

## **PROPOSED RULES AMENDMENT PREAMBLE**

### **Brief explanation of proposed rule amendment**

The Texas Higher Education Coordinating Board proposes amendments to Chapter 7, Subchapter A, Sections 7.3- 7.8, , 7.10-7.12, , and 7.14 of Board rules concerning Degree Granting Colleges and Universities Other Than Texas Public Institutions. Generally, amendments within the revised sections standardize defined terms use, capitalization and punctuation throughout Chapter 7.

The amendments to Section 7.3 include revising the definition of an agent to exclude persons employed by or representing institutions that hold a Certificate of Authorization or Authority. A definition was added for the Certificate of Registration. Definitions were added to clarify experiential learning activities, such as internships, clinical site experiences and visiting student status. These added definitions will provide clearer direction to out-of-state institutions applying for certificates based on clinicals or internships. The Conditional Certificate of Authorization was changed to Provisional Certificate of Authorization and the definition refined to clarify applicability to institutions and maximum time periods. The substantive change definition was expanded to specifically include changes in accrediting agency or status with such accrediting agency, degree or credential levels or additions of programs, degrees or credentials offered. A definition was added for a single point of contact with whom the Board will communicate institutional changes or information. Institutions are required to provide changes in designation of the single point of contact to the Board. The amendments standardize defined terms use, capitalization and punctuation.

The amendments to Section 7.4 revise terminology to differentiate institutional assessment from program evaluation. The amendments to Section 7.4 standardize defined terms use, capitalization and punctuation.

The amendments to Section 7.5 explain circumstances when an institution may represent transferability of credit. Language regarding specific administrative penalties was also clarified. The amendments standardize defined terms use, capitalization and punctuation.

The amendments to Section 7.6 change recognized accrediting agencies reporting responsibilities from annually to upon notice of continued recognition by the U.S. Department of Education or upon change in recognition status, scope or level. The amendments standardize defined terms use, capitalization and punctuation.

The amendments to Section 7.7 provide more specific guidance to institutions qualifying for a Certificate of Authorization. The identity of the institution's single point of contact was added to the information to be provided in the application. Requirements for Certificates of Authorization based only on providing clinicals or internships in Texas are explained. The valid time periods for both Certificates of Authorization based on clinicals or internships and Provisional Certificates of Authorization were added. Cessation of course offerings upon revocation of a Certificate of Authorization was added. Language was added to define institutions allowed to enter into a teach-out agreement with an institution which is closing. The amendments standardize defined terms use, capitalization and punctuation.

The amendments to Section 7.8 added the identity of the institution's single point of contact to the information to be provided in the application. Cessation of course offerings upon revocation of a Certificate of Authority was also added. Requirements for Certificate of Registration agents' fees were removed from this section and added to Section 7.10. Language was added to define institutions allowed to enter into a teach-out agreement with an institution which is closing. Approval of additional degree programs for Alternative Certificates of Authority was clarified. The valid time period for an Alternative Certificate of Authority was specified. A waiting period was added for reapplication after denial of an application for an Alternative Certificate of Authority. The amendments standardize defined terms use, capitalization and punctuation.

The amendments to Section 7.10 reflect the definition change for agents. Fee requirements for Certificates of Registration for agents were added to this section. The amendments standardize defined terms use, capitalization and punctuation.

The amendments to Section 7.11 added Certificates of Authorization coverage. The expanded substantive change definition was included in the requirements for approvals of program revisions. Communication of ownership and other substantive changes through the person designated as the institution's single point of conduct was specified. The amendments standardize defined terms use, capitalization and punctuation.

The amendments to Section 7.12 include clearer procedures for review of degrees from institutions not eligible for Certificates of Authority. The amendments standardize defined terms use, capitalization and punctuation.

The amendments to Section 7.14 expand exemption of institutions offering distance education with no physical presence in Texas to institutions which have accreditation from an accrediting agency recognized by the Secretary of Education of the U.S. Department of Education. The section was reorganized to better explain application requirements if an institution's status changes. The amendments standardize defined terms use, capitalization and punctuation.

**Fiscal note and estimated cost to state and local government (or estimated reduction in costs to state and local government, and/or estimated loss of increase in revenue to state and local government)**

MacGregor M. Stephenson, Assistant Commissioner for Workforce, Academic Affairs and Research, has determined that for the first five years there will be no fiscal implications for state or local governments as a result of amending the rule listed above.

**Public benefit and local employment impact**

Dr. Stephenson has also determined that for the first five years the amendments are in effect, the public benefits anticipated as a result of administering the sections will be to streamline and clarify requirements on institutions for Certificates of Authority, Authorization and Registration and to improve staff efficiencies. There is no effect on small businesses. There are no anticipated economic cost differences to persons who are required to comply with the sections as proposed. There is no impact on local employment.

**Request for comments**

Comments on the proposed amendments may be submitted by mail to MacGregor M. Stephenson, Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas, 78711 or via email at [WAARcomments@thehb.state.tx.us](mailto:WAARcomments@thehb.state.tx.us). Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

**Statutory basis for amendment**

The amendments are proposed under the Texas Education Code, Chapter 61, Subchapters G and H, which provides the Coordinating Board with the authority to administer the laws regulating private and out-of-state public postsecondary institutions operating in Texas.

**Statutes, articles, codes affected by the proposed action**

The amendments affect the Texas Education Code, Chapter 61, Subchapters G and H.

**Certification of Review by Legal Counsel**

The Coordinating Board certifies that the proposed rules have been reviewed by legal counsel and found to be within the agency's authority to adopt.

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

### Subchapter A, General Provisions

- 7.1 Purpose
- 7.2 Authority
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- 7.9 Religious Institutions Offering Degrees in Religious Disciplines
- 7.10 Registration of Agents
- 7.11 Changes of Ownership and Other Substantive Changes
- 7.12 Review and Use of Degrees from Institutions Not Eligible for Certificates of Authority
- 7.13 Data Reporting
- 7.14 Distance Education Approval Processes for Degree Granting Colleges and Universities Other Than Texas Public Institutions RULE Section 7.1 Purpose

7.1 - 7.2 No changes.

#### 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 that does not have a Certificate of Authorization or Certificate of Authority, within or without Texas who:
  - (A) solicits any Texas student for enrollment in the institution (excluding the occasional participation in a college/career fair involving multiple institutions or other event similarly limited in scope in the state of Texas);
  - (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 [ertificate] of Authority [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 [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 in this subchapter.

(14) Certificate of Registration--The Board's approval of an agent to solicit students on behalf of a private postsecondary educational institution in the State of Texas.

(15)[(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 [certificates] of Authority [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.

(16) [(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.

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

(18) ~~[(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.

(19) ~~Clinical Internship--This learning method, also known as "clinicals," encompasses all site-specific health professions experiential learning. Clinicals include site experiences for medical, nursing, allied health, and other health professions degree programs.~~

(20) ~~[(18)]~~ Commissioner--The Commissioner of Higher Education.

(21) ~~[(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.]~~

(22) ~~[(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.

(23) ~~[(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.

(24) ~~[(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)~~303(a), or Texas Education Code Chapter 132, respectively. Exempt institutions may still have to comply with certain Board rules.

(25) ~~Experiential Learning--process through which students develop knowledge, skills, and values from direct experiences outside an institution's classrooms. Experiential learning encompasses a~~

variety of activities including, but not limited to, internships, externships, practicums, clinicals, field experience, or other professional work experiences.

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

(27) [(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 Certificates [certificates] of Authority [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 Certificates [certificates] of Authority [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.

(28) Internship--This learning method encompasses all non-clinical site experiential learning.

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

(30) [(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.

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

(32) [(29)] Physical Presence--

(A) while in Texas a representative of the school or a person being paid by the school who conducts an activity related to postsecondary education, including for the purposes of recruiting students (excluding the occasional participation in a college/career fair involving multiple institutions or other event similarly limited in scope in the state of Texas), teaching or proctoring courses including internships, clinicals, externships, practicums, and other similarly constructed educational activities (excluding those individuals that are involved in teaching courses in which there is no physical contact with Texas students or in which visiting students are enrolled), or grants certificates or degrees; and/or

(B) the institution has any location within the state of Texas which would include any address, physical site, telephone number, or facsimile number within or originating from within the boundaries of the state of Texas. Advertising to Texas students, whether through print, billboard, internet, radio, television, or other medium alone does not constitute a physical presence.

(33) [(30)] 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.

(34) [(31)] 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 an agent or 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.

(35) [(32)] 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.

(36) [(33)] 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.

(37) Provisional Certificate of Authorization--A mechanism to provide 15 months of authority to operate in Texas under existing Board-recognized accreditor authority for another existing campus (either in-state or out-of-state) while working to have final approval of the new Texas campus by the Board-recognized accreditor. Failure to obtain Board-recognized accreditor approval within the 15-month time frame for the new Texas campus will result in termination of the Provisional Certificate of Authorization for the new campus which must then terminate operations until such time as the institution obtains a Certificate of Authority or a Certificate of Authorization through approval of a Board-recognized accreditor for the new campus. The Provisional Certificate of Authorization is valid for a period of 15 months from the date of issuance. The provisions under which the certificate was issued will be outlined in the Provisional Certificate of Authorization letter that accompanies the certificate. Additional Provisional Certificates of Authorization will not be issued.

(38) [(34)] Reciprocal State Exemption Agreement--An agreement entered into by the Board with an out-of-state state higher education agency or higher education system for the purpose of creating a reciprocal arrangement whereby that entity's institutions are exempted from the Board oversight for the purposes of distance education. In exchange, participating Texas public or private institutions of higher education as defined in Texas Education Code Section 61.003 would be exempted from that state's oversight for the purposes of distance education.

(39) [(35)] 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.

(40) [(36)] 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.

(41) [(37)] 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.

(42) Single Point of Contact--An individual who is designated by an institution as the person responsible for receiving and conveying information between an institution and the Board or Board staff. The Board will direct all communications regarding an institution to the Single Point of Contact. Institutions must inform the Board of changes in the designated Single Point of Contact within 30 days of change.

