

# Regulatory Analysis Form

RECEIVED  
This space for use by IRRC  
2006 MAY -1 PM 2:15

(1) Agency

State Board of Education

INDEPENDENT REGULATORY  
REVIEW COMMISSION

(2) I.D. Number (Governor's Office Use)

#006-297

IRRC Number:

2506

(3) Short Title

Chapter 31 - Higher Education General Provisions

(4) PA Code Cite

22 Pa. Code Chapter 31

(5) Agency Contacts & Telephone Numbers

Primary Contact: Jim Buckheit  
(717) 787-3787  
jbuckheit@state.pa.us

(6) Type of Rulemaking (check one)

- Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No  
 Yes: By the Attorney General  
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

Chapter 31 addresses requirements for the governance, academic program, admissions and student services, facilities, maintenance of quality, honorary degrees and major corporate change of postsecondary institutions that offer post-secondary degree programs in the Commonwealth. The regulations apply to community colleges; State-owned, State-related and State-aided universities; private-two year colleges; independent colleges and universities; seminaries; and, professional schools.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Public School Code of 1949 (24 P.S. §§ 1-101 — 27-2702).

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated by federal statute or court order. The enabling statute for the State Board of Education requires it to "establish standards governing the educational program of the Commonwealth." (24 P.S. § 26-2603-B(a)).

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The regulations establish the general standards for operation of postsecondary degree granting institutions operating in the Commonwealth. The final form regulations update Chapter 31 to address a statutory change that permits for-profit postsecondary institutions to operate in the Commonwealth; address use of Internet-based and other distance-learning technologies; and, update and clarify other issues.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The regulations protect the interests of students to ensure that in return for payment of their tuition dollars they receive a quality postsecondary education.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The regulations directly benefit the more than 678,000 full- and part-time students enrolled in more than 260 postsecondary degree-granting institutions that operate within this Commonwealth.

## Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No individual or entity is expected to be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

More than 260 postsecondary degree-granting institutions that currently operate in the Commonwealth are required to comply with the regulation. In addition, any newly created postsecondary institution, existing entity that wants to begin to offer postsecondary degrees or Out-of-State or Out-of-Country institutions wishing to operate within the Commonwealth are required to comply with the regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The State Board of Education committee charged with the responsibility to review and revise this Chapter held numerous public roundtable meetings, hearings and committee meetings. Each of these forums presented opportunities for interested parties to provide input to the committee. The roundtable meetings were advertised in newspapers and on the State Board web page. Notices of the roundtables were mailed to the president of every postsecondary institution operating in the Commonwealth. The roundtables were held in February 2004 in Philadelphia, Harrisburg and Monroeville. A public hearing was held in Harrisburg on October 8, 2004. Two other hearings were cancelled as fewer than two individuals registered to attend either session. The hearings were advertised in newspapers, notice placed on the State Board web page and notices were mailed to presidents of postsecondary institutions. In addition to input received at these meetings, the State Board also sought and received a number of written comments from stakeholders throughout the development of the regulations. In addition, the committee held open public meetings, which adhered to the requirements of the Sunshine Act, on 1/21/04, 7/21/04, 9/15/04, 11/17/04, 1/19/05, 11/16/05, 1/18/06 and 3/15/06. In addition, the Council of Higher Education discussed the regulation and offered an opportunity for public comment before the Council took action at its meeting held on March 15, 2006. The State Board of Education also discussed the Chapter and accepted public comment before it approved the regulation on March 16, 2006. In addition to these forums, discussions were held with numerous representatives of independent colleges and universities at Seton Hill University on February 7, 2005. Additional consultation was made with representatives of the State System of Higher Education, Penn State University, University of Pennsylvania, Pennsylvania Association of Independent Colleges and Universities and Pennsylvania Association of Private School Administrators.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

None

## Regulatory Analysis Form

(18) Provide specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

None

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

None

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
<b>Total Savings</b>	0	0	0	0	0	0
<b>COSTS:</b>						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
<b>Total Costs</b>	0	0	0	0	0	0
<b>REVENUE LOSSES:</b>						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
<b>Total Revenue Losses</b>	0	0	0	0	0	0

(20a) Explain how the cost estimates listed above were derived.

