

# PA Higher and Adult Education

## Information on Obtaining Authority for Institutional Operation

### ***Information on the process for obtaining a certificate of authority to:***

- become a college, university or seminary***
- offer academic degree programs or***
- operate an education enterprise in Pennsylvania***

The purpose of this document is to provide introductory information on the approval process necessary to obtain a certificate of authority to operate in Pennsylvania. This information is appropriate for individuals, groups and corporations based in Pennsylvania that wish to obtain a certificate of authority to function as a higher educational institution by offering programs for academic credit and awarding of academic, higher education degrees. Such activity must be submitted to the Pennsylvania Department of Education (PDE) for proper approval. Therefore, PDE terminology refers to approved institutions that have obtained a certificate of authority as "authorized degree-granting institutions," which is not the same as "licensure" (applicable for Private Licensed Schools, see 22 Pa. Code Chapter 73) or "accreditation" (used by non-governmental peer organizations).

This information document is also appropriate for foreign (out-of-state) corporations desiring authority to establish a physical presence in the state in order to operate an education enterprise. "Education enterprise" is defined as "an educational activity in this Commonwealth which is sponsored by a foreign corporation and for which college credits or continuing education units (CEU) are awarded or tuition or fees are charged or collected." (22 Pa. Code § 31.2 Definitions.) The term "continuing education units" refers generally to recognized awards for continued training and would include "continuing professional education" (CPE) units, "continuing medical education" (CME) units and similar awards.

**Please note that Pennsylvania does not have a religious exemption; all parties offering programs for credit and awarding degrees must be properly approved regardless of the content of instruction.**

The words "college," "university," and "seminary" are restricted words in Pennsylvania. Any change in status, such as from college to university or establishing a new college, university or seminary, requires approval and a separate certificate of authority. (See 24 Pa. C.S.A. § 6503.) Filing of corporate names and fictitious corporate names using these words also requires such approval. Additionally, operation of a 'corporate university' or 'corporate college' requires review and approval from the PDE Division of Program Services.

Parties interested in obtaining a certificate of authority must apply to the Department of Education in compliance with the statutes of the Commonwealth of Pennsylvania and the regulations of the State Board of Education. These statutes and regulations are available upon request as a separate packet of information. The full Pennsylvania Code may be viewed at: [www.pacode.com](http://www.pacode.com), click on 'Browse,' then on 'Title 22 Education.' Relevant chapters may then be viewed.

What follows does not constitute the application form itself. Instead, it identifies relevant law, explains the approval process, and sets forth the primary areas that are reviewed in the application process, both for in-state and out-of-state (foreign) applicants.

Please be aware that approval of the type described here is at the corporate/institutional level, to change the designation of the corporation or educational institution so that it becomes recognized by the Commonwealth of Pennsylvania and authorized to offer higher education courses, programs and degrees in Pennsylvania. **Authorization is program specific, degree specific and for foreign corporations also course or concentration specific and site specific.** Any additional programs and/or degrees which the corporation or institution would like to add in the future would also need to be approved by the Secretary of Education. However, a separate and distinct approval process is to be used for those additional programs/degrees. For foreign corporations, additional approvals are also required for new concentrations and new sites.

Regulations in Pennsylvania currently do not allow institutions operating solely by distance education or telecommunications instruction to operate in this Commonwealth, except for courses taken directly from a student's home computer to the institution in question. Title 22 Pa. Code § 31.1(e) states: "Only a postsecondary degree-granting institution having more than 50% of its degree programs consisting of resident-based instruction may be established or operate in this Commonwealth." **Thus, no institution that offers education solely on a non-resident basis or by telecommunications instruction alone may operate in Pennsylvania.** For approval of distance education or telecommunications programs that are offered at currently authorized institutions, appended to this document is a section containing the legal references related to telecommunications instruction and questions the Department would ask about implementing such instruction in Pennsylvania.

### ***The Law:***

Pennsylvania law permits both non-profit and for-profit corporations to apply for authority to grant degrees, to award credits and to operate an educational enterprise. The basic requirements for entities desiring to confer degrees are found in 24 Pa. C.S.A. § 102 and §§ 6501-6509 (Act 198 of December 19, 1990), and Section 2601-H of the Public School Code of 1949 (24 P.S. § 26-2601-H) (Act 30 of June 25, 1997).

