



**COLORADO**

**Colorado Commission on  
Higher Education**

Department of Higher Education

# ATTACHMENT A

SECTION I

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**PART J**

**DEGREE AUTHORIZATION ACT: AUTHORIZATION TO OPERATE AS A  
POSTSECONDARY INSTITUTION OF HIGHER EDUCATION IN COLORADO**

**1.00 Introduction**

The Colorado Commission on Higher Education (Commission) has statutory responsibility for the administration of Title 23, Article 2 of the Colorado Revised Statutes, (amended 2012), which authorizes certain types of institutions to offer degrees or degree credits: (1) accredited private, degree-granting colleges and universities; (2) postsecondary seminaries and religious training institutions; and (3) out-of-state, public institutions with a Colorado presence. 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 the authority of an institution to operate in Colorado under this statute. Criteria are established for each institutional type to offer degrees or credits leading toward a degree.

No private college or university, out-of-state public college or university, or religious training institution or seminary shall operate within the state until authorized by the Commission to do so.

Private colleges and universities, including out-of-state public institutions with a physical presence in Colorado, that enroll the majority of students at the baccalaureate or higher level are required to obtain authorization to operate in Colorado and maintain authorization through criteria and requirements specified throughout this policy and pursuant to §23-2-101, et seq., C.R.S.

**2.00 Statutory Authority**

The Commission's policy for private colleges or universities, seminaries, or religious training institutions is based on Title 23, Article 2, which states in part:

The general assembly declares that this article is enacted for the general improvement of the educational programs available to the residents of the State of Colorado; to establish high standards for the education of such residents; to prevent misrepresentation, fraud, and collusion in offering such educational programs to the public; to eliminate those practices relative to such programs which are incompatible with the public interest; and to protect, preserve, foster, and encourage the educational programs offered by private educational institutions which meet generally recognized criteria of quality and effectiveness as determined through voluntary accreditation. (§23-2-101, C.R.S.).

**3.00 Definitions**

3.01 "Accrediting agency or accrediting body" means a regional, national, or specialized accrediting body that is recognized by the U.S. Department of Education and awards institutional accreditation. Specialized accreditation is only recognized by the state when a specialized program is offered in a freestanding institution offering programs in that specific discipline exclusively and the accrediting body has the authority to accredit both the institution and the program. Specialized accreditation normally applies to the evaluation of programs, departments, or schools which are part of a total collegiate or other postsecondary institution. The unit accredited may be as large as a college or school within a university or as small as a curriculum within a discipline. Most specialized accrediting agencies review units within a postsecondary



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institution which is accredited by one of the regional accrediting commissions. However, certain specialized accrediting agencies accredit professional schools and other specialized or vocational or other postsecondary institutions which are free-standing in their operations. Thus, a "specialized" or "programmatic" accrediting agency may also function in the capacity of an "institutional" accrediting agency. In addition, a number of specialized accrediting agencies accredit educational programs within non-educational settings, such as hospitals.

3.01.01 "Accredited" means holding institutional accreditation on the basis of an on-site review from a regional or national accrediting body recognized by the U.S. Department of Education.

3.01.02 "Accreditation Status" means the institution's standing with its accrediting agency. For purposes of state authorization, an accreditation status requiring reporting may be considered an adverse action or sanction.

3.02 "Adverse Action or Sanction" means an action by an institution's regional or national accrediting body recognized by the U.S. Department of Education that results in a notice from the accrediting agency of "show cause", "warning", or "probation" or the equivalent.

3.03 "Alternate enrollment" means the opportunity for a student enrolled in a private college or university that ceases operation to meet the student's educational objectives through education provided by another authorized private college or university, a community college, an area vocational school, or any other educational arrangement acceptable to the department and the commission.

3.04 "Authorization" means the authorization granted to a private college or university or seminary or religious training institution by the commission as provided in this article and the policies adopted pursuant to this article. Authorization is not an endorsement of the institution by either the commission or the department.

3.04.01 Authorization types:

a. Full Authorization

An institution which is institutionally accredited by a regional or national accrediting body recognized by the U.S. Department of Education with a successful on-site review of its Colorado location(s).

b. Provisional Authorization

Institutions, new or new to Colorado, which have been evaluated by Department staff under Commission procedures and authorized by the Commission to enroll students, offer instruction, graduates students, and award degrees under the condition that the institution is continuously seeking and is making satisfactory progress toward accreditation. If an institution remains in provisional authorization status for three years or if the Commission determines that the institution is not making satisfactory progress toward accreditation, the Commission may, at its discretion, continue to extend provisional authorization, for a one-time, two-year period, recommend probationary authorization, or revoke the institution's authorization.

c. Probationary Authorization



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An institution with an adverse action or sanction by its accrediting agency or another governmental agency may be recommended for probationary authorization status by the Department. If probationary authorization status is imposed by the Commission, the institution shall remain in probationary authorization status until such time as the Commission determines, and as verified by the Department, that the adverse action or sanction has been lifted by the accrediting body or governmental agency. If an institution remains in probationary authorization status for three years, the Commission may, at its discretion, continue to extend the probationary authorization or revoke the institution's authorization.

### d. Religious Authorization

A bona fide postsecondary seminary or religious training institution, offering only programs which are religious in nature, which is exempt from property taxation under the laws of this state and whose degrees or diplomas have no state recognition; or

### e. Authorization for a Place of Business (with no instruction)

An institution that has a place of business within Colorado but offers no instruction in the state must receive formal authorization for a place of business by the Commission. Institutions with authorization for a place of business shall be subject to the deceptive trade practices provision as found in §23-2-104, C.R.S., and may be exempted from administrative procedures regarding accreditation at the local site and financial integrity.

### f. Authorization for Field Placements (with no instruction)

An institution that intends to place more than ten students from the same program at one site to meet a field experience requirement must receive formal authorization for field placements from the Commission. Institutions with authorization for field placements shall be subject to the deceptive trade practices provision as found in §23-2-104, C.R.S., and may be exempted from administrative procedures regarding accreditation at the local site and financial integrity.

- 3.05 “Commission” means the Colorado Commission on Higher Education created pursuant to §23-1-102, C.R.S.
- 3.06 “Degree” means a statement, diploma, certificate, or other writing in any language that indicates or represents, or that is intended to indicate or represent, that the person named thereon is learned in or has satisfactorily completed a prescribed course of study in a particular field of endeavor or that the person named thereon has demonstrated proficiency in a field of endeavor as a result of formal preparation or training.
- 3.07 “Degree File” includes all students who have received a certificate, degree, or formal award approved by the Department during the report year. Degrees earned but not conferred during the report period should be included in the following year's report. The degree file is collected



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annually for federal and state reporting. A summer degree file is collected for purposes of graduation rate calculations, but these records are reported again in the full year file.