(43) [(38)] Substantive Change--Any change in principal location, ownership, or governance of institution, change in accrediting agency or status with such accrediting agency, change in degree- or credential-level for an approved program, or addition of new programs, degrees or credentials offered.

(44) Visiting Student—A student pursuing a degree at an out-of-state institution (i.e., home institution) with no physical presence in Texas who has permission from the home institution and a Texas institution, which is either exempt from Board rules or currently in compliance with Board rules, to take specific courses at the Texas institution. The two institutions have an agreement that courses taken at the Texas institution will transfer back to the home institution.

#### 7.4 Standards for Operation of Institutions

All institutions that operate within the State of Texas are expected to meet the following standards. These standards will be enforced through the Certificate [certificate] of Authority [authority] process or the Alternative [alternative] Certificate [certificate] of Authority [authority] process. Standards addressing the same principles will be enforced by recognized accrediting agencies under the Certificate of Authorization [authorization] process. Particular attention will be paid to the institution's commitment to education, responsiveness to recommendations and suggestions for improvement, and, in the case of a renewal of a Certificate [certificate] of Authority [authority], record of improvement and progress. These standards represent generally accepted administrative and academic practices and principles of accredited postsecondary institutions in Texas. Such practices and principles are generally set forth by institutional and specialized accrediting bodies and the academic and professional organizations.

(1) Legal Compliance. The institution shall be maintained and operated in compliance with all applicable ordinances and laws, including the rules and regulations adopted to administer those ordinances and laws. Career Schools and Colleges also shall demonstrate compliance with Texas Education Code, Chapter 132 by supplying a copy of a Certificate [certificate] of Approval [approval] to operate a career school or college or a Letter [letter] of Exemption [exemption] from the Texas Workforce Commission.

(2) Qualifications of Institutional Officers.

(A) The character, education, and experience in higher education of governing board administrators, supervisors, counselors, agents, representatives, and other institutional officers shall reasonably ensure that the institution can maintain the standards of the Board and progress to accreditation within the time limits set by the Board.

(B) The chief academic officer shall hold an earned advanced degree appropriate for the mission of the institution, preferably, an earned doctorate awarded by an institution accredited by a recognized accrediting agency, and shall demonstrate sound aptitude for and experience with curriculum development and assessment; accreditation standards and processes as well as all relevant state regulations; leadership and development of faculty, including the promotion of scholarship, research, service, academic freedom and responsibility, and tenure (where applicable); and the promotion of student success.

(C) In the case of a renewal of a Certificate [certificate] of Authority [authority], the institutional officers also shall demonstrate a record of effective leadership in administering the institution.

(3) Governance. The institution shall have a system of governance that facilitates the accomplishment of the institution's mission and purposes, supports institutional effectiveness and integrity, and protects the interests of its constituents, including students, faculty and staff. If the institution has a governing board consisting of at least three (3) members, and that board focuses on the accomplishment of the institution's mission and purposes, supports institutional effectiveness and integrity, and protects the interests of its constituents, this standard will be considered as met.

In the absence of such a governing board, the burden to establish appropriate safeguards within its system of governance and to demonstrate their effectiveness falls upon the institution.

(4) **Distinction of Roles.** The institution shall define the powers, duties and responsibilities of the governing body and the executive officers. There shall be a clear distinction in the roles and personnel of the chief business officer and the chief academic officer.

(5) **Financial Resources and Stability.** The institution shall have adequate financial resources and financial stability to provide education of good quality and to be able to fulfill its commitments to students. The institution shall have sufficient reserves, line of credit, or surety instrument so that, together with tuition and fees, it would be able to complete its educational obligations to currently enrolled students if it were unable to admit any new students.

(6) **Financial Records.** Financial records and reports of the institution shall be kept and made separate and distinct from those of any affiliated or sponsoring person or entity. Financial records and reports at a not-for-profit institution shall be kept in accordance with the guidelines of the National Association of College and University Business Officers as set forth in College and University Business Administration (Sixth Edition), or such later editions as may be published. An annual independent audit of all fiscal accounts of the educational institution shall be authorized by the governing board and shall be performed by a properly authorized certified public accountant.

(7) **Institutional Assessment.** Continual and effective assessment, planning, and evaluation of all aspects of the institution shall be conducted to advance and improve the institution. These aspects include, but are not limited to, the academic program of teaching, research, and public service; administration; financial planning and control; student services; facilities and equipment, and auxiliary enterprises.

(8) **Program [Institutional] Evaluation.**

(A) The institution shall establish adequate procedures for planning and evaluation, define in measurable terms its expected educational results, and describe how those results will be achieved.

(B) For applied associate degree programs, the evaluation criteria shall include the following: mission, labor market need, curriculum, enrollment, graduates, student placement, follow-up results, ability to finance each program of study, facilities and equipment, instructional practices, student services, public and private linkages, qualifications of faculty and administrative personnel, and success of its students.

(C) For applied associate degree programs relating to occupations where state or national licensure is required, graduates must pass the licensing examination at a rate acceptable to the related licensing agency.

(9) **Administrative Resources.** The institution has the administrative capacity to meet the daily needs of the administration, faculty and students, including facilities, laboratories, equipment, technology and learning resources that support the institution's mission and programs.

(10) **Student Admission and Remediation.**

(A) Upon the admission of a student to any undergraduate program, the institution shall document the student's level of preparation to undertake college level work by obtaining proof of the student's high school graduation or General Educational Development (GED) certification. If a GED is presented, to be valid, the score must be at or above the passing level set by the Texas Education Agency. The academic skills of each entering student may be assessed with an instrument of the institution's choice. The institution may provide an effective program of remediation for students diagnosed with deficiencies in their preparation for collegiate study.

(B) Upon the admission of a student to any graduate program, the institution shall document that the student is prepared to undertake graduate-level work by obtaining proof that the student holds

a baccalaureate degree from an institution accredited by a recognized accrediting agency, or an institution holding a Certificate [certificate] of Authority [authority] to offer baccalaureate degrees under the provisions of this chapter, or a degree from a foreign institution equivalent to a baccalaureate degree from an accredited institution. The procedures used by the institution for establishing the equivalency of a foreign degree shall be consistent with the guidelines of the National Council on the Evaluation of Foreign Education Credentials or its successor.

(11) Faculty Qualifications. The character, education, and experience in higher education of the faculty shall be such as may reasonably ensure that the students will receive an education consistent with the objectives of the course or program of study.

(A) Each faculty member, except as provided by subparagraph (E) of this paragraph, teaching in an academic associate, applied associate leading to required state or national licensure, or baccalaureate level degree program shall have at least a master's degree from an institution accredited by a recognized agency with at least eighteen (18) graduate semester credit hours in the discipline, or closely related discipline, being taught.

(B) Each faculty member except, as provided by subparagraph (E) of this paragraph, teaching career and technical courses in an applied associate degree program, or career and technical courses that academic associate or baccalaureate students may choose to take, shall have at least an associate degree in the discipline being taught from an institution accredited by a recognized agency and or at least three (3) years of full-time direct or closely related experience in the discipline being taught.

(C) Each faculty member, except as provided by subparagraph (E) of this paragraph, teaching general education courses in an applied associate degree program shall have at least a baccalaureate degree from an institution accredited by a recognized accrediting agency with at least eighteen (18) graduate semester credit hours in the discipline, or closely related discipline, being taught.

(D) Except as provided by subparagraph (E) of this paragraph, graduate-level degree programs shall be taught by faculty holding doctorates, or other degrees generally recognized as the highest attainable in the discipline, or closely related discipline, awarded by institutions accredited by an agency recognized by the Board.

(E) With the approval of a majority of the institution's governing board, an individual with exceptional experience in the field of appointment, which may include direct and relevant work experience, professional licensure and certification, honors and awards, continuous documented excellence in teaching, or other demonstrated competencies and achievements, may serve as a faculty member without the degree credentials specified in subparagraphs (A) - (D) of this paragraph. Such appointments shall be limited and the justification for each such appointment shall be fully documented. The Board may review the qualifications of the full complement of faculty providing instruction at the institution to verify that such appointments are justified.

(12) Faculty Size. There shall be a sufficient number of faculty holding full-time teaching appointments that are accessible to the students to ensure continuity and stability of the education program, adequate educational association between students and faculty and among the faculty members, and adequate opportunity for proper preparation for instruction and professional growth by faculty members. At the associate and baccalaureate levels, there shall be at least one (1) full-time faculty member in each program. At the graduate level, there shall be at least two (2) full-time faculty members in each program.

(13) Academic Freedom and Faculty Security. The institution shall adopt, adhere to, and distribute to all members of the faculty a statement of academic freedom assuring freedom in teaching, research, and publication. All policies and procedures concerning promotion, tenure, and non-renewal or termination of appointments, including for cause, shall be clearly stated and published in a faculty handbook, adhered to by the institution, and supplied to all faculty. The specific terms and conditions of employment of each faculty member shall be clearly described in a written document to be given to that faculty member, with a copy to be retained by the institution.

#### (14) Curriculum.

(A) The quality, content, and sequence of each course, curriculum, or program of instruction, training, or study shall be appropriate to the purpose of the institution and shall be such that the institution may reasonably and adequately achieve the stated objectives of the course or program. Each program shall adequately cover the breadth of knowledge of the discipline taught and coursework must build on the knowledge of previous courses to increase the rigor of instruction and the learning of students in the discipline. A majority of the courses in the areas of specialization required for each degree program shall be offered in organized classes by the institution. An institution may offer for-credit coursework that does not directly relate to approved programs, provided that it does not exceed twenty-five (25) percent of all courses.

