

## **Addendum A: Proposed Modifications to the Degree Authorization Act**

### SECTION I

#### PART J DEGREE AUTHORIZATION ACT: STATUTES AND POLICIES PERTAINING TO AUTHORIZATION TO OPERATE AS A POSTSECONDARY EDUCATION INSTITUTION AND TO AWARD CREDITS AND DEGREES IN COLORADO

##### **1.00 Introduction**

The Colorado Commission on Higher Education (Commission) has statutory responsibility for administration of Title 23, Article 2 of the Colorado Revised Statutes, (amended 2008), which authorizes certain types of institutions to offer degrees or degree credits. These are: (1) Colorado publicly-supported colleges and universities; (2) accredited private colleges and universities; (3) postsecondary seminaries and bible colleges; and, (4) private occupational schools authorized by the Private Occupational School Division to offer associate degrees. Persons or organizations which violate the provisions of the statute are subject to legal penalties.

The Colorado Department of Higher Education (Department) shall administer the statute by seeking information from any entity offering degrees or degree credits to determine its authority under this statute. In order to determine the institutional type and to identify those institutions which are subject to the specific accreditation requirements of the statute, criteria are established for each institutional type authorized to offer degrees or credits leading toward a degree.

No private college or university shall operate within the state until its accreditation is documented, or its potential for accreditation is established by evaluation, and it is authorized by the Commission. Institutions authorized to operate pending full accreditation shall pursue accreditation continuously and shall make satisfactory progress toward accreditation as a condition to remain authorized to operate.

The following sections describe and define the authorization procedures, the criteria for each institutional type, the procedures for Department review of the accreditation status of institutions, the policies for notification to institutions of their status, and requirements for maintaining records.

##### **2.00 Definitions**

###### 2.01 Institution Type

###### 2.01.01 Seminaries or Bible Colleges

- A. Seminaries or bible colleges are defined as bona fide religious postsecondary educational institutions with physical presence in the

State of Colorado which are exempt from property taxation under the laws of the state.

- B. An authorized seminary or bible college, its educational programs, its degrees and diplomas, and its honorary degrees have no state approval or recognition status whatsoever. An institution operating under this authorization shall not state or imply by any means, including documents issued by the institution, that there exists any recognition by the state or by any agency or agent of the state beyond the institution's authorization to operate.

#### 2.01.02 Private Colleges and Universities

- A. Private colleges and universities are defined as institutions of higher education, not occupational in nature, with physical presence in the state of Colorado which offer courses of instruction or study where credits may be earned toward a bachelor's or higher degree; which is accredited on the basis of an on-site review in Colorado by one of the six nationally recognized regional accrediting associations or a national accrediting agency recognized by the U. S. Department of Education, or is making satisfactory progress toward accreditation based on the accreditation agency's procedures and standards in accordance with standards determined by the Commission.
- B. An accrediting association recognized by the U. S. Department of Education will be accepted by the Commission unless the Commission determines that the association is not appropriate to the educational purposes and programs of the applicant institution.

#### 2.01.03 Private Occupational School

Private occupational schools are defined as institutions of higher education authorized by the private occupational school division under the provisions of article 59 of title 12, C.R.S.

### 2.02 Levels of Authorization

#### 2.02.01 Full Authorization

An institution which is fully accredited by an appropriate accrediting association with an on-site review of its Colorado location.

#### 2.02.02 Religious Authorization

A bona fide religious postsecondary educational institution which is exempt from property taxation under the laws of this state and whose degrees or diplomas have no state recognition.

#### 2.02.03 Probationary Authorization

Institutions evaluated by the Department and authorized by the Commission to enroll students, offer instruction, graduate students and award degrees under the condition that the institution is continuously seeking and is making satisfactory progress toward full accreditation. Institutions given probationary

authorization may not enroll students until the accreditation process has begun and been verified to the Department.

### 2.02.03 Joint Authorization

Under special circumstances, institutions otherwise authorized by the Division of Private Occupational Schools (DPOS) that elect to offer baccalaureate degrees, and have received or will receive authorization to do so by an approved accrediting body, may hold joint authorization between the DPOS and the CCHE. Under these circumstances, the Division of Private Occupational Schools will remain the primary authorizing body of the institution and the institution will continue to follow all DPOS rules and procedures; the Colorado Commission on Higher Education will authorize the baccalaureate and higher degree programs only.

