

**DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Sections 121(a)(16) and 122(b)(8) and 8 Delaware Code,
Section 125 (14 **Del.C.** §§121(a)(16) & 122(b)(8) & 8 **Del.C.** §125)
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

Pursuant to 14 **Del.C.** §§121(a)(16) and 122(b)(8), and 8 **Del.C.** §125, the Department of Education ("Department") proposes amendments to 14 **DE Admin. Code** 292 Post-Secondary Institutions and Degree Granting Institutions of Higher Education subject to the State Board of Education's approval. This regulation concerns the requirements for post-secondary institutions incorporated in Delaware to obtain and maintain the Department's approval to confer degrees. In addition, this regulation concerns the requirements for post-secondary institutions that are not incorporated in Delaware or established under Delaware law to obtain and maintain the Department's approval to offer courses, programs, and degrees in Delaware or to Delaware residents. On April 1, 2019, amendments that clarified the requirements for post-secondary institutions to obtain and maintain the Department's approval were published. Thereafter, the Department decided to remove references to application and site visit fees. Such change is substantive under 29 **Del.C.** §10118(c). Therefore, the Department repropose amendments to 14 **DE Admin. Code** 292 subject to the State Board of Education's approval. The amendments in this regulation include the amendments that were initially published on April 1, 2019 without references to application and site visit fees. Additional amendments being proposed in this version of the regulation include removing language regarding incorporation that the Department does not oversee and making various changes in order to clarify the regulation.

Notice of the proposed regulation was published in the *Register of Regulations* on January 1, 2020. In addition, notice was published in *The News Journal* and the *Delaware State News* on January 1, 2020, in the form hereto attached as Exhibit "A".

The Department received one written submittal from Jim D. Wilson, Ed.D., Vice President for Academic Affairs, Wilmington University.

Wilmington University requested clarification regarding the time required for the Department to conduct a review. The regulation does not propose a timeframe for review; however, the Department strives to review applications in a timely manner. The timeframe for a review is dependent on the responsiveness of an institution and submission of all required materials.

Wilmington University also requested clarification regarding the process and criteria used to review and approve new programs. The same process and criteria are used to approve institutions as for new programs. The process and criteria for approving new programs are addressed in Section 4.0 and subsection 5.6.4 of the proposed regulation.

In addition, Wilmington University commented that it was "very concerned about the level of detailed information being sought including a needs assessment, full curriculum, course syllabi, faculty data, and a detailed five-year budget" and the proposed regulation reduces the flexibility of decision making at the post-secondary institution level. In order for institutions to have the power to confer degrees, the institution is required, by statute, to be approved by the Department. The level of detail and information required by the Department is important to ensure that an institution is a bona fide institution of higher learning and that it has the resources, including personnel, requisite for the conduct of an institution of higher learning per 8 **Del.C.** §125.

Wilmington University commented that many of its programs hold specialized accreditations and designations and "have been reviewed by colleagues from across the nation in the appropriate academic discipline. The language in the proposed regulations is not clear regarding whether those programs will be subject to the same review as those without specialized accreditation." The requirement in subsection 5.6.1 of the proposed regulation that an IHE request approval for new programs and degrees after initial approval has been granted and before renewal is required is existing language in Section 11.0 of the current regulation. Because an accrediting body's criteria for accreditation may be different than the Department's criteria for approval, the Department conducts its own review of all new programs and degrees, including taking into consideration whether a program or degree has received accreditation. Wilmington University further commented that the Department could accept Middle State Commission on Higher Education accreditation "as a basis for an exemption from a potentially burdensome program review process." Even if an institution is accredited by Middle States Commission on Higher Education, it must still meet the Department's criteria for approving an institution to confer degrees because the criteria for accreditation is different. The requirement in subsection 4.1.9 of the proposed regulation that an institution earn accreditation is only one criterion for the Department's approval to confer degrees. It is not a change from

existing language in subsection 5.4 of the current regulation.

Wilmington University commented that it appears that University of Delaware, Delaware State University, and Delaware Technical Community College "will not be subject to the process and criteria for new program review and approval described in the [proposed regulation.]" With the exception of educator preparation programs (14 **Del.C.** §1280(a)), the Department does not have statutory authority over institutions of higher education that are established by law. University of Delaware (14 **Del.C.** Part II), Delaware State University (14 **Del.C.** Part III), and Delaware Technical Community College (14 **Del.C.** Part VI) are created by statute.

II. FINDINGS OF FACTS

The Department finds further changes in response to Wilmington University's written submittal are not necessary. The Department finds that it is appropriate to amend 14 **DE Admin. Code** 292 Post-Secondary Institutions and Degree Granting Institutions of Higher Education.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 292 Post-Secondary Institutions and Degree Granting Institutions of Higher Education subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§121(a)(16) and 122(b)(8), and 8 **Del.C.** §125, 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 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 20th day of February 2020.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 20th day of February 2020

State Board of Education

Whitney Townsend Sweeney, President

Audrey J. Noble, Ph.D., Vice President (absent)

Candace Fifer

Vincent Lofink (not voting, due to conflict)

Nina Lou Bunting

Wali W. Rushdan, II

Provey Powell, Jr.