To be a degree-granting institution, a corporation must abide by 24 Pa. C.S.A. § 6502(b), which states:

"No institution shall be authorized to confer degrees in the arts, pure and applied science, philosophy, literature, law, medicine and theology, or any of them, unless it has:

(1) A minimum protective endowment of at least \$500,000, beyond all indebtedness and assets invested in buildings and apparatus for the exclusive purpose of promoting instruction, except that, in the case of tax-supported institutions or those maintained by religious or other eleemosynary organizations, financial support or contributed services equivalent in value to the endowment herein specified may be substituted for such endowment.

(2) A faculty consisting of at least eight regular professors who devote all their time to the instruction of its higher education classes, unless the institution is devoted to a specific subject in the arts, archaeology, literature or science (medical and law schools excepted), in which case the faculty shall consist of at least three regular professors who devote all their time to the instruction in the special branch for which the institution is established, and two or more instructors or fellows in the particular branch, who shall be provided to assist in the instruction to be given the students for the promotion of original investigation and in the development and growth of the special branch of science to which such institution may be devoted."

Built upon these two foundational requirements are the regulations of the State Board of Education. The regulations relevant to this approval process are found in 22 Pa. Code Chapters 31, 36, 40 and 42. These regulations are applicable to such areas as governance (including trustees, administration and finances), academic programs, admissions and student services, facilities, maintenance of quality, et cetera. Please be advised that these regulations are under review at the present time, but a projected revision completion date has not been set.

At present, for any nonresident-based degree program or for programs offered by telecommunications instruction, the regulation 22 Pa. Code § 31.1(e) requires the parent educational institution to have an identical resident-based program. Thus, no institution that offers education solely on a non-resident basis or by telecommunications instruction alone may operate in Pennsylvania.

The statutes and regulations identified above direct the approval process. A copy of these is available on request from the Pennsylvania Department of Education (PDE) at 717-772-3623 or 717-787-4448.

### ***The Process:***

The Department of Education requires a formal application from the party or entity seeking approval from the Secretary of Education to conduct academic programs for credit and to award academic, higher education degrees. To obtain the application, PDE requests that representative/s first meet with PDE

staff in Harrisburg to discuss their intentions with Department staff, at which time the application form may be obtained. Entities that are not higher education institutions but wish to operate an education enterprise in Pennsylvania should consult with PDE staff as to what is required by the Department of Education.

In general, the application form requests material related to the areas identified below. The numbers in bold refer to the relevant section(s) of the regulations.

*Introductory material:*

- General information about the corporation/institution such as location, current capacity for offering educational programs, target population, general information about educational philosophy, et cetera.
- Summary of the purpose of the application for institutional review and approval **§§ 40.1, 40.4, 40.42, 40.51; 31.2**
- Listing of the particular names of the degrees and names of the programs proposed to be offered

*History and Mission* **§§ 40.2, 40.31, 40.42(b)(1)**

- Articles of Incorporation or charter, including mission, philosophy and objectives **§§ 40.2, 40.42(b)(15)**
- Need for the corporate/institutional change within the local area and Commonwealth and need for the specific programs/degrees, covering the issue of "unnecessary duplication" of programs, student pool, employment opportunities for graduates, and the overall contribution of this instruction to the Commonwealth of Pennsylvania **§ 40.42(b)(12)** [Note that success of an institution in its current form does not constitute justification for a change of status.]
- Current accreditation status **§§ 40.42(b)(16); 31.52**
- Relationship/contribution to the community/region **§ 40.42(b)(9)**

*Governance and Structural Organization*

- Board of Trustees: **§§ 40.42(b)(11); 31.12**
  - by-laws, identifying the number of members and overall role **§ 40.42(b)(15)**
  - review of minutes of meetings **§ 40.42(b)(11)**
- Administration: **§§ 40.42(b)(5); 31.13**
  - line of authority
  - relationship between academic roles and administrative roles

