

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 292

FINAL

REGULATORY IMPLEMENTING ORDER

292 Post Secondary Institutions and Degree Granting Institutions of Higher Education

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education. The regulation is being reformatted and revised to clarify the approval process for Degree Granting Institutions of Higher Education.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on March 1, 2016, in the form hereto attached as Exhibit "A". Comments were received from the Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities regarding: (1) the use of terms Recognized Applicant and Recognized Approval being used interchangeably. The Department agrees clarification was needed and used "Recognized Applicant" within the regulation, (2) the regulation not addressing separate standards for degree granting law schools. The Department does not have authority to provide degree granting authority to law schools, thus it was not addressed in the regulation, (3) clarification needed for institutions incorporating in Delaware to provide documentation of official Department approval with any certificate of incorporation that includes the power to confer academic and honorary degrees. No further clarification is needed as the Department does not oversee the incorporation process, which is governed by statute, (4) the need for both hard and electronic versions to be submitted. The Department believes both formats are necessary for document search and archival purposes, (5) the timeliness of notice to students regarding institutions lack of authority to confer degrees or if their status to do so is terminated. The Department agrees that student notification in these areas should be clarified and provided such clarification in the regulations, (6) reference to "changes" really meaning "changes in accreditation." For clarification purposes, the Department changed the terminology to "changes in its accreditation" where applicable, (7) determining involvement of Division of Corporations in the process of Provisional Approval. No change was needed as the Department will inform the Division of Corporations if the Institution is no longer authorized to confer Degrees as is stated in the regulation, (8) the contents of DOE's endorsement on the certificate of incorporation and amendments of a degree granting institution. The Department appreciates this comment and will contemplate this idea further. Other changes, including some grammatical, were made to further clarify the intent of the regulation.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education in order to clarify the approval process for Degree Granting Institutions of Higher Education.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education in the Administrative Code of Regulations for the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 Del.C. §122 on May 19, 2016. The effective date of this Order shall be ten (10) days from the date this Order is published in the Delaware *Register of Regulations*.

IT IS SO ORDERED the 19th day of May 2016.

Department of Education

Steven H. Godowsky, Secretary of Education
Approved this 19th day of May 2016

State Board of Education

Teri Quinn Gray, Ph.D., President (not present)	Gregory B. Coverdale, Jr.
Jorge L. Melendez, Vice President	Terry M. Whittaker, Ed.D.
G. Patrick Heffernan	Nina L. Bunting
Barbara B. Rutt (not present)	

292 Post Secondary Institutions and Degree Granting Institutions of Higher Education

1.0 Definitions

The words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“Accrediting Agency” means a National, Regional, or Specialized Accrediting Agency or association that appears on the list of recognized accrediting agencies published by the United States Secretary of Education or any other Accrediting Agency the Delaware Secretary of Education, deems within his or her discretion, to be reliable or be equivalent to those on the published list.

“Agent” means any person representing an institution or employed by an institution, that contacts persons in any manner for the purpose of soliciting enrollment in any course, program, or degree.

“Application Form” means the appropriate form created by the Department to request approval or renewal as a Post Secondary Institution of Higher Education.

“Degree” includes, but is not limited, to any academic credential or designation not less than, but including associate, bachelor, master, doctor, or fellow, whether earned or honorary, which signifies, purports, or is generally taken to signify partial or satisfactory completion of the requirements of an academic, occupational, business, or other program of study beyond the secondary school level.

“Degree Granting Authority” means authorization to confer Degrees.

“Department” means the Delaware Department of Education.

“Department Approval” means the process by which a specific institution is recognized by the Department of Education as meeting state standards for approval for such institution.

“Full Approval” means the third level of Degree Granting Authority status granted by the Department.

“Institution” means a Post Secondary Institution or Institution of Higher Education.

“Institution of Higher Education” means a college, university or other Post Secondary Institution authorized to confer degrees. For the purpose of this regulation, Post Secondary Institutions and Institutions of Higher Education shall have the same meaning.

“Middle States” means the Middle States Commission on Higher Education or the standards for accreditation used by Middle States Commission on Higher Education.

“National Accrediting Agency” means a nationally recognized Accrediting Agency or association that appears on the list published by the U.S. Secretary of Education.

“Operating License” means authorization of Institutions not incorporated in Delaware to offer courses, Programs of courses, or Degrees to residents of Delaware.

“Post Secondary Education” means a higher level of education or noncompulsory education level following completion of a secondary education, such as high school or secondary school. Post Secondary Education includes undergraduate and postgraduate education including associates, baccalaureate, masters, or postgraduate Degrees. For the context of this regulation, Post Secondary Education does not include vocational or professional training otherwise included and regulated as Private Business and Trade schools and not resulting in a Degree.

“Post Secondary Institution or Institution of Post Secondary Education” means an institution of higher education offering post secondary education usually with the intent to confer academic degrees. For the purpose of this regulation, post secondary institutions and institutions of higher education shall have the same meaning.

“Private Business and Trade Schools” has the same meaning as in 14 Del.C. §8501(4)(3).

“Program or Program of Courses” means the specific sequence of courses and experiences required by an institution. Program includes an organized unit of subject matter in which instruction is offered within a given time and for which credit is given toward completion of training toward a predetermined occupational or academic credential.

“Provisional Approval” means the second level of Degree Granting Authority [status] granted by the Department.

“Recognized [Approval Applicant]” means the initial level of Degree Granting Authority status granted by the Department.

“Regional Accrediting Agency” means an agency such as the Commission on Higher Education of the Middle States Association of Colleges and Schools or others that appear on the list published as Regional Institutional Accrediting Agencies, by the U.S. Secretary of Education.

“Secretary” means the Secretary of the Delaware Department of Education.

2.0 Department Approval is Required prior to an Institution incorporating with the power to confer degrees, Operating or Offering any Courses in Delaware

2.1 Pursuant to 14 Del.C. §121 (a)(16) and 122(b)(3), (8), and 8 Del.C. §125, no corporation or Institution other than those authorized in Title 14, shall without first having received approval from the Department:

2.1.1 incorporate in Delaware with the power to confer degrees; or

2.1.2 offer courses, programs of courses, or degrees within Delaware.

2.2 This regulation shall not apply to Private Business and Trade Schools to the extent they do not offer degrees and are governed by 14 Del.C. Chapter 85.

2.3 Pursuant to 8 Del.C. §125, no Institutions, including those located outside of Delaware and offering in-state Programs shall be incorporated in Delaware with the power to confer Degrees without Department approval. Prior to incorporating in Delaware with the power to confer Degrees, an Institution shall obtain approval from the Department pursuant to this regulation. A corporation shall provide documentation of official Department approval with any certificate of incorporation filed with the Secretary of State that includes the power to confer academic or honorary Degrees.