N.A.

## Regulatory Analysis Form

(20b) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N.A.				

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N.A.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Nonregulation would place citizens of the Commonwealth at risk of suffering financial and other damages resulting from poor quality or fraudulent programs. These regulations provide standards of quality and recourse to the Department of Education to take action against poor quality or fraudulent programs.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No other strategies were considered since only legal authority provided by statute or regulation is needed by the Department of Education to intervene when necessary.

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

These regulations provide proven protection to the citizens of the Commonwealth. The requirements do not place the Commonwealth at a competitive disadvantage with other states. Adoption of these changes will increase the competitive position of Pennsylvania's post-secondary institutions by allowing them to expand their distance learning programs. Maintaining the current regulations in force place the Commonwealth's institutions at a competitive disadvantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

As outlined in number 16, numerous roundtables, public hearings and public meetings were already held. Therefore additional meetings are not planned.

## Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

None

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon publication of the final form regulation in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

It is the policy and practice of the State Board of Education to normally review its regulations every four years.



Dr. Mary Kate McGinty  
Univ. of the Sciences/Phila.  
600 South 43<sup>rd</sup> Street  
Philadelphia, PA 19104-4495

Dean Brian Kester  
Katharine Gibbs School  
2501 Monroe Blvd.  
Norristown, PA 19403

Alfred Parcels, Jr.  
Pennco Tech  
3815 Otter Street  
Bristol, PA 19007

Paul Reid, President  
The Williamson Free School  
106 S. New Middletown Road  
Media, PA 19063-5299

Michael Choma  
945 Greensburg Road  
New Kensington, PA 15068

Richard Lanning  
2002 Spring Valley Road  
Lansdale, PA 19446

John Hayden  
PJA School  
7900 West Chester Pike  
Upper Darby, PA 19082

Dr. Norman Spencer  
Berean Institute  
1901 West Girard Ave.  
Philadelphia, PA 19130

Dr. Peter Garland  
SSHE -Dixon Univ. Ctr.  
2986 N. 2<sup>nd</sup> Street  
Harrisburg, PA 17110

Alfred Parcels  
Pennco Tech  
3815 Otter Street  
Bristol, Pa 19007-3696

Mary Kate McGinty  
Univ. of Sciences/Phila.  
600 South 43<sup>rd</sup> Street  
Philadelphia, PA 19140

Valarie Harrison  
Temple University  
1801 N. Broad Street  
Philadelphia, PA 19122

Dr. James Murphy  
Yorktowne Business Inst.  
West 7<sup>th</sup> Ave.  
York, Pa 17404

Alexander Golubov  
St. Tikhon's Seminary  
St. Tikhon's Road, Box 130  
South Canaan, PA 18499

Linda Walinsky  
McCann School  
2650 Woodglen Road/Main  
Pottsville, Pa 17901

Mary Young  
Assn. Of Indep. Colleges  
101 North Front Street  
Harrisburg, PA 17101

Dr. Ranny Singiser  
PSU/Harrisburg  
777 West Harrisburg Pike  
Middletown, PA 17057

Dick Dumaresq  
PA Assn. Of Private Schs.  
2090 Wexford Ct.  
Harrisburg, PA 17112

Paul Pierpoint  
Northampton Co. C.C.  
3835 Green Pond Road  
Northampton, PA 18020

Debra Weninger  
Allentown Business School  
1501 Lehigh Street  
Allentown, PA 18103

Mike Choma  
Newport Business Institute  
941 West 3<sup>rd</sup> Street  
Williamsport, PA 17701

Mark Lowe  
Oakridge Academy of Arts  
1250 Greensburg Road  
Lower Burrell, PA 15068

Patricia DeConcilis  
Douglas Education Center  
130 7<sup>th</sup> Street  
Monessen, PA 15062

Vincent Graziano  
Bradford School/Pgh.  
Gulf Tower Bldg.  
707 Grant St.  
Pittsburgh, PA 15219

Dr. Graham  
Robert Morris University  
6001 University Blvd.  
Moon Twp., PA 15108

Donna Gray  
2895 Greenspoint Parkway  
Suite 600  
Hoffman Estates, IL 60195

Katherine Kautzer  
2985 Greenspoint Parkway  
Suite 600  
Hoffman Estates, IL 60195