(B) Academic associate degrees must consist of at least sixty (60) semester credit hours and not more than sixty-six (66) semester credit hours or ninety (90) quarter credit hours and not more than ninety-nine (99) quarter credit hours. Applied associate degrees must consist of at least sixty (60) semester credit hours and not more than seventy-two (72) semester credit hours or ninety (90) quarter credit hours and not more than one hundred eight (108) quarter hours. A baccalaureate degree must consist of at least one hundred twenty (120) semester credit hours or one hundred eighty (180) quarter credit hours. A master's degree must consist of at least thirty (30) semester credit hours and not more than thirty-six (36) semester credit hours or forty-five (45) quarter credit hours and not more than fifty-four (54) quarter credit hours of graduate level work past the baccalaureate degree.

(C) Courses designed to correct deficiencies, remedial courses for associate and baccalaureate programs, and leveling courses for graduate programs, shall not count toward requirements for completion of the degree.

(D) The degree level, degree designation, and the designation of the major course of study shall be appropriate to the curriculum offered and shall be accurately listed on the student's diploma and transcript.

#### (15) General Education.

(A) Each academic associate degree program shall contain a general education component consisting of at least twenty (20) semester credit hours or thirty (30) quarter credit hours. Each applied associate degree program shall contain a general education component of at least fifteen (15) semester credit hours or twenty-three (23) quarter credit hours. Each baccalaureate degree program shall contain a general education component consisting of at least twenty-five (25) percent of the total hours required for graduation from the program.

(B) This component shall be drawn from each of the following areas: Humanities and Fine Arts, Social and Behavioral Sciences, and Natural Sciences and Mathematics. It shall include courses to develop skills in written and oral communication and basic computer instruction.

(C) The applicant institution may arrange to have all or part of the general education component taught by another institution, provided that:

(i) the applicant institution's faculty shall design the general education requirement;

(ii) there shall be a written agreement between the institutions specifying the applicant institution's general education requirements and the manner in which they will be met by the providing institution; and

(iii) the providing institution shall be accredited by a recognized accrediting agency or hold a Certificate [certificate] of Authority [authority].

#### (16) Credit for Work Completed Outside a Collegiate Setting.

(A) An institution awarding collegiate credit for work completed outside a collegiate setting (outside a degree-granting institution accredited by a recognized agency) shall establish and adhere to a systematic method for evaluating that work, shall award credit only in course content which falls within the authorized degree programs of the institution or, if by evaluative examination, falls within the standards for awarding credit by exam used by public universities in Texas, in an appropriate

manner shall relate the credit to the student's current educational goals, and shall subject the institution's process and procedures for evaluating work completed outside a collegiate setting to ongoing review and evaluation by the institution's teaching faculty. To these ends, recognized evaluative examinations such as the Advanced Placement program (AP) or the College Level Examination Program (CLEP) may be used.

(B) No more than one half of the credit applied toward a student's associate or baccalaureate degree program may be based on work completed outside a collegiate setting. Those credits must be validated in the manner set forth in subparagraph (A) of this paragraph. No more than fifteen (15) semester credit hours or twenty-three (23) quarter credit hours of that credit may be awarded by means other than recognized evaluative examinations. No graduate credit for work completed outside a collegiate setting may be awarded. In no instance may credit be awarded for life experience per se or merely for years of service in a position or job.

(17) Learning Resources. The institution shall maintain and ensure that students have access to learning resources with a collection of books, educational material and publications, on-line materials and other resources and with staff, services, equipment, and facilities that are adequate and appropriate for the purposes and enrollment of the institution. Learning resources shall be current, well distributed among fields in which the institution offers instructions, cataloged, logically organized, and readily located. The institution shall maintain a continuous plan for learning resources development and support, including objectives and selections of materials. Current and formal written agreements with other institutions or with other entities may be used. Institutions offering graduate work shall provide access to learning resources that include basic reference and bibliographic works and major journals in each discipline in which the graduate program is offered. Applied associate degree programs shall provide adequate and appropriate resources for completion of course work.

(18) Facilities. The institution shall have adequate space, equipment, and instructional materials to provide education of good quality. Student housing owned, maintained, or approved by the institution, if any, shall be appropriate, safe, adequate, and in compliance with applicable state and local requirements.

(19) Academic Records. Adequate records of each student's academic performance shall be securely and permanently maintained by the institution.

(A) The records for each student shall contain:

- (i) student contact and identification information, including address and telephone number;
- (ii) records of admission documents, such as high school diploma or GED (if undergraduate) or undergraduate degree (if graduate);
- (iii) records of all courses attempted, including grade; completion status of the student, including the diploma, degree or award conferred to the student; and
- (iv) any other information typically contained in academic records.

(B) Two copies of said records shall be maintained in separate secure places.

(C) Transcripts shall be provided upon request by a student, subject to the institution's obligation, if any, to cooperate with the rules and regulations governing state and federally guaranteed student loans.

(20) Accurate and Fair Representation in Publications, Advertising, and Promotion.

(A) Neither the institution nor its agents or other representatives shall engage in advertising, recruiting, sales, collection, financial credit, or other practices of any type which are false, deceptive, misleading, or unfair. Likewise, all publications, by any medium, shall accurately and fairly represent the institution, its programs, available resources, tuition and fees, and requirements.

(B) The institution shall provide students, prospective students prior to enrollment, and other interested persons with a printed or electronically published catalog. Institutions relying on electronic

catalogs must ensure the availability of archived editions in order to serve the needs of alumni and returning students. The catalog must contain, at minimum, the following information:

- (i) the institution's mission;
- (ii) a statement of admissions policies;
- (iii) information describing the purpose, length, and objectives of the program or programs offered by the institution;
- (iv) the schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study;
- (v) cancellation and refund policies;
- (vi) a definition of the unit of credit as it applies at the institution;
- (vii) an explanation of satisfactory progress as it applies at the institution, including an explanation of the grading or marking system;
- (viii) the institution's calendar, including the beginning and ending dates for each instructional term, holidays, and registration dates;
- (ix) a complete listing of each regularly employed faculty member showing name, area of assignment, rank, and each earned degree held, including degree level, degree designation, and institution that awarded the degree;
- (x) a complete listing of each administrator showing name, title, area of assignment, and each earned degree held, including degree level, degree designation, and institution that awarded the degree;
- (xi) a statement of legal control with the names of the trustees, directors, and officers of the corporation;
- (xii) a complete listing of all scholarships offered, if any;
- (xiii) a statement describing the nature and extent of available student services;
- (xiv) complete and clearly stated information about the transferability of credit to other postsecondary institutions including two-year and four-year colleges and universities;
- (xv) any such other material facts concerning the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein; and
- (xvi) any disclosures specified by the Board or defined in Board rules.

(C) The institution shall adopt, publish, and adhere to a fair and equitable cancellation and refund policy.

(D) The institution shall provide to each prospective student, newly-enrolled student, and returning student, complete and clearly presented information indicating the institution's current graduation rate by program and, if required by the Board, job placement rate by program for applied associate degree programs.

(E) Any special requirements or limitations of program offerings for the students at the Texas location must be made explicit in writing. This may be accomplished by either a separate section in the catalog or a brochure separate from the catalog. However, if a brochure is produced, the student must also be given the regular catalog.

(F) Upon satisfactory completion of the program of study, the student shall be given appropriate educational credentials indicating the degree level, degree designation, and the designation of the major course of study, and a transcript accurately listing the information typically found on such a document, subject to the institution's obligation, if any, to enforce with the rules and regulations governing state, and federally guaranteed student loans by temporarily withholding such credentials.

(21) Academic Advising and Counseling. The institution shall provide an effective program of academic advising for all students enrolled. The program shall include orientation to the academic program, academic counseling, career information and planning, placement assistance, and testing services.

(22) Student Rights and Responsibilities. The institution shall establish and adhere to a clear and fair policy regarding due process in disciplinary matters; outline the established grievance process of the institution, which shall indicate that students should follow this process and may contact the Board and/or Attorney General to file a complaint about the institution if all other avenues have been exhausted, and publish these policies in a handbook, which shall include other rights and

responsibilities of the students. This handbook shall be supplied in print or electronically to each student upon enrollment in the institution.

(23) Health and Safety. The institution shall provide an effective program of health and safety education reflecting the needs of the students. The program shall include information on emergency and safety procedures at the institution, including appropriate responses to illness, accident, fire, and crime.

(24) Learning Outcomes. An institution may deviate from Standard (11) relating to Faculty Qualifications, Standard (12) relating to Faculty Size, Standard (16) relating to Credit for Work Completed Outside a Collegiate Setting, and Standard (17) relating to Learning Resources, if there is an objective system of assessing learning outcomes in place for each part of the curriculum and the institution can demonstrate that appropriate learning outcomes are being achieved.

## 7.5 Administrative Penalties and Injunctions

(a) A person or institution may not:

(1) Granting of Degrees--Grant, award, or offer to award a degree on behalf of a nonexempt institution unless the institution has been issued a Certificate [certificate] of Authority [authority], including an Alternative [alternative] Certificate [certificate] of Authority [authority], to grant the degree by the Board;

(2) Transferability of Credit--Represent that credits earned or granted by that person or institution are applicable for credit toward a degree to be granted by some other person or institution unless the institution is operating under a Certificate of Authority or Certificate of Authorization and has written agreement(s) with the institution which will accept the credit in transfer; [except under conditions and in a manner specified under Section 7.7 of this chapter (relating to Institutions Accredited by Board-Recognized Accreditors) and approved by the Board, or represent that credits earned or granted are collegiate in nature, including describing them as "college level," or at the level of any protected academic term;]

(3) Honorary Degrees--Award or offer to award an honorary degree on behalf of a private postsecondary institution subject to the provisions of the subchapter, unless the institution has been awarded a Certificate [certificate] of Authority [authority] to award such a degree, or solicits another person to seek or accept an honorary degree and, further, unless the degree shall plainly state on its face that it is honorary;

(4) Protected Terms--Use a protected term in the official name or title of a nonexempt private postsecondary institution, an educational or training establishment, or describe an institution using any of these terms or a term having a similar meaning, except as authorized by the Board, or solicit another person to seek a degree or to earn a credit that is offered by an institution or training establishment that is using a term in violation of this section;

(5) Agent--Act as an agent who solicits students for enrollment in a private postsecondary institution subject to the provisions of the subchapter without a Certificate [certificate] of Registration [registration], if required by this chapter;

(6) Fraudulent Degree--Use or claim to hold a degree that the person knows is a fraudulent, substandard, or is a fictitious degree:

(A) in a written or oral advertisement or other promotion of a business; or

(B) with the intent to:

(i) obtain employment;

(ii) obtain a license or certificate to practice a trade, profession, or occupation;

(iii) obtain a promotion, compensation or other benefit, or an increase in compensation or other benefit, in employment or in the practice of a trade, profession, or occupation;

(iv) obtain admission to an educational program in this state; or

(v) gain a position in government with authority over another person, regardless of whether the actor receives compensation for the position.