2.3.1 With respect to these requests for incorporation, the Department recognizes the following:

2.3.1.1 The interest of each state and territory of the United States to grant the authority to award Degree Granting Authority to Institutions located within that state or territory;

2.3.1.2 The legitimate request of private colleges and universities located outside of Delaware to make a business decision to incorporate in the State; and

2.3.1.3 The Department's own right, pursuant to 8 Del.C. §125, to set reasonable limitations to help ensure the quality of education offered by such Institutions of Higher Education incorporated in Delaware.

2.3.2 The requirements of this regulation shall be the minimum criteria necessary to obtain Department approval. As a matter of comity, the Department shall not approve the power to confer academic or honorary Degrees to colleges, universities or other Institutions offering credit bearing courses, that have a primary site of operation in another state or jurisdiction and do not operate in Delaware, unless the Institution already is approved by the Degree Granting Authority of the state or jurisdiction in which it is located, or, in states or jurisdictions without a Degree granting authority, is accredited by a nationally or regionally recognized Accrediting Agency or association approved by the United States Department of Education.

3.0 Standards for Approval of Institutions Classification of Institutions applying for Authorization

An institution seeking Department approval shall adopt the following:

3.1 Purposes and Objectives

3.1.1 ~~An institution shall present a well defined statement of the broad purposes or goals of the institution and the specific objectives for the students both generally and in each special program or area of study. This statement shall include the reasons for the existence of the institution in its particular community. In~~

addition, the purposes shall be reflected in the types of students and sequence of the offerings of the college in general and in specific programs.

3.1.1.1 An Institution's specific objectives shall be presented in behavioral terms and shall be the basis for future student and program evaluation.

3.1.1.2 All institutions shall adopt the Department's antidiscrimination regulation 14 **DE Admin. Code** 225.

3.2 Administrative Organization

3.2.1 The organizational pattern of the institution as a two year associate or a four year baccalaureate or graduate or professional institution, or as a single or multipurpose institution, shall be clearly defined and shall be related to the purposes of the institution.

3.2.2 The institution shall present a definite statement, including an organizational chart, or its administrative structure and a description of the functions and interrelationships of the governing board (board of trustees), advisory board (if any), the president and the administrative staff, and the faculty.

3.2.3 The functions and responsibilities of the board shall be clearly defined in the Bylaws.

3.2.4 The board shall be moderate in size (between 9 and 25 members) and shall represent different points of view and interests, be selected from persons interested in the institution, willing to give the time necessary for board matters and be appointed or elected for regular or overlapping terms of office. The large majority of the members shall be other than the salaried administrators of the institution.

3.2.5 There shall be established channels of communication between the governing board and the administration and faculty.

3.2.6 The administrative staff shall have the necessary time and assistance to enable members of the staff to discharge their duties efficiently.

3.2.7 The administrative staff functions shall include selection, supervision and support of faculty; selection and supervision of the students; and operation of the facilities for the benefit of faculty and students. Institutions shall adopt a policy to ensure that the administrative staff is aware of the above three major functions.

3.2.8 There shall be definite policies and procedures concerning academic freedom, tenure, retirement, pension plans, leaves of absence, sick leave, the determination of rank and promotions, and the professional development of the faculty, administrative officers and professional staff.

3.3 Financial Administration

3.3.1 The institution shall have financial resources adequate for the effective accomplishment of its announced purposes. The income shall be so expended as to provide equitably for instruction, administration, maintenance, equipment and supplies, library, and student activities.

3.3.1.1 An institution shall have an adequate reserve in unencumbered funds.

3.3.1.2 Financial statements for both beginning and continuing institutions shall contain the following:

3.3.1.2.1 Reflect clearly the sources of income, categories of expenditure, and the profit or nonprofit status of the institution;

3.3.1.2.2 Show the nature and amount of indebtedness, if any; how incurred; and the provision for amortization; and

3.3.1.2.3 A five year financial projection.

3.3.1.3 The institution shall indicate agreement or provide a surety bond for the protection of the contractual rights of students.

3.3.1.4 The institution shall adopt standards for accounting and financial reporting. The structure shall account for federal and state monies, as well as other sources of income and expenditures.

3.3.1.4.1 The institution shall conduct an external independent annual audit on a scheduled basis that shall be reviewed by its governing board.

3.3.2 The business management shall be under the direction of a responsible bonded financial officer charged with the preparation and supervision of the budget in accordance with sound financial and educational practices.

3.3.3 A continuing institution shall present an operating statement and proposed balance sheet for the fiscal year and a budget summary for each present fiscal year, comparable in amount of detail to those customarily prepared for trustees.

3.3.4 Information shall be available on the annual surplus or deficit at the end of each of the past five fiscal years.

3.3.5 The general aspects of business administration and the principles of accounting and reporting shall adhere to the widely accepted standards published by the National Association of College and University Business Officers (NACUBO).

3.4 Student Personnel Program

- 3.4.1 ~~When appropriate, an institution shall have an adequate student personnel program, including student activities and a counseling service and the program shall be directed by a professionally trained person whose responsibilities embrace the general welfare and discipline of the students. Services shall aim to provide counseling, advocacy, intervention, and referral services so that students can resolve problems that might otherwise interfere with the achievement of their educational objectives, including services for personal concerns, academic choices, and career planning.~~
- 3.4.2 ~~Provision shall be made in the counseling service for testing of students' abilities and interests as aids to student self understanding, educational planning and career decisions.~~
- 3.4.3 ~~Depending on the scope of the institution, the student personnel program shall be concerned with the health needs of students and with the development of a meaningful program of social, recreational, and athletic, education and cultural out of class activities. If the institution is residential, it shall also be concerned with student living arrangements.~~

3.5 Admission Policies and Procedures

- 3.5.1 ~~The institution shall have a carefully stated selective admissions policy that is appropriate to the institution's purposes and organization. Admission criteria shall be established in consideration of the abilities needed by all students to achieve satisfactorily in the various programs of study offered. The institution shall operate in compliance with announced admission policies and procedures.~~
- 3.5.2 ~~The admissions office shall be adequately staffed to carry out the admissions policies and procedures.~~
- 3.5.3 ~~For admission, the institution shall require either graduation from an accredited secondary school or other recognized standards such as the General Education Development (GED) scores or the College Entrance Examination Board scores. The applicant's file shall contain a complete transcript of the school record including courses, grades, and other appropriate information properly signed by the high school principal, guidance officer or other duly authorized school official.~~
- 3.5.4 ~~The institution shall provide correlations between admission credentials and freshman grades, academic attrition studies and objective test results to demonstrate that it selects students qualified to pursue successfully the program of study for which admitted. The institution shall admit students in accordance with its published criteria.~~
 - 3.5.4.1 ~~The institution may, at its discretion employ more flexible and experimental admissions standards but shall document with supporting information the criteria used to judge these students for admission and evaluate these criteria based on experience.~~

