

Chapter 3

Ministry of Training, Colleges and Universities

Section 3.12

Private Career Colleges

Background

Private career colleges are independent organizations that offer certificate and diploma programs to students in fields such as business, health services, information technology, and electronics. Private career colleges also cater to adults who need specific job skills to join the workforce or want to enhance their practical skills to become more competitive in the job market. There are about 470 registered private career colleges in Ontario, with 650 campuses and an estimated 60,000 students.

Private career colleges are governed by the *Private Career Colleges Act, 2005* (Act) which came into force on September 18, 2006. The Ministry of Training, Colleges and Universities (Ministry) administers the Act through its Private Career Colleges Branch. The Branch, headed by a director referred to in the Act as the Superintendent of private career colleges, has 30 staff including contract staff and spent almost \$3 million in the 2010/11 fiscal year.

Under the Act, institutions that provide instruction in the skills and knowledge required to get a job in a particular vocation must be registered, and their vocational programs must be approved by the Superintendent. Private career colleges currently offer more than 5,000 programs excluding non-vocational programs and programs that are exempt

from the Act, such as programs exclusively for youths and programs providing religious vocational training. Private career colleges must also comply with a number of other obligations, including those pertaining to program delivery, instructor qualifications, and admission requirements.

According to the Ministry, the Act is focused on student protection, and the Ministry's primary objective is to protect students and prospective students of private career colleges. These protections include the right to receive a refund of fees, access to a student complaint process, the right to receive transcripts for at least 25 years, and the opportunity to complete their training, at no additional cost, at another institution if their original private career college ceases operations. The costs for completing training under the latter circumstances are borne by the Training Completion Assurance Fund, which receives contributions from registered private career colleges to protect students in the event of a closure. The Ministry has significant powers to ensure that private career colleges comply with the Act and its regulations, including the ability to enter and inspect the premises of a registered private career college or an unregistered institution that ought to be registered.

Although the Ministry does not fund private career colleges directly, the Ministry provides significant funding to the private career college

sector through its employment training and student assistance programs. Over the past three fiscal years (2007/08 through 2009/10), a total of almost \$350 million was provided through the Ministry's Second Career and Skills Development programs to an annual average of 13,000 students to pay for their tuition to attend private career colleges. In addition, during the last three academic years, almost \$200 million in provincial loans and grants were provided to an annual average of 9,500 private career college students through the Ministry's Ontario Student Assistance Program (OSAP).

Audit Objective and Scope

The objective of this audit was to assess whether the Ministry of Training, Colleges and Universities had adequate procedures in place to meet its legislated responsibilities to protect existing and prospective students of private career colleges in Ontario and to measure and report on its effectiveness in doing so.

Senior management reviewed and agreed to our audit objective and associated audit criteria.

Our audit work was primarily conducted at the Ministry's Private Career Colleges Branch. We also contacted associations representing private career colleges in Ontario to obtain their views and conducted an independent survey of 500 recent graduates about their satisfaction with the training they received, their employment status, and their awareness of their rights under the Act. We visited a few campuses, but because our audit focused on ministry controls and procedures, we did not audit any private career colleges.

In conducting our audit work, we reviewed relevant legislation, policies, and procedures, and met with appropriate staff of the Ministry. We also researched other jurisdictions. Our audit also included a review of related activities of the Ministry's Internal Audit Services Branch. We reviewed the Branch's recent reports and considered its

current and planned work, and any relevant issues identified when planning our work.

Summary

The Ministry has recently undertaken several good initiatives to improve its oversight of private career colleges in Ontario and strengthen the protections for students. Nevertheless, further improvements are required to ensure compliance with the Act, its regulations, and ministry policies, and to better ensure that the Ministry's primary objective of protecting students is met. Some of our more significant observations are as follows:

- Although several steps have been taken to identify and act on unregistered colleges, the Ministry could make better use of information it already has on hand to identify colleges that continue to operate illegally. For example, the Ministry does not routinely check that closed schools have not continued to operate without the necessary ministry approvals. We reviewed a sample of schools identified as being closed and found that a number of them appeared to be offering unapproved courses. We informed the Ministry, and in two of these cases it subsequently took enforcement action.
- Although the Ministry collects and publishes performance information such as graduation rates and employment for public colleges, the Ministry does not collect similar information for private career colleges. Over 85% of the private career college graduates who responded to our survey agreed that such student outcome data would be useful. The Ministry used to collect this information for OSAP-approved private career colleges, but in 2006 placed a temporary moratorium on the collection of this information to allow for a review of the process to take place. It has yet to re-establish this practice.

- According to the Act, in order to open a private career college, an applicant must satisfy the Ministry that it can be expected to be financially responsible and operate the college “in accordance with the law and with integrity and honesty.” Although we found that the Ministry generally had the required registration documentation on file, we had concerns about the adequacy of some of the procedures undertaken to assess this documentation such as a lack of verification through credit and reference checks.
- Private career colleges are required to renew their registration annually. Although applications for renewal must be accompanied by financial statements, and the Ministry intends to phase in a requirement that these statements be audited, the Ministry did not have a process in place for reviewing the financial statements submitted to determine if a college’s financial viability was in question. A private career college with significant losses, which the Ministry attributed to declining enrolment, that also appeared to be dependent on shareholder loans to meet its financial obligations had its registration renewed without evidence that its financial viability had been reviewed. The college subsequently closed, costing the Training Completion Assurance Fund over \$800,000. The Ministry advised us that the college’s inability to meet new regulatory requirements may also have contributed to its closure.
- According to legislation, for a program to be approved, it must provide the skills and knowledge required to obtain employment in a prescribed vocation. In addition, legislation requires program applications to include an evaluation of the program by an individual who has expertise in the assessment of such programs. Our review of a sample of evaluations completed by third-party assessors revealed that there was no documented evidence that the Ministry had attempted to confirm their credentials, although the Ministry informed us that it had begun to keep track of validated assessors. In addition, in most cases, neither the applicant nor the assessor had declared, as required, that they were not in a potential conflict of interest. We noted a case in which a conflict appeared to exist where a program assessor who previously had been employed by the college in question had also been involved in developing a curriculum for that college.
- To continue to provide the skills and knowledge needed to obtain employment in a prescribed vocation, most approved programs need to adapt over time to meet market demands. Programs approved by the Ministry subsequent to the proclamation of the new Act and one of its regulations, on September 18, 2006, can be approved for a maximum of five years, but approximately 40% of the 5,000 currently approved programs were approved before the proclamation of the current Act, and the Act does not include a requirement to re-approve these programs. Furthermore, the Ministry does not know how old the majority of these older programs are, nor does it have a formal plan to call in these programs for re-approval.
- Although a recent risk assessment completed by the Ministry identified 180 private career college campuses with multiple compliance risk factors, the Ministry could not demonstrate that it had undertaken enough compliance inspections to adequately manage the risk of non-compliance with the Act and its regulations. For instance, although there are approximately 470 registered colleges and 650 campuses in Ontario, the Ministry estimated that only 30 campuses had been inspected in 2010, although we were informed that ministry investigators made 20 additional campus visits to address specific concerns. We also found that inspectors did not maintain sufficient documentation showing the full nature of the work performed. In addition,