(C) The use of fictitious, fraudulent, or substandard degrees--The Board shall provide the following information through the Board's Internet website:

(i) the accreditation status or the status regarding authorization or approval under this subchapter, to the extent known by the Board, of each exempt institution operating in the state, each postsecondary educational institution or other person that is regulated under Sections 7.7 - 7.11 of this chapter or for which a determination is made under Section 7.12 of this chapter (relating to Review and Use of Degrees from Institutions Not Eligible for Certificates of Authority), and any institution offering fraudulent, substandard, or fictitious degrees, including:

(I) the name of each educational institution accredited, authorized, or approved to offer or grant degrees in this state;

(II) the name of each educational institution whose degrees the Board has determined may not be legally used in this state;

(III) the name of each educational institution that the Board has determined to be operating in this state in violation of this chapter; and

(IV) any other information considered by the Commissioner to be useful to protect the public from fraudulent, substandard, or fictitious degrees.

(ii) the Board shall utilize such usual and customary sources for determining the accreditation status of institutions, such as: guides to international education; the Board's knowledge of legal actions taken against institutions, either by an agency of the state of Texas or agencies of other states or nations; or civil actions against institutions brought by governmental agencies or individuals.

(D) In determining the legitimacy of institutions headquartered or operating outside of Texas, the Board may determine if the state or nation in which the person or institution is headquartered, operates, or holds legal authorization to operate has standards and practices that are as rigorous as those of the Board's. A determination that a particular state or nation's standards or practices are not appropriately rigorous shall be sufficient reason to disapprove the use of the degrees of a person or institution.

(b) Institutions Located on Federal Land in Texas--An institution that is operating on land in Texas over which the federal government has exclusive jurisdiction shall limit the recruitment of students and advertising of the institution or its programs or courses to the confines of the federal land and to the military or civilian employees and their dependents who work or live on that land. The institution shall not enlist any agent, representative, or institution to recruit or to advertise by any medium, the institution or its programs or courses except on the federal land.

(c) Offenses--A violation of this subsection may constitute a violation of the Texas Penal Code, Section 32.52, or Texas Education Codes Sections 61.312, 61.313. An offense under subsection (a)(1) - (5) of this section may be a Class A misdemeanor and an offense under subsection (a)(6) of this section may be a Class B misdemeanor.

(d) Transfer of Records--In the event any institution now or hereafter operating in this state proposes to discontinue its operation, the chief administrative officer, by whatever title designated, of said institution shall cause to be filed with the Board the original or legible true copies of all such academic records of said institution as may be specified by the Commissioner. Such records shall include, without limitation:

(1) such academic information as is customarily required by colleges when considering students for transfer or advanced study; and

(2) the academic records of each former student.

(e) Record Protection--In the event it appears to the Commissioner that any records of an institution that is discontinuing its operations are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the Board, the Commissioner may seek, on the Board's behalf, court authority to take possession of such records.

(f) Maintenance of Records--The Board shall maintain or cause to be maintained a permanent file of such records coming into its possession.

(g) Administrative Penalties--If a person or institution violates a provision of this subchapter, the Commissioner may assess an administrative penalty against the person or institution as provided in this section.

(h) Notice of Violation--The Commissioner shall send written notice by certified mail to the person or institution charged with the violation. The notice shall state the facts on which the penalty is based, the amount of the penalty assessed, and the right of the person or institution to request a hearing.

(i) Appeal of Assessment--The Commissioner's assessment shall become final and binding unless, within forty-five (45) days of receipt of the notice of assessment, the person or institution invokes the administrative remedies contained in Chapter 1, Subchapter B of this title (relating to Dispute Resolution).

(j) Collection of Assessment--If the person or institution does not pay the amount of the penalty within thirty (30) days of the date on which the assessment becomes final, the Commissioner may refer the matter to the attorney general for collection of the penalty, plus court costs and attorney fees.

(k) Specific Administrative Penalty--Any person or institution that is neither exempt nor the holder of a Certificate [certificate] of Authority [authority], including an Alternative [alternative] Certificate [certificate] of Authority [authority], to grant degrees, shall be assessed an administrative penalty of not less than \$1,000 or more than \$5,000 for, either individually or through an agent or representative:

(1) conferring or offering to confer a degree;

(2) awarding or offering to award credits purported to be applicable toward a degree to be awarded by another person or institution (except under conditions and in a manner specified and approved by the Board);

(3) representing that any credits offered are collegiate in nature subject to the provisions of this subchapter; and [œ]

(4) with regard to assessment of such specific administrative penalties, each degree conferred without authority, and each person enrolled in a course or courses at the institution whose decision to enroll was influenced by the misrepresentations, constitutes a separate offense.

(l) Other Administrative Penalties--Any person or institution that violates subsection (a)(4) of this section shall be assessed an administrative penalty of not less than \$1,000 or more than \$3,000.

(m) Specific Administrative Penalties for Agents--Any agent who solicits students for enrollment in an institution subject to the provisions of the subchapter without a Certificate [certificate] of Registration [registration] shall be assessed an administrative penalty of not less than \$500 or more than \$1,000. Each student solicited without authority constitutes a separate offense.

(n) Termination of Operation--Any operations which are found to be in violation of the law shall be terminated.

(o) Report to Attorney General--The Commissioner may report possible violations of this subchapter to the attorney general. The attorney general, after investigation and consultation with the Board, shall bring suit to enjoin further violations.

(p) Venue--An action for an injunction under this section shall be brought in a district court in Travis County.

(q) Civil Penalties--A person who violates this subchapter or a rule adopted under this subchapter is liable for a civil penalty in addition to any injunctive relief or any other remedy allowed by law. A civil penalty may not exceed \$1,000 a day for each violation.

(r) Civil Litigation--The attorney general, at the request of the Board, shall bring a civil action to collect a civil penalty under this section.

(s) Deceptive Trade Practice Act--A person who violates this subchapter commits a false, misleading, or deceptive act or practice within the meaning of the Texas Business and Commerce Code, Section 17.46.

(t) Applicability of Other Law--A public or private right or remedy under the Texas Business and Commerce Code, Chapter 17, may be used to enforce this section.

(u) Associate of Occupational Studies (AOS) Degree--Texas has three career schools or colleges awarding the AOS degree: Universal Technical Institute, Southwest Institute of Technology, and Western Technical College. The AOS degree shall be awarded in only the following fields: automotive mechanics, diesel mechanics, refrigeration, electronics, and business. Each of the three Institutions may continue to award the AOS degree for those fields listed in this subsection and shall be restricted to those fields. The Board shall not consider new AOS degree programs from any other career schools or colleges. A career school or college authorized to grant the AOS degree shall not represent such degree by using the terms "associate" or "associate's" without including the words "occupational studies." An institution authorized to grant the AOS degree shall not represent such degree as being the equivalent of the AAS or AAA degrees.

## 7.6 Recognition of Accrediting Agencies

(a) Eligibility Criteria--The [~~Texas Higher Education Coordinating~~] Board may recognize accrediting agencies with a commitment to academic quality and student achievement that demonstrate, through an application process, compliance with the following criteria:

(1) Eligibility. The accrediting agency's application for recognition must demonstrate that the entity:

(A) Is recognized by the Secretary of Education of the United States Department of Education as an accrediting agency authorized to accredit educational institutions that offer the associate degree or higher. Demonstration of authorization shall include clear description of the scope of recognized accreditation.

(B) Is applying for the same scope of recognition as that for which it is recognized by the Secretary of Education of the United States Department of Education:

(i) Using the U.S. Department of Education classification of instructional programs (CIP) code at the two-digit level, the applicant shall identify all fields of study in which institutions it accredits may offer degree programs.

(ii) Accrediting agencies shall, for each field of study in which an accredited institution may offer degree programs, specify the levels of degrees that may be awarded. Levels must be differentiated at least to the following, as defined in Section 7.3 of this chapter (relating to Definitions): applied associate degree, academic associate degree, baccalaureate degree, master's degree, first professional degree and doctoral degree.

(iii) Only institutions that qualify as eligible for United States Department of Education Title IV programs as a result of accreditation by the applicant agency will be considered exempt under Section 7.7 of this chapter (relating to Institutions Accredited by Board-Recognized Accreditors).

(C) Accredits institutions that have legal authority to confer postsecondary degrees as its primary activity:

(i) Accrediting agencies must show by listing all institutions accredited by the agency that either the majority of the accredited institutions have the legal authority to award postsecondary degrees or that it accredits at least fifty (50) institutions that have the legal authority to award postsecondary degrees.

(ii) An accrediting agency that accredits programs as well as institutions shall demonstrate that either it accredits more institutions than programs or that it has policies, procedures and staff sufficient to address institutional standards of quality in addition to program standards of quality.

(iii) Accrediting agencies must have standards that require all accredited institutions to comply with all applicable laws in the state and local jurisdiction in which they operate and that require accredited institutions to clearly and accurately communicate their accreditation status to the public.

(D) Requires an on-site review by a visiting team as part of initial and continuing accreditation of educational institutions:

(i) Each accrediting agency shall demonstrate, through its documented practices and/or its official policies, that it requires no fewer than three (3) members on a team when conducting initial and continuing accreditation visits, that none have a monetary or personal interest in the findings of the on-site review, and that all have professional experience that qualifies them to review the institution's compliance with the standards of the agency.