3.6 Faculty

- 3.6.1 ~~The number of faculty shall be adequate to support the mission of the institution, to serve the projected number of students and to insure the quality and the integrity of its academic programs. Documentation of faculty qualifications in the form of resumes shall be available to the Department upon request. The institution shall have clearly defined criteria for faculty appointments, incentives for retention, and provisions for inservice growth and development.~~
- 3.6.2 ~~There shall be a well planned incentive program designed for retention of faculty. When applicable, such a program shall include policies on academic freedom, tenure, retirement, pension plans, leaves of absence including sabbaticals, sick leave, insurance, and other faculty benefits. There shall be a clear statement of criteria for each rank and the requirements for promotion.~~
- 3.6.3 ~~There shall be a thorough orientation for all new faculty, periodic evaluation and critique of instructional methods, and, where appropriate, evidence of research accomplishment.~~
- 3.6.4 ~~If faculty members serve as advisors, they shall be fully informed about degree requirements, transfer regulations and any other specific requirements such as state teacher certification or professional licensing.~~
- 3.6.5 ~~There shall be a faculty organization to carry out the respective educational responsibilities.~~

3.7 Program

- 3.7.1 ~~The number and variety of curricula shall be determined by the purposes of the institution, the size of the student body, and the available personnel and resources of the institution.~~
- 3.7.2 ~~Curricula in all fields shall evidence recognition of the relationships between a broad education and the acquisition of techniques and skills. Degree requirements for each curriculum shall be clearly stated.~~
- 3.7.3 ~~Transfer and career programs in a junior college shall include a block of courses in liberal education.~~
- 3.7.4 ~~Descriptions for graduate programs shall be very carefully detailed with emphasis on admission requirements, standards for maintaining graduate status, qualifications of staff, opportunities for research, adaptation of programs to individual needs, and any other facts pertinent to a good graduate program.~~

3.8 Graduation Requirements

- 3.8.1 ~~For authorization to grant an associate degree, an institution shall require 60 semester hours of academic and pre professional work or equivalent, give credit only for courses completed with a passing grade of (D) or its Institutional equivalent and require an average of 2.0 or specify clearly what index is required for graduation.~~
- 3.8.2 ~~For authorization to grant a baccalaureate degree, an institution shall require a minimum of 120 semester hours for graduation and no less than a 2.0 overall average (on a 4.0 scale).~~
- 3.8.3 ~~All graduation requirements shall be clearly delineated for any institution.~~

3.9 Facilities

- 3.9.1 ~~Administrative and faculty facilities, classrooms, library, laboratories, and student activity centers shall be suitable for their specific purposes, and convenience for advisement and scheduling, and shall promote the highest standards of learning, health and personal welfare. The institution shall comply with applicable state and federal standards, with respect to the accessibility of facilities by persons with disabilities.~~
- 3.9.2 ~~Beginning institutions and those planning expansion programs shall have well designed plans for appropriate building expansion.~~

3.10 Library

- 3.10.1 ~~The institution shall provide library facilities adequate to the effective realization of its stated objectives. The scope of resources shall follow the current Middle States recommendation. The Secretary may allow the institution flexibility from the Middle States recommendation, if the Secretary determines within his or her discretion that the library provides alternative access to resources and will provide adequately for students.~~
- 3.10.2 ~~In the case of the non-Delaware institution offering courses, programs of courses, or degrees in Delaware, library facilities shall be imported on a temporary basis or provided through contractual arrangements so that the material available will provide adequate support to the courses offered.~~

3.11 Outcomes

- 3.11.1 ~~The institution shall describe its means for assessing the extent to which it achieves its stated purposes and objectives insofar as this is measurable.~~
- 3.11.2 ~~Plans for the measurement of outcomes shall include evaluation of undergraduate achievement based on standard tests; a study of the performance of graduates in graduate or professional schools (or of transfer students in the junior or senior years); and a long term study of the achievements based on data gathered periodically and systematically.~~

3.12 Catalog and Announcements

- 3.12.1 ~~The catalogs and all other announcements shall give an accurate description of the actual offerings of the institution and show evidence that the institution is managed by educationally competent and morally responsible persons and shall include specifically:-~~
 - 3.12.1.1 ~~Identification data, such as volume number, and date of publication.~~
 - 3.12.1.2 ~~The names of the institution, the governing board, and the administrative staff and faculty showing earned degrees and the institutions granting them.~~
 - 3.12.1.3 ~~A complete calendar for the academic year.~~
 - 3.12.1.4 ~~A statement of its accredited or approval status.~~
 - 3.12.1.5 ~~A statement of the origin and objectives of the institution.~~
 - 3.12.1.6 ~~Admission and graduation policies and requirements.~~
 - 3.12.1.7 ~~A detailed schedule of all fees and other charges as well as refund policies.~~
 - 3.12.1.8 ~~Information concerning scholarship funds.~~
 - 3.12.1.9 ~~A description of location of the institution; buildings, grounds and equipment.~~
 - 3.12.1.10 ~~A list of degrees conferred and requirements for each degree.~~
 - 3.12.1.11 ~~An outline of each curriculum and a description of each course offered during period covered by the catalog and an indication of courses offered at other times. Descriptions shall indicate prerequisites, if any.~~
 - 3.12.1.12 ~~The number of weeks of instruction per semester and of class meetings per week.~~
 - 3.12.1.13 ~~A policy for the screening of staff including any policy on criminal background checks.~~

3.1 Institutions of Higher Education established by Delaware law or Incorporated in Delaware with Department approval apply for Degree Granting Authority as follows:

- 3.1.1 Institutions of Higher Education that hold accreditation from an Accrediting Agency shall follow the procedures for approval of Degree Granting Authority set forth in 4.1 of this regulation.

- 3.1.2 Institutions of Higher Education that do not hold accreditation from an Accrediting Agency shall follow the procedures for approval of Degree Granting Authority set forth in 4.2 of this regulation.
- 3.1.3 To become a member of a reciprocal agreement of which Delaware is a member, Institutions of Higher Education must:
 - 3.1.3.1 Obtain Degree Granting Authority.
 - 3.1.3.2 Abide by the application process and requirements as set forth by Delaware in accordance with the terms of the reciprocity agreement.
- 3.2 Institutions of Higher Education Not Incorporated in Delaware apply for an Operating License as follows:
 - 3.2.1 Institutions of Higher Education that hold accreditation from an Accrediting Agency shall follow the procedures for approval of an Operating License set forth 4.1 of this regulation.
 - 3.2.2 Institutions of Higher Education that have been awarded Degree Granting Authority by a state or jurisdiction and do not hold accreditation from an Accrediting Agency shall follow the procedures set forth for approval of an Operating License in 4.2 of this regulation. Institutions of Higher Education not established by Delaware law or incorporated in Delaware that do not have Degree Granting Authority from another state or jurisdiction are not eligible for an Operating License.
 - 3.2.3 Institutions of Higher Education that are members of a reciprocal agreement of which Delaware is a member will abide by the requirements as set forth by Delaware.