according to the Ministry, just 5% of inspectors' time was devoted to inspections, as the majority of their time was spent on processing program approvals.

OVERALL MINISTRY RESPONSE

The Ministry appreciates the recognition provided by the Auditor General of the multiple initiatives that are under way to advance its oversight of private career colleges. The Ministry also agrees that student protection continues to be a fundamental priority. The Ministry is supportive of the Auditor General's recommendations and offers the following context.

Supporting an expanded range of high-quality programs for students, while ensuring that illegal and non-compliant programs and operators are addressed, are dual priorities for the Ministry. Beginning with the creation of the new Private Career Colleges Branch in December of 2009, the Ministry has significantly strengthened sector oversight and student protection, while working with the sector to improve the quality of programs and program applications.

Through the use of the full spectrum of enforcement tools provided for in the legislation, the Ministry has identified and taken enforcement action against over 150 illegal operators. The Ministry has also approved 944 new programs in registered private career colleges in the past 12 months, which will expand the options available for private career college students. The Ministry continues to evaluate existing policies, processes, and tools to ensure that they remain applicable and relevant to sector oversight and student protection.

In late 2011, the Ministry will begin a review of the Act and related regulations. This will provide an opportunity for the Ministry to reassess and validate the degree of oversight of the sector, given the ongoing need for student protection.

Detailed Audit Observations

UNREGISTERED PRIVATE TRAINING INSTITUTIONS

Partly in response to recommendations made in a report issued by the Ontario Ombudsman in July 2009, the Ministry has undertaken several initiatives to address unregistered private training institutions that offer unapproved vocational programs. These initiatives include:

- establishing the Private Career Colleges Branch, which is dedicated to the oversight of the sector and the investigation of unregistered institutions;
- developing a regulatory framework to allow the Ministry to issue administrative monetary penalties to institutions that violate the Act or its regulations;
- working with professional and regulatory bodies to improve communication and to strengthen awareness of each other's requirements; and
- significantly increasing enforcement action against unregistered private training institutions.

To illustrate increased enforcement action, in a little over a year and a half (between August 1, 2009, and March 31, 2011), the Ministry issued about 130 orders to unregistered private training institutions, or more than four times as many as in the preceding three-year period. In addition, starting in December 2009, shortly after developing the regulation to do so, the Ministry began to issue administrative monetary penalties to non-compliant institutions. From December 1, 2009, through March 31, 2011, the Ministry issued about 120 notices of contravention and associated administrative monetary penalties to unregistered private training institutions for violating the Act and its regulations.

Within the Ministry's Private Career Colleges Branch, the Compliance and Enforcement

Unit—which is staffed with four investigators, a manager, and a research analyst—is responsible for investigating allegedly unregistered private training institutions, as well as investigating allegations of major non-compliance issues at registered private career colleges. The vast majority of the Unit’s investigations involve unregistered private training institutions. According to the Ministry, most of the investigative efforts involving unregistered private training institutions were reactive, based primarily on responding to tips and complaints from registered private career colleges.

Although our review of the Ministry’s investigations of unregistered private training institutions identified these improvements, there are several areas that warrant management attention:

- The Ministry had not kept a record of tips and complaints containing allegations about unregistered private training institutions, although during the course of our audit the Ministry began to keep a centralized record of such tips and complaints.
- The Ministry had not set a targeted time frame for completing investigations of allegations against unregistered institutions, and the Ministry had not tracked the time taken to complete such investigations so that it could establish a baseline against which a target could be set and subsequent performance measured. In about half the cases reviewed, there was insufficient information available to determine the length of time it took to complete investigations. Where an investigation’s length could be determined, we found that on average, the Ministry took approximately 70 days to complete the investigation and take enforcement action from the date the complaint had been received: investigation lengths ranged from fewer than 10 days to almost 220 days. Ministry management informed us that in some of the lengthier cases, investigative and/or enforcement action had been delayed by the Ministry so that it could undertake simultaneous sector-specific investigations.

However, the resulting delays could have put prospective students of these institutions at risk.

- We reviewed a sample of investigations that had been closed because the Ministry had obtained documentation indicating compliance from unregistered institutions. However, we were told that subsequent follow-up to determine continued compliance was not strictly required: additional procedures and associated timelines were at the discretion of ministry investigators. In more than half of the investigations we examined, we observed that subsequent follow-up procedures to ensure continued compliance either had not been documented or had not been undertaken.
- The Ministry was tracking information related to enforcement action against unregistered institutions and recording that information in a spreadsheet program. Management used this information to periodically analyze the impact of administrative monetary penalties, including measuring the number of such penalties issued per month and the impact of such penalties on encouraging compliance. This was a good initiative, but our review of the spreadsheets revealed errors and omissions that reduced the usefulness of the analysis undertaken.