Patricia DeConcilis  
Douglas Education Center  
130 Seventh Street  
Monessen, PA 15062

Dr. John Graham  
Robert Morris Univ.  
6001 University Blvd.  
Moon Twp., PA 15108

CDL-1

RECEIVED

2006 MAY -1 PM 2:15

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

INDEPENDENT REGULATORY  
REVIEW COMMISSION

(Pursuant to Commonwealth Documents Law)

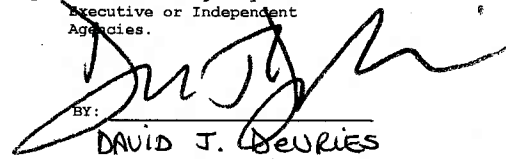
Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

PA State Board of Education  
(AGENCY)

BY:   
DAVID J. SEURLES

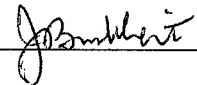
DOCUMENT/FISCAL NOTE NO. #006-297

DATE OF APPROVAL

DATE OF ADOPTION: March 16, 2006

APR 26 2006

DATE OF APPROVAL

BY:  \_\_\_\_\_

EXECUTIVE  
Deputy General Counsel  
(~~Chief Counsel,~~  
~~Independent Agency~~)  
(Strike inapplicable title)

TITLE: Executive Director  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Check if applicable  
Copy not approved.  
Objections attached.

Check if applicable.  
No Attorney General approval  
or objection within 30 days  
after submission.

FINAL FORM REGULATION  
COMMONWEALTH OF PENNSYLVANIA

22 PA. CODE, CH. 31  
Higher Education - General Provisions

*Final Regulations*  
**PREAMBLE**  
**STATE BOARD OF EDUCATION**  
**22 PA.CODE—EDUCATION**  
**CHAPTER 31: HIGHER EDUCATION—GENERAL PROVISIONS**

The State Board of Education (Board) amends Chapter 31 (Higher Education General Provisions) to read as set forth in Annex A. Notice of proposed rulemaking was published at 35 Pa.B. 6242 (November 12, 2005), with an invitation to submit written comments.

Chapter 31 sets forth requirements that all degree-granting higher education institutions must follow to operate in the Commonwealth. The final regulations make changes to Chapter 31. The overarching purposes of the changes are to align the regulations with state statutory provisions, reflect increased use of technology and distance-learning and update the regulations.

*Statutory Authority*

The Board takes this action under the authority granted to it by section 2603-B of the act of March 10, 1949 (P.L. 30, No. 14), 24 P.S. § 26-2603-B, known as the Public School Code of 1949 (School Code).

*Background*

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

The regulations address requirements for the governance, academic program, admissions and student services, facilities, maintenance of quality, honorary degrees and

major corporate change of post-secondary institutions.

*Summary of Public Comments and Responses to Proposed Rulemaking*

The Board received comments from the Independent Regulatory Review Commission (IRRC). Letters were also received from the Pennsylvania Association of Independent Colleges and Universities and the Pennsylvania Association of Private School Administrators after the conclusion of the 30-day public comment period.

Following is a summary of the comments and the Board's responses to those comments:

Section 31.1. -- Purpose and scope.

*Comment:* IRRC recommended revisions to the numbering in this section. It also suggested that the Board reference the specific operational requirements that higher education institutions must meet under this provision.

*Response:* The Board renumbered this section and has also clarified the requirements that post-secondary institutions must meet to be permitted to conduct more than 50% of their degree granting programs through distance education.

Section 31.2. Definitions.

*Comment:* IRRC shared concerns that the definition of Community Education Council contains substantive provisions and that substantive provisions in a definition are not enforceable. In addition, IRRC shared concerns that the definition is not consistent with that outlined in statute.

*Response:* The Board deleted the substantive provisions of the definition. It also revised the definition to have the same meaning as defined in statute.

*Comment:* Since the Board added a new term, *corrective action status*, to the

regulation it has included a definition in this section. The Board also revised the definition of foreign corporation to align it with its current use and meaning in this chapter.

Section 31.12. President and board or council of trustees.