### 2.02.04 Closed or Defunct Institution

Institutions that either have voluntarily closed or have been de-authorized by the state.

## 2.03 Presence in Colorado; “In-House” Programs; Marketing in Colorado

2.03.01 An institution seeking state authorization shall have a physical presence in Colorado, in the form of its main campus or headquarters, or a branch campus, or a place of business, as determined by the Department.

2.03.02 An institution offering “in-house” courses, programs, and training exclusively and specifically for a private company or group is not required to seek authorization, but to avoid any regulatory misunderstanding should notify the Department of its activity.

2.03.03 An institution not yet authorized to do business in Colorado shall not market or advertise prospective Colorado-based programs unless it has Department approval for such marketing efforts. Approvals shall be made at the Department’s discretion.

## 3.00 Authorization

### 3.01 Seminaries and Bible Colleges

#### 3.01.01 Criteria to Qualify as a Seminary or Bible College

A. The statute recognizes only a “bona fide religious postsecondary educational institution” which is “exempt from property taxation under the laws of this state.” Institutions of this type may only offer programs appropriate to a religious institution.

B. To qualify as a “bona fide religious postsecondary institution”, the seminary or bible college must meet each of the following criteria:

1. Be a non-profit institution owned, controlled, operated, and maintained by a bona fide church or religious denomination, lawfully

operating as a non-profit religious corporation pursuant to Title 7 of the Colorado Revised Statutes.

2. Limit the educational programs to the principles of the church or denomination with which it is affiliated and grant degrees or diplomas only in areas of study that contain on their face, in the written description of the title of the degree or diploma being conferred, a reference to the theological or religious aspect of the degree's subject area.
3. Not offer or award degrees: in any area of physical science or medicine; or degrees appropriate only for academic institutions, such as, but not limited to, Bachelor of Arts or Bachelor of Science, Master of Arts or Master of Science, Doctor of Philosophy, or other degrees typically offered by academic institutions, regardless of curriculum or course content, unless the degree title includes the religious field of study (e.g., "Bachelor of Arts in Religious Studies"); or degrees associated with specific professional fields or endeavors not clearly and directly related to religious studies or occupations. Examples of such degree titles are Bachelor of Business Administration or Master of Business Administration; Bachelor of Education, Master of Education or Doctor of Education; and Doctor of Psychology.
4. Require at least a high school diploma or its equivalent for admission.
5. Not market, offer or grant degrees or diplomas which are represented as being linked to a church or denomination, but which actually are degrees in secular areas of study.
6. Have obtained exemption from property taxation under state law and shall have submitted to the Department a copy of the certificate of this exemption for the school's site and facilities verified by the Colorado Division of Property Taxation and a letter of determination, Form 905, signed by the Property Tax Administrator, Division of Property Taxation, Colorado Department of Local Affairs, stating that the institution is exempt from real and personal property taxation under state law.
7. Additional evidence that may be provided by an institution seeking to substantiate that the institution is a bona fide religious institution, including: a statement of institutional mission clearly establishing the mission of the institution as solely religious, and curricula and degree, diploma, or certification programs that clearly support that singular mission; or evidence that the school holds at least pre-accreditation status with one of the following nationally recognized accrediting associations:
  - a. The Accrediting Association of Bible Colleges; or
  - b. The Association of Advanced Rabbinical and Talmudic Schools; or
  - c. The Association of Theological Schools in the United States and Canada

### 3.01.02 Process to Establish Authorization

- A. An institution seeking authorization as a bona fide religious institution shall submit to the Department a completed a signed Declaration for Religious Authorization, as set forth in Appendix B and document compliance with all requirements in the Declaration, and shall provide a revised Declaration at any time that information originally submitted no longer is accurate.
- B. As the first step in obtaining state authorization and prior to the submission of required documentation, institutions seeking to operate in Colorado as a seminary or bible college shall consult in person at the Department with the administrator of the Degree Authorization Act.
- C. Following the consultation and review of all documents submitted, the Department shall determine if the institution qualifies for authorization as a seminary or bible college.