Management shared with us various proactive measures it would undertake if resources permitted, including advertising to prospective students, reviewing advertisements in ethnic newspapers to identify suspected unregistered institutions, and educating prospective students at events such as job fairs on how to differentiate registered and unregistered institutions. Although some proactive measures for identifying unregistered private training institutions carry an additional financial cost, we observed that the Ministry had at its disposal information that could be used to identify possible unregistered institutions. Examples are information about programs pre-screened to determine whether they are vocational and require approval under the

Act, and information on institutions that ministry records indicate had closed.

Subsequent to our discussions with ministry management, we observed that the Ministry began to review institutions that had pre-screened programs during 2010 to determine whether they were offering and/or advertising unapproved vocational programs. As a result of this new process, the Ministry found a number of institutions that warranted further investigation and some cases that warranted enforcement action.

At the outset of our audit, the Ministry had not undertaken a review of closed schools to ensure that they were not continuing to operate and advertise themselves as registered private career colleges. We reviewed a sample of the private career colleges that, according to ministry records, had closed since the beginning of the 2006/07 fiscal year and found examples where these institutions appeared to have continued to operate and advertise unapproved vocational programs. We informed the Ministry, and in two of these cases the Ministry subsequently took enforcement action against these institutions for infractions that included advertising and operating an unregistered private career college and advertising and/or providing unapproved vocational programs. During the course of our audit, the Ministry informed us that it had launched an initiative to review institutions that had closed, but at the completion of our fieldwork the results of this review were not available.

RECOMMENDATION 1

To enhance protection for current and prospective students of private career colleges, the Ministry of Training, Colleges and Universities (Ministry) should:

- use the information at its disposal to proactively identify possible unregistered private training institutions offering or advertising unapproved vocational programs and establish a targeted time frame for completing investigations; and

- consider establishing standardized follow-up procedures and timelines to ensure that the unregistered institutions against which it has previously taken enforcement action continue to comply with the Ministry's requirements.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation and has implemented protocols that will allow it to fully utilize available information to enhance student protection.

The Ministry consistently surveys available media, including the Internet, to find evidence of unregistered institutions. The Ministry also investigates unregistered institutions that have been identified by students or registered institutions. These sources of information have been the primary basis for the over 100 enforcement actions taken in the first nine months of 2011.

In addition, the Ministry is tracking all:

- unregistered institutions that have been subject to an enforcement order to ensure compliance and to detect new activity;
- institutions that have applied for registration and been rejected or that have failed to complete their registration to ensure that they are not operating illegally; and
- institutions that have surrendered their registration to ensure that they are not continuing to operate illegally.

The Ministry has reviewed all such circumstances since 2006 and has initiated 30 investigations and six enforcement actions as a result.

The Ministry is also expanding its scope by partnering with other law enforcement agencies for investigations, including investigations of immigration-related offences and fraud.

Moving forward, the Ministry will build on its experience in investigations to develop benchmarks for investigation timelines.

PERFORMANCE MEASURES

Although the Ministry collects performance information related to student outcomes for universities and public colleges, the Ministry does not currently collect performance information for private career colleges. For public colleges, the Ministry publishes information on five performance indicators: graduation rates, graduate employment, graduate satisfaction, employer satisfaction, and student satisfaction. Such information helps students make informed choices regarding which colleges and programs will best meet their educational and employment goals. Similar measures would be helpful to the Ministry in overseeing private career colleges and meeting its primary objective of protecting students.

Until 2006, the Ministry collected graduation and graduate employment rates for OSAP-eligible private career colleges. However, in 2006, what was to be a temporary moratorium was placed on the collection of these data to develop performance indicators for all private career colleges. The Ministry subsequently developed performance indicators related to student outcomes for private career colleges similar to the measures in place for public colleges. However, more than four years after the Ministry placed a moratorium on the collection of student outcome data, the Ministry has yet to establish a timetable for the implementation of these performance measures.

Our survey of 500 recent private career college graduates funded by the Ministry's employment training programs found that over 85% of respondents felt that performance measures such as those developed, but not yet implemented, would be useful in deciding which private career college and program to select. About half of those we surveyed indicated that such information was currently being provided in some form by the colleges they attended. Our survey also found that, although 75% of graduates were employed full- or part-time, less than 40% of graduates were employed full-time in a position related to their private career college program. This statistic clearly demonstrates that

there is a need for consistent, comparable information that will enable prospective students to make informed decisions regarding which private career college and program to select.

In addition to helping prospective students make informed choices, student outcome data can also be used by the Ministry to better ensure the effective use of public funds provided to students who attend private career colleges. Specifically, such information would assist the Ministry in its monitoring activities and enhance accountability for the expenditure of hundreds of millions of dollars of public funds provided to students attending private career colleges. For example, a private career college, to obtain initial OSAP approval, must demonstrate that its graduation and graduate employment rates for the previous two years are at least two-thirds of the average rate attained by public colleges. Such a requirement provides a measure of assurance to OSAP students that they have a reasonable likelihood of finding employment. It also enhances accountability for public funds. Although OSAP provides a combination of loans and grants to students to attend private career colleges, funding provided to students through the Ministry's employment training programs was generally not repayable. These programs had no supplementary eligibility requirements that private career colleges must meet in order for the Ministry to provide students with funding to attend these institutions.

RECOMMENDATION 2

To help prospective students make informed decisions on which private career college and which program to enrol in, the Ministry of Training, Colleges and Universities (Ministry) should collect, validate, and publish student outcome data such as information on graduation rates and employment in their field of study. In addition, the Ministry should use these data to assist in its oversight of the private career college sector.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General on the importance of collecting, validating, and publishing private career college performance outcomes. The Ministry has completed a review of the former key performance indicator process and has developed six performance indicators for the private career college sector. The Ministry will be working with the sector associations on developing a phased implementation plan that will moderate the financial and administrative impacts for both the Ministry and private career colleges.

