

# PROPOSED RULEMAKING

## STATE BOARD OF EDUCATION

[22 PA. CODE CH. 31]

### Higher Education General Provisions

The State Board of Education (Board) proposes to amend Chapter 31 (relating to general provisions) to read as set forth in Annex A. The Board is acting under the authority of section 2603-B of the Public School Code of 1949 (24 P. S. § 26-2603-B).

#### *Purpose*

The purpose of amending Chapter 31 is to update and clarify the regulations that establish requirements for the approval and operation of postsecondary degree-granting institutions in this Commonwealth.

#### *Requirements of the Proposed Rulemaking*

The proposed rulemaking addresses requirements for the governance, academic program, admissions and student services, facilities, maintenance of quality, honorary degrees and major corporate change of postsecondary institutions.

#### *Affected Parties*

The proposed rulemaking affects the students and professional employees of the degree-granting postsecondary institutions of this Commonwealth. This includes all institutions of postsecondary education, domestic or foreign, including both out-of-State and out-of-country, legally authorized to award college credits or grant degrees in this Commonwealth.

#### *Cost and Paperwork Estimates*

Since the proposed rulemaking clarifies current requirements, it does not impose any new costs or savings for the Department of Education or to postsecondary institutions.

#### *Effective Date*

The proposed rulemaking will become effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin*.

#### *Sunset Date*

In accordance with its policy and practice respecting all regulations promulgated by the Board, every 4 years the Board will review the effectiveness of Chapter 31. Thus, no sunset date is necessary.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 27, 2005, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the

General Assembly and the Governor of comments, recommendations or objections raised.

#### *Public Comments and Contact Person*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333 within 30 days following publication in the *Pennsylvania Bulletin*.

Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Jim Buckheit at (717) 787-3787 or TDD (717) 787-7367.

JIM BUCKHEIT,  
*Executive Director*

**Fiscal Note:** 6-297. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 22. EDUCATION

#### PART I. STATE BOARD OF EDUCATION

#### Subpart C. HIGHER EDUCATION

#### CHAPTER 31. GENERAL PROVISIONS

#### PRELIMINARY PROVISIONS

#### § 31.1. Purpose and scope.

\* \* \* \* \*

(b) This chapter does not apply to Chapter 35 (relating to community colleges), except for the following:

\* \* \* \* \*

#### **(9) Section 31.21(a) and (b) (relating to curricula).**

(c) Exclusive of community colleges, this chapter applies to an institution of postsecondary education, domestic or foreign, including both out-of-State and out-of-country, legally authorized to award college credits or grant degrees in this Commonwealth, and to an institution or chartering group applying for authorization. An entity is required to be approved as a postsecondary institution under this chapter to award **[colleges] college** credits or grant degrees in this Commonwealth. An institution is prohibited by law to operate in this Commonwealth and award college credits or grant degrees unless legally authorized to do so. Provisions of Board regulations in this part **[which] that** are in conflict with this chapter do not affect the applicability of this chapter unless specified by another provision of Board regulations in this part.

\* \* \* \* \*

(e) Only a postsecondary degree-granting institution having more than 50% of its degree programs consisting of resident-based instruction may be established or operate in this Commonwealth. **[For a nonresident-based degree program to be approved for the awarding of college credits or granting of degrees in this Commonwealth, the institution shall have an identical resident-based degree program. In addition, more than 50% of an institution's degrees, which are awarded for completion of each resident and non-resident degree program combination, shall be earned from the resident-based degree program.]**

For combination programs, the residential portion of the program shall be offered on a regularly scheduled basis.

(1) An approved postsecondary degree-granting institution that has operated for 10 years within this Commonwealth, or a private licensed school offering AST or ASB degrees that has operated for 10 years within this Commonwealth, may petition the Department to be established to operate as a college or university with more than 50% of its degree programs offered through distance education, if it has demonstrated the following:

(i) Accreditation by a regional accreditation agency approved by the United States Department of Education.