~~292 Post-Secondary Institutions and Degree Granting Institutions of Higher Education~~

~~4.0 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 Nationally Recognized, 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 within Delaware 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 criteria 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 offer programs and degrees or to confer degrees. For the purpose of this regulation, Post Secondary Institutions and Institutions of Higher Education shall have the same meaning.~~

~~“Nationally Recognized 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 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(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 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.~~

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

~~21 DE Reg. 208 (09/01/17)~~

~~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)(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. Ch. 85, and to the Institutions specified in 14 Del.C. Parts II, III, and VI.~~

~~2.3 The requirements and approval process for educator preparation programs for all Institutions is set forth in 14 DE Admin. Code 290 Approval of Educator Preparation Programs.~~

~~2.4 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.~~

~~2.4.1 With respect to these requests for incorporation, the Department recognizes the following:~~

- 2.4.1.1 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;
 - 2.4.1.2 The legitimate request of private colleges and universities located outside of Delaware to make a business decision to incorporate in the State; and
 - 2.4.1.3 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.
- 2.4.2 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.

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

21 DE Reg. 208 (09/01/17)

3.0 Classification of Institutions applying for Authorization

- 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 subsection 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 subsection 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 in subsection 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 subsection 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.

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

21 DE Reg. 208 (09/01/17)

4.0 Application Forms

- 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.

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

5.0 Criteria for Department Approval

- 5.1 ~~All Institutions shall meet all of following criteria: The Institution shall have a clearly defined mission with goals and objectives that are consistent with the purposes of higher education and related to the courses, program of courses, and degrees the Institution proposes to offer or has received Department approval to offer in Delaware.~~
- 5.2 ~~The Institution shall be financially sound.~~
 - 5.2.1 ~~The Institution shall have adequate financial resources to show that the Institution possesses sufficient liquid assets to timely provide refunds and pay expenses and to maintain continuity of operation.~~
 - 5.2.1.1 ~~The adequacy of an Institution's financial resources shall be judged in relation to the Institution's mission, the scope of its programs, and the number of anticipated or current students.~~
 - 5.2.1.2 ~~For Institutions applying for initial approval, evidence of sufficient liquid assets may be in cash or other assets that may be readily converted into cash to buy goods and services or to satisfy obligations in an amount equal to start-up costs, expenses, and projected tuition income for the first term of enrollment.~~
 - 5.2.2 ~~The Institution shall maintain adequate financial records and exercise proper management, financial controls, and business practices.~~
 - 5.2.2.1 ~~The Institution shall submit financial statements that are prepared by an independent, certified public accountant that contain the Institution's:~~
 - 5.2.2.1.1 ~~sources of income;~~
 - 5.2.2.1.2 ~~categories of expenditure;~~
 - 5.2.2.1.3 ~~profit or nonprofit status;~~
 - 5.2.2.1.4 ~~nature and amount of indebtedness, if any;~~
 - 5.2.2.1.5 ~~how indebtedness was incurred;~~
 - 5.2.2.1.6 ~~a provision for amortization; and~~
 - 5.2.2.1.7 ~~a five-year financial projection.~~
 - 5.2.2.2 ~~The Institution shall provide a copy of any audited financial statement that it was required to submit to the United States Department of Education.~~
 - 5.2.2.3 ~~The Institution shall adopt standards for accounting and financial reporting that adhere to the widely accepted standards published by the National Association of College and University Business Officers (NACUBO). The standards shall account for federal and state monies, as well as other sources of income and expenditures.~~
 - 5.2.2.4 ~~The Institution's business and financial management shall be under the direction of a qualified and bonded business officer charged with the preparation and supervision of the budget in accordance with sound financial and educational practices.~~
 - 5.2.3 ~~The Institution shall have insurance in an amount sufficient to maintain the Institution's solvency in case of loss by fire or other causes, to protect the Institution in liability matters, and to assure the Institution's continuity of operation.~~
- 5.3 ~~The Institution shall provide a surety bond to the Secretary of the Delaware Department of State for the protection of the contractual rights of students that is issued by a company authorized to do business in the State.~~
 - 5.3.1 ~~The amount of the surety bond shall be an amount adequate to provide refunds to students for tuition and fees but not less than \$300,000 for associate-degree granting Institutions and \$500,000 for baccalaureate and post-baccalaureate-degree granting Institutions.~~
- 5.4 ~~The Institution shall be seeking accreditation or shall be accredited as follows:~~
 - 5.4.1 ~~An Institution that is applying for Degree-Granting Authority from Delaware shall gain applicant or candidate for accreditation status and, ultimately, accreditation from an Accrediting Agency.~~
 - 5.4.1.1 ~~The Accrediting Agency must be appropriate to the Institution's mission, goals, and objectives.~~
 - 5.4.1.2 ~~The Institution must meet the Accrediting Agency's requirements within a reasonable period of time as determined by the Department.~~
 - 5.4.2 ~~An Institution that has Full Approval status from Delaware shall hold accreditation from an Accrediting Agency that is appropriate to the Institution's mission, goals, and objectives.~~
 - 5.4.3 ~~An Institution that has Degree-Granting Authority from another state shall be seeking accreditation or be accredited by a Regional Accrediting Agency.~~