### 3.02 Private Colleges and Universities Seeking Authorization

#### 3.02.01 Criteria to Qualify as a Private College or University

- A. A private college or university is an institution which is “doing business or maintaining a place of business in the state of Colorado” and which offers courses of instruction or study wherein credits may be earned toward a degree in a field of endeavor. A publicly-supported college or university based in another state (and so would not meet the definition for a “state college or university” exemption) and which seeks or has physical presence in the state of Colorado, will be treated as a “private college or university.”
- B. Already established private colleges or universities must meet the following criteria to qualify for consideration of authorization:
  - 1. Accredited on the basis of an on-site review in Colorado by one of the six regional accrediting associations; or by a national accrediting agency, recognized by the U.S. Department of Education, that is appropriate to the role of the institution.
  - 2. Provide documentation of accreditation by one of the appropriate accrediting associations and the accrediting association’s knowledge of the new site and its ability to accredit the new site.
- C. All applicant institutions must meet the following criteria to qualify for consideration of authorization:
  - 1. Demonstrate its ability to provide appropriate student services at the new site.
  - 2. Demonstrate its financial ability to support all operations at the new site.
  - 3. Demonstrate its physical presence in Colorado with the appropriate documentation.

#### 3.02.02 Process to Establish Authorization

- A. Institutions seeking state authorization to operate in Colorado as a private college or university shall consult in person at the Department with the administrator of the Degree Authorization Act prior to the submission of required documentation.
- B. The applicant shall submit all required materials to the Department and Department staff will determine if the criteria in 3.02.01B or 3.02.02C have been met.
- C. To receive state authorization an organization must provide documentation that demonstrates that each of the following criteria has been met:
  - 1. The institution is familiar with and understands accreditation procedures and state authorization policies and procedures and identifies the accrediting association from whom accreditation will be sought.
  - 2. The institution has a statement of mission formally adopted by its governing body and made public, which defines the basic character of the institution including a brief description of the educational programs to be offered and their purposes, the students for which the programs are intended and the geographical or demographic area served by the institution and a description of how the institution relates to Colorado's broader higher education community. The mission shall be appropriate to an institution of higher education and the institution must plan to award degrees.
  - 3. The institution has a governing board that possesses and exercises necessary legal power to establish and review basic policies that govern the institution and shall have designated an executive officer by to provide administrative leadership for the institution. The board shall include among its members some who represent the public interest and are sufficiently autonomous from the administration and ownership to assure the integrity of the institution. A list of the members of the board, and a brief resume for each, and the name and title of the executive officer and principal administrators and the address of the administrative office shall be submitted to the Department.
  - 4. If faculty members are employed at the time the application is filed with the department, the faculty, their academic credentials (degrees, previous experience, publications) and teaching fields shall be identified. If no faculty are employed, the institution shall describe the qualifications of the faculty that are to be recruited and the procedures that will be used to find and contract with faculty members.
  - 5. Private institutions shall provide ownership information.
  - 6. The institution's proposed academic programs shall be appropriately named and be based on fields of study recognized as appropriate (as demonstrated by the existence of professional literature in the field; the

offering of similar programs in already-accredited institutions; and by the existence of professional organizations related to the field) for a postsecondary institution. The academic program shall comport with the institutional mission as described in documents provided to the department. The institution shall provide a list of the degrees it proposes to award and a degree (as defined in the Degree Authorization Act, 23-1-101 et seq., C.R.S.) is to be awarded upon successful completion of an educational program.