- 3.08 “Department” means the Colorado Department of Higher Education created and existing pursuant to §24-1-114, C.R.S.
- 3.09 “Educator Preparation File” means data relating to the cooperative agreement between the Department and the institutions of higher education that offers an educator preparation program, pursuant to §23-1-121(4)(c), C.R.S. This data includes teacher, principal, administrator, and special education endorsement area programs, as well as any endorsement listed in the Field Definitions in the SURDS database.
- 3.10 “Enrollment Agreement” means the contract prepared by a private college or university or seminary or religious training institution that a student signs to indicate agreement to the terms of admission, delivery of instruction, and monetary terms as outlined in the institution’s student handbook or catalog. This definition also applies to electronic enrollment agreements.
- 3.11 “Enrollment File” includes all students enrolled in courses awarding credit toward a degree or other formal award and students enrolled in courses that are part of a vocational or occupational program, including those enrolled in off campus centers and high school students taking college-level courses for credit. The population reported is not limited to students whose credit hours are included in official FTE reports. The enrollment file is collected every semester from each public postsecondary education institution participating in SURDS.

“Field Experience” means a student learning experience comprised primarily of the practical application of previously studied theories and skills, under the oversight of a supervisor, mentor, faculty member or other qualified professional who has direct or indirect reporting responsibility to the institution where the student is enrolled whether or not credit is granted. The field experience is part of a program of study offered by the enrolling institution. Examples include practica, student teaching, clinical placements or internships.

- 3.12 “Financial Aid File” means complete data regarding all student financial aid awards for a fiscal year, if the institution participates in the Colorado student aid program. This includes all enrolled students with a FAFSA on file who applied for or received aid:

All students who submit an application for student aid maintained in the institution’s financial aid files, or who receive financial support from the institution and who are accepted for enrollment for one or more specific academic periods and enroll in the institution should be included.

Student aid includes all need-based aid, non-need based aid, merit awards, loans, and any other forms of aid included in the Financial Aid File Data Dictionary. All students who received any form of aid that came through the financial aid office are to be included, whether or not the applicant applied for need-based aid.

- 3.13 “Governing board” means the elected or appointed group of persons that oversees and controls a private college or university or a seminary or religious training institution.
- 3.14 “Out-of-state public institution” means an institution of higher education that is established by statute in a state other than Colorado.



3.15 “Owner” means:

- a. An individual, if a private, for-profit college or university is structured as a sole proprietorship;
- b. Partners, if a private, for-profit college or university is structured as a partnership;
- c. Members in a limited liability company, if a private, for-profit college or university is structured as a limited liability company; or
- d. Shareholders in a corporation that hold a controlling interest, if a private, for-profit college or university is structured as a corporation.

3.16 “Physical presence”

- a. For the purpose of state authorization, an institution has physical presence and therefore must seek authorization to operate in Colorado if the institution:
  1. Establishes a physical location for students to receive synchronous or asynchronous instruction;
  2. Requires students to physically meet in a location for instructional purposes more than twice per full-term (quarter or semester) course for a total of more than six hours;
  3. Establishes an administrative office in the state;
  4. Provides information to students for the purpose of enrolling students, or provides student support services, from a physical site operated by or on behalf of the institution in the state;
  5. Offers a “short course” that requires more than 20 contact hours in one six-month period;
  6. Provides office space to instructional or non-instructional staff;
  7. Maintains a mailing address or phone exchange in the state;
  8. Carries out field study or field research located at a field station, research station or other physical site at which a faculty member or other institutional employee or contractor supervises or otherwise directs two or more students in an activity exceeding the allowable short course length and which either bears academic credit or is a requirement for the course or program.
- b. An institution does not have physical presence, and is therefore not required to seek formal authorization if the institution does not meet the requirements for physical presence ~~and~~if the institution’s actions are limited to the following:
  1. Offering courses to individuals via distance learning that do not require students to gather physically in groups;
  2. Offering Consortia/cooperative courses, between accredited institutions with intentional cooperative agreements;
  3. Advertising to students within a state, whether through print, billboard, direct mail, internet, radio, television, or other medium. **An institution that is seeking authorization to operate in Colorado shall not market or advertise prospective Colorado-based programs in- or outside-of Colorado until and unless the Commission grants authorization;**
  4. Offering an educational field trip arranged for a group of students that are normally in residence at an institution in another state;
  5. An accredited, out-of-state institution offering “in-house” courses, programs, and training exclusively and specifically for a private company or group is not required to seek



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authorization from the Commission but should notify the Department of its activity to avoid any regulatory misunderstanding;

6. Offering distance education courses on a military base or vessel if enrollment in such courses is limited to active and reserve military personnel, their dependents, and civilian employees of the installation;
  7. Maintaining a server, router or similar electronic service device when such a device is not housed in a facility that would otherwise constitute a physical presence; the presence of a server or similar pass-through switching device in a state does not by itself constitute the offering of a course or program from the state;
  8. Having faculty, adjunct faculty, mentors, tutors, recruiters, or other academic administrative personnel residing in the state. The presence of instructional faculty in the state, when those faculty offer entirely online or other distance-education instruction and never meet their students in person for educational purposes while in the state, does not establish a physical presence of the institution in the state; or
  9. Holding proctored exams in Colorado on behalf of an institution in another state;
  10. Operating limited supervised field experiences. Programs requiring a field experience may place up to ten students per site per program. More than ten students placed at the same site from the same program require authorization (see section 18.00).
  11. Using recruiters in the state. This provision is not intended to restrict recruiting for courses or programs offered out of state, and does not include athletic recruiting.
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- 3.17 “Private college or university” means a postsecondary educational institution doing business or maintaining a place of business in the state of Colorado, which enrolls the majority of its students in a baccalaureate or postgraduate degree program. For the purposes of determining eligibility for participation as a Degree Authorization Act institution pursuant to this section, an institution offering certificates comprised of credit-bearing courses at the upper division baccalaureate or at the graduate level will be considered a private college or university.
  - 3.18 “Private nonprofit college or university” means a private college or university that maintains tax-exempt status pursuant to 26 U.S.C. sec. 501(c)(3).
  - 3.19 “Private occupational school” means an institution authorized by the private occupational school division under the provisions of article 64 of title 23, C.R.S., and that enrolls the majority of students at the certificate or associate level and is regulated by the Division of Private Occupational Schools pursuant to article 64 of title 23, C.R.S.
  - 3.20 “Seminary or religious training institution” means a bona fide religious postsecondary educational institution that is operating or maintaining a place of business in the state of Colorado, that is exempt from property taxation under the laws of this state, and that offers baccalaureate, master’s, or doctoral degrees or diplomas, the content of which are limited to the principles of the church or denomination with which it is affiliated. These institutions are not required to hold institutional accreditation but are not prohibited from seeking accreditation. Seminaries and religious training institutions are prohibited from offering or awarding degrees appropriate only for academic institutions, including 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. Any seminary or religious training institution that offers



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instruction outside of this area must apply for authorization and must hold institutional accreditation from regional or national accrediting body recognized by the U.S. Department of Education.