*Comment:* The Association of Independent Colleges and Universities of Pennsylvania commented that oversight of institution-wide assessment should be determined by the institution, not directed by these regulations as proposed in subsection (a)(4).

*Response:* The Board concurs and has deleted the proposed language.

Section 31.21. Curricula.

*Comment:* IRRC echoed concerns raised by the Pennsylvania Association of Private School Administrators that questioned the meaning of the term *general education* in subsection (b) as it applies to “specialized degrees.” IRRC also suggested that the section be renumbered and the regulations and policies referred to in subsection (d) be listed.

*Response:* The Board has revised its language regarding general education, which now meets with approval by the Pennsylvania Association of Private School Administrators. The section has been renumbered and the listing of applicable regulations added.

Section 31.24. Faculty.

*Comment:* The Association of Independent Colleges and Universities suggested that subsection (d) be clarified as to the requirements for professional development, particularly as they apply to part-time and adjunct faculty.

*Response:* The Board revised the regulation to require that an institution address its own policy for providing professional development to members of its faculty in its plan. This places the responsibility on the institution to determine whether and how it will address professional development for its faculty.

Section 31.33. Student records and services.

*Comment:* IRRC suggests that the specific references to the laws or local policies that could require updates in the student record plans of institutions be listed in subsection (a).

*Response:* The language in this section has been revised to have the Department of Education provide guidance as to the applicable federal, state and local laws, regulations and directives relating to student records. There are numerous laws that apply, and they are frequently revised.

*Comment:* IRRC suggested that in subsection (b)(7), the specific laws and regulation that are pertinent to students with special needs at the covered institutions be identified.

*Response:* The Board revised the subsection to specify that institutions must comply with the Americans with Disabilities Act of 1990 and 34 Pa.. Code Chapter 47 (relating to facilities for handicapped).

*Affected Parties*

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

in this Commonwealth.

*Fiscal Impact and Paperwork Requirements*

Since the regulations are designed to be aligned with current statutory requirements and merely clarify current requirements, they do not impose any new costs or savings for the Department of Education or to postsecondary institutions.

*Effective Date*

The regulations are effective upon publication in the *Pennsylvania Bulletin*.

*Sunset Date*

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

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 27, 2005, the Board submitted a copy of this proposed rulemaking (published at 35 Pa.B. 6242) for review and comment by IRRC and the House and Senate Committees on Education.

In compliance with section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the Board also provided IRRC and the Committees with copies of the comments received, as well as other documentation. In preparing this final-form rulemaking, the Board considered the comments received from IRRC, the Committees and the public.

In accordance with section 5.1(a) of the Regulatory Review Act (71 P.S. § 745a(a)), the Board submitted the final-form rulemaking to IRRC and the Committees for review as provided by section 5.1 of the Regulatory Review Act.

In accordance with section 5.1 of the Regulatory Review Act, these final-form regulations were deemed approved by the Senate Education Committee on \_\_\_\_\_, approved by the House Education Committee on \_\_\_\_\_, and approved by IRRC on \_\_\_\_\_.

*Contact Person*

The official responsible for information on these final-form regulations is Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, telephone (717) 787-3787 or TDD (717) 787-7367.

*Findings*

The State Board of Education finds that:

(1) Public notice of the intention to adopt this final-form rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments were considered.

(3) The final-form rulemaking is necessary and appropriate for the administration of the Public School Code of 1949.



*Order*

The State Board of Education, acting under authorizing statute, orders that:

- (a) The regulations of the Board, 22 Pa. Code Chapter 31, are amended to read as set forth in Annex A.
- (b) The Executive Director will submit this Order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.
- (c) The Executive Director of the Board shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) This order is effective upon final publication in the *Pennsylvania Bulletin*.

