

Chapter 7. Private and Out-of-State Public Postsecondary Educational Institutions Operating in Texas

Subchapter A. General Provisions

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§7.1 Purpose

This subchapter clarifies the standards and details the process by which nonexempt private postsecondary educational institutions may be granted by the Board a certificate of authority to offer degrees or to offer credits toward degrees and to use certain academic terms within the state. These rules proscribe certain behavior, and specify the sanctions that may be imposed for violations of the applicable rules and statutes.

Source Note: *The provisions of this §7.1 adopted to be effective May 29, 2003, 28 TexReg 4131*

§7.2 Authority

These rules relate to the Texas Education Code, Subchapter G, §§61.301 through 61.319 and Subchapter H, §§61.401 through 61.405, which regulates the awarding or offering of degrees, awarding or offering credit toward degrees, and the use of certain academic terms by private and out-of-state public postsecondary educational institutions.

Source Note: *The provisions of this §7.2 adopted to be effective May 29, 2003, 28 TexReg 4131*

§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) Agent--A person employed by or representing a post-secondary educational institution within or without Texas who:

(A) solicits any Texas student for enrollment in the institution;

(B) solicits or accepts payment from any Texas student for any service offered by the institution; or

(C) while having a physical presence in Texas, solicits students or accepts payment from students who are without Texas.

(2) Board--The Texas Higher Education Coordinating Board, the Commissioner, and the Commissioner's designated representatives.

(3) Branch campus, extension center, or other off-campus unit--Any institution or part of an institution offering or proposing to offer away from the home campus more than occasional courses or courses leading to the granting of a degree without the necessity for courses to be taken at the main campus.

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

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

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

(7) 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.

(8) Educational or training establishment--An enterprise offering a course of instruction, education, or training that the establishment does not represent to be applicable to a degree.

(9) Exempt Institution--An institution that is accredited by an agency recognized by the Board under §7.2(a) of this title (relating to Authority) or an entity described in the Texas Education Code, §61.003(8).

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

(11) Fraudulent or substandard degree--A degree conferred by a person who, at the time the degree was conferred, was:

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

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

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

(12) Home campus--The headquarters of an institution, such location to be determined as a matter of fact by the Commissioner based upon consideration of information such as, but not limited to the following:

(A) where the institution is chartered;

(B) the site, campus or city where the principal or chief executive's offices are located;

(C) the site, campus or city where the institution conducts the preponderance of its instructional activities; and

(D) any other pertinent and material facts.

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

(14) Out-of-state public institution of higher education--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.

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

(16) Private postsecondary educational institution or institution--An educational institution which:

(A) is not a public junior college, public senior college or university, medical or dental unit or other agency as defined in Texas Education Code §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, or by

correspondence 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.

(17) 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.

(18) Protected term--the term "college," "university," "seminary," "school of medicine," "medical school," "health science center," "school of law," "law school," or "law center," its abbreviation, foreign cognate, or equivalents.

(19) 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.

(20) 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.

(21) The subchapter--Texas Education Code, Title 3, Chapter 61, Subchapter G, as amended, having an effective date of June 21, 1975.

Source Note: The provisions of this §7.3 adopted to be effective May 29, 2003, 28 TexReg 4131; amended to be effective February 21, 2006, 31 TexReg 1022; amended to be effective February 19, 2007, 32 TexReg 623

§7.4 Exemptions, Revocation of Exemptions, and Certificates of Authorization

(a) The provisions of this subchapter do not apply to:

(1) The home campus of an institution which is fully accredited by a recognized accrediting agency. For purposes of the exemption, the Board currently recognizes the following accrediting agencies: the Commission on Higher Education, Middle States Association of Colleges and Schools; the Commission on Institutions of Higher Education, New England Association of Schools and Colleges; the Commission on Institutions of Higher Education, North Central Association of Colleges and Schools; the Northwest Commission on Colleges and Universities, the Commission on Colleges, Southern Association of Colleges and Schools; the Accrediting Commission for Community and Junior Colleges and Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges; the Association of Biblical Higher Education (undergraduate only); and the Association of Theological Schools in the United States and Canada.

(2) A branch campus, extension center, or other off-campus unit operated by a private or independent institution of higher education as narrowly defined by Texas Education Code, §61.003.

(3) An institution or degree program that has received approval by an agency of the State of Texas authorizing the graduates of the institution to take a professional or vocational state licensing examination administered by that agency. The granting of permission by a state agency to a graduate of an institution to take a licensing examination does not by itself constitute approval of the institution or degree program required for an exemption under this subsection.

(b) The exemptions provided by subsection (a) of this section apply only to the degree level for which the programs or the institution is accredited or approved, as applicable, and if an institution offers to award a degree at a level for which it is not accredited or approved by the appropriate agency of the State of Texas, the exemption does not apply.