(ii) Accrediting agencies may conduct site visits for reasons other than initial and continuing accreditation with fewer team members.

(iii) Accrediting agencies shall provide a list of the visiting team members for the five (5) most recently completed on-site reviews. The list shall show name, employer, title of positions held with that employer and the standards for which the individual was responsible in that on-site review.

(E) Has policies or procedures that ensure the entity will promptly respond to requests for information from the Board:

(i) Each accrediting agency shall provide the Board its official policy regarding disclosure of information about institutions that are or have been candidates for accreditation and are or have been accredited. Agencies shall provide to the Board, within ten (10) working days, any new information and any requested information about a Texas institution that would be available to the public under that official policy.

(ii) Each accrediting agency shall include in its standards for accreditation of Texas institutions that the institutions disclose publicly and to the Board the number of degrees awarded at each level each year and the number of students enrolled in the fall of each year.

(F) Has sufficient resources to carry out its functions:

(i) Accrediting agencies shall identify the number of on-site reviews conducted during the most recent twelve (12) month period, the number of staff members who participated in those on-site reviews and the maximum number of on-site reviews conducted by any individual staff member. If that maximum number exceeds thirty (30), the agency shall explain how it expects to carry out its function of enforcing its standards on Texas institutions.

(ii) Each accrediting agency shall provide evidence that its ratio of current assets to current liabilities equals or exceeds 1.2.

(iii) Each accrediting agency shall demonstrate that its fees are reasonable for the accreditation services provided.

(2) Recognition--To receive and maintain recognition from the Board, the accrediting agency must, in addition to the items listed in paragraph (1) of this subsection:

(A) Provide the Board with current standards used by the entity in initial and ongoing accreditation reviews of educational institutions and invite the Board to participate in such reviews:

(i) Accrediting agencies must have publicly disclosed standards that address at a minimum the following issues: student achievement in relation to the institution's mission; curricula; faculty;

facilities, equipment and supplies; fiscal and administrative capacity; student support services; recruiting and admissions practices, academic calendars, catalogs, grading, etc.; measures of program length and objectives of the degrees or credentials offered; record of student complaints received by, or available to the agency; management and financial control.

(ii) In the application process, the accrediting agency must indicate how its standards address each of the quality assessment categories outlined in clause (i) of this subparagraph which represent the underlying principles described in the institutional standards of Section 7.4 of this chapter (relating to Standards for Operations of Institutions). Comparison of its standards with those of previously recognized accrediting agencies and with the standards in Section 7.4 of this chapter is encouraged as a means of indicating how its standards meet those principles.

(iii) Each accrediting agency shall provide its policy for periodic reviews. At a minimum, the accrediting agency must conduct on-site reviews at least every ten (10) years.

(iv) At least ten (10) working days before each scheduled periodic on-site review of a Texas institution, accrediting agencies shall invite the Board staff to participate in the review. Such participation shall be at no expense to the institution or the accrediting agency.

(v) Within ten (10) working days of an official change in standards, the agency shall notify the Board of those changes.

(vi) By providing a copy of its publicly disclosed policies and procedures, each accrediting agency shall demonstrate that its initial and ongoing reviews and the resultant accreditation decisions are fair and consistent with the available evidence.

(vii) Accrediting agencies that use an advisory body, similar to the Certification Advisory Council described in Section 7.8 of this chapter (relating to Institutions Not Accredited by a Board-Recognized Accreditor), shall describe the advisory body's composition and authority. Accrediting agencies that do not use such a body shall describe the process used to ensure that the evidence obtained from reviews results in appropriate accreditation decisions.

(viii) The initial and ongoing reviews shall include an institutional self-evaluation process or a documented alternative process to promote continuous quality improvement.

(ix) Each accrediting agency shall have and publicly disclose its processes for appealing accreditation decisions.

(B) Provide the Board with written evidence of continuing recognition by the Secretary of Education of the United States Department of Education. Loss of recognition from the Secretary automatically results in loss of Board recognition at the same time. Written evidence may consist of a letter from the chief executive officer of the accrediting agency. Accrediting agencies shall submit the evidence upon notice of continued recognition or upon a change in recognition status, scope or level [~~annually prior to the anniversary date of the initial Board recognition~~];

(C) Provide a list of Texas educational institutions accredited by it; notify the Board in writing of any change to its list of Texas accredited institutions within ten (10) days of the change;

(D) Notify the Board of any investigated complaints concerning a Texas institution where the accrediting agency took official action on issues of non-compliance and the disposition of those complaints;

(E) Seek Board approval for any expansion of its recognized scope of accreditation authority; and

(F) Demonstrate that the ownership and control of the accrediting agency is sufficiently independent to ensure that the accreditation process is conducted in the public interest.

(b) Other Information, Denial or Withdrawal of Recognition and Appeals.

(1) Once recognized, an accrediting agency retains that recognition unless and until the Board withdraws the recognition. Failure to comply with any of the requirements in this chapter will be grounds for the Board to consider withdrawing recognition.

(2) The Board may use information provided by parties other than the accrediting agency to assess the accrediting agency's commitment to academic quality and student achievement. The Board will consider any such information in an open, public meeting during which the accrediting agency may challenge the information.

(3) The Board will make any decision to deny recognition of an accrediting agency or to withdraw recognition from an accrediting agency in a public meeting.

(4) An institution operating in Texas as an exempt institution pursuant to Section 7.7 of this chapter when its recognized accrediting agency loses or voluntarily relinquishes its recognition will have ninety (90) days to apply for a Certificate of Authority or to reach agreement with the Board on a schedule for ceasing its operations in Texas.

(5) An accrediting agency or institution affected by any final decision under this subchapter may appeal that decision as provided in Chapter 1, Subchapter B of this title (relating to Dispute Resolution).

## 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 an [a letter of intent] application to offer degree(s) or courses leading to degrees in Texas. The application form for the Certificate of Authorization may be found on the Board's website. The application must contain [containing] the following information:

(i) Name of the institution;

(ii) Physical location of campus, or in the case of only providing clinicals or internships in Texas, the physical location of all clinical or internship sites, number of students in clinicals or internships and end date of clinicals or internships;

(iii) Name and contact information of the Chief Administrative Officer of the campus and name and contact information of the designated Single Point of Contact as defined in Section 7.3 of this chapter (relating to Definitions). In the case of an application based on clinicals or internships, name and contact information of clinical or internship site supervisors;

(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, or in the case of only providing clinicals or internships in Texas, a Certificate of Authorization for an institution to offer in Texas identified clinicals or internships in connection with those degrees or courses leading to degrees for which the institution is accredited.

(C) Certificates of Authorizations based solely on providing clinicals or internships in Texas expire on the end date of the last Texas clinical or internship.

(i) If clinicals or internships are ongoing in Texas, the Certificate of Authorization based solely on providing clinicals or internships in Texas must be renewed on an annual basis. At least thirty (30) days, but no more than ninety (90) days, prior to the expiration of the current Certification of Authorization, an institution, if it desires renewal, is required to provide updated information regarding the physical location of all clinical or internship sites, number of students in clinicals or internships, and the end date of the clinicals or internships.

(ii) The Board shall renew the Certificate of Authorization based solely on providing clinicals or internships in Texas if it finds that the institution has maintained all requisite standards.

(2) An institution that has requested a Certificate of Authorization but has not received ~~final~~ authorization from its accrediting agency to be included in its main campus' accreditation either on an interim or final basis may be granted a ~~Conditional~~ Provisional Certificate of Authorization. The ~~Conditional~~ Provisional Certificate of Authorization is an acknowledgment that the institution has qualified for a ~~an~~ temporary 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~~ Provisional Certificate of Authorization will be authorized until such time as the institution is granted accreditation or for a period of ~~one year~~ 15 months, whichever occurs first. The conditions will be outlined in the ~~Conditional~~ Provisional Certificate of Authorization letter that will accompany the ~~Conditional~~ Provisional Certificate of Authorization. If accreditation has not been achieved by the expiration date, the ~~Conditional~~ Provisional 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 chapter (relating to Institutions Not Accredited by a Board-Recognized Accreditor). Subsequent Provisional Certificates of Authorization will not be issued.

(3) Grounds for Revocation of any Certificate of Authorization.

(A) The Institution no longer holds a Certificate of Approval or Letter of Exemption issued by the Texas Workforce Commission.

(B) Institution loses accreditation from Board-recognized accreditor.

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

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

(E) 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 or offering courses leading to degrees in Texas until it has either been granted a Certificate ~~certificate~~ of Authority ~~authority~~ or Alternative ~~alternate~~ Certificate ~~certificate~~ of Authority ~~authority~~ to grant degrees, or has received a determination that it did not lose its qualification for a Certificate ~~certificate~~ of Authorization ~~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 Section 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, or with a public or private~~[two-year college, or with a public four-year university]~~ institution of higher education as defined in Texas Education Code section 61.003. 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).

## 7.8 Institutions Not Accredited by a Board-Recognized Accreditor

An institution which is not accredited by a board-recognized accreditor and which does not meet the definition of institution of higher education contained in Texas Education Code, Section 61.003, must follow either the Certificate of Authority process or Alternative Certificate of Authority process in paragraphs (1) - (14) of this section in order to offer degrees or courses leading to degrees in the state of Texas. Institutions are encouraged to contact the ~~[Coordinating]~~ Board staff before filing a formal application.

### (1) Certificate of Authority

(A) Eligibility--The Board will accept applications for a Certificate [~~certificate~~] of Authority [~~authority~~] only from those institutions:

(i) proposing to offer a degree or credit courses alleged to be applicable to a degree; and

(ii) which meet one of the following conditions:

(I) Has been legally operating, enrolling students, and conducting classes in Texas and has complied with state law as a non-degree-granting institution for a minimum of two (2) years;

(II) Has been legally operating, enrolling students, and conducting classes in Texas and has complied with state law as a degree-granting institution and wishes to open a new campus; or

(III) Has been legally operating as a degree-granting institution in another state for a minimum of four (4) years and can verify compliance with all applicable laws and rules in that state; or

(IV) Held an Alternative [~~alternative~~] Certificate [~~certificate~~] of Authority [~~authority~~] for one year.

