

TOPIC: DEGREE AUTHORIZATION ACT – PROPOSED LEGISLATION

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I. SUMMARY AND BACKGROUND

The Commission has statutory responsibility for the administration of Title 23, Article 2 of the Colorado Revised Statutes, commonly referred to as the Degree Authorization Act. All non-occupational degree-granting private colleges and universities, out of state public colleges and universities, and seminaries or bible colleges are required to be authorized by the Colorado Commission on Higher Education and must meet criteria found in CCHE Policy Section I Part J, Degree Authorization Act, in order to offer degrees within Colorado. Such authorization must be received by the institution prior to offering any program of instruction, academic credits, or degrees; opening a place of business; soliciting students or enrollees; or offering educational support services.

There are currently 109 private degree granting institutions authorized to operate in Colorado. 46 of those authorized institutions are bona-fide religious and seminary schools that are offering degrees that are religious in nature. The remaining 63 authorized institutions offer degrees ranging from associates to doctoral level. The number of new schools applying for authorization has increased in recent years. Table one demonstrates the number of new authorizations over the recent years.

<i>Years</i>	# of schools authorized
<i>1990-1994</i>	8
<i>1995-1999</i>	30
<i>2000-2004</i>	35
<i>2005-present</i>	20

The increased number of authorizations of degree granting institutions prompted Department of Higher Education staff to review the authorization process, existing policy and student protection. The review, which began in June, culminated in the recommended legislation described in this information item. Staff researched policy and procedures used in nine other states (Connecticut, Georgia, Massachusetts, Minnesota, Missouri, New Mexico, Oregon, South Carolina and Washington), the rules and authority of the Colorado Division of Private Occupation Schools, information available from national organizations and questions posted on a listserv that is comprised of other state's degree authorization policy analysts and officers.

In August, the Higher Learning Commission (HLC), a regional accrediting organization, informed the Department of Higher Education that the state's authorization process relied too heavily on the HLC eligibility process. Specifically, HLC advised that DHE was presuming that a new institution had made reasonable and timely progress towards accreditation by relying on

very preliminary action by the HLC and that HLC will now notify the Department of Higher Education that an institution is making timely progress towards accreditation only after the institution has filed a successful Preliminary Information Form (PIF). The HLC requires that the institution enrolls student prior to filing the PIF. This change in HLC practice and its effect on DHE practice causes a bottleneck (or Catch 22) in the state's authorization procedures as we do not authorize an institution to enroll students unless the accrediting agency recognizes that reasonable and timely progress is being made towards accreditation. This development occurred as staff was already considering legislative recommendations.

As a result, staff identified three main issues that exist in current Degree Authorization Act policy and statute. Those are: now unworkable reliance on the HLC accreditation process as the basis for state authorization; the lack funds needed properly to administer the DAA requirements in the wake of the HLC changes; and need for more robust student protection. In order to address these issues, staff is recommending legislation to amend C.R.S. 23-2 in three ways.

- Provide the Commission the authority to renew the authorization of private degree granting institutions of higher education not more than once every three years.
- Collect authorization and/or renewal fees to administer the Degree Authorization Act.
- Increase protection of students enrolled in private degree granting institutions of higher education.

III. STAFF ANALYSIS

The three issues identified during the review of the Degree Authorization Act are the reliance on the accreditation process for state authorization, the lack of fees to administer the Degree Authorization Act, and limited student protection. Each of those issues can be addressed by amending C.R.S 23-2 and then revising Commission policy based on those amendments. Each of the recommendations can stand alone and are not mutually exclusive.

The legislation proposed would provide the Commission the authority to revise policy to:

- Conduct preliminary evaluations;
- Develop a process for renewal of authorization;
- Set fees for the administration of the Degree Authorization Act; and
- Define a process for the investigation of student complaints.

The issues and proposed legislative solutions are described in more detail below. Appendix 1 compares the current status of procedures to a possible scenario of procedures if all aspects of legislation pass, is signed into law, and subsequent policy changes are approved by the Commission.