#### **4.00 Responsibilities of the Private Colleges and Universities, Seminaries or Religious training institutions**

4.01 Private colleges or universities, seminaries or religious training institutions are required to:

4.01.02 Seek and maintain authorization from the Commission to operate in Colorado pursuant to §23-2-101 et seq., C.R.S. In order to maintain authorization, an institution must:

- a. Seek and maintain institutional accreditation on the basis of an on-site review by a regional or national accrediting body recognized by the U.S. Department of Education (**private colleges and universities only**);
- b. Provide information and respond to inquiries by the Department and Commission; and
- c. Immediately notify the Department of any information related to any action by the institution's accrediting body concerning the institution's accreditation status, including but not limited to an adverse action or sanction, reaffirmation or loss of accreditation, approval of a request for change, a campus evaluation visit, a focused visit, approval of additional locations, or substantive changes regarding operations and programming;
- d. Demonstrate financial integrity on an annual basis, to include maintaining a composite score of at least 1.5 on its equity, primary reserve, and net income ratios, as required in 34 CFR 668.172 and pursuant to §23-2-103.8, C.R.S., (**private colleges and universities only**);
- e. Annually submit the Enrollment File and Degree File and, if applicable, the Financial Aid File and Educator Preparation File, as described in §23-1-121, C.R.S., pursuant to §23-2-103.1, C.R.S.;
- f. Annually provide a true and complete copy of the institution's current enrollment agreement;
- g. Not make or cause to be made any oral, written, or visual statement or representation that violates section §23-2-104, C.R.S.;
- h. Provide instruction, in accordance with the standards and criteria set by the institution's accrediting body or in accordance with the requirements set forth for seminaries and religious training institutions;
- i. Provide to the Department, within thirty (30) days after an ownership change, any material information concerning the transaction that is requested by the Department;



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- j. Comply with all aspects of the Degree Authorization Act; if a private college or university or seminary or religious training institution violates any of the requirements set forth in this section, the Department may recommend to the Commission that the institution's authorization be placed on probationary status or revoked; and
    - k. Provide timely submission of fees, pursuant to §23-2-104.5, C.R.S.
- 4.01.03 Private colleges or universities and seminaries or religious training institutions authorized in Colorado must provide information regarding their authorization type and status to prospective and enrolled students. This information must be reasonably accessible and, at a minimum, must be found in each institution's official catalog, website and, , enrollment agreement, if applicable. An authorized institution may not use the Commission or the Department as a perceived endorsement. An authorized institution may not state that it is "accredited" by the Commission or Department. Noncompliance with this section may be treated as an instance of deceptive trade practice in accordance with §23.2.104, C.R.S.
- 4.01.04 Private colleges and universities that enroll the majority of students at the baccalaureate or higher level are required to seek authorization to operate in Colorado and maintain authorization through criteria and requirements specified throughout this policy and pursuant to §23-2-101, et seq., C.R.S.
- 4.01.05 Private colleges and universities that enroll the majority of students at the certificate or associate degree level and are occupational in nature shall be regulated by the Division of Private Occupational Schools and the Private Occupational Schools Board pursuant to Article 64 of Title 23, C.R.S.
- 4.02 Joint Authorization

Under special circumstances, institutions otherwise approved by the Division of Private Occupational Schools (DPOS) that elect to offer baccalaureate degrees, and have received authority to do so by an approved accrediting body, may hold joint authorization between the DPOS and the Commission. In these circumstances, the Division of Private Occupational Schools will remain the primary regulatory body; the Colorado Commission on Higher Education will authorize the institution to offer baccalaureate degrees.

  - 4.02.01 Pursuant to §23-2-101, et seq., C.R.S. if as a result of changes in student enrollment, a private college or university at times meets the definition of a private college or university and should therefore be under the Colorado Commission on Higher Education and the Department of Higher Education, and at other times meets the definition of a private occupational school, and therefore should be regulated by the Division of Private Occupational Schools and the Private Occupational Schools Board, the private college or university is subject to regulation by the entity that is appropriate as of July 1, 2012. If the private college or university is authorized as of said date, the institution shall be regulated by the same entity for the following three years.
  - 4.02.03 If it is found that the institution no longer meets the definition of a private college or university, as defined by Article 64 of Title 23, C.R.S., the institution will have



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sixty (60) days to file an application to operate under the Private Occupational Schools Board. During the transition, and until the Private Occupational Schools Board takes action on the institution's application, the institution shall remain authorized by the Commission. Fees assessed during this process will be assessed on a case by case basis. The assessment of fees will consider fees that have been assessed by the current authorizing division.

- 4.02.04 Failure to apply for approval through the Division of Private Occupational Schools within sixty (60) days will subject the institution to the powers and authorities of the Division or Board pursuant to §23-64-101, et seq., C.R.S., and, as necessary, their procedures for closure.

### **5.00 Responsibilities of the Commission and the Department**

5.01 The Commission shall:

- 5.01.01 Establish procedures for Department staff to make recommendations to the Commission.
- 5.01.02 Grant or deny authorizations, renew authorizations, place institutions on probation, and revoke authorizations pursuant to §23-2-103.3, C.R.S., and §23-2-103.4, C.R.S.;
- 5.01.03 Establish the types and amounts of fees that a college or university, seminary or religious training institution shall be assessed as required in §23-2-104.5, C.R.S.; and
- 5.01.04 Establish policies requiring private colleges, universities and seminaries, religious training institutions to submit to the department, upon request, the Enrollment File and Degree File and, if applicable, the Financial Aid File and Educator Preparation File as described in §23-1-121, C.R.S.
- 5.01.05 Direct staff to investigate and report on an institution's status with its accrediting agency(ies), other governmental agency(ies), or any other state in which it operates, if the Commission deems such action to be necessary.