(B) To be considered by the Board as [~~to be~~] operating, means to have assembled a governing board, developed policies, materials, and resources sufficient to satisfy the requirements for a Certificate [~~certificate~~] of Authority [~~authority~~], and either have enrolled students and conducted classes or accumulated sufficient financing to do so for at least one year upon certification based on reasonable estimates of projected enrollment and costs. Sufficient financing may be demonstrated by proof of an adequate surety bond, assignment of account, certificate of deposit, irrevocable letter of credit, or a properly executed participation contract with a private association, partnership, corporation, or other entity whose membership is comprised of postsecondary institutions, which is:

(i) In a form acceptable to the Board; and

(ii) Conditioned to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of prepaid tuition or any fees as a result of violation of any minimum standard or as a result of a holder of a Certificate [~~certificate~~] of Authority [~~authority~~] ceasing operation, and provides evidence satisfactory to the Board of its

financial ability to provide such indemnification and lists the amount of surety liability the guaranteeing entity will assume.

## (2) Application for Certificate of Authority.

(A) Applications must be submitted with an original and four (4) copies and accompanied by the fee described in paragraph (9) of this section.

(B) The application form for the Certificate [certificate] of Authority [authority] may be found on the [Coordinating] Board's website.

(C) Documentary evidence of compliance with paragraph (1)(A)(ii) of this section must be filed with the application.

(D) Information regarding each degree or course leading to a degree which the institution proposes to offer.

(E) Name and contact information of the designated Single Point of Contact as defined in Section 7.3 of this chapter (relating to Definitions).

## (3) Authorization Process

(A) An institution must submit an application to the [Coordinating] Board to be considered for a Certificate of Authority to offer specific degree(s), and courses which may be applicable toward a degree, in Texas.

(B) Each institution must have either a Letter [letter] of Exemption [exemption] or Certificate of Approval from the Texas Workforce Commission pursuant to Texas Education Code, Chapter 132.

(C) An institution must submit detailed information describing the manner in which the institution complies with each of the Standards of Operations of Institutions contained in Section 7.4 of this chapter (relating to Standards for Operations of Institutions).

(D) Institutions accredited by entities which are not recognized by the Board [board] must submit all accrediting agency reports and any findings and institutional responses to such reports and findings.

(E) Each institution must provide the required fee set by the Commissioner on a biennial basis which is necessary to cover the costs of the application review, site review team, and travel, meals, lodging and consulting fees for the review.

(F) Based upon the information contained in the application, the Commissioner or his/her designee shall determine whether a site review team is necessary.

(G) If a site review team is required, the Commissioner or his/her designee shall identify a site review team of no less than three individuals, all of whom have experience and knowledge in postsecondary education.

(H) An institution must be fully operational as of the date of the on-site evaluation; i.e., it must have in-hand or under contract all the human, physical, administrative, and financial resources necessary to demonstrate its capability to meet the standards for nonexempt institutions. The conditions found at the institution as of the date of the on-site evaluation visit will provide the basis for the visiting team's evaluation and report, the Certification [certification] Advisory [advisory] Council's [council's] recommendation, the Commissioner's recommendation, and the Board's determination of the institution's qualifications for a Certificate [certificate] of Authority [authority].

(I) The site review team shall conduct an onsite review of the institution and prepare a report regarding the institution's ability to meet the Standards of Operation.

(J) The institution shall have thirty (30) days in which to respond to the report.

(K) The Certification Advisory Council shall review the report and the institution's response and make a recommendation regarding disposition to the Commissioner.

(L) Upon receipt of the Council's recommendation, the Commissioner shall make his/her recommendation regarding the application to the [Coordinating] Board.

(M) After review of the Commissioner's and Council's recommendations, if the [Coordinating] Board approves the application, the Commissioner shall immediately have prepared a Certificate of Authority containing the issue date, a list of the approved degree(s) or courses leading to degrees, and the period for which the Certificate is valid.

(N) After review of the Commissioner's and Council's recommendations, if the [Coordinating] Board does not approve the application, the Commissioner shall immediately notify the institution of the denial and the reasons for the denial.

(O) Upon denial, the institution may not reapply for a period of one hundred eighty (180) days.

#### (4) Terms and Limitations of a Certificate of Authority.

(A) The Certificate [certificate] of Authority [authority] to grant degrees is valid for a period of two (2) years from the date of issuance.

(B) Certification by the State of Texas is not accreditation, but merely a protection of the public interest while the institution pursues accreditation from a recognized agency, within the time limitations expressed in subparagraph (C) of this section. Therefore, the institution awarded a Certificate [certificate] of Authority [authority] shall not use terms to interpret the significance of the certificate which specify, imply, or connote greater approval than simple permission to operate and grant certain specified degrees in Texas. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended" by the State of Texas or agency thereof. Specific language prescribed by the Commissioner which explains the significance of the Certificate [certificate] of Authority [authority] shall be included in all publications, advertisements, and other documents where certification and the accreditation status of the institution are mentioned.

(C) An institution may be granted consecutive Certificate [certificate] of Authority [authority] for no longer than eight (8) years. Absent sufficient cause, at the end of the eight (8) years, the institution must be accredited by a Board [board]-recognized accrediting agency.

#### (5) Institutions holding a Certificate of Authority will be required to:

(A) furnish a list of their agents to the Board;

(B) maintain records of students enrolled, credits awarded, and degrees awarded, in a manner specified by the Board; and

(C) report any substantive change.

#### (6) Grounds for Revocation of Certificate of Authority.

(A) The Institution no longer holds a Certificate of Approval or Letter of Exemption issued by the Texas Workforce Commission.

(B) Institution fails to comply with substantive change notification and data reporting requirements as outlined 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.

(C) Institution offers degrees for which it does not have Board approval.

(D) Institution fails to maintain the Standards of Operation as defined in Section 7.4 of this chapter.

(E) Failure to comply with paragraph (3)(D) of this section.

#### (7) Revocation of Certificate of Authority to Offer Degrees in Texas.

(A) Board notifies institution of grounds for revocation as outlined in paragraph (6) of this section.

(B) 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, and/or submit data as required by Section 7.13 of this chapter.

(C) 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.

(D) 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).

(E) Until the Certificate [certificate] of Authority [authority] is reinstated, the institution may not grant degrees, offer courses leading to degrees, or receive payments from students for courses which may be applicable toward a degree.

(8) Reapplication After Revocation of Certificate of Authority.

(A) The institution will not be eligible to reapply for a period of one hundred eighty (180) days.

(B) The subsequent application must show, in addition to all other requirements described herein, correction of the deficiencies which led to the denial.

(C) The period of time during which the institution does not hold a Certificate [certificate] of Authority [authority] shall not be counted against the eight (8) year period within which the institution must achieve accreditation from a recognized accrediting agency absent sufficient cause, as described in paragraph (4)(C) of this section; the time period begins to run again upon reinstatement.

(9) Fees Related to Certificates of Authority.

(A) Certificates of Authority. Each biennium the Commissioner shall set the fee for initial and renewal applications for Certificate [certificate] of Authority [authority], which shall be equal to the average cost of evaluating the applications. The fee shall include the costs of travel, meals, and lodging of the visiting team and the Commissioner, or the Commissioner's designated representatives, and consulting fees for the visiting team members, if an onsite review is conducted.

(B) Each biennium, the Commissioner shall also set the fees for amendments to Certificate [certificate] of Authority [authority] [~~and certificates of registration of agents~~].

(C) The Commissioner shall report changes in the fees to the Board at a quarterly meeting.

(10) Renewal of Certificate of Authority.

(A) At least one hundred eighty (180) days, but no more than two hundred ten (210) days, prior to the expiration of the current Certificate [certificate] of Authority [authority], an institution, if it desires renewal, shall make application to the Board on forms provided upon request. Reports not previously submitted to the Board, related to the application for or renewal of accreditation by national or regional accrediting agencies shall be included. The renewal application shall be accompanied by the fee described in paragraph (9) of this section.

(B) The application for renewal of the Certificate [certificate] of Authority [authority] will be evaluated in the same manner as that prescribed for evaluation of an initial application, except that the evaluation will include the institution's record of improvement and progress toward accreditation.

(C) An institution may be granted consecutive Certificate [certificate] of Authority [authority] for no longer than eight (8) years. Absent sufficient cause, at the end of the eight (8) years, the institution must be accredited by a recognized accrediting agency.

(D) Subject to the restrictions of paragraph (3) of this section, the Board shall renew the certificate if it finds that the institution has maintained all requisite standards.

(11) Amendments to a Certificate of Authority.

(A) An institution which wishes to amend an existing program of study to award a new or different degree during the period of time covered by its current certificate may file an application for amendment, on forms provided by the Board upon request. An institution may begin operating such a program upon filing the application, and the application shall be deemed to be granted if not rejected by the Board within one hundred twenty (120) days.

(B) Applications for amendments shall be accompanied by the fee described in paragraph (9) of this section.

(C) Unless the Board finds that the new program of study does not meet the required standards, the Board shall amend the institution's certificate accordingly.

(D) A change of degree level would require an amended Certificate of Authority prior to beginning the program.

(12) Authority to Represent Transferability of Course Credit. Any institution as defined in Section 7.3 of this chapter (relating to Definitions), whether it offers degrees or not, may solicit students for and enroll them in courses on the basis that such courses will be credited to a degree program offered by another institution, provided that:

(A) the other institution is named in such representation, and is accredited by a recognized accrediting agency or has a Certificate [certificate] of Authority [authority];

(B) the courses are identified for which credit is claimed to be applicable to the degree programs at the other institution; and

(C) the written agreement between the institution subject to these rules and the accredited institution is approved by both institutions' governing boards [~~of trustees~~] in writing, and is filed with the Board.

(13) 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, or with a public or private [~~two-year college~~] institution of higher education as defined in Texas Education Code section 61.003. 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.