- 5.5 The Institution's organizational pattern shall be related to its stated goals and the Institution shall operate under an administrative structure that effectively accomplishes the Institution's stated objectives.
- 5.6 The Institution shall provide appropriate student services.
- 5.7 The Institution shall admit, retain, and graduate only those students who meet quantitatively and qualitatively creditable standards of achievement appropriate to the Institution.
- 5.8 The Institution shall maintain a credentialed faculty, a program of instruction, facilities, and resources that are regularly evaluated and are adequate to the attainment of educational quality and satisfactory realization of the Institution's mission and goals.
- 5.9 The Institution shall ensure that students have access to sufficient learning resources, including a library with a collection, staff, services, equipment, and facilities, that are appropriate to the Institution's missions, goals, and objectives.
- 5.10 The Institution shall publish a catalog that gives an accurate description of the Institution's policies, degree requirements, and program and course descriptions and is provided to each student prior to enrollment.
- 5.11 The Institution shall comply with all federal, state, and local laws and regulations.

21 DE Reg. 208 (09/01/17)

6.0 Application Process and Review

- 6.1 An Institution shall begin the approval process by completing and submitting an Application Form, in both hard and electronic copy, and all required documentation.
- 6.2 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. The Department may also require an on-site visit.
- 6.3 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.
- 6.4 Institutions not incorporating in Delaware may be granted an Operating License or the Department may deny the application.

19 DE Reg. 1078 (06/01/16)
21 DE Reg. 208 (09/01/17)

7.0 Levels of Approval and Institution Requirements

- 7.1 Recognized Applicant
 - 7.1.1 Recognized Applicant is the initial level of approval granted by the Department. An Institution with Recognized Applicant status may offer the Programs and Degrees specified in the memorandum under subsection 7.1.4.4 and may incorporate in Delaware but shall not have the power to confer Degrees under ~~8 Del.C. §125~~.
 - 7.1.2 If the Department determines that, based on all the information provided, the Institution appears to meet, or shows promise of meeting, a significant portion of the criteria 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.
 - 7.1.3 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.
 - 7.1.4 Reporting and Renewal
 - 7.1.4.1 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. An Application Form to request renewal must accompany the progress report along with appropriate fees.
 - 7.1.4.2 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.
 - 7.1.4.3 The Department or evaluation committee shall make recommendations for any changes necessary to the information submitted that are required for consideration for Provisional Approval.
 - 7.1.4.4 Upon approval, the Department shall issue a memorandum indicating that the Institution has been granted a status of Recognized Applicant for one year.
 - 7.1.4.5 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.

7.1.4.6 The Institution shall submit updated Agent identification and license information and appropriate fees as part of its renewal request.

7.1.5 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.

7.1.6 Student Notification

7.1.6.1 The Institution shall notify students individually, in writing, upon application and admission, that it does not have Degree Granting Authority.

7.1.6.2 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 status is achieved.

7.1.6.3 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 status is achieved.

7.1.6.4 The Institution shall notify students individually, in writing, if the Institution's Recognized Applicant status is terminated or its Degree Granting Authority is revoked at any time.

7.1.7 Advancement to Provisional Approval

7.1.7.1 The 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 Institution shall also submit an Application Form indicating a request to advance to the next level of approval status.

7.1.7.2 The Application Form and supporting material submitted by the Institution shall be reviewed by the Department or an evaluation team selected by the Department and a determination shall be made as specified in subsection 7.2.2 of this regulation.

7.1.7.3 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 status.

7.1.8 Termination

7.1.8.1 The following are grounds for termination of Recognized Applicant approval status:

7.1.8.1.1 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

7.1.8.1.2 The Institution fails to file a progress report; or

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

7.1.8.1.4 The Institution fails to request annual renewal of its status or request timely advancement to next status level; or

7.1.8.1.5 The Institution does not submit payment of appropriate fees.

7.1.8.2 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.

7.2 Provisional Approval

7.2.1 Provisional Approval is the second level of approval granted by the Department. An Institution with Provisional Approval status may offer the Programs and Degrees specified in the memorandum under subsections 7.1.7.2 and 7.2.2 and may incorporate in Delaware with the power to confer Degrees under 8 ~~Del.C.~~ §125.

7.2.1.1 In order to have the power to confer degrees:

7.2.1.1.1 An Institution that is not incorporated in Delaware shall file a certificate of incorporation with the Department's approval endorsed thereon as required by 8 ~~Del.C.~~ §125.

7.2.1.1.2 An Institution that is incorporated in Delaware shall file an amendment to its certificate of incorporation with the Department's approval endorsed thereon as required by 8 ~~Del.C.~~ §125.