(c) The Commissioner may issue a certificate of authorization to grant degrees to an exempt institution, upon the institution's application and demonstration that it qualifies for an exemption under subsection (a)(1) of this section, as limited by subsection (b) of this section.

(d) A new institution may not presume exempt status and offer to award degrees or courses leading to degrees until it has applied for and been granted a certificate of authorization by the Commissioner.

(e) An exempt institution continues in that status only so long as it maintains accreditation by a recognized accrediting agency or otherwise meets the provisions of subsection (a) of this section.

(f) Revocation of an exemption.

(1) If the Commissioner receives credible evidence that an institution is no longer qualified for an exemption, he shall notify the institution that its exempt status is revoked, and that the institution is subject to the requirements Chapter 61 of the Texas Education Code, and of this subchapter.

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

(3) Within 10 days of its receipt of the Commissioner's notice, the institution must respond and offer proof of its continued qualification for the exemption.

(4) 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.

(5) If a determination under this section is adverse to an institution, it shall become final and binding unless, within 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 Hearings and Appeals).

Source Note: The provisions of this §7.4 adopted to be effective May 29, 2003, 28 TexReg 4131; amended to be effective February 22, 2005, 30 TexReg 835

§7.5 Administrative Procedures Related to Certification of Nonexempt Institutions

(a) The Board may issue to a nonexempt institution a certificate of authority to grant a degree or degrees and to enroll students for courses which may be applicable toward a degree if the Board finds that the institution meets the standards established herein.

(b) Certification Advisory Council.

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

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

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

(c) Fees.

(1) Certificates of Authority. Each biennium the Commissioner shall set the fee for initial and renewal applications for certificates of 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.

(2) Each biennium, the Commissioner shall also set the fees for amendments to certificates of authority; initial reviews of branch campuses or extension centers; site visits to branch campuses or extension centers; and certificates of registration of agents.

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

(d) Board's review of applications.

(1) 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, will visit the institution and conduct an on-site survey to evaluate the application for a certificate of authority. The visiting team will be composed of people who have experience on the faculties or staffs of accredited institutions and who possess knowledge of accreditation standards.

(2) The visiting team will prepare a written report of its findings regarding the institution's ability to meet the standards for a certificate of authority. This report will be provided to the applicant institution, which shall have 30 days within which to respond in writing to each adverse finding.

(3) The certification advisory council will review the findings of the visiting team and the response of the institution and submit to the Commissioner a recommendation concerning the application.

(4) The Commissioner will forward to the Board the recommendation of the advisory council with his endorsement or with an alternate recommendation.

(5) Upon approval of the Board to award a certificate of authority to an institution, the Commissioner will act immediately to prepare and forward the certificate. It shall state, at a minimum, that the institution is authorized to grant certain degrees, the issue date, and the period for which the certificate is valid.

(6) If the Board denies an institution's application for a certificate of authority, or for renewal of its certificate of authority, the Commissioner shall notify the institution in writing of the denial and of the reasons for the denial.

(A) The institution will not be eligible to reapply for a period of one year.

(B) Until the certificate of authority is reinstated, the institution may not grant degrees or enroll students for courses which may be applicable toward a degree.

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

(D) The period of time during which the institution does not hold a certificate of authority shall not be counted against the 8-year period within which the institution must achieve accreditation from a recognized accrediting agency, as described in §7.6(c)(3) of this title (relating to Certificate of Authority); the time period begins to run again upon reinstatement.

(7) If a determination under this section is adverse to an institution, it shall become final and binding unless, within 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 Hearings and Appeals).

(e) Terms and limitations of a certificate of authority.

(1) The certificate of authority to grant degrees is valid for a period of two years from the date of issuance.

(2) 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 §7.6(c)(3) of this title (relating to Certificate of Authority). Therefore, the institution awarded a certificate of 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 of authority shall be included in all publications, advertisements, and other documents where certification and the accreditation status of the institution are mentioned.

(f) Recognition of Accrediting Agencies. The Board recognizes accrediting agencies for purposes of this section provided they can demonstrate they meet the criteria listed below.

(1) The accrediting agency must be recognized by the Council for Higher Education Accreditation or its successor and by the United States Department of Education.

(2) The accrediting agency's standards must be at least as comprehensive and rigorous as the standards listed in §7.7 of this title (relating to Standards for Nonexempt Institutions) and be as rigorously applied.

§7.6 Certificate of Authority--Eligibility, Applications, Renewals, and Amendments

(a) Eligibility to apply. The Board will accept applications for a certificate of authority only from those institutions:

- (1) proposing to offer a degree or credit courses alleged to be applicable to a degree; and
- (2) which have been in operation in Texas and have complied with Texas statutes as non degree-granting institutions or educational or training establishments for a minimum of two years. As a minimum, "in operation" means to enroll students and to conduct classes.