In addition, the Ministry has now implemented performance measures such as the Student Satisfaction Survey for students affected by a school closure and protected under the Training Completion Assurance Fund. The survey measures student satisfaction with the Ministry's support, the student's program, and the quality of education received from the training completion provider.

REGISTRATION

Registration Applications

The Ministry's Private Career Colleges Branch is responsible for the regulatory tasks associated with administering the *Private Career Colleges Act, 2005*. The Act generally requires that institutions providing instruction in the skills and knowledge necessary to get a job in a vocation must be registered and that their vocational programs must be approved by the Ministry. As a first step toward registering as a private career college, institutions complete the Ministry's pre-screening process. Based on information provided through this process, the Ministry determines whether a program is vocational, and thus whether the institution is required to submit an application for registration and program approval.

Applications for registration require the applicant to provide information and supporting documents, including an applicant profile, sample student contracts, copies of the student complaint procedure, financial information and security, and insurance coverage. We reviewed a sample of approved registration applications and found that the required documentation was generally on file, but we had several concerns about the adequacy of some of the documentation obtained and the procedures undertaken by the Ministry to assess that documentation:

- According to the Act, the Ministry must be satisfied that the applicant can be expected to be financially responsible in the operation of a private career college. To assess financial viability, the Ministry requires applicants to provide forecast financial statements prepared by a public accountant. Although we observed that financial statements were on file, we did not see any documented evidence that such information had been reviewed. Reviewing available financial information is important given the impact a college failure can have on students, as well as on the Training Completion Assurance Fund. We also observed that although applicants are asked to disclose if they have previously filed for bankruptcy, or are currently party to bankruptcy proceedings, applicants' past credit history is not validated through procedures such as a credit check.
- The Act requires that the Ministry be satisfied that applicants will operate the private career college "in accordance with the law and with integrity and honesty." To satisfy this requirement, the Ministry asks applicants to submit references and disclose any criminal offences. Although a poor reference or a criminal record is not necessarily grounds to reject a registration application, for the cases we examined the Ministry did not contact references to help establish the applicant's integrity and honesty. The Ministry also did not perform criminal

background checks to confirm applicants' assertions that they did not have a criminal record.

- The Ministry did not maintain—and due to systems limitations was unable to generate—a reliable record of registration applications that had been rejected. Maintaining a list of rejected applications could enable management to perform follow-up procedures to ensure that these applicants and institutions do not subsequently operate and provide vocational programs in contravention of the Act.

Registration Renewal

Private career colleges are required to complete an annual application to renew their registration. Applications for renewal must be accompanied by supporting documentation, such as financial statements prepared by a public accountant, a schedule of domestic and international student enrolment, and a continuation certificate with respect to financial security posted in the form of a surety bond or letter of credit.

We reviewed the registration renewal process and observed that the Ministry was generally doing an adequate job of obtaining financial statements, the appropriate amount of financial security, and proof that a continuation certificate was on file. However, we were concerned that in a few cases the Ministry did not ensure that financial statements had been prepared by a public accountant and the Ministry did not have a process in place for reviewing the submitted financial statements to determine if financial viability was in question.

Our review of financial statements identified no significant concerns regarding financial viability in the vast majority of cases examined. However, our testing and discussions with responsible staff confirmed that they were not assessing financial viability before renewing the registration of a private career college. Renewing a private career college's registration when it may not be able to meet its financial obligations could have an adverse impact

on prospective students and the Training Completion Assurance Fund. For example, we observed a private career college that had its registration renewed after it had considerable losses in its first year of operation and appeared to be dependent on shareholder loans. However, there was no indication that the Ministry had taken any steps to obtain assurance that this college could be expected to meet its financial obligations. According to the Ministry, this college subsequently closed due to declining enrolment, and the Training Completion Assurance Fund had to pay out over \$800,000. The Ministry advised us that this college's inability to meet new regulatory requirements may also have contributed to its closure.

Management acknowledged that the Ministry did not have a staff member qualified to undertake an assessment of financial viability, but advised us that an individual would be hired to perform this task.

Another criterion for renewing the registration of a private career college is that the Ministry must be satisfied that the applicant will operate the college in compliance with the Act and its regulations. We noted that, although compliance issues appeared to have been considered during the registration renewal process, on-site inspections of colleges were limited. Although no formal record of field inspections was maintained, the Ministry estimated that it may have visited 30, or about 5%, of the 650 college campuses in 2010.

With regard to the timeliness of registration renewal, colleges that apply for renewal remain registered until the Ministry makes a decision on their applications. The Ministry does not report on the length of time it takes to review and make decisions on applications for registration renewal, but we found that the renewal process could take more than a year to complete and averaged about 150 days. Since private career colleges remain registered while their renewal application is being reviewed, prospective students could be put at risk should the Ministry decide not to renew their registration. In one case, where a registration had

expired more than seven months previously, the college's ability to meet its obligations appeared to hinge on continued shareholder loans. In another instance involving a registration that had expired more than seven months previously, ministry inspections had identified serious concerns about misconduct, as well as numerous straightforward compliance issues. However, although at the time of our audit this college was under investigation, the Ministry had taken no enforcement action. As a result, prospective students could enrol at this institution with no knowledge of these incidents.

RECOMMENDATION 3

To safeguard government funding provided to students and the money in the Training Completion Assurance Fund as well as to enhance the protection offered to prospective students of private career colleges, the Ministry of Training, Colleges and Universities should:

- ensure that its review of applications for private career college registrations is initiated on a timely basis and includes an appropriate assessment of the applicant's forecast financial information, and checks on the applicant's references, credit, and criminal record;
- maintain a record of rejected applications to facilitate management follow-up to ensure that rejected institutions do not subsequently operate in contravention of the *Private Career Colleges Act, 2005*; and
- ensure the timely review of applications for registration renewal, including an adequate assessment of financial and other application information.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's view on the importance of verifying institutions' financial viability in order to protect prospective and current students. The Ministry has hired an accounting professional to assess the financial viability of private career colleges through a

review of audited financial statements. This will allow the Ministry to proactively identify high-risk institutions. The Ministry complemented this process with a comprehensive three-tier financial review methodology, which was implemented in September 2011, for registration renewal. A similar framework for new applicants will follow.