(ii) Graduated a minimum of 25 students each from 10 degree programs in place at the time of petitioning for approval.

(iii) Meet all other requirements to operate in this Commonwealth as defined in this subpart.

(f) Except as specifically provided in this chapter, this chapter does not apply to private licensed schools or other proprietary institutions of postsecondary education that do not offer degrees. These institutions are governed by the Private Licensed Schools Act (24 P. S. §§ 6501—6518) and Chapters 42 and 73 (relating to program approval; and general provisions).

### § 31.2. Definitions.

The following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

**ASB**—Associate in Specialized Business.

**AST**—Associate in Specialized Technology.

[ **Alternate instructional delivery system**—A course or series of courses offered or sponsored by a postsecondary educational institution, consortium of institutions or educational enterprise, for which credit is offered or awarded toward a certificate, diploma or degree, having as the primary mode of delivery, television, videocassette or disc, film, radio, computer or other supportive devices using current or future technology. To assure academic integrity, the institution shall provide students in an alternate instructional delivery system course access to academic and student services, including textbooks, study guides, library resources and other study aids, and personal interaction with faculty, tutors or other educational personnel by computer, telephone, mail or face-to-face meetings. ]

**CEC**—Community Education Council—A nonprofit educational organization, governed by a community-based board of directors, whose purpose is to identify, implement and oversee new or innovative efforts to provide access to postsecondary education opportunities in educationally underserved communities; and is established and operated in accordance with Article XIX-D of the School Code (24 P. S. §§ 19-1901-D—19-1905-D).

(i) Each CEC assesses the education and training needs of its community and chooses providers to offer postsecondary educational programs.

(ii) A CEC does not have the authority to award credit or grant degrees.

(iii) CECs established after June 30, 1999, must be institutionally neutral.

**Chartered status**—Classification of a [junior] 2-year college, college, seminary or university established under one of the following:

(i) 15 Pa.C.S. Part II, Subpart B (relating to Business Corporation Law of 1998).

(ii) 15 Pa.C.S. Part II, Subpart C (relating to [non-profit corporations] and [Nonprofit Corporation Law of 1988]).

(iii) Section 2601-H of the School Code (24 P. S. § 26-2601-H).

(iv) 24 Pa.C.S. Chapter 65 (relating to private colleges, universities and seminaries).

**College**—An institution which, in accordance with its charter or articles of incorporation, offers 2-year, 4-year or 5-year postsecondary educational programs or their equivalent and which grants associate, baccalaureate or first professional degrees. In some instances, a 4-year college may offer [2-year programs culminating with associate degrees or] graduate programs culminating with graduate degrees when it has the appropriate approval under Chapter 42 (relating to program approval).

**Combination program**—An academic degree program that uses both distance learning and classroom instruction to deliver instructional content.

**Community college**—A college or technical institute which offers 2-year, secondary and postsecondary, transfer, college parallel, terminal-general, terminal-technical, out-of-school youth or adult education programs or a combination of these; grants certificates and associate degrees; and is established and operated in accordance with Article XIX-A of the [Public] School Code [of 1949] (24 P. S. §§ 19-1901-A—19-1913-A). A community college also may offer upper-division programs not culminating in a baccalaureate degree when it has the appropriate approval under Chapter 42.

**Distance education**—An alternate format to resident-based instruction for offering education courses or series of courses by an approved postsecondary educational institution, consortium of institutions or educational enterprise, for which credit is offered or awarded toward a certificate, diploma or degree, which has as its primary mode of delivery one or more of the following:

(i) Correspondence.

(ii) Television.

(iii) Videocassette or disk.

(iv) Film.

(v) Radio.

(vi) Computer.

(vii) Devices built upon an audio-video format.

(viii) Other supportive devices using current or future technology.

**Education enterprise**—An educational activity in this Commonwealth which is sponsored by a foreign corporation and for which college credits or continuing education units are awarded, continuing professional education is offered (culminating in awards such as Continuing Education Unit (CEU), Continuing Medical Edu-

cation (CME) or Continuing Professional Education (CPE)), or tuition or fees are charged or collected.