5.02 The Department shall:

- 5.02.01 Recommend that the Commission grant, deny, revoke, place on probation, or renew an authorization to operate a private college or university or seminary or religious training institution;
- 5.02.02 Maintain a list of the private colleges and universities and seminaries and religious training institutions that have authorizations on file with the Department;
- 5.02.03 Respond to requests from institutions and students and provide a timely review of information;
- 5.02.04 Establish and maintain a process in accordance with §23-2-104, C.R.S. and Commission policy I, T, concerning Student Complaints and Appeals; for review



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and action as appropriate on said complaints or appeal, providing the complaint is based on a claim of deceptive trade practice;

- 5.02.05 Receive and maintain academic records, pursuant to §23-2-103.5, C.R.S., and as described in section 23.01 of this policy. The Department shall permanently retain any student transcripts received;
- 5.02.06 Maintain the privacy protection of student level data submitted to the SURDS database. (See section 6.00 on privacy);
- 5.02.07 Administer a fee invoice to the institutions on an annual basis;
- 5.02.08
  - a. Compile the enrollment and program data provided by the institutions
  - b. Periodically review the applicability of the authorization to ensure compliance pursuant to §23-2-101 et seq. C.R.S.
    - i. If the data show the institution to be in compliance with this policy, no action is necessary on the part of the institution.
    - ii. If the majority of students enrolled in an institution do not meet the minimum requirements under this policy, Department staff will recommend revocation of authorization under the Commission and will provide the institution with an application for operation under the Division of Private Occupational Schools.
    - iii. If an institution does not apply for approval through the Division of Private Occupational Schools within the sixty (60) day timeframe, a recommendation for revocation of authorization will be made to the Commission.
    - iv. The Commission and Department are not authorized to regulate the operations of, including but not limited to the content of courses provided by, a private college or university or seminary or religious training institution except to the extent expressly set forth in this policy.

### **6.00 Data Privacy Statement**

The Executive Director and an employee of the Department shall not divulge or make known in any way data for individual students or personnel, except in accordance with judicial order or as otherwise provided by law. A person who violates this paragraph commits a Class 1 misdemeanor and shall be punished as provided in §18-1.3-501 CRS and shall be removed or dismissed from public service on the grounds of malfeasance in office.

### **7.00 Interstate Reciprocity**

The Commission may negotiate and enter into interstate reciprocity agreements with others states if, in the judgment of the Commission, the agreements do not obligate a private college or university or seminary or religious training institution to comply with standards or requirements that exceed the standards and requirements specified in this policy and the agreements will assist in accomplishing the purposes of this policy, unless the institution voluntarily decides to do so.



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The participating institution must comply with the criteria in the reciprocity agreement in conjunction with the oversight division of the Department.

## **8.00 Seminaries and Religious Training Institutions**

- 8.01 To operate in Colorado, a seminary or religious training institution shall apply for and receive authorization from the Department and establish that it qualifies as a bona fide religious institution and as an institution of postsecondary education, as defined by rules promulgated by the Commission. A bona fide religious institution and an institution of postsecondary education that applies for authorization pursuant to §23-2-103.3 shall pay the fee established according to §23-2-104.5. Nothing in this section shall preclude a seminary or religious training institution from seeking institutional accreditation, but it is not required.
- 8.02 A seminary or religious training institution shall apply for renewal of authorization every three years to ensure compliance for those institutions authorized under the Authorization as a Seminary or Religious Training Institution.

## **9.00 Process for Seeking Authorization as a Seminary or Religious Training Institution**

### **9.01 Criteria to Qualify**

- 9.01.01 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.
- 9.01.02 To qualify as a “bona fide religious postsecondary institution,” the seminary or religious training institution must:
- A. Be a nonprofit institution owned, controlled, operated, maintained, or affiliated with a bona fide church or religious denomination, lawfully operating as a nonprofit religious corporation pursuant to Title 7 of the Colorado Revised Statutes.
  - B. 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.
  - C. Not offer or award degrees in any secular area of study 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.
  - D. Require at least a high school diploma or its equivalent for admission into baccalaureate-level programs. For graduate programs, the admission criteria must be commensurate with graduate level institutions.



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- E. 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.
- F. Provide documentation of exemption from property taxation under state law and submit 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 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. If the institution is domiciled in another state, the property taxation exemption documentation from that state is acceptable.
- G. Provide any additional evidence 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:
  - 1. Association for Biblical Higher Education, Commission on Accreditation; or
  - 2. The Association of Advanced Rabbinical and Talmudic Schools; or
  - 3. Commission on Accrediting of the Association of Theological Schools.

#### **10.00 Process to Establish Authorization as a Seminary or Religious Training Institution**

- 10.01 An institution seeking authorization as a bona fide religious institution shall submit to the Department a completed and signed Declaration for Religious Authorization, 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.
- 10.02 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 religious training institution shall consult in person at the Department with the administrator of the Degree Authorization Act.
- 10.03 Following the consultation and review of all documents submitted, the Department shall determine if the institution qualifies for authorization as a seminary or religious training institution.

#### **11.00 Evaluation of Application for Authorization as a Seminary or Religious Training Institution**

- 11.01 Following the submittal of the required documents, the Department shall review the application for required components and documents and make a recommendation to the Commission regarding authorization.



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11.02 The Department shall either:

- Recommend for Seminary or Religious Training Authorization
- Not Recommend Authorization

### **12.00 Renewal of Authorization for Seminaries and Religious Training Institutions**

12.01 A seminary or religious training institution shall apply for renewal of authorization every three years. The renewal of authorization process shall demonstrate that the seminary or religious training institution continues to meet the minimum operating standards specified in this policy and §23-2-103.8, C.R.S. Failure to do so will result in an assumption that the minimum standards are not met and a recommendation for revocation of authorization will be made.

12.02 A seminary or religious training institution that continues to meet the minimum operating standards specified in 9.01 is presumed qualified for renewal of authorization, and the Department shall recommend that the Commission renew the seminary or religious training institution's authorization for three additional years.

12.02.01 A seminary or religious training institution shall provide the Department for renewal:

- a. Updated list of program offerings; and
- b. Confirmation of non-profit religious corporation status; and
- c. Confirmation of affiliation with bona fide church or religious organization; and
- d. Confirmation of tax-exempt status pursuant to Colorado State Law; and
- e. Updated institutional organization information.

12.03 A seminary or religious training institution that meets the criteria and rules established herein is exempt from the provisions of this policy that exclusively apply to the secular private colleges and universities authorized by the Commission.

12.04 If a seminary or religious institution does not renew its authorization within four (4) months of notice, the Department may recommend and the Commission may, at its discretion, continue to authorize, place on probationary authorization, or revoke the institution's authorization.

### **13.00 Private Colleges and Universities/Out-of-State Public Institutions**

13.01 Pursuant to §23-2-103.3, C.R.S., to operate in Colorado, a private college or university shall apply for and receive authorization from the Commission. A private college or university shall obtain separate authorization for each campus, branch, or site that is separately accredited.

13.02 After receiving an application, the Department shall review the application and any other pertinent information to evaluate whether the private college or university meets institutional accreditation requirements at the Colorado site by an accrediting body recognized by the United States Department of Education. Department staff shall not accept an application from an institution that is not in good standing with its accreditor.



