

Chapter 7. Degree Granting Colleges and Universities Other Than Texas Public Institutions

Subchapter A. General Provision

7.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Academic Associate Degree Program--A grouping of courses designed to transfer to an upper-level baccalaureate program. This specifically refers to the associate of arts and the associate of science degrees.
- (2) Accreditation--The status of public recognition that an accrediting agency grants to an educational institution.
- (3) Accrediting Agency--A legal entity that conducts accreditation activities through voluntary peer review and makes decisions concerning the accreditation status of institutions.
- (4) Agent--A person employed by or representing a post-secondary educational institution within or without Texas who:
 - (A) solicits any Texas student for enrollment in the institution;
 - (B) solicits or accepts payment from any Texas student for any service offered by the institution; or
 - (C) while having a physical presence in Texas, solicits students or accepts payment from students who do not reside in Texas.
- (5) Alternative Certificate of Authority--A type of certificate of authority for approval of postsecondary institutions, with operations in the state of Texas, to confer degrees or courses applicable to degrees, or to solicit students for enrollment in institutions that confer degrees or courses applicable to degrees that is governed by flexible, streamlined procedures, emphasizing the importance of innovation, consumer choice, and measurable outcomes in the delivery of educational services.
- (6) Applied Associate Degree Program--A grouping of courses designed to lead the individual directly to employment in a specific career and that includes at least fifteen (15) semester credit hours or twenty-three (23) quarter credit hours of general education courses. This specifically refers to the associate of applied arts and the associate of applied science degrees.
- (7) Associate Degree Program--A grouping of courses designed to lead the individual directly to employment in a specific career, or to transfer to an upper-level baccalaureate program. This specifically refers to the associate of arts, the associate of science, the associate of applied arts and the associate of applied science.

(8) Board--The Texas Higher Education Coordinating Board.

(9) Board Staff--The staff of the Texas Higher Education Coordinating Board including the Commissioner of Higher Education and all employees who report to the Commissioner.

(10) Career School or College--Any business enterprise operated for a profit, or on a nonprofit basis, that maintains a place of business in the State of Texas or solicits business within the State of Texas, and that is not specifically exempted by Texas Education Code Section 132.002 or Section 7.4 of this chapter (relating to Standards for Operations of Institutions), and:

(A) That offers or maintains a course or courses of instruction or study; or

(B) At which place of business such a course or courses of instruction or study is available through classroom instruction, by electronic media, by correspondence, or by some or all, to a person for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, or industrial occupation, or for career or personal improvement.

(11) Certificate of Approval--The Texas Workforce Commission's approval of career schools or colleges with operations in Texas to maintain, advertise, solicit for, or conduct any program of instruction in this state.

(12) Certificate of Authority--The Board's approval of postsecondary institutions, (other than exempt institutions) with operations in the state of Texas, to confer degrees or courses applicable to degrees, or to solicit students for enrollment in institutions that confer degrees or courses applicable to degrees.

(13) Certificate of Authorization--The Board's acknowledgment that an institution is qualified for an exemption from the regulations herein.

(14) Certification Advisory Council--

(A) Council to advise the Board on standards and procedures related to certification of private, nonexempt postsecondary educational institutions, and to assist the Commissioner in the examination of individual applications for certificates of authority, and to perform other duties related to certification that the Board finds to be appropriate.

(B) The council shall consist of six members with experience in higher education, three of whom must be drawn from exempt private postsecondary institutions in Texas.

(C) The members shall be appointed for two year fixed and staggered terms.

(15) Change of Ownership or Control--Any change in ownership or control of a career school or college or an agreement to transfer control of such institution.

(A) The ownership or control of a career school or college is considered to have changed:

(i) In the case of ownership by an individual, when more than fifty (50) percent of the institution has been sold or transferred;

(ii) In the case of ownership by a partnership or a corporation, when more than fifty (50) percent of the institution or of the owning partnership or corporation has been sold or transferred; or

(iii) When the board of directors, officers, shareholders, or similar governing body has been changed to such an extent as to significantly alter the management and control of the institution.

