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## CHAPTER 30

### Private School Registration / Licensing for Private Degree Granting Post-Secondary Education Institutions

#### Section 1. **Authority.**

These rules are promulgated pursuant to Wyo. Stat. §§ 21-2-202(a)(i) and 21-2-401 through 21-2-407.

#### Section 2. **Purpose.**

The purpose of these rules is to establish a process and procedure for the regulation, operation and registration of private degree granting post secondary education institutions and implement the provisions contained in Wyo. Stat. §§ 21-2-401 through 21-2-407.

#### Section 3. **Applicability.**

These rules govern the operation of all private degree granting post secondary education institutions which operate or do business in the State or intend to operate and do business in the State. These rules do not apply to those organizations and institutions specifically exempt by law, as contained in Wyo. Stat. § 21-2-406.

#### Section 4. **Promulgation, Amendment or Repeal of Rules.**

The promulgation, amendment or repeal of rules shall become effective as provided by the Wyoming Administrative Procedure Act (Wyo. Stat. §§ 16-3-101 through 16-3-115).

#### Section 5. **Definitions.**

(a) “Accredited” means accredited by an accrediting agency recognized by the United States Department of Education.

(b) “Agent” means any person representing a private degree granting post secondary education institution, who solicits business or students in any public school within the State. This includes those individuals employed to solicit resident students by schools or institutions located outside the State which are similar to schools or institutions specified under Wyo. Stat. § 21-2-402.

(c) “Applicant” means any private degree granting post secondary education institution seeking registration by the Department under these rules.

(d) “Attorney General” means the Attorney General of the State of Wyoming.

(e) “Candidate institution” means a private degree granting post secondary education institution licensed to operate or to business under Wyo. Stat. § 21-2-401 et seq. prior to July 1, 2006 that is a candidate for accreditation or institution otherwise in the application process that has applied for accreditation with an accrediting agency recognized by the United States Department of Education and is being considered for candidacy status for accreditation by that association and is in the process of gathering information and performing activities requested by that association to complete the application process.

(f) “Degree” means any award, earned or honorary, conferred with the designation of associate, baccalaureate, master, professional, specialist or doctorate.

(g) “Department” means the Wyoming Department of Education as established by Wyo. Stat. § 21-2-204.

(h) “Distance education” means the teacher and student are physically separated by time or space and connected by means of communications source used to provide synchronous or asynchronous instruction.

(i) “Private degree granting post secondary education institution” means any institution, all trade, correspondence, distance education, technical, business, or other private schools, offering a degree, earned or honorary, conferred with the designation of associate, baccalaureate, master, professional, specialist or doctorate; may be referred to as “institution” in this document.

(j) “Proof of accreditation” means a statement of affiliation status, a certificate of accreditation, or formal notification from a recognized accreditation agency as accepted by the Department.

(k) “Prospective institutions” means an accredited private degree granting post secondary education institution that has not obtained registration from the Department that enters with the intent operating and doing business in the state of Wyoming.

(l) “Recognized accreditation agency” means an accrediting agency recognized by the United States Department of Education.

(m) “Registration” means a non-transferable certificate granted and issued by the Wyoming Department of Education to a private degree granting post secondary education institution.

(n) “Superintendent” means the Wyoming State Superintendent of Public Instruction as established by the Wyo. Const. Art. 7, § 14 and Wyo. Stat. § 21-2-201.

**Section 6. Notice of Intent for Prospective Institutions.**

(a) All prospective institutions shall notify the Department in the manner and form prescribed by the Department *prior* to commencing operation, soliciting students or enrolling any students in any manner in Wyoming.

(b) Notification shall be in the manner and form prescribed by the Department, but shall at a minimum include the following:

(i) A performance bond or letter of credit in the amount of ten thousand dollar (\$10,000) that is approved as to form by the Attorney General. The following applies to any performance bond or letter of credit obtained for purposes of this subsection:

(A) The performance bond or other form of security shall be maintained continuously while operating as a prospective institution.

(B) The Department shall be the custodian of all bonds and other securities filed under this Section and may render administrative, but not legal assistance, to all aggrieved persons who may be entitled to relief under the bond.

(C) A finding by the Department that any institution practiced fraud, made any fraudulent representation, or violated any statute, rule or regulation relating to the application for registration or operation of the institution may result in forfeiture of the full amount of the bond and the inability of the institution to obtain registration.

(ii) Official documentation or other verification of accreditation by an accrediting association recognized by the United States Department of Education

(iii) Identification of the business structure to be utilized (i.e. partnership, limited liability, corporation etc.);

(iv) Identification of a registered agent as required by the Wyoming Secretary of State's Office for business registration purposes;

(v) Anticipated timeline for application to the Department for registration;

(vi) Identification of any facilities necessary for operation;

(vii) General description of courses to be offered;

(viii) Identification of prospective student population, by type and number;

- (ix) List of business contacts located in Wyoming; and,
- (x) Description of financial feasibility.