By the State Board of Education:

---

Jim Buckheit  
Executive Director

**Annex A**  
**TITLE 22. EDUCATION**  
**PART I. STATE BOARD OF EDUCATION**  
**SUBPART C. HIGHER EDUCATION**  
**CHAPTER 31. GENERAL PROVISIONS**

**PRELIMINARY PROVISIONS**

**§ 31.1. Purpose and scope.**

\*\*\*\*\*

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

\*\*\*\*\*

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

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

\*\*\*\*\*

(e) Only a postsecondary degree-granting institution having more than 50% of its degree programs consisting of resident-based instruction may be established or operate in

this Commonwealth. [For a nonresident-based degree program to be approved for the awarding of college credits or granting of degrees in this Commonwealth, the institution shall have an identical resident-based degree program. In addition, more than 50% of an institution's degrees, which are awarded for completion of each resident and nonresident degree program combination, shall be earned from the resident-based degree program.] For combination programs, the residential portion of the program must be offered on a regularly scheduled basis.

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

(i) (1) Accreditation by a regional accreditation agency approved by the United States Department of Education.

(ii) (2) Graduated a minimum of 25 students each from 10 degree programs in place at the time of petitioning for approval.

(iii) (3) Meet all other requirements to operate in the Commonwealth as defined in these regulations. IS NOT IN CORRECTIVE ACTION STATUS.

(4) THE DEPARTMENT HAS NOT INITIATED THE PROCESS TO REVOKE ITS APPROVAL OF THE INSTITUTION.

(f) Except as specifically provided in this chapter, this chapter does not apply to private licensed schools or other proprietary institutions of postsecondary education that

**do not offer degrees.** These institutions are governed by the Private Licensed Schools Act (24 P.S. §§ 6501—6518) and Chapters 42 and 73 (relating to program approval; and private licensed schools—general provisions).

**§ 31.2. Definitions.**

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

***ASB*—Associate in Specialized Business.**

***AST*—Associate in Specialized Technology.**

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

***CEC--Community Education Council*—A non-profit educational organization, governed by a community based board of directors, whose purpose is to identify, implement and oversee new or innovative efforts to provide access to postsecondary education opportunities in educationally underserved communities;**

~~and is established and operated in accordance with Article XIX-D of the School Code (24 P.S. §§ 19-1901-D—19-1905-D).~~

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

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

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

AS DEFINED IN ARTICLE XIX-D OF THE SCHOOL CODE (24 P.S. §§ 19-1901-D –1905-D).

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

(i) 15 Pa.C.S. Part II, Subpart B (relating to Business Corporation Law of 1988).

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

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

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

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

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

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

**CORRECTIVE ACTION STATUS—PERIOD DURING WHICH AN INSTITUTION IS REQUIRED BY THE DEPARTMENT TO CORRECT DEFICIENCIES IDENTIFIED DURING THE DEPARTMENT'S INSTITUTIONAL REVIEW. CORRECTIVE ACTION STATUS BEGINS UPON RECEIPT OF WRITTEN NOTIFICATION FROM THE DEPARTMENT. CORRECTIVE ACTION STATUS ENDS UPON RECEIPT OF WRITTEN NOTIFICATION FROM THE DEPARTMENT THAT THE INSTITUTION HAS RESOLVED ALL DEFICIENCIES.**

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

**(i) Correspondence.**

**(ii) Television.**

**(iii) Videocassette or disk.**

**(iv) Film.**

**(v) Radio.**

**(vi) Computer.**

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

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

*Education enterprise*—An educational activity in this Commonwealth ~~which~~ THAT is sponsored by a foreign corporation and for which college credits or continuing education units are awarded, **continuing professional education is offered (culminating in awards such as Continuing Education Unit (CEU), Continuing Medical Education (CME) or Continuing Professional Education (CPE))**, or tuition or fees are charged or collected.

\*\*\*\*\*

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

\*\*\*\*\*

*Junior college*—An institution which offers full 2-year postsecondary educational programs culminating with associate degrees. A junior college also may

offer upper-division programs not culminating in a baccalaureate degree when it has the appropriate approval under Chapter 42.]

\*\*\*\*\*

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

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

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

\*\*\*\*\*

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

\*\*\*\*\*

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

\*\*\*\*\*



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

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

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

\*\*\*\*\*

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

\*\*\*\*\*

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

\*\*\*\*\*

## GOVERNANCE

\*\*\*\*\*

### § 31.12. President and board or council of trustees.

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

\*\*\*\*\*

#### **(4) Oversight of institution-wide assessment.**

(b) For a State System university subject to the authority of the Board of Governors, the chancellor, the president, together with the council of trustees, shall give overall policy direction to the institution. The president shall administer and manage the

institution under Article XX-A of the School Code (24 P. S. §§ 20-2001-A—20-201[7]9-A).