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- 13.03 The Department shall not recommend and the Commission shall not approve an application from a private college or university that, in the two years preceding submission of the application, has had its accreditation placed on show cause or probation, suspended or withdrawn, or has been prohibited from operating in another state or that has substantially the same owners, governing board, or principal officers as a private college or university that, in the two years preceding submission of the application, has had its accreditation suspended or withdrawn or has been prohibited from operating in another state.
- 13.04 To operate in Colorado, a private college or university shall be institutionally accredited on the basis of an on-site review by an accrediting body recognized by the United States Department of Education which is authorized to offer institutional accreditation; except that a private college or university may operate for an initial period without accreditation if the commission determines, that the private college or university is likely to become accredited in a reasonable amount of time or is making progress toward accreditation in accordance with the accrediting body's policies.
- 13.05 The Commission may grant a provisional authorization to a private college or university to operate for an initial period without accreditation. The private college or university shall annually renew its provisional authorization and report annually to the Commission concerning the institution's progress in obtaining accreditation.
- 13.06 A private college or university shall notify the Department in a timely manner of any material information related to an action by the institution's accrediting body concerning the institution's accreditation status, including but not limited to reaffirmation or loss of accreditation, approval of a request for change, a campus evaluation visit, a focused visit, or approval of additional locations. In addition, the institution shall notify the Department in a timely manner if the United States Department of Education no longer recognizes the institution's accrediting body. Failure to provide this information shall lead to revocation or probationary authorization by the Commission.

### **14.00 Minimum Operating Standards to Qualify as a Private College or University**

- 14.01 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 which seeks or has physical presence in the state of Colorado will be treated as a "private college or university."
- 14.02 All institutions must meet the following criteria to qualify for consideration of authorization and renewal of authorization:
1. Demonstrated ability to provide appropriate student services at the new site through the application materials; and
  2. Demonstrated financial ability to support all operations at the new site through the application materials; and
  3. Demonstrated physical presence in Colorado with the appropriate documentation.

### **15.00 Process for Authorization/Renewal of Authorization for Private Colleges and Universities:**



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### 15.01 Process to Establish Authorization as a Private College or University

- 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 assemble an evaluation team to review the materials submitted. The evaluation team is charged with determining whether the materials provided demonstrate compliance with the Degree Authorization Act, promulgated policy, and the likelihood of accreditation.
- C. To receive state authorization an institution 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
  2. (a) The institution identifies the accrediting body from which the institution will seek accreditation if accreditation is not yet obtained; or, (b) A statement from the institution's accrediting agency regarding the accreditation of the Colorado campus..
  3. The institution has a mission statement 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, 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.
  5. 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 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.
  6. If faculty members are employed at the time the application is filed with the department, the faculty, their academic credentials (degrees, previous experience, publications, etc.) and teaching fields shall be identified. If no faculty are employed at the time of application, 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.
  7. Private institutions shall provide ownership information. If the institution is applying as a nonprofit entity, it shall submit with its application, verification of nonprofit status, including a copy of the institution's tax-exempt certificate issued by the Colorado Department of Revenue.



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8. 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.
  9. The content and length of the proposed academic program shall follow practices common to institutions of higher education and must align with accreditation standards. Documentation shall be provided 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.
  10. 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.
  11. Admission policies shall be consistent with the institution's mission and appropriate to the educational program.
  12. The institution has financial resources 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.
- D. After an institution has submitted all required documentation 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.

### 15.02 Joint Authorization under Special Circumstances

- 15.02.01 In the special instance that a school authorized by the Division of Private Occupational Schools offers baccalaureate degree programs but does not meet the majority rule pursuant to §23-64-104(d)(II), C.R.S., the Commission shall have authority to authorize the baccalaureate and higher level programs at the school pursuant to the Degree Authorization Act, §23-2-101, et seq., C.R.S. However, under such circumstances, the school will be required to follow DPOS rules and statutes until such time that the majority of the institution's programs are at the baccalaureate level or higher.



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- 15.02.02 Under the special circumstances, as stated in 4.02, department staff will address complaints received by students enrolled in the baccalaureate and higher degree programs pursuant to the process outlined in section 14.01.
- a. In the event that the department receives complaints by students enrolled at both the sub-baccalaureate and baccalaureate levels, department staff may coordinate the review of these complaints and include all relevant information in recommendations for board action, whether the information is being provided to the DPOS board, the Commission, or both.

### **16.00 Evaluation of Application for Authorization for Private Colleges and Universities**

- 16.01 Following the submission of the required documents and based on the institution's selected accrediting body, the Department shall review the application for required components and documents, 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.
- 16.02 Based on the recommendation of the evaluation team, the Department staff shall recommend:
- Provisional Authorization
  - No Authorization
- 16.03 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.
- 16.04 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.
- 16.05 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.

### **17.00 Establishing Authorization as a Place of Business (no instruction)**

- 17.01 An institution of higher education that is accredited by a U.S. Department of Education recognized accrediting agency may operate an administrative office but may not offer instruction from the Colorado site.
- 17.02 Criteria to qualify for consideration of Authorization as a Place of Business. Institutions seeking this authorization must provide:
- a. Institutional statement, signed by an institutionally authorized official, which:
1. Certifies the institution intends to limit Colorado operations to the administrative office function only;



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2. Certifies the institution does not have or intend to have a physical presence in the state beyond the administrative office, which can include a branch campus or any additional site that provides instruction to students;
  3. Agrees to report the number of Colorado students on a yearly basis through Colorado's student unit record data system (SURDS);
  4. Agrees to pay an annual fee pursuant to the CCHE approved fee schedule; and
  5. Certifies the truth and accuracy of the application materials, by including the following statement: "I certify that all the information submitted with this application is true and accurate and that the institution will comply with all the requirements for authorization under §23-2-101, et seq., C.R.S."
- b. Statement of Institutional Mission
  - c. Information on degrees and academic programs
  - d. A statement on why the institution is choosing Colorado for an administrative office
  - e. Statement of accreditation status, including:
    1. Most recent site visit report
    2. Determination letter from accrediting agency
  - f. Description of all activities that will occur at the Colorado office
  - g. Application fee
  - h. Initial authorization checklist
  - i. Completed Regulation Determination

### **18.00 Establishing Field Experience Authorization (no instruction)**

- 18.01 An institution of higher education that is accredited by a U.S. Department of Education recognized accrediting agency may place students in field experience sites but may not offer instruction from the Colorado site.
- 18.02 Criteria to qualify for consideration Field Experience Authorization. Institutions seeking this authorization must provide:
- a. Institutional statement, signed by an institutionally authorized official, which:
    1. Certifies the institution intends to limit Colorado operations to the field experience function only;
    2. Certifies the institution does not have or intend to have a physical presence in the state beyond the student(s) completing their required practical component;
    3. Agrees to limit student placement for the approved program(s);
    4. Agrees to pay the approval fee pursuant to the CCHE approved fee schedule; and
    5. Certifies the truth and accuracy of the application materials, by including the following statement: "I certify that all the information submitted with this application is true and



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accurate and that the institution will comply with all the requirements for authorization under §23-2-101, et seq., C.R.S.”