\* \* \* \* \*

*Foreign corporation [status]*—[Classification of an] An institution which is incorporated or authorized by other means in a state other than this Commonwealth, is approved to operate an educational enterprise by and in its state of origin and is approved and authorized to operate the enterprise in this Commonwealth under 15 Pa.C.S. Part II, [Subpart] Subparts B or C, and 24 Pa.C.S. Chapter 65.

\* \* \* \* \*

[Junior college—An institution which offers full 2-year postsecondary educational programs culminating with associate degrees. A junior college also may offer upper-division programs not culminating in a baccalaureate degree when it has the appropriate approval under Chapter 42.]

\* \* \* \* \*

*Physical presence*—The operation of an entity that offers courses, programs, or degrees or maintains a campus, or an administrative, corporate or other address, including a post office box, telephone number, recruiters, instructors, advertising in local media and publications at a location in this Commonwealth.

*Professional program*—A program which culminates with a baccalaureate, first professional or graduate degree; provides preparation for [the] practice [of a profession] in professions, including medicine, allied health, dentistry, law, engineering, architecture, ministry and teaching; and educates persons in the field of study.

*Professional school*—[A] An organized administrative unit of a school, college, university or seminary offering one or more professional programs.

\* \* \* \* \*

*Specialized associate degree program*—A program culminating in an occupational degree, either an ASB degree or AST degree, that is designed to prepare a student for [occupational] employment in an area requiring specialized instruction beyond secondary education.

\* \* \* \* \*

*State System*—Classification of universities established under Article XX-A of the [Public] School Code [of 1949] (24 P. S. §§ 20-2001-A—20-201[7]9-A).

\* \* \* \* \*

[Telecommunication instruction—A course or series of courses offered or sponsored by a postsecondary educational institution, consortium of institutions or other organization, for which credit is offered or awarded toward a certificate, diploma or degree, which have as the primary mode of delivery, television, video cassette or disc, film, radio, computer or other supportive devices which build upon the audio-video format. A telecommunication course may be supported by textbooks, study guides, library resources and other study aids, and may also involve personal interac-

tion with faculty, tutors or other educational personnel by computer, telephone, mail or face-to-face meetings.]

*Two-year college*—An institution that offers full 2-year postsecondary educational programs culminating with associate degrees. A 2-year college also may offer upper-division programs not culminating in a baccalaureate degree when it has the appropriate approval under Chapter 42.

*University*—A multiunit institution with a complex structure and diverse educational functions, including instruction, promotion of scholarship, preservation and discovery of knowledge, research and service. A university meets the following criteria:

\* \* \* \* \*

(ii) Has a broad [cultural basis from which undergraduate and graduate units draw upon the arts and sciences for basic course whether or not these are an integral part of the programs provided in the unit] foundation in the arts and sciences, which is instilled in the philosophy and implementation of the undergraduate and graduate education curriculum.

\* \* \* \* \*

*Vocational education*—Programs which provide an organized process of learning experience designed to develop skills, knowledge, attitudes, work habits and leadership skills for entry into and advancement within various levels of employment in [the] current or emerging occupational areas [of agriculture, business, marketing and distribution, health, home economics, trade and industry and other nonprofessional occupations].

GOVERNANCE

§ 31.12. President and board or council of trustees.

(a) For [a chartered nonprofit] an institution, the minimum and maximum number of trustees shall be stated in the articles of incorporation of the institution. The composition, selection, term of office and the like of the board or council of trustees shall be stated in the bylaws of the corporation. The composition of the board or council shall include members of the professions, business, industry and other organizations or lay persons. The board of trustees shall have as its main function the legal operation of the institution. The primary areas of responsibility of the board are:

\* \* \* \* \*

(4) Oversight of institution-wide assessment.

(b) For a State System university subject to the authority of the Board of Governors, the chancellor, the president, together with the council of trustees, shall give overall policy direction to the institution. The president shall administer and manage the institution under Article XX-A of the School Code (24 P. S. §§ 20-2001-A—20-201[7]9-A).