4.0 Levels of Approval Application Forms

~~The Department shall review applications and shall deny or grant approval or may request additional information prior to denial.~~

- 4.1 ~~Institutions may be granted one of three levels of approval: Recognized Applicant, Provisional Approval or Full Approval.~~
 - 4.1.1 ~~Recognized Applicant~~
 - ~~Recognized Applicant is the initial level of approval granted by the Department. The status of Recognized Applicant does not carry authorization to confer degrees.~~
 - 4.1.1.1 ~~An institution shall begin the approval process by completing the Department's application and submitting the completed application and all documentation in duplicate to the Department. The application and supporting material shall be reviewed by the Department or an evaluation team selected by the Department. After the review the Department may require a meeting with the Board of Trustees or the administrative staff of the institution or both. The Department may also require an on-site visit.~~
 - 4.1.1.2 ~~If the Department determines that based on all the facts gained the institution appears to meet, or shows promise of meeting a significant portion of the standards as stated in this regulation, the institution shall be granted Recognized Applicant status.~~
 - 4.1.1.3 ~~Recognized Applicant status may be valid for one or more years. If the Department determines that the institution continues to meet the requirements of this regulation and is making satisfactory progress towards the next level of recognition, Recognized Applicant status may be extended yearly. If the Department determines that the institution does not continues to meet the requirements of this regulation or is not making satisfactory progress towards the next level of recognition, Recognized Applicant status may be terminated.~~
 - 4.1.1.3.1 ~~Near the end of the first full school year of classes but prior to the close of classes, the institution shall file a progress report with the Department. The Department or the evaluation committee may make an on-site visit to the institution in order to verify the contents of the report and evaluate progress to date.~~
 - 4.1.1.3.2 ~~A two-year institution shall request evaluation for Provisional Approval no later than the beginning of the 4th semester and a four-year institution, no later than the 7th semester. Institutions offering programs of varying duration shall request evaluation for Provisional Approval in a time frame appropriate to the length of the program.~~
 - 4.1.1.4 ~~The Department or evaluation committee shall make recommendations for any changes in or additions to the information previously submitted that would be necessary for consideration for Provisional Approval.~~
 - 4.1.1.5 ~~A Recognized Applicant institution may incorporate but its charter shall not include the right to confer degrees.~~
 - 4.1.1.6 ~~If a Recognized Applicant fails to file a progress report, keep the Department informed of changes or request annually renewal of their status as a Recognized Applicant or advancement to~~

provisional approval, the institution's approval automatically expires one year after approval. If an institution's approval expires, the institution shall be required to begin the application process from the beginning and submit a new application.

4.1.2 Provisional Approval

Provisional Approval is the second level of approval granted by the Department.

4.1.2.1 Following the review of the request for provisional approval, the evaluation committee, if utilized by the Department, shall recommend to the Department and the Department shall determine that either the institution continue to be recognized only as an Recognized Applicant without degree granting status, or it be granted Provisional Approval with the right to confer the degrees requested. Those institutions required to remain on Recognized Applicant status shall be informed of the changes and improvements necessary to be eligible for Provisional Approval status. There is no guarantee that a Recognized Applicant institution will be given either Provisional or Full Approval.

4.1.2.2 An institution receiving Provisional Approval may incorporate under ~~8 Del.C.~~ §125 with the right to confer a degree. If the institution has previously incorporated without the right to confer a degree, the charter shall be amended to include the degree granting privilege. The institution shall retain this status until after the first class has been graduated.

4.1.2.3 An institution shall seek Full Approval within a minimum of two years following the first graduation but may petition for such approval within the first year. The Department may require an on site visit prior to conferring recognition of Full Approval.

4.1.2.4 If a Provisionally Approved institution does not receive Full Approval within four years after the first graduating class, the Department may withdraw all approval and inform the Corporation Division of the State of Delaware that the section in the charter for the institution which refers to the right to confer degrees is no longer valid.

4.1.2.5 The Department shall provide notice to Recognized Applicants and Provisionally Approved institutions of the requirements they must meet in order to achieve the next level of recognition. If an institution has a Delaware location, the Department shall require an on site visit to the Delaware location before moving to Full Approval.

4.1.3 Full Approval

Full Approval is the third level of approval granted by the Department.

4.1.3.1 For Full Approval an institution shall meet the minimum standards that are found in this regulation. However, for certain types of organizations such as a junior college of business, or a specialized area within a college such as the library, or a specialized college or school offering degrees, the Department within its discretion may use as additional criteria the regulations of the appropriate accrediting or approving agency.

4.1.3.2 Fully Approved institutions shall retain such status for a period of no longer than five years. Prior to the expiration of the five (5) year term, the institution shall file a progress report and the Department or evaluation committee shall complete an on site visit. If an institution fails to seek renewal of their Full Approval status their recognition shall expire. After the initial renewal, all Fully Approved institutions shall continue to file for renewal for at least every five years, prior to the expiration of their approval.

4.1.4 If an institution is scheduled for a Regional Accreditation evaluation at the time of either the Full Approval or the five year period review and the Department has a representative on the evaluation team, the Department may accept the Regional Approval in lieu of a separate evaluation.

4.1.5 All institutions shall keep the Department informed of any changes in the facts as presented in their applications.

4.1.6 All expenses incurred by a visiting team at any stage in the approval or renewal procedures shall be borne by the institution requesting approval.

4.1 Institutions of Higher Education holding accreditation from an Accrediting Agency shall submit an Application Form containing documentation of its: mission and goals, accreditation and current course catalog. Institutions of Higher Education must also submit the appropriate fees and any additional information requested on the Application Form or by the Department.

4.2 Institutions of Higher Education not holding accreditation from an Accrediting Agency shall submit an Application Form containing a description of its: purposes and objectives, administrative organization, financial administration, student support services, admission policies and procedures, faculty, Programs and courses, graduation requirements, facilities, library, education resources, instructional technology and assessment of student learning. Institutions of Higher Education must also submit copies of its most recently published

documents including course catalogs, the appropriate fees and any additional information requested on the Application Form or by the Department.