(b) Application for certificate of authority.

- (1) Institutions seeking a certificate of authority are urged to contact the Board's Institutional Certification Office before filing a formal application.
- (2) Applications must be submitted with an original and four copies and accompanied by the fee described in §7.5(c) of this title (relating to Administrative Procedures Related to Certification of Nonexempt Institutions).
- (3) Documentary evidence of compliance with subsection (a)(2) of this section must be filed with the application.
- (4) 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 advisory council's recommendation, the Commissioner's recommendation, and the Board's determination of the institution's qualifications for a certificate of authority.

(c) Renewal of certificate of authority.

- (1) At least 180 days, but no more than 210 days, prior to the expiration of the current certificate of 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 §7.5(c) of this title (relating to Administrative Procedures Related to Certification of Nonexempt Institutions).
- (2) The application for renewal of the certificate of 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.
- (3) An institution may be granted consecutive certificates of authority for no longer than eight years. Absent sufficient cause, at the end of the eight years, the institution must be accredited by a recognized accrediting agency.
- (4) Subject to the restrictions of paragraph (3) of this subsection, the Board shall renew the certificate if it finds that the institution has maintained all requisite standards and is making progress toward accreditation.
- (5) The Board shall consider the application of any accreditation standard that prohibits accreditation of an institution solely on the basis of religious policies practiced by the institution as sufficient justification for extending the institution's eligibility for certification to grant degrees of a religious nature only, if the institution:
 - (A) has applied for and pursued accreditation in good faith;
 - (B) meets all other standards at the level of accreditation; and

(C) satisfies all other requirements of the Board.

(d) Amendments to a certificate of authority.

(1) 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.

(2) Applications for amendment shall be accompanied by the fee described in §7.5(c) of this title (relating to Administrative Procedures Related to Certification of Nonexempt Institutions).

(3) If the Board finds that the new program of study meets the required standards, the Board may amend the institution's certificate accordingly.

(e) Authority to represent transferability of course credit. Any institution as defined in §7.3 of this title (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:

(1) the other institution is named in such representation, and is accredited by an accrediting agency listed in §7.4(a)(1) of this title (relating to Exemptions, Revocation of Exemptions, and Certificates of Authorization);

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

(3) the written agreement between the institution subject to these rules and the accredited institution is approved by both institutions' Boards of trustees in writing and by their accrediting agencies, and is filed with the Board.

(f) Duty to Report.

(1) Institutions holding a certificate of authority will be required to:

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

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

(2) Any change in principal location, ownership, governance, administrative personnel, faculty, or facilities at the institution, or any other changes relevant to the Board's standards for certification, shall be reported to the Board within ten days of the change by the chief administrative officer of the institution in order for the Board to determine if such changes adversely affect the conditions under which the certificate was granted.

(g) If an order, decision, or determination made pursuant to this section is adverse to an institution, the reasons therefore shall be detailed in a notice to the institution. The order, decision, or determination shall become final and binding unless, within 45 days of its receipt of the adverse order, decision, or determination, the institution invokes the administrative remedies contained in Chapter 1, subchapter B of this title (relating to Hearings and Appeals).

Source Note: The provisions of this §7.6 adopted to be effective May 29, 2003, 28 TexReg 4131; amended to be effective August 15, 2006, 31 TexReg 6327; amended to be effective February 19, 2007, 32 TexReg 623

§7.7 Standards for Certificates of Authority

The decision to grant a certificate of authority to an institution will be based on its demonstrated compliance with the following twenty-one standards. 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 of authority, record of improvement and progress following initial approval which would ensure accreditation within the time limits specified in §7.6(c)(3) of this title (relating to Certificate of Authority). The twenty-one standards represent generally accepted administrative and academic practices and principles of accredited institutions of higher education

in Texas. Such practices and principles are generally set forth by regional and specialized accrediting bodies and the academic and professional societies which have established standards for their members' programs, such as the National Association of College and University Business Officers and the American Association of Collegiate Registrars and Admissions Officers.

(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. The institution shall demonstrate compliance with the Texas Education Code, Chapter 132 by supplying a copy of a certificate of approval to operate a career school or college school or a letter of exemption from the Texas Workforce Commission.

(2) Qualifications of Institutional Officers.

(A) The character, education, and experience in higher education of governing board members, administrators, supervisors, counselors, agents, and other institutional officers shall be such as may 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 doctorate awarded by an institution accredited by an agency recognized by the Board or from a foreign institution demonstrated to be equivalent to an accredited institution, 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 of authority, the institutional officers also shall demonstrate a record of effective leadership in administering the institution.