§ 31.13. Administrative organization.

\* \* \* \* \*

(b) [The administrative organization for graduate programs shall be separate from that for undergraduate programs. For convenience, nondegree postbaccalaureate work may be administered by the graduate program organization.]

(c) Policies relating to the organization of the institution [ shall ] must indicate the groups within the institution responsible for [ such ] the policy development and implementation. Copies of the policies shall be available for distribution to constituent groups.

(d) (c) For a State System university, appropriate provisions of the School Code, The Administrative Code of 1929 (71 P. S. §§ 51—732), and policies of the Board of Governors shall apply to administrative organization and supervision.

§ 31.14. Financial records.

(a) The budget of an institution [ shall ] must provide for necessary expenditures, including library and learning resources, faculty, student services, noninstructional staff and other operating costs.

(b) For a university having State System status, the following apply:

\* \* \* \* \*

(2) Records shall be audited as provided by Article XX-A of the School Code (24 P. S. §§ 20-2001-A—20-201[ 7 ]9-A).

\* \* \* \* \*

(d) For an institution having independent status, financial records shall be maintained which are in accordance with generally accepted accounting principles and procedures for educational institutions. For business (for-profit) corporations offering academic programs leading to an academic degree, the financial records shall be maintained separately for the portion of the corporation constituting the Pennsylvania institution offering the academic programs. The financial records for for-profit corporations must show that the required minimum protective endowment of \$500,000 is maintained.

\* \* \* \* \*

(g) For CECs, funding is allocated through an annual grant award. Financial and performance reporting requirements of the Department are specified in the annual contract. The Department will provide oversight of the expenditures and activities undertaken by the community education councils during the grant period. The CECs shall maintain records, documents and files so that they will be available for inspection for a period specified in the grant agreement.

ACADEMIC PROGRAM

§ 31.21. Curricula.

\* \* \* \* \*

(b) Degree requirements stated in this section [ are in terms of a credit hour which represents a unit of curricular material which normally can be taught in a minimum of 14 hours of classroom instruction as determined by the faculty offering the program. For alternative instructional modes such as laboratory instruction, independent study, thesis and dissertation guidance, clinical and practicum experience, telecommunication instruction and correspondence study a credit hour shall represent an instructional unit which by faculty determination is equivalent to a minimum of 14 hours of classroom instruction ] may be stated in terms of semester credit hours or quarter credit hours, as deter-

mined by the institution and conforming to generally accepted academic practices.

(i) A semester credit hour represents a unit of curricular material that normally can be taught in a minimum of 14 hours of classroom instruction, plus appropriate outside preparation or the equivalent as determined by the faculty.

(ii) A quarter credit hour represents a unit of curricular material that normally can be taught in a minimum of 10 hours of classroom instruction, plus appropriate outside preparation or the equivalent as determined by the faculty.

(1) An associate degree exclusive of a specialized associate degree [ shall ] must require the satisfactory completion of a minimum of 60 semester credit hours, which [ shall include ] includes a minimum of 20 semester credit hours of general education, or a minimum of 90 quarter credit hours, which shall include a minimum of 30 quarter credit hours of general education.

(2) A specialized associate degree [ shall ] must require the satisfactory completion of at least 60 semester credit hours with a minimum of 1,500 clock hours or a minimum of 90 quarter credit hours. At least 70%, but no more than 80%, of the program [ shall ] must consist of specialized instruction [ which ] that bears directly upon the employment objectives of the program; and at least 20% of the program must consist of general education. The program [ shall ] must include related instruction[, including general education, which ] that supports the specialized instruction.

(3) A baccalaureate degree [ shall ] must require the satisfactory completion of a minimum of 120 semester credit hours or a minimum of 180 quarter credits. Of the total baccalaureate degree program course requirements, at least [ 1/3 of the required minimum credit shall ] 40 semester credit hours or 60 quarter credit hours must be in [ the arts and sciences ] general education and [ shall ] represent a broad spectrum of disciplines in general education.