(c) Notification of the Department by prospective institutions does not constitute registration. Prospective institutions shall not communicate in such a manner that would lead to the conclusion that the institution is in any way registered or licensed by the Department prior to complying with Section 7 of these Rules and Regulations and obtaining official documentation from the Department that indicates such a status.

(d) Within ten (10) business days, the Department shall respond to a prospective institution with a letter which indicates one of the following:

(i) The prospective institution may proceed with application for registration as an accredited private degree granting post secondary education institution in accordance with Section 7 of these Rules;

(ii) Additional information is necessary prior to proceeding with registration; or,

(iii) The prospective institution may not continue with application for registration under Chapter 30. In this event, the Department shall state the reason why Chapter 30 is not applicable.

(iv) In no event shall a prospective institution operate or do business in the state of Wyoming in excess of three (3) calendar months after notification to the Department without obtaining registration as a private degree granting post secondary education institution in accordance with Section 7 of these Rules.

#### **Section 7. General Registration Requirements for all Institutions.**

(a) All private degree granting post secondary education institutions shall apply annually to the Department for registration or renewal of registration in accordance with the statutes, rules and regulations and policies of the Department.

(b) The registration granted to a private degree granting post secondary education institution shall be valid for a period of one (1) year, which will be measured from the first day of July preceding the date on which the registration was issued.

(c) Applications and renewals for registration with the Department shall be in the manner and form prescribed by the Department.

#### **Section 8. Registration Requirements for Accredited Institutions.**

(a) Institutions accredited by an accrediting agency recognized by the United States Department of Education shall submit the following information or documents to the Department for consideration for registration:

(i) Complete and accurate registration application in the form and manner prescribed by the Department;

(ii) Official documentation or other verification of accreditation by an accrediting association recognized by the United States Department of Education; and

(iii) An annual registration fee of one hundred dollars (\$100.00) in the form of a certified check payable to the "Wyoming Department of Education."

**Section 9. Registration Requirements for Candidate/Applicant Institutions.**

(a) Candidate institutions shall submit the following information or documents to the Department for consideration for registration:

(i) Complete and accurate registration application in the form and manner prescribed by the Department of Education;

(ii) Official verification or proof of acceptance as a candidate or applicant for accreditation by a recognized accrediting agency;

(iii) An annual registration fee of one thousand dollars (\$1000.00) in the form of a certified check payable to the "Wyoming Department of Education";

(iv) A performance bond or letter of credit in the amount of ten thousand dollar (\$10,000) that is approved as to form by the Attorney General. The following applies to any performance bond or letter of credit obtained for purposes of this subsection:

(A) The performance bond or other form of security shall be maintained continuously while registered as a candidate institution.

(B) The Department shall be the custodian of all bonds and other securities filed under this Section and may render administrative, but not legal assistance, to all aggrieved persons who may be entitled to relief under the bond.

(C) A finding by the Department that any institution practiced fraud, made any fraudulent representation, or violated any statute, rule or regulation relating to the application for registration or operation of the institution may result in forfeiture of the full amount of the bond and loss of registration.

(b) For registration by the Department as a candidate institution, in addition to submitting the required application and documentation, the candidate institution shall assist the Department in development of a plan that monitors the progress of the candidate institution towards obtaining accreditation. The plan shall:

(i) Include a detailed timeline specifying the critical milestones to be undertaken by the candidate institution to obtain accreditation and the time that is necessary to complete each item;

(ii) Be signed by the Department and the candidate institution and serve as a formal agreement between the parties to ensure the milestones are accomplished in accordance with the terms of the plan to maintain registration as a candidate institution;

(iii) Include a provision which requires the candidate institution to provide a copy of any and all correspondence or documents, which relate to the accreditation or applicant or candidacy status of the institution, to the Department in a timely manner.

(c) The candidate institution shall submit annual progress reports with the annual renewal registration which outlines the progress of the candidate institution towards accomplishing the items identified in the plan. The progress report shall include documentation from the accrediting agency which supports progress towards, or accomplishment of, the tasks identified in the plan. Progress toward obtaining accreditation in accordance with the plan outlined in Subsection (b) shall be made to maintain registration as a candidate institution.

(d) The period of registration as a candidate institution shall not exceed five (5) years and shall expire at the end of the five (5) year period or at the time the applicant is refused candidacy or application status or accreditation by the accrediting association, or otherwise loses candidacy or application status, **whichever occurs first**. The candidate institution shall not operate or conduct business in this State upon expiration of the five (5) years or loss of candidacy or application status for accreditation.

(e) Exceptions may be granted to the five (5) year limitation upon a determination by the Department that good cause has been demonstrated by the applicant and an extension or an exception is necessary and appropriate. Good cause does not exist and shall not be recognized by the Department for the following reasons:

(i) Change of ownership, management or instructional staff by the applicant;

(ii) Change of location of the applicant's campus;

(iii) Change of programs of instruction;

(iv) Change of financial status of applicant;

(v) Change of name of institution; or

(v) Change of accrediting agency prior to achieving accreditation;

(f) Requests for exceptions to the five (5) year limitations shall be made in the writing and in the form and manner prescribed by the Department.