(3) Governing Board. The institution shall have a governing board consisting of at least five members. The institution's governing board shall be an active policy-making body, focused on promoting the mission of the institution, and shall exercise its authority to ensure that the mission of the institution is carried out. Members of the Board shall represent the interests of the institution's constituencies of faculty, students, and supporters. The institution's governing board shall have a compliance committee consisting of not fewer than three board members. No member of the compliance committee shall have contractual employment, personal or familial, or financial interest in the institution. The compliance committee as a whole shall be responsible for reviewing continuous compliance with this chapter and shall report in writing to the full governing board at least annually. The governing board shall ensure that the institution complies with this chapter.

(4) Distinction of Roles. There shall be sufficient distinction among the roles and personnel of the governing Board of the institution, the administration, and faculty to ensure their appropriate separation and independence.

(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 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) 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 and by assessing the academic skills of each entering student with an instrument approved in §4.56 of this title (relating to Assessment Instruments), and otherwise complying with §§4.51 - 4.59 of this title (relating to the Texas Success Initiative). 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 institution shall 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 of 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.

(9) 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 teaching in an academic associate or baccalaureate level degree program shall have at least a master's degree from an institution accredited by a recognized agency with at least 18 graduate semester credit hours in the discipline, or closely related discipline, being taught.

(B) At least 25 percent of the courses in an academic associate or baccalaureate level major shall be taught by faculty members holding doctorates, or other degrees, generally recognized as the highest attainable in the discipline, or closely related discipline, being taught, from institutions accredited by a recognized agency.

(C) Each faculty member teaching technical or vocational courses in a vocational associate degree program shall have at least an associate degree in the discipline being taught from an institution accredited by a recognized agency and at least three years of direct or closely related experience in the discipline being taught.

(D) Each faculty member teaching general education courses in a vocational associate degree program shall meet the requirements for academic associate faculty listed above.

(E) 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.

(F) 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 above. Such appointments shall be limited and the justification for appointment fully documented. The Coordinating Board shall evaluate the qualifications of the full complement of faculty providing instruction at the institution to determine that such appointments are justified and make up a small percentage of the faculty as a whole.

(10) Faculty Size. There shall be a sufficient number of faculty holding full time teaching appointments who are resident and 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 full-time faculty member in each program. At the graduate level, there shall be at least four full-time faculty members in each program.

(11) 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.

(12) 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. Substantially all 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 no more than a very limited amount of for-credit coursework that does not directly relate to approved programs.

(B) An academic associate degree must consist of at least 60 semester credit hours or 90 quarter credit hours and not more than 66 semester credit hours or 99 quarter credit hours. A baccalaureate degree must consist of at least 120 semester credit hours or 180 quarter credit hours and not more than 139 semester credit hours or 208 quarter credit hours. A master's degree must consist of at least 30 semester credit hours or 45 quarter credit hours and not more than 36 semester credit hours or 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.

(13) General Education.

(A) Each academic associate degree program shall contain a general education component consisting of at least 30 semester credit hours or 45 quarter credit hours. Each baccalaureate degree program shall contain a general education component consisting of at least 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 institutions' general education requirements and the manner in which they will be met by the providing institution;

(iii) at least one-half of the courses shall be offered in organized classes; and

(iv) the providing institution shall be accredited by a recognized accrediting agency.

(14) 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, 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 quarter 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 15 semester credit hours or 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.

(15) Library.

(A) The institution shall have in its possession or direct control, properly catalogued, and readily available to its students and faculty a sufficient quality and variety of library holdings to support adequately its own curriculum. In addition, the institution shall supply access to educational resources appropriate to support its program that are available by electronic delivery, including access to the Internet, and shall make these educational resources available in an active and effective manner.

(B) The institution shall have adequate library facilities for the library holdings, space for study, and workspace for the librarian and library staff.

(C) The librarian shall hold a graduate degree in library science from an institution accredited by a recognized accrediting agency. The librarian shall have authority to select and acquire resources with funds in the library budget, have interaction with faculty sufficient to ensure a library collection that supports the courses and programs offered, and have adequate interaction with students to support the library and research needs of the students.

(D) Arrangements made with other libraries for the use of library materials shall be formalized in writing, the collection shall be validated by the institution to be appropriate for the programs being offered, records of usage by the students shall be kept, and the library shall be reasonably accessible to the students and faculty.

(16) 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, and adequate.

(17) 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 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.

(18) 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 catalog containing, 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) a statement of Texas Success Initiative requirements;
- (xvi) 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
- (xvii) any disclosures specified by the Board or defined in Board rules.

(C) The cancellation and refund policy of the institution shall be fair and shall be applied equitably.

(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.

(E) Any special requirements, or limitations of program offerings, for the students at the Texas branch 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 institutions' obligation, if any, to cooperate with the rules and regulations governing state, and federally guaranteed student loans.