5.0 Application Process and Review

- 5.1 ~~The Applicant Institution shall complete a detailed application on forms approved by the Department and submit data as requested to the Department.~~
- 5.2 ~~The Secretary may, if she/he determines that it would be beneficial, appoint an evaluation committee to aid the Department in the evaluation process.~~
- 5.3 ~~When an evaluation committee is used by the Department, a written report of the committee's action shall be sent to the Department with a recommendation to withdraw approval, to continue the status of Recognized Applicant along with a listing of any specific recommendations to be met by the institution or to grant new status of Provisional Approval, with the right to confer a degree.~~
- 5.4 ~~At a time one or two years following the graduation of the first class from the institution but not later than three years, on an occasion selected by the Department; the institution shall present a third progress report and the Department or committee shall make an on site visit. In the event that this planned visit is scheduled to occur at approximately the same time as that of a visit from the Commission on Higher Education of the Middle States Association of Colleges and Schools, or another appropriate regional or specialized accrediting agency, it may be recommended to the Secretary that a favorable report by this visiting agency be accepted in lieu of a separate report and on site visit from the Department or evaluating committee. The recommendation on this occasion may be for Full Approval of the degree granting authority of the institution. It will be within the Secretary's discretion to determine if the approval by the other Accrediting Agency meets the requirements of this regulation and whether to accept the on site visit and favorable report in lieu of any section of this regulation.~~
- 5.5 ~~Right to Hearing~~
 - 5.5.1 ~~If approval of the institution is denied at any of the three levels of approval, the institution shall have the right of appeal to the Secretary but in such appeal shall be required to submit necessary evidence to show cause why approval should be granted or why temporary approval should be extended for a longer period of time.~~
 - 5.5.2 ~~The Department shall give written notice to the applicant of the denial and the reasons therefore. The notice of denial shall be sent by certified mail and shall give notice that a full and fair hearing may be requested before the Secretary within twenty (20) calendar days.~~
 - 5.5.3 ~~Hearings shall be conducted in accordance with the Department's Hearing Procedures and Rules.~~
- 5.1 An Institution shall begin the approval process by completing and submitting an Application Form, in both hard and electronic copy, and all required documentation.
- 5.2 The Application Form and supporting material shall be reviewed by the Department or an evaluation team selected by the Department. After the review, the Department may require a meeting with the Board of Trustees or the administrative staff, or both, of the Institution or both. The Department may also require an on-site visit.
- 5.3 Institutions incorporating or already incorporated in Delaware may be granted one of three levels of approval of Degree Granting Authority: Recognized Applicant, Provisional Approval or Full Approval or the Department may deny the application.
- 5.4 Institutions not incorporating in Delaware may be granted an Operating License or the Department may deny the application.

6.0 Additional Procedures for Approval of Non Delaware Institutions of Higher Education that Offer Courses, Programs of Courses or Degrees Within the State of Delaware Levels of Approval and Institution Requirements

- 6.1 ~~Out of state institutions wishing to offer credit bearing courses, programs of courses, or degree programs in Delaware shall make application to the Department at least one academic year before the requested date of implementation.~~
- 6.2 ~~Final application forms with supporting documents shall be presented to the Department at least six months prior to the requested date of implementation.~~
- 6.3 ~~The Institution shall prove that the degree programs conform to the minimum standards established by the Department for similar institutions operating within the State. The Secretary may within his or her discretion, consider if an institution has been regionally accredited and determine if the regional accreditation meets the standards listed in this regulation and may accept that accreditation for part or all of the requirements in this regulation. However, an Accrediting Agency designation of Recognized Applicant or any other less than full accreditation designation shall not be accepted.~~

- 6.4 The Institution shall prove that the proposed site or facility is in compliance with applicable Federal, Delaware and local governmental laws and standards pertaining to zoning, occupancy, accessibility, fire, health and safety.
- 6.5 The Institution shall guarantee, by resolution of their Board of Trustees, that their operations in the state of Delaware will be financially solvent.
- 6.6 Programs shall be approved for periods of one to five years but initially programs shall be approved for up to three years. Credit bearing courses, but not degree programs shall be approved for only one year.
- 6.7 After the initial approval, renewal approval will be contingent upon a favorable recommendation based upon periodic review by the staff of the Department and if deemed necessary by the Secretary within her discretion, with the assistance of a consultant(s) from an institution of higher education with expertise in the program or course offered.
- 6.8 The institution shall keep the Department informed of the names and addresses of those responsible for directing the programs from the parent campus, the names of instructors, the locations of all sites in Delaware where instruction is offered, and the names and addresses of students enrolled in the program or course.
- 6.9 A license fee of \$250.00 per out of state institution shall be required for each school year of operation. Program duration of a shorter period, such as one semester or one quarter, shall pay a minimum fee of \$150.00.
- 6.10 Any and all costs incidental to the evaluation and approval of a program or course, except the salary of personnel from publicly supported education institutions in Delaware, shall be the responsibility of the applicant institution.
- 6.11 Each year the Department shall publish a list of all programs and courses approved to operate in the State of Delaware.

6.12 Agents

Every agent representing an institution as herein defined, whether such institution is located inside the state of Delaware or any other state or in any nation of the world, that contacts persons within the state of Delaware for the purpose of soliciting enrollment in the institution, shall make written application for an agent's permit to the Department on forms prepared and furnished by the Department. Each application shall state the name of the school which the applicant will represent, contain evidence of the honesty, truthfulness and integrity of the applicant, shall be verified under oath by the applicant, and shall be accompanied by the recommendation of two reputable persons, certifying that the applicant is truthful, honest, and of good reputation, and recommending that a permit, as an agent, be granted to the applicant. The fee for an original permit, as an agent, shall be determined by the Department and there shall be an annual renewal fee determined by the Department. A separate permit shall be obtained for each school represented by an agent.

- 6.12.1 Each applicant for a permit to serve as an agent shall submit with the application a fee in the amount of \$10.00 for the first application. This fee will be required for each institution represented by any one agent. The fee for renewal of the permit to serve as an agent shall be \$5.00 for each institution represented by the agent. The agent shall present a second application for a permit to serve as agent in conjunction with the application for certification by the second institution that the agent will represent.
- 6.12.2 Each agent shall apply for a permit each year at the same time that the institution the agent is to represent makes application for Approval or renewal. If the institution is not required to make application for renewal or continuation that year, the agent shall apply for renewal prior to the expiration of the current permit. No permit shall be issued for a period of more than twelve calendar months. No agent shall perform the function of his/her assignment and solicit Delaware enrollees in the institution until he/she has been issued the appropriate identification permit.
- 6.12.3 The lapse, suspension, revocation or non renewal of the certification of an institution for any cause shall make invalid all agent permits for that institution.
- 6.12.4 The institution shall report the discharge or resignation of any agent to the Department within thirty days.
- 6.12.5 To the extent that the Department determines any situation warrants it, the Department shall publicize the discontinuance of any certificate or permit.
- 6.12.6 The fee for the agent permit shall be waived for the owner or the chief executive officer of the institution who also serves as its agent. Each individual shall still apply for and obtain an agent permit. Any additional agents must obtain permits as otherwise described.
- 6.12.7 The fees charged as filling and renewal fees are not refundable.