- b. Information on the degrees that require field placements, including those programs which are intended to result in licensure. If the program leads to licensure, the institution must provide a statement regarding the requirements for students not living in the home state.
- c. A letter of good standing from the institution’s home state.

### 19.00 Renewal of Authorization for Private Colleges and Universities with “Full Authorization”

19.01 A fully authorized private college or university shall apply for renewal of authorization in accordance with the schedule for institutional reaccreditation by its accrediting body or every three years, whichever is longer.

19.02 Required documents for renewal of authorization:

- a. Self-evaluation report or similar
- b. Accreditation site visit team’s report
- c. Institution’s response to site visit report
- d. Final determination letter from the accrediting body

### 20.00 Renewal of Authorization for Private Colleges and Universities with “Provisional Authorization”

20.01 Private colleges and universities that hold provisional authorization shall renew authorization annually. If after three years the institution has not achieved accreditation, the Commission may grant a one-time two-year if the institution requests the extension, provides documentation demonstrating satisfactory progress toward accreditation and has maintained continuous compliance. until the institution has achieved full accreditation from its accrediting body on the basis of a successful on-site visit and approval from the accrediting body, and the Commission awards full authorization.

20.02 Required documents:

- a. Any and all communications to and from the accrediting body from which the institution is seeking accreditation, including all documents regarding progression towards the institution’s progress toward attaining accreditation;
- b. Accreditation progress report from the accrediting agency;
- c. Status report of institution’s activities;
- d. Updated enrollment information;
- e. Enrollment agreements, if applicable, and any other recruitment materials used for training staff and presented to potential students;
- f. Updated list of faculty, including faculty credentials and the courses they teach;
- g. Updated list of programs offered at the Colorado site;



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h. Updated bond information.

## **21.00 Renewal of Authorization for Private Colleges and Universities with “Probationary Authorization”**

21.01 Private colleges and universities that have been placed on probation by the Commission shall annually renew such authorization with the Commission until such time the Commission determines to restore full authorization status or revoke the institution’s authorization to operate.

21.01.02 Required documents for institutions with probationary authorization:

- a. Accreditation status update, identifying progress regarding the adverse action issued by the accrediting body or other governmental agency;
- b. Any and all communication regarding the adverse action issued by the accrediting body or other governmental agency;
- c. Prospective timeframe for when the adverse action is expected to be acted upon.

## **22.00 Renewal of Authorization – All Authorized Institutions**

22.01 A private college or university that has authorization from the Commission pursuant to §23-2-103.3, C.R.S., and maintains its accreditation shall apply to the Department for renewal of authorization in accordance with the schedule for reaccreditation by its accrediting body or every three years, whichever is longer. A seminary or religious training institution shall apply for renewal of authorization every three years. A private college or university or seminary or religious training institution that seeks renewal of authorization shall submit an application in accordance with the procedures and policies adopted by the Commission and shall pay the renewal of reauthorization fee established by the Commission pursuant to §23-2-104.5, C.R.S.

22.02 To renew its authorization to operate in Colorado, a private college or university or seminary or religious training institution shall demonstrate that it continues to meet all minimum operating standards specified in the Degree Authorization Act, specifically §23-2-103.8, C.R.S., and this policy. Failure to demonstrate compliance with the minimum operating standards will result in a presumption that the minimum operating standards are not met and the Commission, at its discretion, may place the institution on probationary authorization or revoke authorization.22.03

A private college or university that has had its accreditation reaffirmed without adverse action is in compliance with §23-2-103.8, C.R.S., and is not subject to investigation pursuant to §23-2-103.4, C.R.S., is presumed qualified for renewal of authorization, and the Department shall recommend renewal for a period of three years or the length of the institution’s accreditation, if applicable, whichever is longer.

22.04 A seminary or religious training institution that continues to meet the minimum operating standards is presumed qualified for renewal of authorization, and the Department shall recommend that the Commission renew the institution’s authorization for three additional years.

22.05 If a private college or university or seminary or religious training institution cannot demonstrate that it meets the minimum operating standards specified in Commission policy or pursuant to §23-2-103.3 or §23-2-103.8, if applicable, the Department shall recommend that the Commission deny the institution’s application for renewal of the authorization.



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- 22.06 If, within six months after receiving the notice of denial of the application for renewal, the institution corrects the action or condition that resulted in denial of the application for renewal, the institution may reapply for renewal of the authorization.
- 22.07 If the institution does not correct the action or condition within the six month period, it may submit a new application for authorization after correcting the action or condition.
- 22.08 If a private college or university has received an adverse action or sanction from its accrediting body at the time it files for an application for renewal of authorization to operate in Colorado, the Department may recommend that the Commission renew the institution's authorization or that the Commission grant a probationary renewal of the institution's authorization.
- 22.09 If an institution receives a probationary renewal of its authorization, the institution shall reapply for renewal of its authorization annually until the accrediting body lifts the adverse action, and the institution shall annually report to the Commission concerning the institution's progress in removing the adverse action.
- 22.10 If the Department recommends that the Commission grant a probationary renewal of authorization or deny an application for renewal of authorization, the Commission shall notify the private college or university or seminary or religious training institution concerning the recommendation, and the Department and the Commission shall proceed in accordance with the provisions of the "State Administrative Procedures Act", Article 4 of Title 24, C.R.S.

### **23.00 Change of Authorization Type - Probationary Status or Revocation**

- 23.01 If the Commission has reason to believe that a private college or university or seminary or religious training institution meets one or more of the grounds specified in the following section for probationary authorization status or revocation of authorization, the Commission may order the Department to investigate the private college or university or seminary or religious training institution and make a recommendation concerning whether to place the institution on probationary authorization status or revoke the institution's authorization.
- 23.02 To assist the Department in conducting an investigation pursuant to §23-2-103.4 (1), C.R.S., the Commission may subpoena any persons, books, records, or documents pertaining to the investigation, require answers in writing, under oath, to questions the Commission or Department may ask, and administer an oath or affirmation to any person in connection with the investigation. In conducting the investigation, the Department may physically inspect an institution's facilities and records. A subpoena issued by the Commission pursuant to this paragraph is enforceable by any court of record in the state.
- 23.03 Based on findings of an investigation pursuant to this section, the Department shall make a recommendation to the Commission regarding the institution's authorization status.
- 23.04 If the Department recommends probationary authorization status or revocation of authorization, it shall identify the applicable grounds for specified below, and the Department and the Commission shall proceed in accordance with the provisions of the "State Administrative Procedures Act," Article 4 of Title 24, C.R.S.
- 23.05 With regard to the authorization of a private college or university, the Commission may:



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- 23.05.01 Revoke the private college's or university's authorization or place the institution on probationary authorization status if the private college or university:
- a. Fails to meet any of the minimum standards set forth in this policy or in statute;
  - b. Fails to substantially comply with the applicable laws or rules adopted or implemented by other governmental agencies that have jurisdiction over the institution; or
  - c. Violates the federal criminal laws or the criminal laws of this state or any other state in which the institution operates;
  - d. Loses accreditation, is placed on probation by, or receives an adverse action or sanction from its accrediting agency; or
  - e. Is accredited by an accrediting agency that the U.S. Department of Education no longer recognizes.
- 23.06 The Commission may revoke a seminary's or religious training institution's authorization or place the institution on probationary status if the seminary or religious training institution:
- a. No longer meets the definition of a seminary or religious training institution specified in §23-2-102, C.R.S.;
  - b. Fails to meet any of the minimum standards set forth in statute or in the Commission's policy or rule adopted to implement the statute; or
  - c. Violates the federal criminal laws or the criminal laws of this state or any other state in which the institution operates.