(19) 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 and personal counseling, career information and planning, placement assistance, and testing services.

(20) Student Rights and Responsibilities. The institution shall establish and adhere to a clear and fair policy regarding due process in disciplinary matters, and publish this policy in a handbook, which shall include other rights and responsibilities of the students. This handbook shall be supplied to each student upon enrollment in the institution.

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

Source Note: The provisions of this §7.7 adopted to be effective May 29, 2003, 28 TexReg 4131; amended to be effective May 12, 2005, 30 TexReg 2663; amended to be effective August 15, 2006, 31 TexReg 6327

§7.8 Certificate of Registration for Agents of Nonexempt Institutions

(a) A person desiring to solicit students for enrollment, or to accept funds from Texas students, or otherwise to perform services as an agent of a nonexempt institution pursuant to the provisions of the Texas Education Code, Title 3, Chapter 61, Subchapter G and this subchapter, shall make application for a certificate of registration on forms that will be provided by the Board upon request.

(b) The application shall be accompanied by the fee described in §7.5(c) of this title (relating to Administrative Procedures Related to Certification of Nonexempt Institutions).

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

(d) The agent's certificate of registration shall be issued for a two-year period.

(e) If the Commissioner denies the application for a certificate of registration, or a renewal of the certificate of 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.

(f) At least 60 days, but no more than 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 §7.5(c) of this title (relating to Administrative Procedures Related to Certification of Nonexempt Institutions).

(g) If a determination under this section is adverse to a person or institution, it shall become final and binding unless, within 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 Hearings and Appeals).

Source Note: The provisions of this §7.8 adopted to be effective May 29, 2003, 28 TexReg 4131

§7.9 Operation of Branch Campuses, Extension Centers, or Other Off-Campus Units by Exempt Institutions

(a) Off-Campus Operations.

(1) A nonexempt institution may not operate a branch campus.

(2) An exempt private postsecondary institution must be approved by the Board to operate a branch campus, extension center, or other off-campus unit in Texas, except as noted in §7.4(a)(2) of this title (relating to Exemptions, Revocation of Exemptions and Certificates of Authorization).

(3) An institution with off-campus offerings that approach the scale of a branch campus, extension center, or other off-campus unit, as defined in §7.3 of this title (relating to Definitions), must submit to the Board a description of its plans, including such information as requested on an application form, to be furnished by the Board upon request.

(4) On receipt of an acceptable application and the application fee for initial review of a branch campus or extension center listed in §7.5(c) of this title (relating to Administrative Procedures Related to Certification of Nonexempt Institutions), the Commissioner may authorize the institution to begin operations at the branch campus, on a temporary basis, pending a formal review and evaluation.

(5) Formal Review and Evaluation.

(A) Accreditor's on-site review and evaluation. The applicant institution shall inform its recognized accreditor of the institution's temporary authorization from the Board to begin operations, as provided in paragraph (4) of this subsection so that the accreditor may conduct a site visit at the branch campus or extension center to verify compliance with that accreditor's criteria for branch campuses.

(i) The institution shall invite the Southern Association of Colleges and Schools (SACS) to participate in the on-site review and evaluation, to provide representatives to examine the institution, and to supply comments on the branch's ability to meet the standards set forth herein. The institution must inform SACS of the impending visit by its accreditor at least six weeks prior to the visit, to facilitate coordination between the two accreditors.

(ii) The institution shall submit to the Board the report of the recognized accreditor's review and evaluation and SACS' comments.

(iii) After examining the report of the recognized accreditor and SACS comments, the Commissioner may issue continuing approval, place conditions on continuing approval, or revoke the Board's temporary authorization of the branch campus or extension center.

(iv) Final approval by the accreditor must be made within two years of the initial approval by the Commissioner, or the Board's temporary authorization will lapse.

(v) If the accreditor denies approval, the Board's temporary authorization shall immediately expire.

(B) Board's on-site review and evaluation. If the accreditor does not conduct an on-site review and evaluation of the branch campus or extension center, the Board will conduct an on-site review and evaluation to determine whether the branch complies with the Board's standards of operations.

(i) The Board will invite SACS to provide representation, to accompany the visiting team, and to supply comments.

(ii) The institution shall be assessed the fee for an on-site survey to a branch campus or extension center, as provided in §7.5(c) of this title (relating to Administrative Procedures Related to Certification of Nonexempt Institutions).

(iii) The institution shall be sent the report of the Board's review and evaluation and shall have 30 days to submit a written response to the report.

(iv) After examining the report of review and evaluation and the institution's written response, the Commissioner may issue continuing approval, place conditions on continuing approval, or revoke the Board's temporary approval of the branch campus or extension center.