(B) A change of ownership or control does not include a transfer that occurs as a result of the retirement or death of the owner if transfer is to a member of the owner's family who has been directly and constantly involved in the management of the institution for a minimum of two years preceding the transfer. For the purposes of this section, a member of the owner's family is a parent, sibling, spouse, or child; spouse's parent or sibling; or sibling's or child's spouse.

(16) Cited--Any reference to an institution in a negative finding or action by an accrediting agency.

(17) Classification of Instructional Programs (CIP) Code--The four (4)- or six (6)-digit code assigned to an approved degree program in accordance with the CIP manual published by the U.S. Department of Education, National Center for Education Statistics. CIP codes define the authorized teaching field of the specified degree program, based upon the occupation(s) for which the program is designed to prepare its graduates.

(18) Commissioner--The Commissioner of Higher Education.

(19) Concurrent Instruction--Students enrolled in different classes, courses, and/or subjects being taught, monitored, or supervised simultaneously by a single faculty member.

(20) Conditional Certificate of Authorization--The Board's acknowledgement that an institution is qualified for an exemption, once certain specified conditions have been satisfied, from the regulations herein. This certificate will have a specific effective and expiration date determined by the nature of the conditions that must be satisfied. These conditions will be outlined in the certificate of authorization letter that accompanies the certificate.

(21) Degree--Any title or designation, mark, abbreviation, appellation, or series of letters or words, including "associate", "bachelor's", "master's", "doctor's" and their equivalents and foreign cognates, which signify, purport to signify, or are generally taken to signify satisfactory completion of the requirements of all or part of a program of study which is generally regarded and accepted as an academic degree-level program by accrediting agencies recognized by the Board.

(22) Educational or Training Establishment--An enterprise offering a course of instruction, education, or training that is not represented as being applicable to a degree.

(23) Exempt Institution--An institution that is accredited by an agency recognized by the Board under Section 7.6 of this chapter (relating to Recognition of Accrediting Agencies) or a career school or college that applies for and is declared exempt under this chapter, by the Texas Workforce Commission as described in Texas Education Code, Section 61.003(8), or Texas Education Code Chapter 132, respectively. Exempt institutions may still have to comply with certain Board rules.

(24) Fictitious Degree--A counterfeit or forged degree or a degree that has been revoked.

(25) Fraudulent or Substandard Degree--A degree conferred by a person who, at the time the degree was conferred, was:

(A) operating in this state in violation of this subchapter;

(B) not eligible to receive a certificate of authority under this subchapter and was operating in another state in violation of a law regulating the conferral of degrees in that state or in the state in which the degree recipient was residing or without accreditation by a recognized accrediting agency, if the degree is not approved through the review process described by Section 7.12 of this chapter (relating to Review and Use of Degrees from Institutions Not Eligible for Certificates of Authority); or

(C) not eligible to receive a certificate of authority under this subchapter and was operating outside the United States, and whose degree the Board, through the review process described by Section 7.12 of this chapter, determines is not the equivalent of an accredited or authorized degree.

(26) Occasional Courses--Courses offered not more than twice at any given location in the state.

(27) Out-of-State Public Postsecondary Institution--Any senior college, university, technical institute, junior or community college, or the equivalent which is controlled by a public body organized outside the boundaries of the State of Texas.

(28) Person--Any individual, firm, partnership, association, corporation, enterprise, or other private entity or any combination thereof.

(29) Postsecondary Educational Institution--An educational institution which:

(A) is not a public community college, public technical college, public senior college or university, medical or dental unit or other agency as defined in Texas Education Code Section 61.003;

(B) is incorporated under the laws of this state, or maintains a place of business in this state, or has an agent or representative present in this state, or solicits business in this state; and

(C) furnishes or offers to furnish courses of instruction in person, by electronic media, by correspondence, or by some means or all leading to a degree; provides or offers to provide

credits alleged to be applicable to a degree; or represents that credits earned or granted are collegiate in nature, including describing them as "college-level," or at the level of any protected academic term.