The Ministry has also developed operational policies and benchmarks to assist with meeting service timelines for the initial review of a registration application of a new private career college, prior to assigning it to an inspector. In 2011, the Ministry registered over 40 locations. The Ministry's ability to meet its service commitments is directly related to the quality of the applications received. The Ministry will continue to work with private career colleges to improve the quality of submitted applications.

As indicated in the response to Recommendation 1, the Ministry will track rejected applicants to ensure that they are not operating in contravention of the Act.

PROGRAM APPROVAL

Program Applications

Applications for program approval require the applicant to provide information and supporting documentation related to several aspects of the program, including admission requirements, program fees, an employment profile, and an outline of each subject. Legislation also requires applications to include a program evaluation report, submitted directly to the Ministry by the evaluator, who must have expertise in evaluating such programs. Evaluators assess the program's adequacy and recommend whether or not the program should be approved. For a program to be approved under the Act, the Ministry must be satisfied that the program will provide the skills and knowledge for students to obtain employment in the prescribed vocation. During the course of our audit,

the Ministry approved approximately 60 programs per month.

We observed that the degree of assurance obtained by the Ministry before approving a program varies. For instance, some programs are evaluated by the regulatory body that oversees the profession or by a party recommended by the regulatory body. In the absence of a regulatory body, other programs are evaluated by experts in the subject matter against a defined ministry program standard or another formal standard that the Ministry recognizes or requires programs to meet. A third process is for programs to be evaluated by program assessors who have been pre-approved by the Ministry. However, according to the Ministry, in the vast majority of cases, the Ministry relies on a program evaluation completed by a third-party program assessor chosen by the college.

Although the Ministry prescribes requirements that general third-party program assessors must meet, including adult education experience and professional experience in the field, we had the following concerns about programs reviewed by general third-party assessors.

- Assessors are required to submit a resumé and/or a summary of qualifications, but in the cases we reviewed there was no documented evidence that the Ministry had confirmed the credentials of the general third-party program assessors. Furthermore, staff responsible for reviewing program evaluation reports and assessor qualifications confirmed that these assessors' credentials were not usually checked. However, the Ministry informed us that they had begun to keep track of those assessors whose credentials had been validated so this information would be available for subsequent evaluations.
- To ensure that program evaluations can be relied on, the Ministry requires that all evaluations be undertaken by an arm's-length third party. The program application specifically notes that assessors should not have had any connection to the private career college being

evaluated or to the program being reviewed within the last seven years. Both the applicant and the program assessor are required to declare that they are not in such a conflict-of-interest situation. However, for almost every application we reviewed, neither the applicant nor the assessor had declared that they were not in a potential conflict-of-interest situation. Although conflicts can be difficult to identify in the absence of a declaration, we noted an instance where the program assessor had been employed by the private career college in question within the previous two years and had been involved in developing curriculum at the college. There was no evidence on file that ministry staff had questioned this circumstance.

We noted that the Ministry's information system did not include a record of whether approved programs had ever undergone a formal program evaluation. Although the Ministry informed us that to its knowledge, program evaluations had been required for many years, the Act and regulations preceding the current Act did not strictly require a formal program evaluation. We attempted to determine whether older programs had been evaluated by a program assessor, but program information older than 10 years had been destroyed.

For programs approved within the last 10 years but before the proclamation of the new Act, the Ministry was unable to provide documentation that the program had been evaluated in the majority of the cases we requested. However, where such documentation was provided, we observed that these programs had also been assessed by both employers and program design specialists. Employers were asked questions such as whether the program covered the knowledge and skills required for entry-level employment. The Ministry used these assessments in deciding whether to approve a program. We felt this was a good practice, and our review of the practices of other Canadian jurisdictions revealed that some other provinces, unlike

Ontario, require employer program assessments to assist in the decision to approve a program.

With regard to program applications, we were also concerned that the Ministry did not maintain a record of rejected program applications and could not generate a reliable record of applications that had been rejected. Maintaining a list of rejected program applications and the reasons for their rejection could enable management to perform follow-up procedures to ensure that such programs were not subsequently offered despite having failed to be approved by the Ministry.

Timeliness of Program Approvals

We also reviewed the timeliness of the program approval process. We found that in response to a July 2009 recommendation from the Ontario Ombudsman to address delays in the time it takes to review and approve program applications, the Ministry had made progress in reducing the application turnaround time. In this regard, the Ministry also established a goal that no program application would await review by one of the Ministry's eight inspectors for longer than six months. In an effort to meet this goal, approximately 80% of inspector time was devoted to reviewing program applications in 2010. Inspectors therefore spent very little time on their other responsibilities, such as visiting colleges to perform inspections, resolving student complaints, and assisting with college registration renewals.

In August 2010, the Ministry began to track and report on a monthly basis the number and age of outstanding program applications. The Ministry noted that the percentage of program applications awaiting review for longer than six months declined from 46% in August 2010 to an average of 31% in the first quarter of 2011. Also, the number of applications older than one year declined from 28% to an average of 13%. In addition, the Ministry advised us that a significant number of the applications awaiting review for longer than one year had issues that prevented the Ministry from completing

its review. These issues included missing documentation (such as program evaluations), unresolved compliance issues, and programs that did not meet current program standards. Despite these significant ministry improvements in reducing the backlog in processing program applications, our discussions with associations representing private career colleges indicated that they had concerns about the program approval process, including that the approval process was still too long and therefore hindered the colleges' ability to respond to changing employment demands on a timely basis.