(6) The Board requires reviews, including site visits, of the branch campus or extension center according to the schedule used for accreditation of the main campus by the recognized accreditor. The review will be conducted in the same manner as described in paragraph (5) of this subsection. The Commissioner may deny continuing approval of any branch campus or extension site which fails to maintain the conditions and standards on which approval was based.

(7) In the event of any adverse determination made under the authority of this section by the Commissioner, the institution shall receive notice of the determination, and shall be given the reasons for the denial in writing.

(8) If a determination under this section is adverse to an institution, it shall become final and binding unless, within 45 days of receipt of the adverse determination, the institution invokes the administrative remedies contained in Chapter 1, subchapter B of this title (relating to Hearings and Appeals).

(9) Any change in location, ownership, governance, administrative personnel, faculty, or facilities of the branch campus or extension center, or any other changes relevant to the Board's standards for off-campus operations at exempt institutions, shall be reported to the Board within ten days of the change by the chief administrative officer of the institution in order for the Board to determine if such changes adversely affect the conditions under which approval to operate a branch campus, extension center, or other off-campus unit was granted.

(b) Standards for Off-Campus Operations at Exempt Institutions.

(1) Legal Compliance. The institution shall be maintained and operated in compliance with all applicable laws of the state in which the institution is located, and with all Texas laws affecting its operations in Texas, including the rules and regulations adopted to administer those laws. The institution shall demonstrate that it is exempt from the requirement to hold a certificate of authority to grant degrees by providing documentation from an accreditor recognized by the Board demonstrating that the institution is currently accredited.

(2) Administration of the Branch Campus. There shall be an appropriate and effective administrative structure between the main campus and the off-campus unit. The character, education, and experience in higher education of the local administrators shall be such as may reasonably ensure that the students will receive education consistent with the objectives of the course or program of study. Local faculty must have the same degree of separation and independence from the administration that faculty on the main campus enjoy.

(3) Financial Resources and Stability. The institution shall have a reasonable budget for the off-campus unit and must demonstrate adequate reserves available to the off-campus unit to meet its responsibilities to its Texas students.

(4) 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.

(5) 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 and by assessing the academic skills of each entering student with an instrument approved in §4.56 of this title (relating to Assessment Instruments), and otherwise complying with §§4.51 - 4.59 of this title (relating to the Texas Success Initiative). 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 institution shall 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 of 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.

(6) 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 teaching in an academic associate or baccalaureate level degree program shall have at least a master's degree from an institution accredited by a recognized agency with at least 18 graduate semester credit hours in the discipline, or closely related discipline, being taught.

(B) At least 25 percent of the courses in an academic associate or baccalaureate level major shall be taught by faculty members holding doctorates, or other degrees generally recognized as the highest attainable in the discipline, or closely related discipline, being taught from institutions accredited by a recognized agency.

(C) Each faculty member teaching technical or vocational courses in a vocational associate degree program shall have at least an associate degree in the discipline being taught from an institution accredited by a recognized agency and at least three years of direct or closely related experience in the discipline being taught.

(D) Each faculty member teaching general education courses in a vocational associate degree program shall meet the requirements for academic associate faculty listed above.

(E) 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, being taught, from institutions accredited by a recognized agency.

(F) 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 above. Such appointments shall be limited and the justification for appointment fully documented. The Coordinating Board shall evaluate the qualifications of the full complement of faculty providing instruction at the institution to determine that such appointments are justified and make up a small percentage of the faculty as a whole.

(7) Faculty Size. There shall be a sufficient number of faculty holding full time teaching appointments who 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. Full time faculty on the main campus serving in merely an assessment role at the off-campus unit do not contribute to meeting the standard. There shall be at least one faculty member with a full-time teaching assignment for each program at the off-campus unit.

(8) 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 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 that shall be given to that faculty member with a copy to be retained by the institution. If there are separate provisions of employment for Texas branch faculty, those differences must be explicitly stated to faculty in writing. If the differences are substantial, there should be a separate faculty handbook for the Texas faculty.

(9) 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. Substantially all 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 no more than a very

limited amount of for-credit coursework that does not directly relate to approved programs.

(B) An academic associate degree must consist of at least 60 semester credit hours or 90 quarter credit hours and not more than 66 semester credit hours or 99 quarter credit hours. A baccalaureate degree must consist of at least 120 semester credit hours or 180 quarter credit hours and not more than 139 semester credit hours or 208 quarter credit hours. A master's degree must consist of at least 30 semester credit hours or 45 quarter credit hours and not more than 36 semester credit hours or 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.

(10) General Education.