**§ 31.13. Administrative organization.**

\*\*\*\*\*

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

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

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

**§ 31.14. Financial records.**

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

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

\*\*\*\*\*

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

\*\*\*\*\*

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

\*\*\*\*\*

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

## ACADEMIC PROGRAM

§ 31.21. Curricula.

\*\*\*\*\*

(b) Degree requirements stated in this section [are in terms of a credit hour which represents a unit of curricular material which normally can be taught in a minimum of 14 hours of classroom instruction as determined by the faculty offering the program. For alternative instructional modes such as laboratory instruction, independent study, thesis and dissertation guidance, clinical and practicum experience, telecommunication instruction and correspondence study a credit hour shall represent an instructional unit which by faculty determination is equivalent to a minimum of 14 hours of classroom instruction] may be stated in terms of semester credit hours or quarter credit hours, as determined by the institution and conforming to generally accepted academic practices. GENERAL EDUCATION, AS DEFINED IN THIS SECTION, REFERS TO THE CURRICULAR INCLUSION OF HUMANITIES, ARTS, COMMUNICATIONS, SOCIAL SCIENCES, MATHEMATICS, TECHNOLOGY AND SCIENCE COURSES IN SUPPORT OF THE MISSION OF THE INSTITUTION.

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

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

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

**a minimum of 90 quarter credit hours, which shall include a minimum of 30 quarter credit hours of general education.**

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

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

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

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

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

\*\*\*\*\*

**(d) To assure academic integrity, an institution shall provide students in a distance education program access to academic and student services, including textbooks, study guides, library and other learning resources, personal interaction with faculty, tutors or other educational personnel by computer, telephone, mail or face-to-face meetings. The institution shall assure integrity of student work and provide opportunity for student assessment. These programs must comply with all regulations [and policies] that apply to resident-based programs AS PRESCRIBED IN THIS CHAPTER AND CHAPTERS 35 (RELATING TO COMMUNITY COLLEGES), 36 (RELATING TO FOREIGN CORPORATION STANDARDS), 40 (RELATING TO INSTITUTIONAL APPROVAL), AND 42 (RELATING TO PROGRAM APPROVAL), AND SHALL CONFORM TO GENERALLY ACCEPTED ACADEMIC PRACTICES FOR DELIVERY OF INSTRUCTION THROUGH DISTANCE EDUCATION.**

\*\*\*\*\*

§ 31.23. Program [data base] **database**.

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

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

**§ 31.24. Faculty.**

\*\*\*\*\*

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

(d) Faculty development shall be in accordance with the institution's faculty development plan. ~~The institution shall support professional development for all full-time, part time and new faculty.~~ **THE INSTITUTION'S FACULTY**

**DEVELOPMENT PLAN SHALL INCLUDE POLICIES FOR PROVIDING LEVELS OF SUPPORT FOR ALL FACULTY RANKS AND STATUS LEVELS.**

The institution should encourage publication, travel, attendance at professional seminars and conferences, research and similar developmental activities when feasible by the



granting of reduced teaching loads, the purchase of needed equipment, and the granting of or assistance in obtaining needed funds.

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

\*\*\*\*\*

#### ADMISSIONS AND STUDENT SERVICES

\*\*\*\*\*

##### § 31.32. Catalog and announcements.

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

\*\*\*\*\*

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

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

##### § 31.33. Student records and services.

(a) An academic record, including credits or courses completed under § 31.21 (relating to curricula) and grades earned, shall be maintained on a current transcript for each student. **Institutions shall adopt a plan for the collection, maintenance and dissemination of student academic, counseling, health and other records. Copies of the plan shall be maintained by the institution and updated as required by changes in State or Federal law or local policy** PERIODICALLY TO ENSURE COMPLIANCE WITH ALL FEDERAL, STATE AND LOCAL LAWS. THE PLAN FOR STUDENT RECORDS MUST CONFORM TO APPLICABLE FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND DIRECTIVES IDENTIFIED IN GUIDELINES ISSUED BY THE DEPARTMENT. **Student records shall be maintained in a readily accessible format.** Appropriate standards of confidentiality for the records shall be defined in the college policies and official publications and administered accordingly. Students shall be granted the right of access, under the requirements of law, to their official records.