7. The content and length of the proposed academic program shall follow practices common to institutions of higher education. Typically, the proposed academic program shall include at least: (1) one undergraduate program planned for two or more years in length; or, (2) one graduate program of at least one academic year in length. Documentation shall be provided to the department that lists all requirements for a degree and the curricula offered leading to the degree, showing planned typical student programs by semester or term. Any proposed undergraduate degree program shall include a coherent general education component that is consistent with the institution's mission and appropriate to its educational programs.
  8. Student access to all necessary learning resources and support services shall be provided. Necessary resources and support services vary by type of program, but all require some use of library resources. Laboratories may be required for some programs. Support services such as academic advising, financial aid counseling, and support for special, targeted, constituencies may be needed. The institution shall describe the learning resources and support services that it will provide and state how they will be provided to students on a regular, dependable basis.
  9. Admission policies shall be consistent with the institution's mission and appropriate to the educational program. The Department shall be provided with a copy of the institution's admission policies.
  10. The institution shall have financial resources adequate to support start-up activities and sources of funds sufficient to ensure that the institution can sustain itself once students have been admitted. The Department shall be provided with a current financial statement, an audit report of a financial audit completed within the previous twelve months by a certified public accountant, or other substantial evidence.
- C. Following the submittal of the required documents and based on the institution's selected accrediting body, the Department shall contract with an evaluation team to review all submitted materials to determine the institution's readiness for on-site accreditation and make a recommendation regarding authorization.
- D. Based on the recommendation of the evaluation team, the Department shall assign the institution to one of the following categories:

- Full Authorization
- Probationary Authorization
- Not Recommended for Authorization

E. Each evaluation team will consist of several appropriate independent and fully credentialed evaluators selected by Department staff, based on institution type and the accrediting body from which the applicant shall seek accreditation.

In addition to the required documents, additional materials may be requested by the evaluation team and/or department staff based on the criteria established by the accreditation association.

If the evaluation team does not recommend the applicant institution for state authorization, the applicant institution may not reapply for a period of one year from the date of notice and the application fee will be assessed upon reapplication. If the evaluation team recommends a conditional approval based on minor technical changes, the applicant institution will have six months to reapply and the Department will not assess another application fee.

### 3.02.03 Joint Authorization under Special Circumstances

3.02.03.01. In the special instance that a school authorized under C.R.S., Title 12, Article 59, otherwise known as the Division of Private Occupational Schools, offers baccalaureate degree programs but does not meet the majority rule (12-59-104(d)(II)), the Colorado Commission on Higher Education will have authority to authorize the baccalaureate and higher level programs at the school under the Degree Authorization Act (C.R.S. 23, 2). However, under such circumstances, the school will continue to follow the DPOS rule and statute until such time that the majority of its programs are at the baccalaureate level or higher.

3.02.03.02 Under the special circumstances, as stated in 3.02.03.01, department staff will address complaints received by students enrolled in the baccalaureate and higher degree programs pursuant to the process outlined in section 6.0.

A. In the event that the department receives complaints by baccalaureate and sub-baccalaureate degree seeking students enrolled at an institution jointly authorized by the DPOS board and the CCHE, department staff may coordinate the review of these complaints and include all relevant information derived during the investigation of them in preparing recommendations for board action, whether the DPOS board, the CCHE, or both.

### 3.03 Fee Schedule

3.03.01 A private college or university that submits an application for state authorization shall be subject to an application fee in an amount necessary to cover the direct and indirect costs of the evaluation and review process.

3.03.02 The fee is \$6,000 for institutions not yet accredited.

3.03.03 The fee is \$3,000 for institutions already accredited.

### 4.00 Re-Evaluation and Termination of Authorized Institutions

#### 4.01 Seminaries and Bible Colleges

- 4.01.01 If an institution does not meet one or more of the listed criteria the institution will be allowed to adjust its application and apply as a private college or university or adjust the declared role and mission statement to apply as a bona fide seminary or bible college.
- 4.01.02 If substantive changes in its mission or its program are made by an institution after receipt of authorization it shall reapply for authorization.
- 4.01.03 After written notice, the Commission may terminate authorization for an institution that fails to continue to meet the criteria for a bona fide religious institution. A phase-out period of not more than one additional academic term may be permitted.

#### 4.02 Private Colleges or Universities

- 4.02.01 After written notice, the Commission may terminate authorization for a private college or university with full authorization if its accrediting agency withdraws the institution's accreditation. A phase-out period of not more than one additional academic term shall be permitted.
- 4.02.02 After written notice, the Department may terminate probationary authorization for a private college or university if it fails to make the satisfactory progress toward accreditation or is terminated by the accrediting agency, effective the date of termination of accreditation. A phase-out period of not more than one additional academic term shall be permitted if the institution had been granted authorization to enroll and instruct students. An institutions notified of such termination of authorization may appeal to the Commission in writing within 30 days of the notice of termination. Upon appeal, a hearing shall be held by the Commission at its next regular meeting.