(30) Private Postsecondary Educational Institution--An institution which:

(A) is not an institution of higher education as defined by Texas Education Code Section 61.003;

B) is incorporated under the laws of this state, maintains a place of business in this state, has a representative presence in this state, or solicits business in this state; and

(C) furnishes or offers to furnish courses of instruction in person, by electronic media, or by correspondence leading to a degree or providing credits alleged to be applied to a degree.

(31) Program or Program of Study--Any course or grouping of courses which are represented as entitling a student to a degree or to credits applicable to a degree.

(32) Protected Term--The terms "college," "university," "school of medicine," "medical school," "health science center," "school of law," "law school," or "law center," its abbreviation, foreign cognate or equivalents.

(33) Recognized Accrediting Agency--Any accrediting agency the standards of accreditation or membership for which have been found by the Board to be sufficiently comprehensive and rigorous to qualify its institutional members for an exemption from the operation of this chapter.

(34) Representative--A person who acts on behalf of an institution regulated under this subchapter. The term includes, without limitation, recruiters, agents, tutors, counselors, business agents, instructors, and any other instructional or support personnel.

(35) Required State or National Licensure--The requirement for graduates of certain professional programs to obtain a license from state or national entities for entry-level practice.

(36) Substantive Change--Any change in principal location, ownership, or governance.

7.7 Institutions Accredited by Board Recognized Accreditors

An institution which does not meet the definition of institution of higher education contained in Texas Education Code Section 61.003, is accredited by a Board recognized accreditor, and is interested in offering degrees or courses leading to degrees in the State of Texas must follow the requirements in paragraphs (1)-(5) of this section.

(1) Authorization to Offer Degrees or Courses Leading to Degrees in Texas.

(A) Each institution and/or campus location must submit a letter of intent to offer degree(s) or courses leading to degrees in Texas containing the following information:

- (i) Name of the institution;
- (ii) Physical location of campus;
- (iii) Name and contact information of the Chief Administrative Officer of the campus;
- (iv) Name of accreditor;
- (v) Level of degree and degrees authorized by CIP code;
- (vi) Acknowledgement of substantive change notification and data reporting requirements contained in Section 7.11 of this chapter (relating to Changes of Ownership and Other Substantive Changes) and Section 7.13 of this chapter (relating to Data Reporting), respectively;
- (vii) Texas Workforce Commission Certificate of Approval or a Texas Workforce Commission exemption from Texas Education Code, Chapter 132.

(B) Coordinating Board staff will verify information and accreditation status and upon confirmation, will provide a Certificate of Authorization to offer in Texas those degrees or courses leading to degrees for which it is accredited.

(2) An institution that has requested a Certificate of Authorization but has not received final authorization from its accrediting agency may be granted a Conditional Certificate of Authorization. The Conditional Certificate of Authorization is an acknowledgment that the institution has qualified for an exemption from Board rules based on the main campus' accreditation and is authorized to offer degrees and courses that lead to a degree. The Conditional Certificate of Authorization will be authorized until such time as the institution is granted accreditation or for a period of one year, whichever occurs first. The conditions will be outlined in the Conditional Certificate of Authorization letter that will accompany the Conditional Certificate of Authorization. If accreditation has not been achieved by the expiration date the Conditional Certificate of Authorization will be withdrawn, the institution's authorization to offer degrees will be terminated, and the institution will be required to comply with the provisions of Section 7.8 of this title (relating to Institutions Not Accredited by a Board Recognized Accreditor).

(3) Grounds for Revocation of Certificate of Authorization

(A) Institution loses accreditation from Board recognized accreditor.

(B) Institution's Accreditor is removed from the U.S. Department of Education or the Coordinating Board's list of approved accreditors.

(C) Institution fails to comply with data reporting or substantive change notification requirements.

(D) Institution offers degrees for which it does not have accreditor approval.

(4) Process for Removal of Authorization.

(A) Commissioner notifies institution of grounds for revocation as outlined in paragraph (3) of this section.