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

(ii) 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.

(14) Alternative Certificate of Authority. In lieu of the standard Certificate [certificate] of Authority [authority] requirements for institutions and their agents described in paragraphs (1) - (13) of this section, an institution may obtain an Alternative [alternative] Certificate [certificate] of Authority [authority] to issue degrees as provided by this subsection. Alternative Certificate [certificate] of Authority [authority] shall be issued by the Commissioner and are temporary, being valid for twelve (12) months, after which a regular Certificate [certificate] of Authority [authority] shall be required. A site visit shall be conducted by Board staff during the initial twelve month period.

(A) Surety Instrument Requirement. At the time application is made for an Alternative [alternative] Certificate [certificate] of Authority [authority], or when new programs, stand-alone courses or continuing education courses are added, the applicant shall file with the Board a surety bond or surety alternative which meets the requirements set forth in these sections. Schools located in Texas each shall file one bond or surety alternative covering the school and its agents.

(i) The amount of the bond or other allowable surety instrument submitted to the Board with an application for an Alternative [alternative] Certificate [certificate] of Authority [authority] shall be

equal to or greater than the cost of providing a refund, including administrative costs associated with processing claims, for the maximum prepaid, unearned tuition and fees of the school for a period or term during the applicable school year for which programs of instruction are offered, including, but not limited to, on a semester, quarter, monthly, or class basis; except that the period or term of greatest duration and expense shall be utilized for this computation where a school's year consists of one or more such periods or terms.

(ii) A school, whose surety value is found by the Board to be insufficient to fund the unearned, prepaid tuition of enrolled students, shall be noncompliant with these sections, and, if, after ten (10) working days from the issuance of a notice of noncompliance, the school has not increased its surety to an acceptable level, it shall be subject to revocation or suspension of its Alternative [alternative] Certificate [certificate] of Authority [authority].

(iii) Following the initial filing of the surety bond with the Board, the amount of the bond shall be recalculated annually based upon a reasonable estimate of the maximum prepaid, unearned tuition and fees received by the school for such period or term. In no case shall the amount of the bond be less than twenty-five thousand dollars (\$25,000).

(iv) The institution shall include a proposal in the form of a letter signed by an authorized representative of the school showing in detail the calculations made pursuant to this section and explaining the method used for computing the amount of the bond or surety alternative.

(v) In order to be approved by the Board, a surety bond must be:

(I) An original bond;

(II) Executed by the applicant and by a surety company authorized to do business in Texas;

(III) In a form acceptable to the Board; and

(IV) Conditioned to provide indemnification to any student or enrollee of an in-state or out-of-state school or his/her parent or guardian determined by the Board to have suffered a loss of tuition or any fees as a result of violation of any minimum standard or as a result of a holder of an Alternative Certificate of Authority ceasing operation.

(vi) In lieu of a surety bond, an applicant may file with the Board an assignment of savings account that:

(I) Is in a form acceptable to the Board;

(II) Is executed by the applicant; and

(III) Is executed by a state or federal savings and loan association, state bank or national bank whose accounts are insured by a federal depositor's corporation.

(vii) In lieu of a surety bond, an applicant may file with the Board a certificate of deposit that:

(I) Is issued by a state or federal savings and loan association, state bank or national bank whose accounts are insured by a federal depositor's corporation;

(II) Is either:

(-a-) Payable to the Board;

(-b-) In the case of a negotiable certificate of deposit, is properly assigned without restriction to the Board; or

(-c-) In the case of a non-negotiable certificate of deposit, is assigned to the Board by assignment in a form satisfactory to the Board.

(viii) In lieu of a surety bond, an applicant may file with the Board an irrevocable letter of credit that:

(I) Is in a form acceptable to the Board; and

(II) Is conditioned [~~Conditioned~~] to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of tuition or any fees as a result of violation of any minimum standard or as a result of a holder of an Alternative [alternative] Certificate [certificate] of Authority [authority] ceasing operation.

(ix) In lieu of a surety bond, an applicant may file with the Board a properly executed participation contract with a private association, partnership, corporation or other entity whose membership is comprised of postsecondary institutions, which:

(I) Is in a form acceptable to the Board; and

(II) Is conditioned [~~Conditioned~~] to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of prepaid tuition or any fees as a result of violation of any minimum standard or as a result of a holder of an Alternative

[alternative] Certificate [certificate] of Authority [authority] ceasing operation, and provides evidence satisfactory to the Board of its financial ability to provide such indemnification and lists the amount of surety liability the alternative entity will assume.

(x) Whenever these sections require a document to be executed by an applicant the following shall prevail:

(I) If the applicant is a corporation, the document must be executed by the president of the corporation or persons designated by the corporate board.

(II) If the applicant is a limited liability corporation the document must be executed by the members.

(III) If the applicant is a partnership, the document must be executed by all general partners.

(IV) If the applicant is an individual, the document must be signed by the individual.

(V) If the applicant is a state agency, the document must be signed by the Director of that Department.

(VI) If the applicant is a local government, the document must be signed by the mayor or board president.

(xi) Any bonding alternative entity must have independent financial resources necessary to meet the contractual obligation to the students of a failed member institution and resources equal to or exceeding the maximum bonds required of all single schools.

(xii) A school applying for an Alternative [alternative] Certificate [certificate] of Authority [authority] shall be exempt from the surety instrument requirement if it can demonstrate a United States Department of Education composite financial responsibility score of 1.5 or greater on its current financial statement; or if it can demonstrate a composite score between 1.1 and 1.4 on its current financial statement and has scored at least 1.5 on a financial statement in either of the prior two (2) years.

(B) Application and Statement. Institutions seeking an Alternative [alternative] Certificate [certificate] of Authority [authority] are urged to obtain informal guidance from Board staff before filing a formal application. The Board will accept applications for an Alternative [alternative] Certificate [certificate] of Authority [authority] only from those institutions proposing to offer a degree or credit courses alleged to be applicable to a degree.

(C) An institution seeking an Alternative [alternative] Certificate [certificate] of Authority [authority] shall submit to the Board a completed application, which must demonstrate it meets, or has the ability to meet, depending on circumstances, the standards set out in Section 7.4 of this chapter; a signed and dated affirmation statement, acknowledging compliance with certification criteria set forth in this section; and a notarized attestation statement signed by the chief executive officer or equivalent. The application form shall contain:

(i) The name and address of the institution and its purpose;

(ii) The names of the sponsors or owners of the institution;

(iii) The regulations, rules, constitutions, bylaws, or other regulations established for the government and operation of the institution;

(iv) The names and addresses of the chief administrative officer, the principal administrators, and each member of the board of trustees or other governing board;

(v) The names of faculty who have been retained, their area(s) of teaching, and their degrees held;

(vi) The types of degrees to be awarded and a list of courses that may be included in each degree program; and

(vii) The location of any facilities maintained or being constructed and a list of potentially hazardous equipment which requires a federal or state government license to operate, if any has been acquired, that is to be used by students in the teaching process.

(D) Institutions shall certify that they maintain a list of their agents as defined in Section 7.3 of this chapter (relating to Definitions) and have policies to ensure that their agents are of good character and provide accurate information to prospective students and their families, but such agents are not required to register with the Board or submit a fee.

(E) Applications must be submitted with an original and four copies and accompanied by the required fee. Alternative Certificate [certificate] of Authority [authority] fees shall be five hundred dollars (\$500) more than the fee for a regular Certificate [certificate] of Authority [authority], as established in paragraph (9) of this section.

(F) Board's Review of Applications.

(i) Within ninety (90) days of receipt of a complete application, Board staff will review said application and recommend to the Commissioner either approval or denial of the application.

(ii) Within one hundred twenty (120) days of receipt of a complete application, the Commissioner shall either award a one-year Alternative [alternative] Certificate [certificate] of Authority [authority] or deny the application.

(iii) 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.

(iv) Upon denial, the institution may not reapply for a period of one hundred eighty (180) days.

(G) Terms and Limitations of an Alternative Certificate of Authority.

(i) The Alternative [alternative] Certificate [certificate] of Authority [authority] to grant degrees is valid for one (1) year from the date of issuance.

(ii) The institution shall notify the Board at least ten (10) working days prior to the start of the first class of its first year schedule. Board staff shall visit the institution and interview both staff and students at least once during the first year.

(iii) Certification by the State of Texas is not accreditation, but merely a protection of the public interest while the institution pursues accreditation from a recognized agency, within the time limitations expressed in paragraph (10)(C) of this section. An institution awarded an Alternative [alternative] Certificate [certificate] of Authority [authority] shall not use terms to interpret the significance of the certificate which specify, imply, or connote greater approval than simple permission to operate and grant degrees in Texas. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended" by the State of Texas or agency thereof. Specific language prescribed by the Commissioner which explains the significance of the Alternative [alternative] Certificate [certificate] of Authority [authority] shall be included in all publications, advertisements, and other documents where certification and the accreditation status of the institution are usually mentioned, including the institution's catalog and the home page of the institution's Internet website.

(iv) Approval of the application grants the institution the authority to award degrees or to enroll students for courses that may be applicable toward a degree only for those programs approved by the Alternative Certificate of Authority. Separate program approval shall be required for each additional [associate] degree program in accordance with this chapter.

(v) The Commissioner may revoke an institution's Alternative [alternative] Certificate [certificate] of Authority [authority] to grant degrees at any time if the Commissioner finds that:

(I) Any statement contained in an application for the certificate is untrue;

(II) The institution has failed to maintain the standards of the Board, as described herein, on the basis of which the certificate was granted;

(III) Advertising or representations made on behalf of the institution is deceptive or misleading;

(IV) The institution has offered degrees or courses leading to degrees for which they have not been approved in an Alternative Certificate of Authority; or

(V) The institution has violated any provision of this subchapter.

(H) Continuing Operations after One Year.

(i) At least one hundred eighty (180) days, but no more than two hundred ten (210) days, prior to the expiration of the current Alternative [alternative] Certificate [certificate] of Authority [authority], an institution, if it desires to continue operations, shall make application to the Board for a Certificate of Authority following the process in paragraph (10) of this section. Only one Alternative Certificate of Authority will be granted.

