§ 5008. Trust accounts. 1. If the commissioner determines that a school has demonstrated a pattern or practice of failing to make tuition refunds in a timely manner consistent with this article and/or the school's financial condition may result in the interruption or cessation of instruction or jeopardize student tuition funds, the commissioner shall require a school to establish a trust account in a form or manner which the commissioner shall determine to be appropriate. The assets or funds contained in the trust account shall be maintained for the sole and exclusive benefit of the students.

2. In making this determination, the commissioner shall consider the following factors: the number of refunds not paid by the school in a timely manner; the number of claims made to, or paid by, the tuition reimbursement account; a pattern of misconduct which substantially affects the financial interests of students or the state, potential liability to the tuition reimbursement account, current assets as opposed to current liabilities, and such other measures as may be appropriate.