(B) Upon receipt of the notice of revocation, the institution must cease granting or awarding degrees in Texas until it has either been granted a certificate of authority or alternate certificate of authority to grant degrees, or has received a determination that it did not lose its qualification for a certificate of authorization.

(C) Within ten (10) days of its receipt of the Commissioner's notice, the institution must respond and offer proof of its continued qualification for the exemption, or submit data as required by 7.13 of this chapter.

(D) After reviewing the evidence, the Commissioner will issue a notice of determination, which in the case of an adverse determination, shall contain information regarding the reasons for the denial, and the institution's right to a hearing.

(E) If a determination under this section is adverse to an institution, it shall become final and binding unless, within forty-five (45) days of its receipt of the adverse determination, the institution invokes the administrative remedies contained in Chapter 1, Subchapter B of this title (relating to Dispute Resolution).

(5) Closure of an Institution.

(A) The governing board, owner, or chief executive officer of an institution that plans to cease operation shall provide the Board with written notification of intent to close at least ninety (90) days prior to the planned closing date.

(B) If an institution closes unexpectedly, the governing board, owner, or chief executive officer of the school shall provide the Board with written notification immediately.

(C) If an institution closes or intends to close before all currently enrolled students have completed all requirements for graduation, the institution shall assure the continuity of students' education by entering into a teach-out agreement with another institution authorized by the Board to hold a Certificate of Authority, with an institution operating under a Certificate of Authorization, with a public two-year college, or with a public four-year university. The agreement shall be in writing, shall be subject to Board approval, shall contain provisions for student transfer, and shall specify the conditions for completion of degree requirements at the teach-out institution. The agreement shall also contain provisions for awarding degrees.

(D) The Certificate of Authorization for an institution is automatically withdrawn when the institution closes. The Commissioner may grant to an institution that has a degree-granting authority temporary approval to award a degree(s) in a program for which the institution does not have approval in order to facilitate a formal agreement as outlined under this section.

(E) The curriculum and delivery shall be appropriate to accommodate the remaining students.

(F) No new students shall be allowed to enter the transferred degree program unless the new entity seeks and receives permanent approval for the program(s) from the Board.

(G) The institution shall transfer all academic records pursuant to Section 7.5(d) of this chapter (relating to Administrative Penalties and Injunctions).

7.11 Changes of Ownership and Other Substantive Changes

(a) Change of Ownership or Control for Career Schools and Colleges. In the event of a change in ownership or control of a career school or college, the certificate of authority is automatically withdrawn unless the institution meets the requirements of this section.

(b) The Commissioner may authorize the institution to retain the certificate of authority during and after a change of ownership or control, provided that the institution notifies Board staff of the impending transfer in time for staff to receive, review, and approve the documents listed in paragraphs (1) - (3) of this subsection and provided that the following conditions are met:

(1) The institution must submit acceptable evidence that the new owner is complying with all Texas Workforce Commission requirements regarding the purchase or transfer of ownership of a career school or college;

(2) The institution must submit an acceptable written statement of assurance that the new owner understands and undertakes to fully comply with all applicable Board rules, regulations, and/or policies; and

(3) The institution must submit satisfactory evidence of financial ability to adequately support and conduct all approved programs. Documentation shall include but may not be limited to independently audited financial statements and auditor's reports.

(c) If the institution does not meet the conditions outlined under this section prior to completion of transfer of ownership or control and the institution loses its certificate of authority, the new owner(s) shall submit a new application for a certificate of authority as outlined under Section 7.8 of this chapter (relating to Institutions Not Accredited by a Board Recognized Accreditor).

(d) Any modification of an approved degree program that results from a change of ownership or control constitutes a program revision. Requests for approval of program revisions shall conform to the procedures and requirements contained in Section 7.8(11) of this chapter.

(e) If the ownership or control of a career school or college is transferred within, among, or between different subsidiaries, branches, divisions, or other components of a corporation and if said transfer in no way diminishes the career school or college's administrative capability or educational program quality, the Commissioner may permit the school to retain its certificate of authority during the transfer period. In such cases, the career school or college shall fully

comply with all provisions outlined in this section.