- 7.2.2 If the Department determines that, based on all the information provided, the Institution appears to meet a significant portion of the criteria 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 a status of Provisional Approval.
- 7.2.3 The Institution shall retain Provisional Approval status until after the first class has been graduated.
- 7.2.4 Provisional Approval status may be valid for up to three years unless terminated in accordance with this regulation. 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 renewed.
- 7.2.5 Provisional Approval and its requirements must be met by the 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.
- 7.2.6 Reporting and Renewal
- 7.2.6.1 After the initial approval, renewal approval for Institutions with Provisional Approval status 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 status. The Application Form to request renewal must accompany the progress report.
- 7.2.6.1.1 An Institution requesting renewal that is not accredited by an Accrediting Agency shall submit a written description of its progress towards accreditation.
- 7.2.6.1.2 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.
- 7.2.6.1.3 The Department or evaluation committee shall make recommendations for any changes necessary to the information submitted that are required for consideration for Full Approval.
- 7.2.6.1.4 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.
- 7.2.6.1.5 The Institution shall submit an updated Agent identification and license request and appropriate fees as part of its renewal request.
- 7.2.6.1.6 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.
- 7.2.7 Advancement to Full Approval
- 7.2.7.1 The 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 Institution shall also submit an Application Form, with required documents, indicating a request to advance to Full Approval status.
- 7.2.7.2 The application and supporting material submitted by the Institution shall be reviewed by the Department or an evaluation team selected by the Department and a determination shall be made as specified in subsection 7.3.2 of this regulation.
- 7.2.7.3 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.
- 7.2.7.4 If an Institution with Provisional Approval status does not receive Full Approval within four years after the first graduating class, the Department may withdraw all approval and inform the 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 7.1.6.4.
- 7.2.8 Termination
- 7.2.8.1 The following are grounds for termination of Provisional Approval status:
- 7.2.8.1.1 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
- 7.2.8.1.2 The Institution fails to file a progress report; or
- 7.2.8.1.3 The Institution fails to keep the Department informed of changes; or
- 7.2.8.1.4 The Institution fails to request annual renewal of its status or request timely advancement to next status level; or

~~7.2.8.1.5 The Institution fails to submit payment of appropriate fees.~~

~~7.2.8.2 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.~~

~~7.2.8.3 The Institution shall notify students individually, in writing, if the Institution's Provisional Approval status is terminated or its Degree Granting Authority is revoked at any time.~~

7.3 Full Approval

~~7.3.1 Full approval is the third level of approval granted by the Department.~~

~~7.3.2 If the Department determines that, based on all the information provided, the Institution appears to meet a significant portion of the criteria 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.~~

~~7.3.3 An Institution receiving Full Approval status may incorporate with the power to confer Degrees under 8 Del.C. §125. If the Institution has previously incorporated in Delaware without the power to confer Degrees, the Institution shall file an amendment to its certificate of incorporation with the Department's approval endorsed thereon in accordance with 8 Del.C. §125 in order to have the power to confer degrees.~~

~~7.3.4 Full Approval status may be valid for up to five years unless terminated in accordance with this regulation. If the Department determines that the Institution continues to meet the requirements of this regulation, Full Approval status may be extended every five years.~~

7.3.5 Reporting and Renewal

~~7.3.5.1 The Institution shall submit an Application Form with accompanying documents to request renewal no later than six months prior to the expiration of its current Full Approval status.~~

~~7.3.5.1.1 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.~~

~~7.3.5.2 The Institution shall submit an updated Agent identification and license request and appropriate fees as part of its renewal request.~~

~~7.3.5.3 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.~~

7.3.6 Termination

~~7.3.6.1 The following are grounds for termination of Full Approval status:~~

~~7.3.6.1.1 The Institution fails to continue to meet the requirements of this regulation; or~~

~~7.3.6.1.2 The Institution fails to file a progress report; or~~

~~7.3.6.1.3 The Institution fails to keep the Department informed of changes; or~~

~~7.3.6.1.4 The Institution fails to request renewal of its status; or~~

~~7.3.6.1.5 The Institution fails to submit payment of appropriate fees.~~

~~7.3.6.2 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.~~

~~7.3.6.3 The Institution shall notify students individually, in writing, if the Institution's Full Approval status is terminated or its Degree Granting Authority is revoked at any time.~~

7.4 Operating License

~~7.4.1 Institutions not incorporated in Delaware may be granted an Operating License to offer courses, Programs of courses, or Degrees to residents of Delaware.~~

~~7.4.2 If the Department determines that, based on all the information provided, the Institution appears to meet a significant portion of the criteria 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.~~

~~7.4.3 The term of an Operating License is for up to five years unless terminated in accordance with this regulation.~~

7.4.4 Renewal

~~7.4.4.1 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.~~

7.4.4.1.1 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.

7.4.4.2 The Institution shall submit an updated Agent identification and license request and appropriate fees as part of its renewal request.

7.4.4.3 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.

7.4.5 Termination

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

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

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

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

7.4.5.1.4 The Institution fails to request timely renewal of its status; or

7.4.5.1.5 The Institution fails to submit payment of appropriate fees.

7.4.5.2 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.

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

21 DE Reg. 208 (09/01/17)

8.0 Agents

8.1 The Institution shall submit the appropriate Agent 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.

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

8.3 The Institution shall submit the appropriate Agent fee.

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

21 DE Reg. 208 (09/01/17)

9.0 Denial and Right to Hearing

9.1 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 or the Secretary's designee 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.

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

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

21 DE Reg. 208 (09/01/17)

10.0 Notification

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.

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

21 DE Reg. 208 (09/01/17)

11.0 Addition of Programs and Degrees After Initial Approval for Institutions whose Degree Granting Authority Originates from Delaware

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

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

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

- 11.4 The Department shall determine if the additional Program(s) and Degree(s) meets the requirements of this regulation.
- 11.5 The additional Program(s) and Degree(s) may be granted provisional approval under this section for a period of 1 to 3 years or to the date of the next Institution review if the time period is less than 1 to 3 years.
- 11.6 The Institution shall submit the appropriate fees with its request for new Program(s) and Degree(s).
- 11.7 The Institution shall notify students individually, in writing, if approval for any additional Program(s) or Degree(s) is revoked at any time.