Program Re-approvals

Most programs, to continue to provide the skills and knowledge necessary to obtain employment, will need to adapt over time to meet market demands. According to a regulation under the Act, which came into force on September 18, 2006, programs approved from that point on could be approved for a maximum of five years. Programs approved before the regulation came into force have no expiry date.

As of March 31, 2011, there were approximately 5,000 approved private career college programs. According to the Ministry, almost 2,000, or 40%, of the currently approved programs had been approved before the proclamation of the current Act and thus do not have an expiry date. The Ministry was unable to provide us with a list indicating the age of these older programs, because the approval dates for the vast majority of the older programs were not recorded in the information system. Our review of a sample of programs approved before the regulation came into force identified several programs that had been approved more than 20 years ago, including one program that had been approved almost 35 years ago. Although discussions with the Ministry revealed that it intends to eventually call in such programs for re-approval, the Ministry did not have a documented plan or timetable for doing so.

We reviewed the Ministry's full list of currently approved programs and found that, for programs

identified by the Ministry as having been approved after September 18, 2006, almost 30% did not have an expiry date recorded in the Ministry's information system. We also found that a number of programs had an obviously incorrect program approval or expiry date, such as 1900 or 2099. In addition, in a number of cases the Ministry was unable to provide source documentation to substantiate the expiry date. Furthermore, in more than half the cases we examined where the program's expiry date was recorded in the system and the source documentation was available, the expiry date recorded in the system did not match the source documentation. Such data integrity issues affect the Ministry's ability to effectively manage re-approvals.

Concerns over data integrity notwithstanding, we noted that over 80 programs were already flagged in the Ministry's information system as having expired during 2010 and about 90 were also set to expire in 2011. However, the Ministry did not have a documented plan for when it would call in these programs for re-approval. According to the Ministry, these programs will not expire and will remain approved until it decides to call them in for re-approval.

RECOMMENDATION 4

To enhance the quality of private career college programs and to ensure that all programs, regardless of which college is offering them, provide the skills and knowledge currently necessary to obtain employment in the prescribed vocation, the Ministry of Training, Colleges and Universities should:

- review the processes in place to assess the qualifications and independence of the general third-party program assessors that provide recommendations for program approval;
- maintain a record of rejected program applications and consider implementing follow-up procedures to ensure that such programs are not offered despite their not being approved;

- build on the progress made to date in improving the timeliness of the program approval process and develop a plan for program re-approvals; and
- enhance its system so that it can provide the information needed to effectively manage the program approval process.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation and, in September 2010, the Ministry started work on improving the third-party evaluation process, including a redesign of the Program Evaluation Report Form. The form will now include more substantial qualitative analysis as well as sections for commentary for both Adult Education and Subject Matter experts. The Ministry has also standardized the process for validating assessors' credentials with regulatory institutions and now tracks these assessors for future reference and evaluation.

As indicated in the response to Recommendation 1, the Ministry has also begun to track rejected program applications to ensure that these programs are not being offered in contravention of the *Private Career Colleges Act, 2005*.

In the last 12 months, the Ministry has approved a total of 944 program applications. The Ministry continues to work toward a service delivery standard of six months for decisions on programs in queue. In the last year, the Ministry has met this standard for 94% of complete applications.

While the Ministry has made significant progress in processing program approval applications, the ability of the Ministry to improve turnaround times for program approval is directly related to the quality of the information it receives from the sector. The Ministry will continue to work closely with the sector to improve the quality and completeness of information received.

While under the current legislation the Superintendent is not required to re-approve pre-2006 programs, the Ministry appreciates the Auditor General's concern for the quality of older programs and will explore options for program re-approval as part of its operational planning and in preparation for the upcoming Act review.

Finally, the Ministry is actively working on developing options for a new information system that will facilitate program approval, improve feedback to institutions on the elements required for a complete program application, and enhance reporting and information retrieval.

LEGISLATIVE COMPLIANCE

Compliance Inspections

The Ministry's Private Career Colleges Branch is responsible for inspecting private career colleges. Inspections focus on a number of areas, including student contracts, admission requirements, instructor qualifications, advertising, the procedure for handling student complaints, program compliance, and insurance requirements. Such inspections enhance the Ministry's ability to protect current and prospective students of private career colleges. The responsibilities of the Branch's eight inspectors who are charged with undertaking such inspections also include reviewing registration, renewal, and program applications, as well as resolving student complaints.

We observed that at the outset of our audit, the Ministry did not have any goals in place with respect to the number of inspections (such as to inspect all private career colleges over a defined period of time or to inspect colleges identified as high risk). We requested a list of inspections that had been completed during the previous three fiscal years and up to the end of the calendar year 2010. However, the Ministry was unable to provide us with such a list. In the absence of a list of inspections, management estimated that during 2010,

about 30 campuses had been inspected. We were informed that ministry investigators had made 20 additional campus visits to address specific concerns.

The Ministry indicated that resource constraints were the reason so few inspections had been performed in the previous year. According to management, 80% of inspectors' time had been devoted to reducing the backlog of program applications. As a result, management estimated that inspectors spent just 5% of their time on inspections, even though management noted that compliance inspections were an important monitoring function to protect current and prospective students. To be effective, management told us, between 150 and 200 inspections should be conducted annually. Furthermore, management was of the opinion that each registered private career college should be inspected at least once every three years.

We noted that the Ministry had prepared a risk assessment of Ontario's private career colleges in 2009 that included identifying whether each college posed a risk in eight defined risk categories, including chronic violation of the Act and its regulations, registration renewal issues, and questionable advertising practices. The Ministry's risk assessment identified 118 private career colleges that were chronic violators; as well, 77 had advertising issues, and 48 had registration renewal issues. We were informed that, since the Ministry's focus over the last two years had been on program approvals, the risk framework was not used to schedule inspections. In addition, we were told that those inspections that did occur were often in response to specific concerns that arose during this time period. Nevertheless, we used the risk assessment to select a sample of private career college campuses with multiple risk factors and private career college campuses identified as chronic violators to determine whether these schools had been inspected. We found that only one-third of the 60 colleges we selected had been inspected during the previous three calendar years.