### **24.00 Fee Schedule**

Pursuant to §23-2-104.5, C.R.S., the Commission has the authority to establish fees for direct and indirect costs of administering the Degree Authorization Act. After initial determination of fees, fees will be established on an annual basis no later than June 30 of the year preceding implementation. The Department and Commission shall give thirty (30) days for comment unless no changes are made to the fee structure. The fee shall reflect the direct and indirect costs of administering the article. Fees shall include, but not be limited to, application fees, authorization/annual fees, renewal of authorization fees, educator preparation fees (if applicable), and gtPathways review fees (if applicable).

### **25.00 Deposit of Records upon Discontinuance**

25.01 Pursuant to §23-2-103.5, C.R.S., if an authorized private college or university or seminary or religious training institution ceases operating in the state, the owner of the institution or his or her designee shall deposit with the department the original or legible true copies of all educational records of the institution. If the Commission determines that the records of an authorized institution are in danger of being destroyed, secreted, mislaid, or otherwise made



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unavailable to the Department, the Commission may seek a court order authorizing the Department to seize and take possession of the records.

- 25.02 The Department or the Attorney General may enforce the provisions of this section by filing a request for an injunction with a court competent jurisdiction. A person may request, in accordance with the provisions of the Colorado Open Records Act, Part 2 of Article 72 of Title 24, C.R.S., a copy of a record held by the Department pursuant to this section. The Department shall permanently retain any student transcript. The Department shall retain any other records received for ten years following the date on which it receives or obtains the records. After the ten years, the Department shall dispose of the records in a manner that will adequately protect the privacy of personal information included in the records.

## **26.00 Procedure for the Closure of an Institution**

- 26.01 In the event an institution closes and ceases operations, the owner or designee is required to provide timely notification, with as much advanced notice as is possible, to the Department and currently enrolled or recruited students in writing immediately of the intention to close/cease operation.
- 26.02 Written notification the Department to close or cease operations must include:
- a. Name of the institution;
  - b. Name of the owner, active mailing address, and telephone number where he or she may be reached after the institution physically closes;
  - c. Name of the institution's Chief Executive Officer, President, or other appropriate administrator;
  - d. Date of closure (or approximate of anticipated closing date);
  - e. A list, with contact information, of all affected students including, a report of the status of all students currently enrolled and those students on leave of absence whose education and training program will not be fully completed by the date of the institution's closure;
  - f. Identify in writing whether there are refunds due to any students;
  - g. Submit a written statement from the owner or designee affirming that all recruitment efforts, program marketing, advertisement (regardless of type, i.e. newspaper, website, television broadcast, etc.), solicitation and enrollment of new students has ceased;
  - h. A copy of the written notice given to current students or recruited-but-not-yet-enrolled students informing them of the school's intent to close and copies of any other record of students having been so notified; and
  - i. The expected deposit date of the student records to the Department.
- 26.03 Student Records must include:
- a. The individual enrollment agreement and other instruments relating to the payment for educational services, including student financial aid; and



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- b. Academic grades and attendance (when in doubt preserve it; seek technical assistance from the Department; or turn it over to the Department to make a final determination); and
- c. The date the student began instruction at the school and information about each program in which the student is or was enrolled, including (a) the name of program, (b) length of program in clock hours or credit hours and (c) date of last instruction or of course completion; and
- d. Record of any student grievance and subsequent resolution; and
- e. Transcript/record of completion showing extent of each student's record of achievement up to last date attended or up to time the institution ceased operation; and
- f. Student ledger cards. The student ledger card is the document that summarizes the financial transactions pertaining to each student's attendance at the institution including a listing of all costs charged to the student and all fees received from the student or any other funding source on behalf of the student.

### **27.00 Alternative Enrollment**

An option for students faced with a closure is to continue their education in order to complete their program. Alternative enrollment may be provided, under which (1) either the students complete their studies at the original private college or university in which they are enrolled, before it closes or (2) arrangements are made and students are given an opportunity to complete their education at another private, Commission authorized school which offers substantially the same education.

Alternative enrollment is intended to fulfill the original contract between the closing institution and the student. If alternative enrollment is arranged for another approved institution to provide the remaining education that other institution must provide comparable education and agree that students transferring from the closing institution will pay only the cost of tuition/fees that remain unpaid, according to the terms and conditions found in the enrollment agreement entered into between the student and the closing institution.

The Department will work with the closing institution and its accrediting body to determine if alternative enrollments can be made available. The option of alternative enrollment is voluntary and a student may decline such an arrangement.

### **28.00 Financial Integrity – Surety**

28.01 Pursuant to §23-2-103.8, C.R.S., the Department shall determine the financial integrity of private colleges or universities except when the private college or university:

- a. Is a party to a performance contract with the Commission under §23-5-129, C.R.S.;
- b. Has been accredited for at least twenty years by an accrediting agency that is recognized by the United States Department of Education;
- c. Has operated continuously in this state for at least twenty years; and



