

Federal Trade Commission

§ 254.3

(b) These Guides represent administrative interpretations of laws administered by the Federal Trade Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. These Guides specifically address the application of section 5 of the FTC Act (15 U.S.C. 45) to the advertising, promotion, marketing, and sale of courses or programs of instruction offered by private vocational or distance education schools. The Guides provide the basis for voluntary compliance with the law by members of the industry. Practices inconsistent with these Guides may result in corrective action by the Commission under section 5 if, after investigation, the Commission has reason to believe that the practices fall within the scope of conduct declared unlawful by the statute.

[63 FR 42572, Aug. 10, 1998]

§ 254.1 Definitions.

(a) *Accredited.* A school or course has been evaluated and found to meet established criteria by an accrediting agency or association recognized for such purposes by the U.S. Department of Education.

(b) *Approved.* A school or course has been recognized by a State or Federal agency as meeting educational standards or other related qualifications as prescribed by that agency for the school or course to which the term is applied. The term is not and should not be used interchangeably with “accredited.” The term “approved” is not justified by the mere grant of a corporate charter to operate or license to do business as a school and should not be used unless the represented “approval” has been affirmatively required or authorized by State or Federal law.

(c) *Industry member.* Industry members are the persons, firms, corporations, or organizations covered by these Guides, as explained in § 254.0(a).

[63 FR 42572, Aug. 10, 1998]

§ 254.2 Deceptive trade or business names.

(a) It is deceptive for an industry member to use any trade or business name, label, insignia, or designation which misleads or deceives prospective

students as to the nature of the school, its accreditation, programs of instruction, methods of teaching, or any other material fact.

(b) It is deceptive for an industry member to misrepresent, directly or indirectly, by the use of a trade or business name or in any other manner that:

(1) It is a part of or connected with a branch, bureau, or agency of the U.S. Government, or of any State, or civil service commission;

(2) It is an employment agency or an employment agent or authorized training facility for any industry or business or otherwise deceptively conceal the fact that it is a school.

(c) If an industry member conducts its instruction by correspondence, or other form of distance education, it is deceptive to fail to clearly and conspicuously disclose that fact in all promotional materials.

[63 FR 42573, Aug. 10, 1998]

§ 254.3 Misrepresentation of extent or nature of accreditation or approval.

(a) It is deceptive for an industry member to misrepresent, directly or indirectly, the extent or nature of any approval by a State agency or accreditation by an accrediting agency or association. For example, an industry member should not:

(1) Represent, without qualification, that its school is accredited unless all programs of instruction have been accredited by an accrediting agency recognized by the U.S. Department of Education. If an accredited school offers courses or programs of instruction that are not accredited, all advertisements or promotional materials pertaining to those courses or programs, and making reference to the accreditation of the school, should clearly and conspicuously disclose that those particular courses or programs are not accredited.

(2) Represent that its school or a course is approved, unless the nature, extent, and purpose of that approval are disclosed.

(3) Misrepresent that students successfully completing a course or program of instruction can transfer the credit to an accredited institution of higher education.

§ 254.4

16 CFR Ch. I (1-1-06 Edition)

(b) It is deceptive for an industry member to misrepresent that a course of instruction has been approved by a particular industry, or that successful completion of the course qualifies the student for admission to a labor union or similar organization or for receiving a State or Federal license to perform certain functions.

(c) It is deceptive for an industry member to misrepresent that its courses are recommended by vocational counselors, high schools, colleges, educational organizations, employment agencies, or members of a particular industry, or that it has been the subject of unsolicited testimonials or endorsements from former students. It is deceptive for an industry member to use testimonials or endorsements that do not accurately reflect current practices of the school or current conditions or employment opportunities in the industry or occupation for which students are being trained.

NOTE TO PARAGRAPH (c): The Commission's Guides Concerning Use of Endorsements and Testimonials in Advertising (part 255 of this chapter) provide further guidance in this area.

[63 FR 42573, Aug. 10, 1998]

§ 254.4 Misrepresentation of facilities, services, qualifications of staff, status, and employment prospects for students after training.

(a) It is deceptive for an industry member to misrepresent, directly or indirectly, in advertising, promotional materials, or in any other manner, the size, location, services, facilities, or equipment of its school or the number or educational qualifications of its faculty and other personnel. For example, an industry member should not:

(1) Misrepresent the qualifications, credentials, experience, or educational background of its instructors, sales representatives, or other employees.

(2) Misrepresent, through statements or pictures, the nature or efficacy of its courses, training devices, methods, or equipment.

(3) Misrepresent the availability of employment while the student is undergoing instruction or the role of the school in providing or arranging for such employment.

(4) Misrepresent the availability or nature of any financial assistance available to students. If the cost of training is financed in whole or in part by loans, students should be informed that loans must be repaid whether or not they are successful in completing the program and obtaining employment.

(5) Misrepresent the nature of any relationship between the school or its personnel and any government agency or that students of the school will receive preferred consideration for employment with any government agency.

(6) Misrepresent that certain individuals or classes of individuals are members of its faculty or advisory board; have prepared instructional materials; or are otherwise affiliated with the school.

(7) Misrepresent the nature and extent of any personal instruction, guidance, assistance, or other service, including placement assistance, it will provide students either during or after completion of a course.

(b) It is deceptive for an industry member to misrepresent that it is a nonprofit organization or to misrepresent affiliation or connection with any public institution or private religious or charitable organization.

(c) It is deceptive for an industry member to misrepresent that a course has been recently revised or instructional equipment is up-to-date, or misrepresent its ability to keep a program current and up-to-date.

(d) It is deceptive for an industry member, in promoting any course of training in its advertising, promotional materials, or in any other manner, to misrepresent, directly or by implication, whether through the use of text, images, endorsements, or by other means, the availability of employment after graduation from a course of training, the success that the member's graduates have realized in obtaining such employment, or the salary that the member's graduates will receive in such employment.

NOTE TO PARAGRAPH (d): The Commission's Guides Concerning Use of Endorsements and Testimonials in Advertising (part 255 of this