(ii) The application will be evaluated in the same manner as that prescribed for evaluation of an initial application.

7.9 No Changes.

7.10 Registration of Agents

(a) Application for Registration--An agent as defined in Section 7.3[(4)] of this chapter (relating to Definitions) shall submit an application to the [~~Texas Higher Education Coordinating~~] Board in the following manner:

(1) The application shall be accompanied by the fee described in this subsection [Section 7.8(9)-of this chapter (relating to Institutions Not Accredited by a Board Recognized Accreditor)].

(A) Each biennium, the Commissioner shall set the fee for Certificates of Registration of agents.

(B) The Commissioner shall report changes in the fee to the Board at a quarterly meeting.

(2) Upon request of the Commissioner or the Commissioner's designee, the agent shall provide sufficient evidence of good character.

(3) The agent's Certificate [certificate] of Registration [registration] shall be issued for a five-year period.

(4) If the Commissioner denies the application for a Certificate [certificate] of Registration [registration], or a renewal of the Certificate [certificate] of Registration [registration], the applicant shall be notified in writing, and shall be given the reasons for the denial. Additionally, the Commissioner shall notify the institution or institutions which the agent represented or proposed to represent, according to the records of the Board, in the same manner.

(5) At least sixty (60), but no more than one hundred twenty (120), days prior to the expiration of an agent's certificate, the agent shall complete and file with the Board an application for renewal, accompanied by the registration fee described in Section 7.8(9)of this chapter.

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

(b) Revocation of Registration--The Commissioner may revoke an agent's Certificate [certificate] of Registration [registration] at any time if the Commissioner finds that:

(1) Any statement contained in the application is untrue;

(2) The institution represented has had its Certificate [certificate] of Authority [authority] revoked;

(3) The agent has made false, deceptive, or misleading statements while attempting to solicit residents of this state as students; or

(4) The agent has violated any provision of this subchapter.

(c) Notice of Revocation--Notice under subsection (b) of this section shall be given to the agent and to the institution that the agent represented or purported to represent. Immediately upon receipt of actual knowledge of the agent's violation, or upon receipt of the Commissioner's notice, whichever is earlier, the institution shall make every effort to:

(1) divest the agent of the authority and of the apparent authority to represent the institution;

(2) notify the media through which the agent made the misrepresentations of the actual facts; and

(3) notify all students whose decision to enroll in the institution was affected by the agent's misrepresentation, of the actual facts.

(d) Administrative Remedies--A revocation made pursuant to this section shall become final and binding unless, within forty-five (45) days of its receipt of the notice of revocation, the institution or agent invokes the administrative remedies contained in Chapter 1, Subchapter B of this title.

#### 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 [certificate] of Authority [authority] or Certificate of Authorization is automatically withdrawn unless the institution meets the requirements of this section.

(b) The Commissioner may authorize the institution to retain the Certificate [certificate] of Authority [authority] or Certificate of Authorization 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 [certificate] of Authority [authority] or Certificate of Authorization, the new owner(s) shall submit a new application for a Certificate [certificate] of Authority [authority] as outlined under Section 7.8 of this chapter (relating to Institutions Not Accredited by a Board-Recognized Accreditor) or a new application for a Certificate of Authorization as outlined under Section 7.7 of this chapter (relating to Institutions Accredited by Board-Recognized Accreditors).

(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 or other substantive changes as defined in Section 7.3 of this chapter (relating to Definitions) shall conform to the procedures and requirements contained in Section 7.7(1) and 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 [certificate] of Authority [authority] or Certificate of Authorization during the transfer period. In such cases, the career school or college shall fully comply with all provisions outlined in this section.

(f) All notifications regarding changes of ownership or other substantive changes should be provided to the Board via the institution's designated Single Point of Contact.

#### 7.12 Review and Use of Degrees from Institutions Not Eligible for Certificates of Authority

(a) A person holding a degree from an institution that is not eligible to receive a Certificate [~~certificate~~] of Authority [~~authority~~] may request a letter from the Board confirming that the institution is not eligible for a Certificate [~~certificate~~] of Authority [~~authority~~] and providing the procedures for review and approval of the degree for use in Texas. The Board shall send a copy of the letter to the institution.

(b) Procedures for Review and Approval.

(1) An institution that confers a fraudulent or substandard degree described in Section 7.3[~~(24)~~~~(B)~~ ~~or~~ ~~(C)~~] of this chapter (relating to Definitions), may request that the Board review and approve for use in Texas that degree, as provided in those sections. The person or institution shall submit the request on a form created by the Board.

(2) The Commissioner shall apply the standards provided in Section 7.4 of this chapter (relating to Standards for Operations of Institutions) and Section 7.5 (a)(6) [Section 7.5] of this chapter (relating to Administrative Penalties and Injunctions) to determine if the degrees awarded by a person or institution are equivalent to degrees granted by a private postsecondary educational institution or other person holding a Certificate [~~certificate~~] of Authority [~~authority~~] from the Board.

(3) The Commissioner, or the Commissioner's designated representatives, and an ad hoc team of independent consultants, if the Commissioner finds that such a team would provide a benefit to the Board or to the institution, may either [~~shall~~] visit the institution and conduct an on-site survey or conduct a desk review to evaluate the application for review and approval. The ad hoc [~~visiting~~] team shall be composed of people who have experience on the faculties or staffs of accredited institutions and who possess knowledge of accreditation standards.

(4) The Board may [~~shall~~] charge the person or institution petitioning for review and approval a fee equal to the application fee for a Certificate [~~certificate~~] of Authority [~~authority~~] or the actual cost of conducting the review, including travel expenses and cost of consultant fees[, ~~whichever is greater~~].

7.13 No Changes

7.14 Distance Education Approval Processes for Degree Granting Colleges and Universities Other Than Texas Public Institutions

An institution which does not meet the definition of institution of higher education contained in Texas Education Code Section 61.003 and wishes to offer distance education to students in Texas must follow the requirements in paragraphs (1) or [~~and~~] (2) of this section. For the purposes of this section distance education shall mean education or training delivered off campus via educational technologies where the student(s) and the instructor(s) are separated by physical distance and/or time.

(1) Exempt Institutions.

(A) An institution is exempt and does not need to receive permission from the Board to offer distance education programs and courses to Texas students if it fulfills the following:

(i) Accredited to offer degrees at a specific level either by an accrediting agency recognized by the Board or an accrediting agency recognized by the Secretary of Education of the U.S. Department of Education or approved by a Texas state agency which authorizes the school's graduates to take a professional or career and technical state licensing examination administered by that agency; and

(ii) No physical presence in the state as defined by Section 7.3 of this chapter (relating to Definitions).

(B) An institution is also exempt and does not need to receive permission from the Board to offer distance education programs and courses to Texas students if it is covered by a reciprocal state exemption agreement.

(C) An institution's exemption applies only to the degree level for which the programs or institution is accredited.

(D) An institution's exemption under subparagraph (A) or (B) of this paragraph continues as long as it is in compliance with subparagraph (A) or (B) of this paragraph. Exempt institutions must also maintain compliance with subparagraph (C) of this paragraph. If an institution is no longer accredited by an accrediting agency [accreditor] recognized by the Board or an accrediting agency recognized by the Secretary of Education of the U.S. Department of Education or no longer approved by a Texas state agency which authorizes the school's graduates to take a professional or career and technical state licensing examination administered by that agency [Texas] and/or maintains a physical presence in Texas or if an institution is no longer covered by a reciprocal state exemption agreement, the institution is no longer eligible for an exemption and must receive Board authority to offer distance education to Texas students. The institution would need to either submit an 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) or for a Certificate of Authorization as outlined under Section 7.7 of this chapter (relating to Institutions Accredited by Board-Recognized Accreditors).

## (2) Nonexempt Institutions.

(A) An institution is not exempt and must receive Board permission to offer distance education programs and courses to Texas students if it fulfills any of the following:

(i) Is accredited to offer degrees at a specific level by an accrediting agency recognized by the Board or approved by a Texas state agency which authorizes the school's graduates to take a professional or career technical state licensing examination administered by that agency and maintains a physical presence in Texas as defined by Section 7.3 of this chapter (relating to Definitions); The institution would need to submit an application for a Certificate of Authorization as outlined under Section 7.7 of this chapter (relating to Institutions Accredited by Board-Recognized Accreditors); or

(ii) Is not accredited to offer degrees at a specific level by an accrediting agency recognized by the Board or an accrediting agency recognized by the Secretary of Education of the U.S. Department of Education nor approved by a Texas state agency which authorizes the school's graduates to take a professional or career technical state licensing examination administered by that agency. The institution, whether or not it maintains a physical presence in Texas as defined by Section 7.3 of this chapter, would need to submit an 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).

~~[(B) An institution that is accredited to offer degrees at a specific level by an accrediting agency recognized by the Board or approved by a Texas state agency which authorizes the school's graduates to take a professional or career technical state licensing examination by that agency and maintains a physical presence in Texas as defined by Section 7.3 of this chapter must follow the guidelines established in Section 7.7 of this chapter (relating to Institutions Accredited by Board Recognized Accreditors). ]~~

~~[(C) An institution that is not accredited to offer degrees at a specific level by an accrediting agency recognized by the Board nor approved by a Texas state agency which authorizes the school's graduates to take a professional or career technical state licensing examination administered by that agency, whether or not it maintains a physical presence in Texas as defined by Section 7.3 of this chapter must follow the guidelines established in Section 7.8 of this chapter (relating to Institutions Not Accredited by a Board Recognized Accreditor).]~~

~~(B) [(D)]~~ An institution that would like to offer a degree program or courses leading to a degree in a religious discipline via distance education is exempt from seeking Board approval. A religious institution that would like to offer a degree program or courses leading to a degree in a non-religious discipline via distance education must follow the requirements outlined in subparagraph (A)(i) and (ii) [(B) or (C)] of this paragraph.