Reliance on Accreditation Process

State authorization policy relies exclusively on the institution being accredited or in the process of becoming accredited with the regional or national accrediting agency that is recognized by the U.S. Department of Education. Once an institution has a relationship with an accrediting agency and demonstrates that progress is being made towards accreditation, the institution can apply for

Category II authorization. An institution that has Category II authorization is allowed to enroll students and award degrees. Generally an institution can demonstrate progress towards accreditation without a full evaluation by the accrediting agency. This puts the state in a position of recognizing the degree granting authority of an institution with little demonstration that the institution meets any standards of quality.

In order to ensure that the institution is offering quality programs, appropriate student services, and an appropriate environment for learning, a preliminary evaluation by the state is necessary. The proposed legislation would require that the Department of Higher Education complete an evaluation, independent of the accrediting agency, prior to the institution enrolling students. Details of the evaluation process and requirements would be written in policy approved by the Commission. This will adequately address the concern that the Higher Learning Commission has with Colorado's current authorization process.

Colorado does not currently require any renewal of authorization. Instead, institutions are required to update their contact information annually. Staff receives periodic updates on any action taken by an accrediting agency in order to monitor that institutions are in good standing with a regional or nationally recognized accrediting agency. The legislation concerning renewal of degree granting authorization varies from state to state. Staff looked at practice in nine states, and eight require schools to renew their authorization every one to three years.

The Department also recommends establishing a renewal process for private degree granting institutions, requiring a limited review of authorized institutions every three to five years after their initial authorization. The renewal process would allow the Commission to review schools and ensure that accreditation is in good standing, student services are provided and student complaints were handled in an appropriate manner.

Authorization Fees

Currently Colorado does not collect fees for the administration of the Degree Authorization Act. Staff has found that many states charge fees for the administration of authorizing degree granting institutions. Depending on the state, fees are charged for the institution's initial authorization or for reauthorization or for both. Out of 19 states that replied to our request for information, 14 charged initial application fees, an annual fee, or degree program review fee. 12 of the 19 states charge a separate fee for both initial application and for annual renewal.

The proposed legislation would authorize fees for the administration of the Degree Authorization Act. The fees collected from new institutions for initial authorization will be used to conduct a full evaluation of the institution. The legislation would also authorize fees for the authorization renewal of existing institutions, a provision contingent on the including renewal language described above. The fee structure for both initial authorization and renewal of authorization would be set in Commission policy and based on costs of services.

Student Protection

Current statute provides for limited student protection. DHE can only act on student grievances that evidence a clear case of fraud, and limited remedies are available to students with legitimate complaints against institutions falling short of outright fraud, such as failure to complete contracted-for instruction. DHE staff tries to assist as an informal mediator between a complaining student and an institution, but in most cases no formal action can be taken against the institution.

States that have authorization provisions such as recommended in the proposed legislation also provide better student (consumer) protections.. The range of protection varies and some states rely solely on the attorney general's office to handle all student grievance investigations. C.R.S. 12-59-117 and C.R.S. 12-59-118 respectively define deceptive trades and complaints of deceptive trades for institution subject to regulation by Colorado's Division of Private Occupational Schools (DPOS).

In order to provide appropriate student protection, language would be added to C.R.S. 23-2 to define deceptive practices, clarify student's rights to file complaints and the Commission's responsibility to act on complaints. The proposed amendment to C.R.S 23-2 would mirror DPOS statute, but revised to reflect the differences between postsecondary occupation institutions and degree granting institutions.

IV. COMMISSION DISCUSSION

Private postsecondary institutions receive their authority to grant degrees from the state. In Colorado the power to authorize institutions rests with the Department of Higher Education and more specifically, the Commission on Higher Education. The proposed legislative recommendation would require more oversight and regulation on the part of the Department and Commission. Discussion and direction from the Commission about how best to proceed in dealing with the changed circumstances and absence of Commission or departmental authority to fulfill appropriate responsibility regarding private degree-granting institutions is needed to guide staff's efforts in addressing the issues and potential solutions summarized above:

- Should CCHE/DHE have a more rigorous authorization process? Specifically, the authority to fully evaluate an institution that is making first time application to operate and offer degrees in the state of Colorado.
- Should CCHE/DHE institute a renewal process for those institutions that are authorized to operated and offer degrees in Colorado?
- Should CCHE/DHE charge an initial application fee to administer the aforementioned changes? A renewal fee?
- Should CCHE/DHE take on an expanded role in seeing that students are better protected as consumers?