*Institutional Policies*

- Development/strategic plan **§ 40.2**
- Academic policies: **§ 31.13(c)**
  - number and qualification of faculty, including teaching load expectations for full and part time faculty, opportunities for professional and educational development, handbook, salary range, benefits, numbers of full-time and part-time or adjunct faculty, orientation and mentoring practices **§§ 40.42(b)(6); 31.24, 31.25**
  - academic year, retention of student records, course credit, grading system **§ 31.22**
  - retention and graduation requirements **§ 40.42(b)(10)**
- Financial policies and budget: **§ 40.3; 31.14**
  - financial support and budgetary practices **24 P.S.A. § 6502(b)**
  - tuition structure, room, board, fees **§§ 40.3, 40.23, 40.42(b)(4)**
- Admissions/enrollment **§§ 40.42(b)(10), 40.42(b)(3); 31.31**
- Advertising, including student pool, alumni, regional, statewide, national **§ 31.32**
- Special programs/institutes/internships/off-campus studies **§ 31.21(c)**

*Proposed new degrees/programs* **§§ 40.32, 40.56; 42.31; 31.1**

- Each program/degree will be evaluated separately based on:
  - relationship to the mission **§ 31.21(a)**
  - need and demand **§ 40.2**
  - clarity of goals and objectives **§ 31.21(a)**
  - program organization, curriculum structure and schedule **§§ 31.21, 31.31**
  - administrative relationship within the program and the institution **§ 31.13**
  - faculty qualifications and adequacy of time to implement the program successfully **§§ 31.24 - 31.26**
  - facilities to support the program **§§ 31.42, 31.43**
  - library support for the program **§ 31.41**
  - budget for the program **§ 31.14**
  - evaluation procedures **§ 31.51**

**Graduate degree** program evaluation also includes material in **§§ 42.41 - 42.47**

*Student Services* **§§ 40.42(b)(2); 31.33**

- Residential life
- Financial aid
- Academic counseling
- Personal counseling
- Career counseling
- Academic records/transcripts
- Health services
- Remedial programs
- Catalog, brochures, handbooks **§§ 40.42(b)(14); 31.32**
- Extracurricular activities

*Physical Facilities* **§ 31.43**

- Library: **§§ 40.42(b)(7); 31.41**
  - accessibility and hours
  - comprehensiveness
  - budget
  - facility
  - on-line and other electronic capabilities
- Buildings and grounds, including handicapped accessibility **§ 31.43**
- Equipment and laboratories **§ 31.42**
- Building plans/expansion **§ 40.42(b)(13); 31.51**

*Evaluation Procedures* **§§ 40.42(b)(13); 31.51**

- Institution-wide evaluation, including periodic reviews, accreditation plans, mechanisms, responsible agency, time frame
- Program evaluation
- Faculty evaluation
- Survey of alumni for overall academic preparation evaluation

***Foreign corporations or entities:***

In addition to the above, out-of-state or foreign applicants must also address the following:

- Corporate/institutional structure, legal address, composition and objectives and information about the parent corporation/institution **§§ 36.1 - 36.3**
- Establishment and maintenance of an education program advisory committee of Pennsylvania residents **§ 36.3**
- The ability of the corporation to implement out-of-state instruction **§§ 36.4 - 36.7**
- Direction, evaluation and application **§ 36.8**

**Conclusion:**

What is contained in this document is intended for broad informational purposes only. While every attempt has been made to address all relevant areas, the information contained herein may not include every particular requirement of the law. Applicants should be aware that statutes, regulations and the policies of the Department of Education may be changed at any time. Importantly, this document does not serve as a substitute for the law; therefore, it is imperative that applicants become familiar with the substantive statutes and regulations regarding institutional approval and degree-granting authority.

If you believe you or your organization could meet the basic requirements described above and would like to proceed toward application for approval, please set up a meeting for further advice with the Department of Education Division of Program Services. To set an appointment you may contact either Ms. Paula J. Fleck, Chief of the Division of Program Services, at 717-772-3623 or e-mail [pfleck@state.pa.us](mailto:pfleck@state.pa.us), or staff member: Ms. Carol M. D. Gisselquist at 717-787-4448 or e-mail [cgisselqui@state.pa.us](mailto:cgisselqui@state.pa.us).

[Additional Questions for Distance Education/Telecommunications Instruction \(PDF\)](#)

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