6.1 Recognized Applicant

- 6.1.1 Recognized Applicant is the initial level of approval granted by the Department. An Institution with Recognized Applicant status may incorporate under 8 Del.C. §125 but shall not have the right to confer Degrees.

- 6.1.2 If the Department determines that, based on all the facts gained, the Institution appears to meet, or shows promise of meeting, a significant portion of the standards as stated in this regulation, the Institution shall be granted Recognized Applicant status. The Department will issue a memorandum indicating that the Institution has been granted a status of Recognized Applicant.
- 6.1.3 Recognized Applicant status may be valid for one or more years. If the Department determines that the Institution continues to meet the requirements of this regulation and is making satisfactory progress towards the next level of recognition, Recognized Applicant status may be extended yearly.
- 6.1.4 Reporting and Renewal
- 6.1.4.1 After the initial approval, near the end of the first full school year of classes but prior to the close of classes, the Institution shall file its first progress report with the Department. The Application Form to request renewal will accompany the progress report along with appropriate fees.
- 6.1.4.2 The Department or the evaluation committee may make an on site visit to the Institution in order to verify the contents of the report and evaluate progress to date.
- 6.1.4.3 The Department or evaluation committee shall make recommendations for any changes necessary to the information submitted that are required for consideration for Provisional Approval.
- 6.1.4.4 Upon approval, the Department shall issue a memorandum indicating that the Institution has been granted a status of Recognized Applicant for one year.
- 6.1.4.5 The Institution shall continue submitting yearly progress reports until the Institution submits a progress report and requests to advance to the next level of approval status: Provisional Approval.
- 6.1.4.6 The Institution shall submit updated Agent **[identification and license]** information and appropriate fees as part of its renewal request.
- 6.1.5 The Institution shall keep the Department informed of any changes since its most recent approval, including the names and addresses of those responsible for directing the Programs from the parent campus, names and credentials of instructors, and the locations of all sites in Delaware where instruction is offered.
- 6.1.6 Student Notification
- [6.1.6.1** The Institution shall notify students individually, in writing, upon application and admission, that it does not have Degree Granting Authority.]
- 6.1.6.[42] The Institution shall notify students individually, in writing, near the end of the first school year with classes, but prior to the close of classes, that it does not have Degree Granting Authority if it is offering students an Associate's Degree or any two-year Degree, and it has not received its Degree Granting Authority near the end of the first school year with classes. The Institution shall provide such notification annually thereafter until Provisional Approval is achieved.
- 6.1.6.[23] The Institution shall notify students individually, in writing, near the end of the second school year with classes, but prior to the close of classes, that it does not have Degree Granting Authority if it is offering students a Bachelor's Degree or any four-year Degree, and it has not received its Degree Granting Authority near the end of the second school year with classes. The Institution shall provide such notification annually thereafter until Provisional Approval is achieved.
- [6.1.6.4** The Institution shall notify students individually, in writing, if Degree Granting Authority is revoked at any time.]
- 6.1.7 Advancement to Provisional Approval
- 6.1.7.1 The ~~[Institute Institution]~~ may request to advance to the next level of approval at the end of the second year of operation or later and at the time that it submits a progress report. At that time, the ~~[Institute Institution]~~ shall also submit an Application Form indicating a request to advance to the next level of approval status.
- 6.1.7.2 The Application Form and supporting material shall be reviewed by the Department or an evaluation team selected by the Department. If the Department determines that, based on all the facts gained, the Institution appears to meet, or shows promise of meeting, a significant portion of the standards as stated in this regulation, the Institution shall be advanced to the next level of approval status: Provisional Approval. The Department shall issue a memorandum indicating that the Institution has been granted a status of Provisional Approval.
- 6.1.7.3 Those Institutions required to remain on Recognized ~~[Approval Applicant]~~ status shall be informed of the changes and improvements necessary to be eligible for Provisional Approval status. There is no guarantee that a Recognized ~~[Approval Applicant]~~ Institution will be given either Provisional or Full Approval.
- 6.1.8 Termination

6.1.8.1 The following are grounds for termination of approval status:

- 6.1.8.1.1 The Institution fails to continue to meet the requirements of this regulation or is not making satisfactory progress towards the next level of recognition; or
- 6.1.8.1.2 The Institution fails to file a progress report; or
- 6.1.8.1.3 The Institution fails to keep the Department informed of changes; or
- 6.1.8.1.4 The Institution fails to request annual renewal of **[their its]** status or request timely advancement to next status level; or
- 6.1.8.1.5 The Institution does not submit payment of appropriate fees.

6.1.8.2 If the Institution's approval status is terminated, the approval status will automatically expire one year after approval. If an Institution's approval **[status]** expires, the Institution shall be required to begin the application process from the beginning and submit a new Application Form.

6.2 Provisional Approval

6.2.1 Provisional **[aA]**approval is the second level of approval granted by the Department. An Institution with Provisional Approval status shall have the right to confer Degrees.

6.2.2 If the Department determines that, based on all the facts gained, the Institution appears to meet, or shows promise of meeting, a significant portion of the standards as stated in this regulation, the Institution shall be granted Provisional Approval status. The Department shall issue a memorandum indicating that the Institution has been granted Provisional Approval.

6.2.3 An Institution receiving Provisional Approval may incorporate under 8 Del.C. §125 with the right to confer Degrees. If **[after the three years with a Provisional Approval status, and]** the Institution has previously incorporated without the right to confer Degrees, the Institution may amend their **[charter certificate of incorporation in accordance with 8 Del.C. §125]** to include the Degree Granting Authority privilege. The Institution shall retain this status until after the first class has been graduated.

[6.2.3.1 The Institution shall amend its certificate of incorporation to acknowledge its Degree Granting Authority and Provisional Approval.]

6.2.4 Provisional Approval status may be valid for up to three years. If the Department determines that the Institution continues to meet the requirements of this regulation and is making progress towards the next level of recognition, Provisional Approval status may be **[extended yearly renewed]**.

6.2.5 Provisional **[aA]**approval and its requirements must be met by the **[Institute Institution]** until such time as the Institution receives accreditation from an Accrediting Agency or the Department determines that the Institution may advance to the next status level of Full Approval.

6.2.6 Reporting and Renewal

6.2.6.1 After the initial approval, renewal approval for Institutions with Provisional Approval **[shall be may be renewed]** contingent upon submission of an Application Form, new and updated accreditations, a current course catalog and appropriate fees. The Institution shall submit a progress report six months prior to the expiration of its Provisional Approval. The Application Form to request renewal will accompany the progress report.

6.2.6.1.1 An Institution requesting renewal that is not accredited by an Accrediting Agency shall submit a written description of its progress towards accreditation.

6.2.6.1.2 The Department or the evaluation committee may make an on site visit to the Institution in order to verify the contents of the report and evaluate progress to date.