### **5.00 Closure and Termination Notification Requirements**

#### 5.01 Notification to Cease Offering Degrees or Degree Credits

- 5.01.01 Institutions that are not authorized but offer degrees or degree credits in Colorado shall be notified by certified mail immediately to cease to offer degrees or degree credits. The Department shall initiate appropriate legal action if an institution fails to comply.

#### 5.02 Notification and Deposit of Records upon Discontinuance of a Program or Institution

- 5.02.01 If an authorized institution, branch campus or extension program of an authorized institution discontinues operation in the state, its chief executive officer shall notify the Colorado Department of Higher Education of the date of discontinuance and the name and address of the agency where records will be maintained.
- 5.02.02 Records shall be permanently maintained and copies may be obtained by authorized parties. Such records shall include but not be limited to information pertaining to the admission of each student and former student and the educational record of each student and former student. Financial aid records of

each student and former student shall be retained consistent with state and federal regulations.

## **6.00 Student Complaints**

- 6.01.01 A student or former student of a private college or university, bible college or seminary may file a complaint with the Department concerning the institution in which the student is or was enrolled. The Department is authorized to investigate complaints alleging a deceptive trade practice. The Department shall not consider complaints that infringe on the academic freedom, religious freedom, or question the curriculum content of a private college or university, bible college or seminary.
- 6.01.02 Upon receipt of a complaint, the Department shall determine if the complaint warrants investigation as a deceptive trade practice. The Department will initiate an investigation only if the student has exhausted all complaint and appeals processes available at the institution. If the complaint warrants investigation, the Department shall first forward the complaint to the institution requesting its written response. The institution shall have 30 days to respond to the Department. A copy of the response shall be forwarded to the student. During the thirty-day period, the institution may attempt to resolve the complaint with the student, and the Department shall assist in efforts to resolve the complaint. If the Department determines at any time that a complaint no longer warrants investigation, the Department shall dismiss the complaint.
- 6.01.03 If a complaint is not resolved during the thirty-day period, the Department may dismiss the complaint based on the institution's response, investigate the complaint further, or recommend that the Commission evaluate the merits of the complaint. If the Commission finds the complaint is meritorious, it may recommend that the private college or university, bible college or seminary take appropriate action to remedy the complaint.
- 6.01.04 If the private college or university, bible college, or seminary does not take action on the recommendation of the Commission, the Commission may forward the complaint and findings to the Attorney General.
- 6.01.05 It is a deceptive trade practice for:
- A. A school or agent to make or cause to be made any statement or representation, oral, written, or visual, in connection with the offering of educational services if such school or agent knows or reasonably should have known the statement or representation to be materially false, substantially inaccurate or materially misleading;
  - B. A school or agent to represent falsely, directly or by implication, through the use of a trade or business name to deceptively conceal the fact that it is a school;
  - C. A school or agent to adopt a name, trade name, or trademark that represents falsely, directly or by implication, the quality, scope, nature, size, or integrity of the school or its educational services;

- D. A school or agent to intentionally and materially represent falsely, directly or by implication, that students completing a course or program of instruction successfully may transfer credit therefor to any institution of higher education;
- E. A school or agent to intentionally and materially represent falsely, directly or by implication, in its advertising or promotional materials or in any other manner, the size, location, facilities, or equipment of the school, the number or educational experience qualifications of its faculty, the extent or nature of any accreditation received from any accrediting agency or association;
- F. A school or agent to provide prospective students with any testimonials, endorsements, or other information that may materially mislead or deceive prospective students or the public regarding current practices of the school;
- G. An agent representing an out-of-state school to represent, directly or by implication, that said school is approved or accredited by the state of Colorado or an accrediting agency when it has not been approved or accredited;
- H. A school or agent to designate titles to employees whose primary job duties are to recruit students that may mislead prospective students or the public regarding the authority or qualifications of such employees.

## **7.00 Enforcement**

The Commission, acting through the attorney general, may proceed by injunction against any violation of this article, but such a proceeding or an order issued as a result shall not bar any other penalty authorized for the violation.