STATE OF NEW JERSEY

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

NOTICE OF RULE WAIVER/MODIFICATION/SUSPENSION

PURSUANT TO EXECUTIVE ORDER NO. 103 (MURPHY)(MARCH 9, 2020)

COVID-19 STATE OF EMERGENCY

Temporary Rule waiver adopted by Robert Asaro-Angelo, Commissioner of the Department of Labor and Workforce Development

Date: March 30, 2020

Authority: N.J.S.A. App.A:9-45 & App. A:9-47; Executive Order No. 103 (Murphy)("EO 103")

Effective Date: Retroactive to March 9, 2020 (the date E.O. 103 was approved by the Governor)

Expiration Date: Upon the Governor lifting the state of emergency and state of public health emergency and rescinding E.O. 103

This is an emergency adoption of a temporary waiver of the 60-day notice requirement at N.J.A.C. 12:41-2.6(a)7 for private career schools that seek to make a change in program; specifically, where a private career school seeks to change from a program of in-person instruction to a program of on-line (remote web-based) instruction. Section 6 of EO 103, issued in response to the COVID-19 pandemic, authorizes agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Department of Labor and Workforce Development is waiving its rule as follows:

N.J.A.C. 12:41-2.6(a)7 currently requires each private career school making a change to its program(s), program(s) titles, program description, and/or CIP code, to submit to either the Training Evaluation Unit, within the Department of Labor and Workforce Development, or the Department of Education, as appropriate, "those documents required for changes not less than 60 calendar days prior to the effective date of [the changes]." The Department recognizes that during the state of emergency and state of public health emergency declared by the Governor due to the COVID-19 pandemic, private career schools should have the flexibility to transition quickly from a program of in-person instruction to one of on-line instruction with less than the 60-day notice to the Department of Labor and Workforce Development or Department of Education currently required by N.J.AC. 12:41-2.6(a)7; that, in fact, it is in the public's interest that private career schools have this flexibility during the state of emergency so that the social distancing necessary to slow the spread of COVID-19 may be practiced by the schools and their students. With the

waiver of N.J.A.C. 12:41-2.6(a)7, notice and documentation to the appropriate Department of the change from a program of in-person instruction to a program of on-line instruction would continue to be required of the private career school; however, the private career school would not be required to provide that notice and documentation 60 days in advance of the change.

I find that waiver of the N.J.A.C. 12:41-2.6(a)7 as described above is necessary because enforcement of the existing rules would be detrimental to the public welfare during this emergency.

Full text of the waiver follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

12:41-2.6 Application for approval of changes for private career schools

(a) through (b) (No change.)

(c) **Retroactive to March 9, 2020, the date upon which the Governor signed Executive Order 103, declaring a state of public health emergency and state of emergency, and continuing until the Governor rescinds Executive Order 103, lifting the state of public health emergency and state of emergency, a private career school seeking to change from an in-person program of instruction to an on-line program of instruction, shall not be subject to the 60-calendar day notice requirement set forth in (a) above; rather, such a private career school shall submit to either the Training Evaluation Unit or the Department of Education, as appropriate, those documents required for the change from an in-person program of instruction to an on-line program of instruction, as soon as is practicable prior to the proposed change.**

3/31/2020

Date

Robert Asaro-Angelo, Commissioner
Department of Labor and Workforce Development