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

~~21 DE Reg. 208 (09/01/17)~~

12.0 Fees and Costs

- 12.1 Institutions applying for Degree Granting Authority are responsible for the following fees:
 - 12.1.1 The initial application fee is \$250.00;
 - 12.1.2 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 shall pay a fee of \$1000.00 for the Institution to have Degree Granting Authority.
- 12.2 A Program application fee of \$250.00 per Program shall be required per out of state Institution for Program(s) added after initial approval.
- 12.3 Institutions applying for an Operating License are responsible for the following fees:
 - 12.3.1 The Initial application fee is \$250.00;
 - 12.3.2 Upon approval for or renewal of an Operating License, the Institution shall pay an Operating License fee of \$1000.00.
- 12.4 An Institution represented by an Agent(s) must pay an annual Agent fee of \$50.00.
- 12.5 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.
- 12.6 All fees are non-refundable.
- 12.7 Any and all costs incidental to the evaluation and approval of a Program of Courses, except the salary of personnel from publicly supported education Institutions in Delaware, shall be the responsibility of the applicant Institution.

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

~~21 DE Reg. 208 (09/01/17)~~

13.0 Disposition of Student Records

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

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

~~21 DE Reg. 208 (09/01/17)~~

14.0 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 permitted or required by law.~~

292 Post Secondary Institutions and Degree Granting Institutions of Higher Education

1.0 Applicability

- 1.1 Pursuant to 8 Del.C. §125 and 14 Del.C. §§121(a)(16) and 122(b)(8), no corporation or Institution other than those authorized in Title 14 of the Delaware Code shall without first having received approval from the Department:
 - 1.1.1 Incorporate in Delaware with the power to confer Degrees; or
 - 1.1.2 Offer courses, Programs of Courses, or Degrees in Delaware.
- 1.2 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. Ch. 85, and to the Institutions specified in 14 Del.C. Parts II, III, and VI.

- 1.3 A separate approval process is required for educator preparation programs. Institutions that seek to offer or are offering educator preparation programs shall follow the requirements set forth in 14 DE Admin. Code 290 Approval of Educator Preparation Programs.

2.0 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 nationally recognized, 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 who contacts persons within Delaware 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 an Institution of Higher Education.

“Degree” means, although 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 from the Department 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 as meeting state criteria for approval for such Institution.

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

“Institution of Higher Education” or **“Institution”** means a college, university or other Post Secondary Institution that offers courses, Programs of Courses, or Degrees. For the purpose of this regulation, Post Secondary Institutions and Institutions of Higher Education shall have the same meaning.

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

“Private Business and Trade Schools” means the same as in 14 Del.C. §8501(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 Applicant” means the initial level of Degree Granting Authority status granted by the Department.

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

“Seeking Accreditation” means that an Institution has achieved candidacy status or the equivalent standing from a regional Accrediting Agency or a nationally recognized Accrediting Agency.

“Surety Bond” means a written agreement between an Institution and a bond company that is secured by the Institution in an amount sufficient for the protection of the tuition and fees paid by enrolled students.

3.0 Classifications of Institutions

3.1 Degree Granting Authority

3.1.1 The Department provides three (3) classification statuses (Recognized Applicant, Provisional Approval, and Full Approval) for Institutions seeking Degree Granting Authority.

3.1.2 Institutions that seek Degree Granting Authority shall complete the application process in Section 5.0.

3.2 Operating License. Institutions that are not incorporated in Delaware, hold Degree Granting Authority from another state or jurisdiction within the United States and its territories, maintain accreditation from an Accrediting Agency, and wish to offer courses, Programs of Courses, or Degrees in Delaware shall complete the application process defined in Section 6.0.