During the course of our fieldwork, the Ministry completed an updated risk assessment that identified about 470 private career college campuses with one or more risk factors, 180 with two or more risk factors, and 50 with three or more risk factors. For the 2011/12 fiscal year, the Ministry has committed to tracking the percentage of higher-risk private career colleges that are inspected, and at the time of our fieldwork it indicated that it intends to inspect all private career colleges with three or more risk factors.

Inspection Procedures

Although we had concerns over the low number of inspections completed, we also had concerns about the quality and consistency of inspections in ensuring that private career colleges comply with the Act and its regulations. While the Ministry had a standardized checklist in place to guide inspectors, our review of the checklist and of recent inspections completed identified some inspection areas (such as advertising and instructor qualifications) where greater clarity or more detailed procedures would enhance inspection quality and consistency. For example, although instructor qualification requirements are articulated in a regulation under the Act, the Ministry's checklist does not provide instructions to inspectors on when and how to validate instructor qualifications. This observation was of concern given that among the private career college graduates we surveyed, those who did not feel that their program had provided good value relative to the fees they had paid cited the poor quality of instructors as the top reason for their dissatisfaction.

With regard to advertising, the Ministry's checklist requires a review of the private career college's advertising materials. However, not all of the steps shown on the checklist are described in enough detail to communicate how to assess and reach a conclusion on advertising materials. To illustrate, one such question addresses the presence of a false or misleading statement, but generally the advertising materials reviewed by inspectors were

not kept on file, so neither we nor ministry management are able to assess the adequacy of the testing performed.

We were also concerned that inspections did not cover some significant areas outlined in the Act and its regulations. For example, no specific testing was done on the degree to which a program curriculum was being delivered as approved except with regard to the duration of the program—for example, to ensure that a full-time program was not being delivered on a part-time basis. In addition, although inspectors ensure that the student complaint process meets legislative requirements, the Ministry's checklist does not require any specific testing to determine if actual complaints were being addressed appropriately by the college. Furthermore, management indicated that inspectors are not generally expected to review curriculum except where a problem is suspected. In addition, management also noted that it does not have the requisite number of staff or the knowledge necessary to make such an assessment. We also noted that should the Ministry decide to undertake such assessments, in some cases its ability to do so would be compromised by the fact that it has destroyed program information older than 10 years. The lack of testing in these areas was a concern because the graduates we surveyed who felt that the program they had attended was not a good value cited the poor quality of curriculum as the second most prevalent source of their dissatisfaction.

Management Oversight

We noted a lack of management oversight of inspections to ensure quality and consistency between inspectors. In addition, since details of inspection testing were not documented in some areas, management's ability to monitor inspection quality was limited. Furthermore, management apprised us of some information system constraints that also limit its ability to undertake post-inspection quality control. Finally, due to the incomplete nature of its records, management had not aggregated the

results of inspections to identify trends and possible systemic issues that might warrant further investigation or amendments to inspection procedures.

Our review of inspections and inspection reports identified several compliance issues, but the Ministry did not deem most of these issues significant enough to warrant enforcement action. However, we did come across a situation where an inspector had discovered an unapproved program. This inspector identified the problem in the inspection report issued to the private career college, but the college continued to advertise the program and did not submit an application to have that program approved. Although the inspector subsequently requested that the college cease advertising the program and apply for program approval, the college did not comply. However, the inspector did not bring this issue to the attention of ministry management. Consequently, this private career college continued to offer this unapproved program for over a year. Only after we brought the situation to the attention of ministry management did the Ministry take enforcement action and issue a compliance order requiring the private career college to cease advertising the unapproved program.

Although this was an isolated case among the files we reviewed, the circumstances that permitted its occurrence were systemic. We noted that inspectors are not required to bring inspection results to the attention of management. In addition, where compliance issues are found, the Ministry has not established timelines within which private career colleges must comply.

RECOMMENDATION 5

To enhance the level of compliance with the *Private Career Colleges Act, 2005* and its regulations, and to provide better protection to students and prospective students of private career colleges, the Ministry of Training, Colleges and Universities should:

- undertake enough inspections to adequately manage the risk of non-compliance;

- clarify the focus and extent of testing that inspectors should perform during the course of an inspection of a college;
- implement appropriate management oversight procedures to enhance the quality and consistency of college inspections; and
- aggregate and analyze inspection results to identify trends and systemic issues that warrant further attention.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation.

In 2011, the Ministry assessed all registered private career colleges against a nine-part risk management framework for inspections that identified high-, medium-, and low-risk schools. The Ministry conducted inspections of all the private career colleges that were deemed "high risk." Management has established a goal of ensuring that all high-risk schools are inspected within three months of being identified and that all medium-risk schools are inspected within 24 months of being identified.

The Ministry has implemented additional financial risk review requirements to support the registration renewal process. Management will standardize reporting and oversight of the inspection process. Regular management reviews of inspection results, including trends in compliance issues identified through inspections, have been introduced. The Ministry will strengthen the checklist and will expand the inspection protocol.

STUDENT COMPLAINTS

The Act requires every private career college to have a procedure in place for resolving student complaints. In addition, a regulation under the Act states that if a student is not satisfied with the way a private career college has resolved his or her

complaint, the student may refer the matter to the Ministry. We noted that, although the Ministry records written complaints from students in its information system, it does not keep a separate record of complaints that can be used to easily identify the number and types of complaints received. We were also advised that complaints from sources other than students are not recorded in the Ministry's information system.

We also observed that the Ministry strives to acknowledge receipt of complaints within 15 business days, and it informed us that, beginning in the 2011/12 fiscal year, it would track the percentage that had been acknowledged within five business days. Although the Ministry had not established a targeted time frame for resolving complaints, it did require that colleges establish a maximum length of time for making a decision on a complaint. In addition, we noted that the Ministry had not set defined timelines for private career colleges to respond to requests for supporting documentation required by the Ministry, and the Ministry was not measuring the length of time taken to resolve complaints. Furthermore, we observed that management was not analyzing complaints to identify systemic issues or trends that require action on an overall basis.

