method.

Step 2: The school could retain 53.1% of the student's charges. Student A's tuition and fees were \$12,000. Therefore, the school could retain 53.1% of \$12,000 or \$6,372. Since none of the equipment was determined to be eligible for re-sale, the school could retain the full \$1,500 charged to Student A's account.

Step 3: Assuming that the school had already charged the full \$12,000 to Student A’s account, the school would need to place a tuition and fees credit of \$5,628 on the account to reduce the net tuition and fee charges to \$6,372.

Step 4: The school’s policy includes a provision to charge the fee allowed under statute to a student who withdraws prior to completing the program. Since 25% of the cost of the program exceeded the statutory cap of \$100, the school charged an itemized administrative fee of \$100 to the student’s account.

The following represents Student A’s student account record after Step 4 was completed:

Student A				
Date	Description	Charge	Credit	Balance
6/5/17	Deposit paid by student		200.00	(200.00)
7/3/17	Student payment		7,300.00	(7,500.00)
7/3/17	Tuition and fees	12,000.00		4,500.00
7/3/17	Equipment charge	1,500.00		6,000.00
8/1/17	Student payment		1,200.00	4,800.00
9/1/17	Student payment		1,200.00	3,600.00
10/1/17	Student payment		1,200.00	2,400.00
11/1/17	Student payment		1,200.00	1,200.00
12/1/17	Student payment		1,200.00	-
12/29/17	Tuition and fees credit--student W/D 12/22/17		5,628.00	(5,628.00)
12/29/17	Admin fee-student withdrawal	100.00		(5,528.00)
1/5/18	Refund check paid to student	5,528.00		-