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- d. Has not at any time filed for bankruptcy protection pursuant to Title 11 of the United States Code.
- 28.02 If a private college or institution does not meet the criteria above, the Department shall determine the institution's financial integrity by confirming that the institution meets or does not meet the following criteria:
- 28.02.01 The institution has been accredited for at least ten years by an accrediting agency that is recognized by the United States Department of Education;
  - 28.02.02 The institution has operated continuously in this state for at least ten years;
  - 28.02.03 During its existence, the institution has not filed for bankruptcy protection pursuant to Title 11 of the United States Code;
  - 28.02.04 The institution maintains a composite score of at least 1.5 on its equity, primary reserve, and net income ratios, as required in 34 CFR 668.172; and
  - 28.02.05 The institution meets or exceeds the pro rata refund policies required by the federal Department of Education in 34 CFR 668 or, if the institution does not participate in federal financial aid programs, the institution's refund and termination procedures comply with the requirement of the institution's accrediting body.
- 28.03 If a private college or institution is part of a group of private colleges and universities that are owned and operated by a common owner, so long as all of the other institutions in the group meet the criteria specified above then the Department shall determine the institution's financial integrity by confirming that the institution meets the following criteria:
- 28.03.01 The institution has received and maintains full accreditation without adverse action from an accrediting agency that is recognized by the United States Department of Education, which accrediting agency requires the institution to maintain surety or an escrow account or has affirmatively waived or otherwise removed the requirement for the institution;
  - 28.03.02 The institution has been continuously authorized by the Commission for at least five years:
    - a. The institution owns and operates a permanent instructional facility in the state;
    - b. The institution annually provides to the Department audited financial statements for the most recent fiscal year that demonstrate that the institution maintains positive equity and profitability;
    - c. The institution maintains a composite score of at least 1.5 on its equity, primary reserve, and net income ratios, as required in 34 CFR 668.172; and
    - d. The institution meets or exceeds the pro rata refund policies required by the federal Department of Education in 34 CFR 668 or, if the institution does not participate in federal financial aid programs, the institution's refund and



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termination procedures comply with the requirements of the institution's accrediting body.

### 28.04 Surety

Each private college or university that is not exempt and cannot demonstrate financial integrity shall file evidence of surety in the amount calculated by the Department using the criteria above prior to receiving authorization to operate in Colorado. The surety may be in the form of a savings account, deposit, or certificate of deposit that meets the requirements of §11-35-101, C.R.S., or an alternative method approved by the Commission, or by bond. The Commission may disapprove an institution's surety if it finds there are insufficient funds to provide students with indemnification and alternative enrollment.

### 28.05 Bonds

28.05.01 If a private college or university files a bond, it shall be executed by the institution as principal and by a surety company authorized to do business in Colorado. The bond shall be continuous unless the surety is released as set forth in this section.

28.05.02 The surety shall be conditioned to provide indemnification to any student that the Department finds to have suffered loss of tuition or any fees as a result of any act or practice that is a violation of ~~this the Degree Authorization Act policy and~~ to provide alternate enrollment, as described below, for students enrolled in an institution that ceases operation, and to reimburse the Department for any actual administrative costs associated with an institution ceasing operation.

28.05.03 The amount of the surety that a private college or university submits is the greater of five thousand dollars or an amount equal to a reasonable estimate of the maximum prepaid, unearned tuition and fees of the institution for the period or term during the applicable academic year for which programs of instruction are offered, including but not limited to programs offered on a semester, quarter, monthly, or class basis, except that the institution shall use the period or term of greatest duration and expense in determining this amount if the institution's academic year consists of one or more periods or terms. The private college or university shall recalculate the amount of the surety annually.

28.05.04 The Colorado Commission on Higher Education may consider alternative surety requirements for institutions that can demonstrate that existing surety covers students served by the institution operating subject to authorization by the Colorado Commission on Higher Education.

### 28.06 Claims of Loss of Tuition and Fees

A student, or parent or guardian of the student, who claims loss of tuition or fees, may file a claim with the Department if the claim results from an act or practice that violates a provision of this policy. Claims filed with the Department are public records except that the Department shall not make the claims records public if the release would violate a federal privacy law. The Department shall not consider a claim that is filed more than two years after the date the student discontinues his or her enrollment with the institution.

### 28.07 Ceasing Operation and Alternate Enrollment



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If a private college or university ceases operation, the Commission may make demand on the surety of the institution and the holder of the surety upon the demand for a refund by a student or the implementation of alternate enrollment and may make demand on the surety to reimburse the Department for actual administrative costs associated with the institution ceasing operation. In such case, the holder of the surety or,- If the surety is a bond, the principal on the bond shall pay the claim due in a timely manner. To the extent practicable, the Commission shall use the amount of the surety to provide alternate enrollment through a contract with another authorized private college or university, a community college, an area vocational school, or any other arrangement that is acceptable to the Department. The alternate enrollment provided to a student shall replace the original enrollment agreement, if any, except that the student shall make the tuition and fee payments as required by the original enrollment agreement, if any.

Any amount of the surety that is greater than the amount necessary to satisfy costs to provide alternate enrollment for the student and any demand for a refund by a student may be retained by the Department as reimbursement up to the amount of any actual administrative costs incurred by the Department that are associated with the closure.

### 28.08 Payment of Debt

A student who is enrolled in a private college or university that ceases operation and who declines alternate enrollment may file a claim with the Commission for the student's prorated share of the prepaid unearned tuition and fees that the student paid. The Commission shall not make a subsequent payment to a student unless the student submits proof of satisfaction of any prior debt in accordance with this policy. If the amount of the surety is less than the total prepaid, unearned tuition and fees that have been paid by students at the time the institution ceases operation, the Department shall prorate the amount of the surety among the students. This section applies only to students enrolled in the institution at the time it ceases operation. Once an institution ceases operation, no new students shall be enrolled. The Commission is the trustee for all prepaid, unearned tuition and fees, student loans, Pell grants, and other student financial aid assistance if an authorized private college or university ceases operation.

### 28.09 Claims That Do Not Involve Ceasing Operation

For claims made that do not involve a private college or university that ceases operation, the Commission shall conduct a hearing to determine whether there is loss of tuition or fees, and, if the Commission finds that claim is valid, it shall make demand upon the surety.

### 28.10 Suspending Authorization Based on Loss of Surety

28.10.01 A private college's or university's authorization is suspended by operation of law when surety as required by this policy no longer covers the institution. The Department shall give written notice to the institution at the last-known address at least forty-five days before the release of the surety. Authorization is suspended by operation of law until the institution files evidence of surety in like amount as the surety being released.

28.10.02 The principal on a bond filed under the provisions of this section is released from the bond after the principal serves written notice thereof to the Commission at least sixty days before the release. The release does not discharge or otherwise affect a claim filed by a student or enrollee or his or her parent or legal guardian



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for loss of tuition or fees that occurred while the bond was in effect or that occurred under any note or contract executed during any period of time when the bond was in effect, except when another bond is filed in a like amount and provides indemnification for any such loss.

- 28.10.03 Each private college or university that files a surety shall provide annual verification of continued coverage by surety in a report to the Commission due by January 1 of each year. If a private college or university that is exempt from the provisions of this policy or that demonstrates financial integrity ceases to operate in this state, the State Attorney General may filing a claim against the institution on behalf of students enrolled at the time the institution ceases operation to recover any amount of unearned, prepaid tuition that may be owed to the students. A seminary or religious training institution is not subject to the requirements of this section.

### **29.00 Data Submission**

Refer to SURDS data submission guidelines,

### **30.00 Student Complaints**

Refer to CCHE policy I, T; concerning Student Complaints.