(4) A first professional degree [ shall ], except those for the preparation of professional educators, must require the satisfactory completion of a minimum of 60 semester credit hours or 90 quarter credit hours for admission to the degree program and the satisfactory completion of a total minimum of 150 semester credit hours or 225 quarter credit hours for the program. Professional educator preparation programs must comply with Chapter 354 (relating to preparation of professional educators).

(5) A master's degree [ shall ] must require the satisfactory completion of a minimum of 30 semester credit hours or 45 quarter credit hours beyond the baccalaureate level.

(6) The number of semester or quarter credit hours for a degree beyond a first professional or master's degree shall be determined by the [ institution ] faculty and [ shall ] reflect the recommendations of professional associations or National learned societies.

\* \* \* \* \*

(d) To assure academic integrity, an institution shall provide students in a distance education pro-

gram access to academic and student services, including textbooks, study guides, library and other learning resources, personal interaction with faculty, tutors or other educational personnel by computer, telephone, mail or face-to-face meetings. The institution shall assure integrity of student work and provide opportunity for student assessment. These programs must comply with the regulations and policies that apply to resident-based programs.

§ 31.23. Program [ data base ] database.

(a) Periodically, the Department will provide to each institution a copy of the institution's complete list of degree and certificate programs as contained in the Department's program [ data base ] database. The institution shall verify the list or correct or amend it by indicating additions, deletions or changes and [ shall ] return the copy to the Department by the requested date.

(b) In addition to the requirements of subsection (a), if an institution adds, deletes or changes a program as listed in the Department's program [ data base ] database, the institution shall report the addition, deletion or change to the Department when it becomes effective.

§ 31.24. Faculty.

\* \* \* \* \*

(c) Full-time faculty members shall constitute a majority of the total number of full-time-equivalent faculty employed by the institution. Care shall be taken to ensure that total commitments of part-time faculty do not impair the quality of the program. [ Graduate courses shall normally be taught by full-time members of the faculty. ]

(d) Faculty development shall be in accordance with the institution's faculty development plan. The institution shall support professional development for all full-time, part-time and new faculty. The institution should encourage publication, travel, attendance at professional seminars and conferences, research and similar developmental activities when feasible by the granting of reduced teaching loads, the purchase of needed equipment, and the granting of or assistance in obtaining needed funds.

(e) [ Institutions ] Each institution of higher education operating in this Commonwealth shall comply with the English Fluency in Higher Education Act (24 P.S. §§ 6801—6806), by filing the certification required by the act by September 1 of each year in the form requested by the Department. Failure to comply with the act and with this subsection shall subject the institution to the penalties under the act.

ADMISSIONS AND STUDENT SERVICES

§ 31.32. Catalog and announcements.

(a) An institution's current catalog and official publications, as appropriate, [ shall ] must describe accurately the institution's policies, including the institution's policy of nondiscrimination, [ and ] grievance procedures, regulations and programs affecting students, and include the academic expectations and responsibilities of students.

\* \* \* \* \*

(c) Each institution shall file its current official catalog with the Department in print or electronic format.

(d) Each institution shall provide each student a copy of the current catalog, in print or electronic form, upon enrollment.

§ 31.33. Student records and services.

(a) An academic record, including credits or courses completed under § 31.21 (relating to curricula) and grades earned, shall be maintained on a current transcript for each student. Institutions shall adopt a plan for the collection, maintenance and dissemination of student academic, counseling, health and other records. Copies of the plan shall be maintained by the institution and updated as required by changes in State or Federal law or local policy. Student records shall be maintained in a readily accessible format. Appropriate standards of confidentiality for the records shall be defined in the college policies and official publications and administered accordingly. Students shall be granted the right of access, under the requirements of law, to their official records.

(b) There shall be a program of student services to provide for the following:

\* \* \* \* \*

(7) Compliance with State and Federal laws and regulations regarding reasonable accommodation for students with special needs.