4.0 Criteria for Approval

- 4.1 All Institutions shall meet the following criteria:
- 4.1.1 The Institution shall have a clearly defined mission with goals and objectives that are consistent with the purposes of higher education and related to the courses, Programs of Courses, or Degrees the Institution proposes to offer or has received Department approval to offer in Delaware.
 - 4.1.2 The Institution shall be financially sound and have adequate financial resources to show that the Institution possesses sufficient liquid assets to provide timely refunds, pay expenses, and maintain continuity of operation.
 - 4.1.2.1 The adequacy of an Institution's financial resources shall be judged in relation to the Institution's mission, the scope of its Programs, and the number of anticipated or current students.
 - 4.1.2.2 For Institutions applying for Recognized Applicant status, evidence of sufficient liquid assets may be in cash or other assets that may be readily converted into cash to buy goods and services or to satisfy obligations in an amount equal to start-up costs, expenses and projected tuition income for the first term of enrollment.
 - 4.1.3 The Institution shall maintain adequate financial records and exercise proper management, financial controls, and business practices.
 - 4.1.3.1 The Institution shall submit financial statements that are prepared by an independent, certified public accountant that contain the Institution's:
 - 4.1.3.1.1 Sources of income;
 - 4.1.3.1.2 Categories of expenditure;
 - 4.1.3.1.3 Profit or nonprofit status;
 - 4.1.3.1.4 Nature and amount of indebtedness (if any), including how indebtedness was incurred;
 - 4.1.3.1.5 Amortization schedule; and
 - 4.1.3.1.6 Five-year financial projection.
 - 4.1.3.2 The Institution shall provide a copy of any audited financial statement that it was required to submit to the United States Department of Education.
 - 4.1.4 The Institution shall present evidence demonstrating the educational need to establish operations, offer Degrees, Programs or Programs of Courses in question in the State.
 - 4.1.4.1 The Institution shall demonstrate that the proposed Degrees, Programs, or Programs of Courses for which the Institution is making application meet a critical and compelling need in the State.
 - 4.1.4.2 The Institution shall present data projecting market demand and the availability of openings in the job market to be served by the new Degrees, Programs, or Programs of Courses for which the Institution is making application.
 - 4.1.5 The Institution shall adopt standards for accounting and financial reporting that adhere to the widely accepted standards published by the National Association of College and University Business Officers (NACUBO). The standards shall account for federal and state monies, as well as other sources of income and expenditures.
 - 4.1.6 The Institution's business and financial management shall be under the direction of a qualified and bonded business officer charged with the preparation and supervision of the budget in accordance with sound financial and educational practices.
 - 4.1.7 The Institution shall have insurance in an amount sufficient to maintain the Institution's solvency in case of loss by fire or other causes, to protect the Institution in liability matters, and to assure the Institution's continuity of operation.
 - 4.1.8 In order to maintain approval the Institution shall maintain a Surety Bond or show proof of designated funds and assets sufficient to cover the tuition and fees paid by enrolled students in the event of sudden school closure. The Institution shall secure the transmission of all student materials as per Section 9.0.
 - 4.1.9 The Institution shall be Seeking Accreditation or shall be accredited as follows:
 - 4.1.9.1 An Institution shall gain applicant or candidate for accreditation status and, ultimately, accreditation from an Accrediting Agency.
 - 4.1.9.2 The Accrediting Agency must be appropriate to the Institution's mission, goals, and objectives.
 - 4.1.9.3 The Institution must meet the Accrediting Agency's requirements within a reasonable period of time as determined by the Department.
 - 4.1.10 The Institution's organizational pattern shall be related to its stated goals and the Institution shall operate under an administrative structure that effectively accomplishes the Institution's stated objectives.
 - 4.1.11 The Institution shall provide appropriate student services.

- 4.1.12 The Institution shall admit, retain, and graduate only those students who meet quantitatively and qualitatively creditable standards of achievement appropriate to the Institution.
- 4.1.13 The Institution shall maintain a credentialed faculty, a Program of instruction, facilities, and resources that are regularly evaluated and are adequate to the attainment of educational quality and satisfactory realization of the Institution's mission and goals.
- 4.1.14 The Institution shall ensure that students have access to sufficient learning resources, including a library with a collection, staff, services, equipment, and facilities that are appropriate to the Institution's mission, goals, and objectives.
- 4.1.15 The Institution shall publish a catalog that gives an accurate description of the Institution's policies, Degree requirements, and Program and course descriptions and is provided to each student prior to enrollment.
- 4.1.16 The Institution shall comply with all federal, state, and local laws and regulations.
- 4.1.17 If an Institution intends to offer Degrees, programs or program of courses that lead to professional licensure, the Institution shall demonstrate compliance with the appropriate state licensing agency (such as but not limited to the Division of Professional Regulation or the Department).
- 4.1.18 If an Institution provides or intends to provide online instruction, the Institution shall demonstrate compliance with the Interregional Guidelines for the Evaluation of Distance Education published by the Council of Regional Accrediting Commissions (C-RAC).

5.0 Application and Renewal Process for Degree Granting Authority from the Department

- 5.1 A corporation seeking approval to offer Degrees, Programs or Programs of Courses within Delaware shall comply with the Application Process as defined in this regulation.
- 5.2 Application Procedure for All Approval Levels
 - 5.2.1 An Institution shall begin the approval process by completing and submitting an Application Form and all required documentation either electronically or in hard copy to the Department.
 - 5.2.2 The Application Form and supporting documentation shall be reviewed by the Department or an evaluation team selected by the Department.
 - 5.2.3 As part of the review, the Department may require a meeting with the Board of Trustees or the administrative staff, or both, of the Institution.
 - 5.2.4 Institutions incorporating or already incorporated in Delaware may be granted one (1) of three (3) levels of approval of Degree Granting Authority: Recognized Applicant; Provisional Approval; or Full Approval; or the Department may deny the application.
- 5.3 Applying for and Renewal of Recognized Applicant Status
 - 5.3.1 Recognized Applicant Status. An Institution with Recognized Applicant status may offer the Programs and Degrees specified in the letter referenced in subsection 5.3.2 and may incorporate in Delaware but shall not have the power to confer Degrees under 8 Del.C. §125.
 - 5.3.2 Application for Recognized Applicant Status
 - 5.3.2.1 Institutions of Higher Education 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 and any additional information requested on the Application Form or by the Department. Institutions that hold accreditation from an Accrediting Agency can satisfy this requirement through a copy of the most recent accreditation approval and an authorized letter from the Accrediting Agency confirming that these criteria were evaluated and approved during the most recent review.
 - 5.3.2.2 If the Department determines that, based on all the documentation provided, the Institution appears to meet, or shows promise of meeting, a significant portion of the criteria in Section 4.0 of this regulation, the Institution may be granted Recognized Applicant status. The Department will issue a letter indicating that the Institution has been granted a status of Recognized Applicant.
 - 5.3.3 Renewal of Recognized Applicant Status
 - 5.3.3.1 Recognized Applicant status may be issued for one (1) year.
 - 5.3.3.2 Renewal of Recognized Applicant status is dependent upon the Institution demonstrating it continues to meet the requirements of this regulation and intends to seek accreditation from an Accrediting Agency.