6.2.6.1.3 The Department or evaluation committee shall make recommendations for any changes necessary to the information submitted that are required for consideration for Full Approval.

6.2.6.1.4 Upon approval, the Department shall issue a memorandum indicating that the Institution has been granted a status of Provisional Approval for a renewal term of up to three years.

6.2.6.1.5 The Institution shall submit an updated Agent **[application identification and license request]** and appropriate fees as part of its renewal request.

6.2.6.1.6 The Institution shall keep the Department informed of any changes since its most recent approval, including **[changes in its accreditation,]** the names and addresses of those responsible for directing Programs from the parent campus[,], and the locations of all sites in Delaware where instruction is offered.

6.2.7 Advancement to Full Approval

6.2.7.1 The **[Institute Institution]** may request to advance to the next level of approval six months prior to the expiration of its current Provisional Approval term in its progress report or upon receipt of accreditation. At that time, the **[Institute Institution]** shall also submit an Application Form, with required documents, indicating a request to advance to Full Approval status.

6.2.7.2 The application and supporting material shall be reviewed by the Department or an evaluation team selected by the Department. If the Department determines that, based on all the facts gained, the Institution appears to meet, or shows promise of meeting, a significant portion of the standards as stated in this regulation, the Institution shall be advanced to the next level of approval status: Full Approval. The Department shall issue a memorandum indicating that the Institution has been granted a status of Full Approval.

6.2.7.3 Those Institutions required to remain on Provisional Approval status shall be informed of the changes and improvements necessary to be eligible for Full Approval status. There is no guarantee that a Provisional Approval Institution will be given Full Approval.

6.2.7.4 If a[n Institution with] Provisional Approval **[Institution status]** does not receive Full Approval within four years after the first graduating class, the Department may withdraw all approval and inform the ~~Corporation Division of Delaware~~ **Delaware Division of Corporations** that the Institution is no longer authorized to confer Degrees. **[The Institution shall also notify students in writing of the revocation of Degree Granting Authority as noted in subsection 6.1.6.4]**

6.2.8 Termination

6.2.8.1 The following are grounds for termination of **[Provisional Approval]** status:

6.2.8.1.1 The Institution does not continue to meet the requirements of this regulation or is not making satisfactory progress towards the next level of recognition; or

6.2.8.1.2 The Institution fails to file a progress report; or

6.2.8.1.3 The Institution fails to keep the Department informed of changes; or

6.2.8.1.4 The Institution fails to request annual renewal of **[their its]** status or request timely advancement to next status level; or

6.2.8.1.5 The Institution fails to submit payment of appropriate fees.

6.2.8.2 If the Institution's approval status is terminated, the approval status will automatically expire one year after approval. If an Institution's approval **[status]** expires, the Institution shall be required to begin the application process from the beginning.

6.3 Full Approval

6.3.1 Full approval is the third level of approval granted by the Department.

6.3.2 If the Department determines that, based on all the facts gained, the Institution appears to meet, or shows promise of meeting, a significant portion of the standards as stated in this regulation, the Institution shall be granted Full Approval status. The Department shall issue a memorandum indicating that the Institution has been granted this level of approval.

6.3.3 An Institution receiving Full Approval may incorporate under 8 Del.C. §125 with the right to confer Degrees. If the Institution has previously incorporated without the right to confer Degrees, the Institution **[may shall]** amend ~~their charter~~ **its certificate of incorporation in accordance with 8 Del.C. §125** to include the Degree Granting Authority **[privilege]**. The Institution shall retain this status until after the first class has been graduated.

6.3.4 Full Approval status may be valid for up to five years. If the Department determines that the Institution continues to meet the requirements of this regulation, Full Approval status may be extended every five years.

6.3.5 Reporting and Renewal

6.3.5.1 The Institution shall submit an Application Form with accompanying documents to request Renewal no later than six months prior to the expiration of its Full Approval status.

6.3.5.1.1 The Department or the evaluation committee may make an on site visit to the Institution in order to verify the contents of the report and evaluate progress to date.

6.3.5.2 The Institution shall submit an updated Agent **[application identification and license request]** and appropriate fees as part of its renewal request.

6.3.5.3 All Institutions shall keep the Department informed of any changes since its most recent approval, including **[changes in its accreditation,]** the names and addresses of those responsible for directing Programs from the parent campus[,] and the locations of all sites in Delaware where instruction is offered.

6.3.6 Termination

6.3.6.1 The following are grounds for termination of **[Full Approval]** status:

6.3.6.1.1 The Institution fails to continue to meet the requirements of this regulation; or

6.3.6.1.2 The Institution fails to file a progress report; or

6.3.6.1.3 The Institution fails to keep the Department informed of changes; or

6.3.6.1.4 The Institution fails to request annual renewal of **[their its]** status; or

6.3.6.1.5 The Institution fails to submit payment of appropriate fees.

6.3.6.2 If the Institution's approval status is terminated, the approval status will automatically expire one year after approval. If an Institution's approval **[status]** expires, the Institution shall be required to begin the application process from the beginning and submit a new Application Form.

6.4 Operating License

6.4.1 Institutions not incorporated in Delaware may be granted an Operating License to offer courses, Programs of courses or Degrees to residents of Delaware.

6.4.2 If the Department determines that, based on all the facts gained, the Institution appears to meet, or shows promise of meeting, a significant portion of the standards as stated in this regulation, the Institution shall be granted an Operating License. The Department will issue a memorandum indicating that the Institution has been granted an Operating License.

6.4.3 The term of an Operating License is for up to five years.

6.4.4 Renewal

6.4.4.1 The Institution shall submit an Application Form with accompanying documents to request renewal no later than six months prior to the expiration of its Operating License.

6.4.4.1.1 The Department or the evaluation committee may make an on site visit to the Institution in order to verify the contents of the report and evaluate progress to date.

6.4.4.2 The Institution shall submit an updated Agent **[application identification and license request]** and appropriate fees as part of its renewal request.

6.4.4.3 All Institutions shall keep the Department informed of any changes since its most recent approval, including **[changes in its accreditation,]** the names and addresses of those responsible for directing the Programs from the parent campus, and the locations of all sites in Delaware where instruction is offered.

6.4.5 Termination

6.4.5.1 The following are grounds for termination of an Operating License:

6.4.5.1.1 The Institution fails to continue to meet the requirements of this regulation; or

6.4.5.1.2 The Institution fails to make adequate progress towards Accreditation; or

6.4.5.1.3 The Institution fails to keep the Department informed of changes in a timely way; or

6.4.5.1.4 The Institution fails to request timely renewal of **[their its]** status; or

6.4.5.1.5 The Institution fails to submit payment of appropriate fees.

6.4.5.2 If the Institution's approval status is terminated, the approval status will automatically expire one year after approval. If an Institution's approval **[status]** expires, the Institution shall be required to begin the application process from the beginning and submit a new Application Form.