Our analysis of a sample of student complaints to the Ministry identified that resolving a student's complaint took from 17 to 244 days, or about 100 days on average. Reasons for lengthy delays varied: for instance, in some situations the Ministry had difficulty obtaining the necessary information from the private career college, and in others the Ministry could not demonstrate that it had reviewed information received from the private career college on a timely basis.

The Ministry has informed students of their ability to escalate unresolved complaints to the Ministry through means such as the Ministry's website and individual college complaint procedures. In addition, the Act requires that every student contract include an acknowledgement that the student has received a copy of the college's student complaint procedure and a copy of the "Statement

of Students' Rights and Responsibilities" developed by the Ministry. Nevertheless, we were concerned that many students may not be aware that they can escalate their complaints to the Ministry. In the 2008 through 2010 calendar years, the Ministry had received an average of about 80 student complaints annually, a number that is significantly less than 1% of students in private career colleges. Although this low rate might suggest that private career colleges are resolving student complaints in a satisfactory manner, our review of complaints and inspections identified cases where students seemed unaware that they could complain to the Ministry, because they initially directed their complaints to other sources (such as the Ontario Association of Career Colleges, the Better Business Bureau, and the Ministry of Consumer Services). In addition, our survey of private career college graduates revealed that of those students who filed a complaint with their college, 64% were not satisfied with the resolution of their complaint, yet only 14% of those individuals were aware that they could have escalated their complaint to the Ministry.

RECOMMENDATION 6

To help ensure that the protections offered by legislation to students of private career colleges are effective and to enhance management's ability to oversee the complaints process, the Ministry of Training, Colleges and Universities (Ministry) should:

- establish target time frames for resolving complaints and for receipt from colleges of the information necessary to address complaints;
- analyze complaints to identify possible issues or trends that may require more focused action; and
- more effectively communicate to students that they are entitled to escalate unresolved complaints to the Ministry.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation.

The Ministry notes that private career colleges are required, as a condition of registration, to include in every student contract a copy of the "Statement of Students' Rights and Responsibilities" developed by the Ministry and a copy of the private career college's student complaint procedure, expulsion policy, and refund policy. A private career college's student complaint procedure, expulsion policy, and refund policy must be aligned to the provisions within the legislation and approved by the Ministry.

The Ministry has begun work on restructuring its public website to simplify access to information about how students may file complaints. The website will outline the student complaint procedure step by step, including how to submit complaints to the Ministry where required. The Ministry will also continue to partner with the sector and with other government consumer protection institutions to ensure that students are provided with consistent and accurate information on protections under the *Private Career Colleges Act, 2005*.

The Ministry will establish target time frames for an initial response to student complaints and for private career colleges to respond to documentation requests. The Ministry will also review complaints to identify trends for further analysis or action.

PUBLIC AWARENESS

The Ministry has undertaken a number of initiatives to enhance public awareness with the aim of financially and academically protecting students and prospective students of private career colleges. These efforts include:

- posting "buyer beware" messaging on the Ministry's website as well as on Facebook that

includes instructions to prospective students on how to ensure that the private career college program they select is approved under the Act;

- setting up a Web search function that allows prospective students to verify that a private career college is registered and that its programs are approved under the Act;
- posting ministry enforcement orders and financial penalties issued to registered private career colleges as well as to unregistered private training institutions both on the Ministry's website and on Facebook; and
- distributing "buyer beware" posters and pamphlets to organizations such as high schools, immigrant settlement agencies, and employment resource centres that instruct prospective students on how to ensure that they select a registered private career college and an approved program.

However, we noted that the Ministry has not undertaken an overall evaluation of its communication efforts to determine the degree to which it is reaching students and prospective students. In addition, the Ministry confirmed that it had not used information such as user feedback collected from its Web search function to assess the adequacy of its communication efforts. We noted that results from the first quarter of 2011 showed that over 30% of respondents did not feel it was easy to find the information they were looking for and did not find all the information they needed on the Ministry's website.

As noted, the Ministry publishes a list of institutions against which it has taken enforcement action and issued financial penalties on its website and on Facebook. However, when we spoke to associations representing private career colleges, they were concerned that the Ministry does not differentiate between enforcement action taken against registered private career colleges and enforcement action taken against unregistered private training institutions. These associations felt that because the majority of enforcement action has been taken against unregistered private institutions, this approach has resulted in associating the legitimate

private career college sector with illegal operators. Concern was also raised that the primary focus of the Facebook page on private career colleges was not a positive approach to educating prospective students about the sector. Rather, the site was perceived as being negative and served primarily to identify institutions against which enforcement action had been taken.

RECOMMENDATION 7

To enhance protection offered to students and prospective students, and to ensure that the private career college sector is not unfairly affected, the Ministry of Training, Colleges and Universities should:

- periodically evaluate the effectiveness of its communication strategy to identify opportunities for improvement in helping students choose the private career college and programs that best meet their vocational goals; and
- work with private career colleges and their associations to ensure that student-oriented communications are user friendly and communicate in a fair and transparent manner

the protections offered to students who attend registered colleges and programs.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation and has partnered with sector associations to work on the information relating to private career colleges on the ministry website.

As required by the *Private Career Colleges Act, 2005*, every private career college student contract includes a copy of the "Statement of Students' Rights and Responsibilities" developed by the Ministry and a copy of the private career college student complaint procedure, expulsion policy, and refund policy. These are important protections for students, and the Ministry will continue to reinforce the requirement to include them in the contract and will promote the availability of these policies to private career college students. Moving forward, the Ministry will regularly review its communications strategy to inform the sector and students of upcoming initiatives and new or changing regulatory requirements.