§ 31.34. Credit card marketing.

Each institution of higher education shall establish a policy that regulates the marketing of credit cards on campus in accordance with Article XXIII-A of the School Code (24 P.S. §§ 23-2301-A—23-2303-A).

FACILITIES

§ 31.41. Library and learning resources.

(a) An institution shall maintain adequate library [ resources ] and learning resources for all programs offered. The adequacy [ of resources ] shall be determined by the appropriateness of print, electronic and other collections for the achievement of the stated objectives of the institution, as related to its statement of philosophy and mission.

\* \* \* \* \*

§ 31.43. Buildings and equipment.

Classrooms, laboratories, faculty offices, related academic buildings, student living facilities and recreational facilities are governed by 34 Pa.Code Chapter 47, Subchapter D (relating to Department of Labor and Industry—miscellaneous provisions—facilities for handicapped), and Chapters 49—59, and [ shall ] must be adequate to provide an integrated academic and nonacademic program consistent with the stated objectives of the institution as related to its statements of philosophy, mission and need.

MAINTENANCE OF QUALITY

§ 31.52. Accreditation.

(a) Institutions which grant degrees, including private licensed schools which grant specialized associate degrees under §§ 42.11—42.14 (relating to specialized associate degree programs approval procedure), shall [ , not later

than July 1, 1977, obtain ] maintain total institutional accreditation from appropriate accrediting agencies recognized by the Federal Government and acceptable to the Department and the Board. An institution failing to [ obtain total institutional accreditation by July 1, 1997, or to ] maintain total institutional accreditation [ thereafter ] shall be subject to proceedings under § 40.51(b), § 40.53(b) or § 42.14 (relating to approval of an independent junior college, college, university or foreign corporation; approval of State System, State-related or State-aided status; and revocation of the degree-granting privilege).

(b) [ Prior to July 1, 1997, previously approved degree-granting institutions which have not yet obtained total institutional accreditation under subsection (a) will be evaluated by the Department on a scheduled 5-year cycle. Documentation necessary for the evaluation shall be submitted to the Department prior to the scheduled evaluation. ] Except for specialized associate degree-granting institutions, new institutions approved to offer degrees shall have 3 years after commencing operations to obtain candidacy status for total institutional accreditation.

(c) Notwithstanding the requirements of subsection (a), a seminary which chooses for religious reasons not to obtain total institutional accreditation from an appropriate accrediting agency as indicated in subsection (a) will be evaluated by the Department on a scheduled 5-year cycle. Documentation necessary for the evaluation shall be submitted to the Department prior to the scheduled evaluation.

**HONORARY DEGREES**

**§ 31.62. Approval procedure.**

(a) An institution which desires to award honorary degrees and does not have legal authorization allowing this privilege may petition the Secretary for approval to award the degrees. [ The petition shall be submitted by July 1 preceding the academic year in which honorary degree is to be awarded. ] In the petition, the institution shall set forth the degrees to be awarded and the procedures for the selection of candidates and be prepared to support awards of honorary degrees on the basis of meritorious service to mankind.

\* \* \* \* \*

**MAJOR CORPORATE CHANGE**

**§ 31.72. Obligations.**

The institution shall work with the Department to ensure the following, if necessitated by the corporate change:

\* \* \* \* \*

(9) Applicable statutes found at 15 Pa.C.S. [ §§ 5101—5110, 5301—5341 and 6101—6162 (relating to general provisions; incorporation; and foreign nonprofit corporations) ] Part II, Subpart B (relating to Business Corporation Law of 1988) or Subpart C (relating to Nonprofit Corporation Law of 1988); section 2601-H of the School Code (24 P. S. § 26-2601-H); and 24 Pa.C.S. Chapter 65 (relating to private colleges, universities and seminaries), [ relating to ] regarding the type of corporate change being effected have been addressed.

[Pa.B. Doc. No. 05-2084. Filed for public inspection November 11, 2005, 9:00 a.m.]