(A) Each academic associate degree program shall contain a general education component consisting of at least 30 semester credit hours or 45 quarter credit hours. Each baccalaureate degree program shall contain a general education component consisting of at least 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 institutions' general education requirements and the manner in which they will be met by the providing institution;

(iii) at least one-half of the courses shall be offered in organized classes; and

(iv) the providing institution shall be accredited by a recognized accrediting agency.

(11) 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, 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 quarter 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 15 semester credit hours or 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.

(12) Library.

(A) The institution shall have in its possession or direct control, properly catalogued, and readily available to its students and faculty a sufficient quality and variety of library holdings to support adequately its own curriculum. In addition, the institution shall supply access to educational resources appropriate to support its program that are available by electronic delivery, including access to the Internet, and shall make these educational resources available in an active and effective manner.

(B) The institution shall have adequate library facilities for the library holdings, space for study, and workspace for the librarian and library staff.

(C) The librarian shall hold a graduate degree in library science from an institution accredited by a recognized accrediting agency. The librarian shall have authority to select and acquire resources with funds in the library budget, have interaction with faculty sufficient to ensure a library collection that supports the courses and programs offered, and have adequate interaction with students to support the library and research needs of the students.

(D) Arrangements made with other libraries for the use of library materials shall be formalized in writing, the collection shall be validated by the institution to be appropriate for the programs being offered, records of usage by the students shall be kept, and the library shall be reasonably accessible to the students and faculty.

(13) 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 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.

(14) 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, and adequate.

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

(A) Neither the institution nor its agents 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 catalog containing, 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) a statement of Texas Success Initiative requirements;

(xvi) 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

(xvii) any disclosures specified by the Board or defined in Board rules.

(C) The cancellation and refund policy of the institution shall be fair and shall be applied equitably.

(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 job placement rate by program.

(E) Any special requirements, or limitations of program offerings, for the students at the Texas branch 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 institutions' obligation, if any, to cooperate with the rules and regulations governing state, and federally guaranteed student loans.

(16) 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 and personal counseling, career information and planning, placement assistance, and testing services.

(17) Student Rights and Responsibilities. The institution shall establish and adhere to a clear and fair policy regarding due process in disciplinary matters, and publish this policy in a handbook, which shall include other rights and responsibilities of the students. This handbook shall be supplied to each student upon enrollment in the institution.

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

Source Note: The provisions of this §7.9 adopted to be effective May 29, 2003, 28 TexReg 4131; amended to be effective May 12, 2005, 30 TexReg 2663; amended to be effective August 15, 2006, 31 TexReg 6327; amended to be effective February 19, 2007, 32 TexReg 623

§7.10 Occasional Courses, Changes of Level at Exempt Institutions, and Out-of-State Public Institutions

(a) Occasional Courses. An exempt private institution may offer occasional degree-credit courses at off-campus sites in Texas without prior approval of the Board. Nonexempt private institutions must request prior Board approval for all off-campus credit courses using forms provided by the Board.

(b) Changes of Level for Exempt Private Institutions. An institution which is exempt by accreditation from a recognized agency and which has established stability by being so accredited for the previous ten years and which wishes to expand to a different degree level not covered by its existing accreditation shall, by submission of a letter to the Commissioner outlining the degree or degrees to be offered at the higher level, be granted state authorization to seek accreditation at the higher level with the recognized accrediting agency. If the recognized accrediting agency does not extend accreditation to the higher level or if the institution has not been accredited for ten or more years, the institution may seek a certificate of authority under the procedures listed in §7.6 of this title (relating to Certificate of Authority).

(c) Out-of-State Public Institutions of Higher Education. An out-of-state public institution of higher education as defined in §7.3 of this title (relating to Definitions) must have approval of the Board to offer a course or a grouping of courses within the State of Texas (Texas Education Code, Chapter 61, Subchapter H). The institution must submit a description of its plans prior to offering courses, including information requested on an application form furnished by the Board. The application will be subject to review under the procedures listed in §7.6 of this title (relating to Certificate of Authority).

Source Note: The provisions of this §7.10 adopted to be effective May 29, 2003, 28 TexReg 4131

§7.11 Revocation of Certificates of Nonexempt Institutions and Agents

(a) The Commissioner may revoke an institution's certificate of authority to grant degrees at any time if the Commissioner finds that:

- (1) Any statement contained in an application for the certificate is untrue;
- (2) The institution has failed to maintain the standards of the Board, as described herein, on the basis of which the certificate was granted;
- (3) Advertising or representations made on behalf of the institution is deceptive or misleading; or
- (4) The institution has violated any provision of this subchapter.

(b) The Commissioner may revoke an agent's certificate of 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 of 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 under subsection (a) and (b) of this section shall be provided to the certificate holder and shall contain information regarding the reasons for the revocation.

(d) Notice of revocation under subsection (b)(1), (3), or (4) of this section shall also be given 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.