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

\*\*\*\*\*

**(7) Compliance with State and Federal laws and regulations regarding reasonable accommodation for students with special needs.** REASONABLE ACCOMMODATION FOR STUDENTS WITH SPECIAL NEEDS IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990 (42 U.S.C. §§ 12101-12213) AND WITH 34 PA. CODE CHAPTER 47, SUBCHAPTER D (RELATING TO FACILITIES FOR HANDICAPPED).

**§ 31.34. Credit card marketing.**

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

**FACILITIES**

**§ 31.41. Library and learning resources.**

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

.....

**§ 31.43. Buildings and equipment.**

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

**MAINTENANCE OF QUALITY**

\*\*\*\*\*

**§ 31.52. Accreditation.**

(a) Institutions which grant degrees, including private licensed schools which grant specialized associate degrees under §§ 42.11—42.14 (relating to specialized associate degree programs approval procedure), shall[, **not later than July 1, 1977, obtain] maintain** total institutional accreditation from appropriate accrediting agencies recognized by the Federal Government and acceptable to the Department and the Board. An institution failing to [**obtain total institutional accreditation by July 1, 1997, or to** maintain total institutional accreditation [**thereafter**] shall be subject to proceedings under § 40.51(b), § 40.53(b) or § 42.14 (relating to approval of an independent junior college, college, university, or foreign corporation; approval of State System, State-related or State-aided status; and revocation of the degree-granting privilege).

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

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

\*\*\*\*\*

## HONORARY DEGREES

\*\*\*\*\*

### § 31.62. Approval procedure.

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

\*\*\*\*\*

## MAJOR CORPORATE CHANGE

\*\*\*\*\*

### § 31.72. Obligations.

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

\*\*\*\*\*

(9) Applicable statutes found at 15 Pa.C.S. **[§§ 5101—5110, 5301—5341 and 6101—6162 (relating to general provisions; incorporation; and foreign nonprofit corporations)] Part II, Subpart B (relating to Business Corporation Law of 1988) or**

**Subpart C (relating to Nonprofit Corporation Law of 1988); section 2601-H of the School Code (24 P.S. § 26-2601-H);** and 24 Pa.C.S. Chapter 65 (relating to private colleges, universities and seminaries), **[relating to] regarding** the type of corporate change being effected have been addressed.

**§ 31.81. [Reserved].**



**Commonwealth of Pennsylvania**  
**STATE BOARD OF EDUCATION**

May 1, 2006

Mr. Kim Kaufman  
Executive Director  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, 333 Market Street  
Harrisburg, PA 17126

Dear Mr. Kaufman:

Enclosed is a copy of final form State Board of Education regulation 22 Pa. Code, Chapter 31: Higher Education – General Provisions (006-297) for review by the Commission pursuant to the provisions of section 5(c) of the Regulatory Review Act. The act provides that the Commission shall approve or disapprove final-form regulations within 10 days of the close of the Committee review period or at its next scheduled meeting.

The State Board of Education will provide your Commission with any assistance it requires to facilitate a thorough review of this final-form regulation.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jim Buckheit".

Jim Buckheit  
Executive Director

Enclosure

cc: Dr. Gerald Zahorchak  
Gregory Dunlap, Esq.  
Ernie Helling, Esq.

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: #6-297  
 SUBJECT: PA STATE BOARD OF EDUCATION: Higher Education – General Provisions  
 AGENCY: DEPARTMENT OF EDUCATION

**TYPE OF REGULATION**

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

RECEIVED  
 2006 MAY -1 PM 2:15  
 INDEPENDENT REGULATORY  
 REVIEW COMMISSION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
5/1/06	<i>MLA</i>	HOUSE COMMITTEE ON EDUCATION
5/1/06	<i>Shirley Perry</i>	
5/1	<i>D.H.</i>	SENATE COMMITTEE ON EDUCATION
5-1	<i>AR</i>	
5/1	<i>St. Helms</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)