7.0 Violations of the Law Agents

Violations of the law and regulations relating to Institutions as herein described shall be referred to the Attorney General of the State of Delaware for any action or permitted or required by law.

7.1 The Institution shall submit the appropriate Agent **[application identification and license]** identifying the Agent(s), and their respective corporate affiliations, who will represent the Institution when contacting individuals within the state of Delaware for the purpose of soliciting enrollment in the Institution.

7.2 Each individual identified in the Institution's application as an Agent may be granted a license to represent the Institution.

7.3 The Institution shall submit the appropriate Agent fee.

8.0 ~~Additional Procedures for Approval of Institutions Located in Other States or Territories and Not Offering Programs in State Denial and Right to Hearing~~

~~8.1 Pursuant to 8 Del.C. §125, all institutions including those located outside of Delaware, and not offering programs in state, shall not incorporate in Delaware with the power to confer degrees without Department approval. Prior to incorporating in Delaware with the power to confer degrees, an institution shall obtain approval from the Department pursuant to this regulation. A corporation shall provide documentation of official Department approval with any certificate of incorporation filled with the Secretary of State that includes the power to confer academic or honorary degrees.~~

~~8.1.1 With respect to these requests for incorporation, the Department recognizes the following: 1) the interest of each state and territory of the United States to grant the authority to award degrees to institutions located~~

within that state or territory; 2) the legitimate request of private colleges and universities located outside of Delaware to make a business decision to incorporate in the State; and 3) the Department's own right, pursuant to Section 125, to set reasonable limitations to ensure the quality of education offered by such institutions of higher education incorporated in Delaware.

~~8.1.2 The requirements of this regulation shall be the minimum criteria necessary to obtain Department approval. As a matter of comity, the Department shall not approve the incorporation of colleges, universities or other institutions offering credit bearing courses, that have a primary site of operation in another state and do not operate in Delaware, unless the institution already is approved by the state degree granting authority of the state in which it is located, or, in states without a degree granting authority, is accredited by a nationally or regionally recognized Accrediting Agency or association approved by the United States Department of Education. The Secretary may within his or her discretion grant approval of the out of state institution based on the accreditation of a Nationally or Regionally Recognized Accrediting Association if after reviewing the complete application, the Secretary determines that the accreditation meets the minimum standards required in Delaware.~~

8.1 When an application is denied, the Department shall give written notice to the applicant of the denial and the reasons for the denial. The notice of denial shall be sent by certified mail and shall give notice that a full and fair hearing may be requested before the Secretary within twenty (20) calendar days. The appeal before the Secretary shall be based on documentation submitted to the Department by the Institution during the application process. No additional documentation will be considered by the Secretary.

8.2 Hearings shall be conducted in accordance with the Department's Hearing Procedures and Rules.

9.0 Notification

~~The Department shall inform the Presidents of Delaware's public and private institutions of higher education of institutions that have applied to offer programs in the state. This notification shall take place after the applicant institution has completed the initial application and after the Department has reviewed the application, but before an on site visit to the institution has been made.~~

The Department shall publish a list of all Institutions that have been approved and awarded Degree Granting Authority or an Operating License by the Department.

10.0 Additional of Programs After Initial ~~a~~Approval for Institutions whose Degree Granting Authority Originates from Delaware

~~Institutions shall request approval for programs to be added after the initial approval has been granted.~~

~~10.1 An institution shall submit a request for approval of additional program(s) on a Department form with supporting information and documentation as requested.~~

~~10.2 The Department shall review the additional programs based on the information previously submitted by the institution and the mission of the institution.~~

~~10.3 The Department shall determine if the additional program(s) meets the requirements of this regulation.~~

~~10.4 The additional program(s) may be granted provisional approval for a period of 1 to 3 years or to the date of the next institutional review if the time period is less than 1 to 3 years.~~

10.1 An Institution that received its initial Degree Granting Authority from Delaware shall request approval for new Program(s) to be added after initial approval has been granted.

10.2 An Institution shall submit a request for approval of additional Program(s) on the appropriate Department form with supporting information and documentation as requested.

10.3 The Department shall review the additional Program(s) based on the information submitted by the Institution and the mission of the Institution.

10.4 The Department shall determine if the additional Program(s) meets the requirements of this regulation.

10.5 The additional Program(s) may be granted provisional approval [under this section] for a period of 1 to 3 years or to the date of the next Institutional review if the time period is less than 1 to 3 years.

10.6 The Institution shall submit the appropriate fees with its request for new Program(s).

[10.7 The Institution shall notify students individually, in writing, if approval for new Program(s) is revoked at any time.]

11.0 Annual Report

~~Institutions shall file Annual Reports as prescribed by the Higher Education Commission.~~

11.0 Fees and Costs

- 11.1 Institutions applying for Degree Granting Authority are responsible for the following fees:
- 11.1.1 The initial application fee is \$250.00;
- 11.1.2 Institutions that have a designation of Recognized Applicant **[status]** or Provisional Approval **[status]** shall pay an annual fee of \$250.00 until the Institution achieves Full Approval status. Once Full Approval status **[or extension thereof]** is achieved[,] the Institution **[is subject to shall pay]** a fee of \$1000.00 **[authorizing for]** the Institution to have Degree Granting Authority **[for up to five years]**.
- 11.2 A Program application fee of \$250.00 per Program shall be required per out of state Institution for Program(s) added after initial approval.
- 11.3 Institutions applying for an Operating License are responsible for the following fees:
- 11.3.1 The Initial application fee is \$250.00;
- 11.3.2 Upon approval for **[or renewal of]** an Operating License, the Institution shall pay an Operating License fee of \$1000.00 **[valid for up to five years]**.
- 11.4 An Institution represented by an Agent(s) must pay an annual Agent fee of \$50.00.
- 11.5 Institutions of Higher Education that are members of a reciprocal agreement of which Delaware is a member will abide by the requirements for fees as set forth by Delaware.
- 11.6 All fees are non-refundable.
- 11.7 Any and all costs incidental to the evaluation and approval of a Program **[or of eC]course[s]**, except the salary of personnel from publicly supported education Institutions in Delaware, shall be the responsibility of the applicant Institution.

12.0 Disposition of Student Records

Prior to discontinuing operation or upon dissolution, all Institutions shall comply with the requirements of 14 Del.C. §8530.

13.0 Violations of the Law

Violations of the law and regulations relating to Institutions as herein described shall be referred to the Attorney General of the State of Delaware for any action **[or]** permitted or required by law.

5 DE Reg. 859 (10/01/01)

10 DE Reg. 850 (11/01/06)

19 DE Reg. 1078 (06/01/16) (Final)