(e) A revocation made pursuant to this section shall become final and binding unless, within 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 (relating to Hearings and Appeals).

Source Note: The provisions of this §7.11 adopted to be effective May 29, 2003, 28 TexReg 4131

§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 of authority may request a letter from the Board confirming that the institution is not eligible for a certificate of 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 degree described in §7.3(11)(B) or (C) of this title (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 §7.7 of this title (relating to Standards for Certificates of Authority) 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 of 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, shall visit the institution and conduct an on-site survey to evaluate the application for review and approval. The 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 shall charge the person or institution petitioning for review and approval a fee equal to the application fee for a certificate of authority or the actual cost of conducting the review, including travel expenses and cost of consultant fees, whichever is greater.

Source Note: The provisions of this §7.12 adopted to be effective February 21, 2006, 31 TexReg 1023

§7.13 Information Provided to Protect Public from Fraudulent, Substandard, or Fictitious Degrees

(a) The Board shall disseminate the following information through the Board's Internet website:

(1) 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 §§7.1 - 7.10 of this title or for which a determination is made under §7.10(d) of this title (relating to Occasional Courses, Changes of Level at Exempt Institutions, and Out-of-State Public Institutions), and any institution offering fraudulent or substandard degrees, including:

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

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

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

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

(b) the Board shall utilize such usual and customary sources for determining the accreditation status of institutions; 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.

(c) 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.

Source Note: The provisions of this §7.13 adopted to be effective February 21, 2006, 31 TexReg 1023

§7.14 Prohibitions

(a) A person or institution may not:

(1) Grant, award, or offer to award a degree on behalf of a nonexempt institution unless the institution has been issued a certificate of authority to grant the degree by the Board;

(2) 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 except under conditions and in a manner specified under §7.6 of this title (relating to Certificate of Authority), 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) Award or offer to award an honorary degree on behalf of a private postsecondary educational institution subject to the provisions of the subchapter, unless the institution has been awarded a certificate of 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) Use a protected term in the official name or title of a nonexempt private postsecondary educational institution 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 establishment that is using a term in violation of this section;

(5) Use a protected term in the official name or title of an educational or training establishment or describe an institution using any of these terms or a term having a similar meaning, or solicit another person to seek a degree or to earn a credit that is offered by an institution or establishment that is using a term in violation of this section;

(6) Act as an agent who solicits students for enrollment in a private postsecondary educational institution subject to the provisions of the subchapter without a certificate of registration.

(7) Use or claim to hold a degree that the person knows is a fraudulent or substandard degree 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, a 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.

(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) A violation of this subsection may constitute a violation of the Texas Penal Code, §32.52. An offense under subsection (a)(1) - (6) of this section may be a Class A misdemeanor and an offense under subsection (a)(7) of this section may be a Class B misdemeanor.

Source Note: The provisions of this §7.14 adopted to be effective February 21, 2006, 31 TexReg 1023

§7.15 Duties upon Dissolution of an Institution

(a) 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.

(b) 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.

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

Source Note: The provisions of this §7.15 adopted to be effective February 21, 2006, 31 TexReg 1023

§7.16 Procedures Related to the Assessment of Administrative Penalties

(a) 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.

(b) 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.

(c) The Commissioner's assessment shall become final and binding unless, within 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 Hearings and Appeals).

(d) If the person or institution does not pay the amount of the penalty within 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.

Source Note: The provisions of this §7.16 adopted to be effective February 21, 2006, 31 TexReg 1023

§7.17 Administrative Penalties

(a) Any person or institution that is neither exempt nor the holder of a certificate of 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;

(4) 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.

(b) Any person or institution that violates §7.14(a)(4) or (5) of this title (relating to Prohibitions) shall be assessed an administrative penalty of not less than \$1,000 or more than \$3,000.

(c) Any agent who solicits students for enrollment in an institution subject to the provisions of the subchapter without a certificate of 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.

(d) Any operations which are found to be in violation of the law shall be terminated.

Source Note: The provisions of this §7.17 adopted to be effective February 21, 2006, 31 TexReg 1023

§7.18 Injunctions

(a) 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.

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

Source Note: The provisions of this §7.18 adopted to be effective February 21, 2006, 31 TexReg 1023

§7.19 Civil Penalties

(a) 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.

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

Source Note: *The provisions of this §7.19 adopted to be effective February 21, 2006, 31 TexReg 1023*

§7.20 Deceptive Trade Practices Act

(a) A person who violates this subchapter commits a false, misleading, or deceptive act or practice within the meaning of the Texas Business & Commerce Code, §17.46.

(b) A public or private right or remedy under the Texas Business & Commerce Code, §17, may be used to enforce this section.

Source Note: *The provisions of this §7.20 adopted to be effective February 21, 2006, 31 TexReg 1023*