5.3.3.3 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 renewed.

5.3.4 Required Reporting to Maintain Recognized Applicant Status. Once an Institution has been granted Recognized Applicant status, the Institution shall keep the Department informed of any changes since its most recent approval, including but not limited to 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.

5.3.5 Required Student Notification to Maintain Recognized Applicant Status

5.3.5.1 The Institution shall notify students individually, in writing, upon application and admission, that it does not have Degree Granting Authority.

5.3.5.2 The Institution shall notify students individually, in writing, near the end of the first school year of their approval period that it does not have Degree Granting Authority. The Institution shall provide such notification annually thereafter until Provisional Approval status is achieved.

5.3.5.3 The Institution shall notify students individually, in writing, if the Institution's Recognized Applicant status is terminated.

5.4 Applying for and Renewal of Provisional Approval Status

5.4.1 Provisional Approval Status

5.4.1.1 An Institution with Provisional Approval status may offer the Programs and Degrees specified in the letter under subsection 5.4.2.1 of this regulation and may confer Degrees under 8 **Del.C.** §125.

5.4.1.2 In order to have the power to confer Degrees:

5.4.1.2.1 An Institution that is not already incorporated in Delaware shall file a certificate of incorporation with the Delaware Secretary of State that provides the Institution with the power to confer Degrees and that has the Department's approval endorsed thereon as required by 8 **Del.C.** §125.

5.4.1.2.2 An Institution that is already incorporated in Delaware shall file an amendment to its certificate of incorporation with the Delaware Secretary of State that provides the Institution with the power to confer Degrees and that has the Department's approval endorsed thereon as required by 8 **Del.C.** §125.

5.4.2 Application for Provisional Approval Status

5.4.2.1 An Institution may request to advance to the next level of approval at the end of the first year of Recognized Applicant status and at the time that it submits a progress report, provided that it includes a notarized letter that the Institution has submitted or intends to submit the application for accreditation from an Accrediting Agency within 90 days of receiving Provisional Approval status.

5.4.2.2 The progress report shall include an update on progress toward meeting required standards and progress towards accreditation. It shall also include progress on approval for state licensing for all applicable programs.

5.4.2.3 If the Department determines that, based on all the information provided, the Institution appears to meet a significant portion of the criteria as stated in this regulation and continues to successfully address the Accrediting Agency's requirements towards Full Accreditation, the Institution may be granted Provisional Approval status. The Department will issue a letter indicating that the Institution has been granted a status of Provisional Approval.

5.4.2.4 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 an Institution with Recognized Applicant status will be granted either Provisional or Full Approval status.

5.4.3 Renewal of Provisional Approval Status

5.4.3.1 Initial awarding of Provisional Approval status is valid for one (1) year.

5.4.3.2 After the first year of Provisional Approval status, the Institution shall apply for renewal.

5.4.3.3 To apply for renewal, the Institution shall submit an Application Form, proof of application for accreditation status or new and updated accreditations, and a current course catalog. The Institution shall submit a progress report that shall include an update on progress toward meeting required standards and progress towards accreditation. It shall also include progress on approval for state licensing for all applicable programs. The progress report must be submitted six (6) months prior to the expiration of its Provisional Approval status. The Application Form to request renewal must accompany the progress report. 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, Provisional Approval status may be renewed for a three (3) year period.

5.4.3.3.1 The Department or the evaluation committee may make on-site visits to the Institution in order to verify the contents of the report and evaluate progress to date.

5.4.3.3.2 The Department or evaluation committee shall make recommendations for any changes necessary based on the progress report submitted that are required for consideration for Full Approval.

5.4.3.4 Provisional Approval and its requirements must be met by the Institution until such time as the Institution receives accreditation from an Accrediting Agency but for no more than six (6) years from the date of the first renewal.

5.4.3.4.1 Upon receipt of accreditation, an Institution may apply to advance to the next status level of Full Approval.

5.4.3.4.2 An Institution that fails to receive accreditation within six (6) years of the date of the first renewal shall have its Provisional Approval status terminated. The Department shall notify the Delaware Division of Corporations, in writing, that the Institution is no longer approved by the Department to confer Degrees. The Institution shall notify students in writing of the termination of Degree Granting Authority.

5.4.3.5 The Institution shall keep the Department informed of any changes since its most recent approval, including changes in its accreditation or state licensing approvals, 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.

5.5 Applying for and Renewal of Full Approval

5.5.1 Full Approval Status

5.5.1.1 An Institution receiving Provisional or Full Approval status may incorporate with the power to confer Degrees under 8 Del.C. §125. If the Institution has previously incorporated in Delaware without the power to confer Degrees, the Institution shall file an amendment to its certificate of incorporation with the Department's approval endorsed thereon in accordance with 8 Del.C. §125 in order to have the power to confer Degrees.

5.5.1.2 Full Approval status may be valid for up to five (5) years unless terminated in accordance with this regulation. If the Department determines that the Institution continues to meet the requirements of this regulation, Full Approval status may be extended every five (5) years.

5.5.2 Application for Full Approval Status

5.5.2.1 The Institution may request to advance to Full Approval status once accreditation has been awarded from an Accrediting Agency. At that time, the Institution shall also submit an Application Form, with required documents, indicating a request to advance to Full Approval status.

5.5.2.2 If the Department determines that, based on all the information provided, the Institution meets all standards stated in this regulation and accreditation status has been granted by an Accrediting Agency, the Institution may be granted Full Approval status. The Department will issue a memorandum indicating that the Institution has been granted this level of approval.

5.5.2.3 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 an Institution with Provisional Approval status will be given Full Approval.

5.5.3 Renewal of Full Approval Status

5.5.3.1 The Institution shall submit an Application Form with accompanying documents to request renewal no later than six (6) months prior to the expiration of its current Full Approval status.

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

5.5.3.3 Institutions shall keep the Department informed of any changes since its most recent approval, including changes in its accreditation, state licensing approvals, 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.

5.6 Approval of New Programs and Degrees

5.6.1 An Institution shall request approval for new Programs and Degrees after initial approval has been granted and before renewal is required.

- 5.6.2 An Institution shall submit a request for approval of new Programs and Degrees on the appropriate Department form with supporting information and documentation as requested by the Department.
- 5.6.3 The Department shall review the new Programs and Degrees based on the information submitted by the Institution.
- 5.6.4 The Department shall determine if the new Programs and Degrees meet the requirements set forth in Section 4.0 of this regulation.
- 5.6.5 The new Programs and Degrees may be granted provisional approval under this section for a period of up to three (3) years or to the date of the next Institution renewal, whichever comes first.
- 5.6.6 The Institution shall notify students individually, in writing, if approval for any new Programs or Degrees is revoked at any time for failure to meet the requirements as listed in Section 4.0.

6.0 Operating License

- 6.1 The requirements of this regulation shall be the minimum criteria necessary to obtain Department approval.
- 6.2 Application for an Operating License
 - 6.2.1 An Institution that meets the requirements of subsection 3.2.1 shall apply for an Operating License.
 - 6.2.2 If the Department determines that, based on all the information provided, the Institution appears to meet a significant portion of the criteria 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.
 - 6.2.3 An Operating License is valid for up to five (5) years unless terminated in accordance with this regulation.
- 6.3 Renewal of an Operating License
 - 6.3.1 The Institution shall submit an Application Form with accompanying documents to request renewal no later than six (6) months prior to the expiration of its Operating License.
 - 6.3.2 The Department or the evaluation committee may make an onsite visit to the Institution in order to verify the contents of the report and evaluate progress to date.
 - 6.3.3 The Institution shall submit the appropriate Agent identification and license identifying the Agent or Agents, 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.
 - 6.3.3.1 Each individual identified in the Institution's application as an Agent may be granted a license to represent the Institution.
 - 6.3.3.2 The Institution shall submit an updated Agent identification and license request as part of its renewal request.
 - 6.3.4 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.

7.0 Approval through reciprocity agreements

- 7.1 To receive the Department's approval under a reciprocity agreement of which Delaware is a member, Institutions of Higher Education must:
 - 7.1.1 Obtain and maintain Degree Granting Authority from Delaware; and
 - 7.1.2 Abide by the application process and requirements in accordance with the terms of the reciprocity agreement.
- 7.2 Institutions that no longer meet the terms of the reciprocity agreement shall apply for Degree Granting Authority or Operating License.

8.0 Termination

- 8.1 The following are grounds for termination of approval for Recognized Applicant, Provisional Approval, or Full Approval status and Operating License:
 - 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
 - 8.1.2 The Institution fails to file a progress report; or
 - 8.1.3 The Institution fails to keep the Department informed of changes; or
 - 8.1.4 The Institution fails to request renewal of its status in the required time frame or request timely advancement to next status level; or

8.1.5 The Institution fails to maintain state licensing requirements for applicable offerings. If the Institution offers Degrees, programs or programs of courses that do not lead to professional licensure, the Department may modify the degree-granting authority to include only those programs in compliance with the standards.

8.2 If the Institution's approval status is terminated, the approval status will expire immediately upon initial notification to the Institution by the Department. If an Institution's approval status expires, the Institution shall be required to begin the application process for Recognized Applicant status or an Operating License.

8.3 The Institution shall notify students individually, in writing, if the Institution's approval status is terminated or its Degree Granting Authority is revoked at any time.

8.4 Denial and Right to Hearing

8.4.1 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 of receipt of the notice. The appeal before the Secretary or the Secretary's designee 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.

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

9.0 Notification

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 Disposition of Student Records

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

11.0 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 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)

21 DE Reg. 208 (09/01/17)

23 DE Reg. 858 (04/01/20) (Final)