(i) The Department shall respond to a request for an extension of the five (5) year limitation in writing.

(ii) In the event the request is denied, the response shall state the reasons for denial.

(iii) In the event the request is granted, the Department shall state the appropriate reason for the exception and shall identify a period of time for which the exception applies.

(iv) In no event shall an exception be granted in excess of one (1) year from the time it is requested. Consecutive exceptions may be requested for good cause, but the Department shall re-visit the exception request no less than once annually to determine if it is still appropriate.

#### **Section 10. Registration of Agents.**

(a) Prior to soliciting business or resident students in any public school within the State, an agent shall submit the following documentation and items to the Department for consideration for registration as an agent:

(i) Complete and accurate application for registration as an agent in the form and manner prescribed by the Department of Education;

(ii) An annual registration fee of one hundred dollars (\$100.00) in the form of a certified check payable to the "Wyoming Department of Education";

(iii) Copies of any documentation intended for distribution;

(iv) Brief description of market or school targeted and approach for solicitation.

#### **Section 11. Suspension, Revocation, Non-renewal of Registrations / Licenses.**

(a) The Department may suspend, revoke or choose not to renew the registration or licensure of any private degree granting institution subject to the requirements of the Wyoming Administrative Procedure Act (Wyo. Stat. §§ 16-3-101 through 16-3-117).

(b) Suspension, revocation and non-renewal proceeding shall be instituted in the following instances:

- (i) Loss of accreditation status;
- (ii) Loss of accreditation candidacy or application status;
- (iii) Failure to maintain the required bond;
- (iv) Violation of any rule, regulation or federal or State statute;
- (v) Other instances when necessary to protect the interests of the State or its citizens.

(c) The institution shall be given ten (10) business days from the date the notice was post-marked to demonstrate compliance with all lawful requirements to retain its license or registration.

(d) The Department shall notify the institution or its agent of the decision to revoke, suspend or not renew a license or registration by certified mail, receipt requested.

(e) The date for purposes of calculating the various timelines related to the notice of suspension, revocation or non-renewal shall be the date as evidenced by the postmark on the notification of suspension, revocation or non-renewal.

(f) The notification of suspension, revocation or non-renewal shall contain the following provisions:

- (i) The facts or conduct which warrant the intended action;
- (ii) The institution will be given ten (10) business days to demonstrate compliance with all lawful requirements for retention of the license or registration;
- (iii) The institution has the ability to request a contested case proceeding, within forty-five (45) days of the date postmarked on the notice, to appeal the Department's decision to revoke, suspend or not renew the institution's license or registration in accordance with the provisions of the Wyoming Administrative Procedure Act (Wyo. Stat. § 16-3-101 et seq).

## Section 12. **Appeal Procedures.**

(a) The institution has forty-five (45) calendar days from the post-marked date on the notice to request a contested case hearing regarding the license or registration

revocation, suspension or non-renewal. Any requests made after the forty-five (45) day period will not be granted unless “good cause” had been demonstrated.

(b) Contested case proceedings shall be conducted in accordance with the Department’s rules and regulations and the Wyoming Administrative Procedure Act (Wyo. Stat. § 16-3-101 et seq.).

(c) License suspension, revocation or non-renewal shall become effective upon expiration of the forty-five (45) day period or conclusion of a contested case proceeding if the Department finds the suspension, revocation or non-renewal is warranted by the substantial weight of the evidence.

### Section 13. **Penalties and Prohibitions.**

(a) Any person violating the provisions of Wyo. Stat. § 21-2-401 et seq. is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00), by imprisonment in the county jail not to exceed six (6) months, or both.

(b) Each solicitation of enrollment or each transaction of business without a license, registration certificate or without providing notification to the Department constitutes a separate offense.

(c) Any person violating the provisions of the applicable statutes and rules and regulations may also be enjoined from the continuation of the violation by proceedings brought by the Attorney General, any district attorney, any school official or any aggrieved citizen, regardless of whether criminal proceedings have been instituted.

(d) No private degree granting post secondary education institution shall file an application for registration, nor shall any registration be granted to any institution, where the institution has any past or present common ownership, management, marketing or other operation of any kind with an institution whose license or registration has been suspended, revoked or not renewed under these Rules.

(e) No official or employee of the Department, any college or university within the State or any school district within the State shall permit the school or institution, or proprietor or agent thereof, to solicit business in any public school within the State and/or provide any list of students or other list of prospects to the school, institution or proprietor or agent thereof unless the school or institution, or proprietor or its agent is currently licensed, registered or has provided notification as required under these rules and regulations

(f) No school or institution licensed, registered or providing notification in accordance with these rules shall claim or advertise to prospective or enrolled students that it is accredited in the United States unless the named accrediting association, commission or other entity is approved by the United States Department of Education

and the institution is registered by the Department in accordance with rule, regulation and statute.

#### Section 14. **Exemptions.**

(a) The following schools and institutions are exempt according to statute from the above requirements and registration with the Department is not necessary:

(i) Any parochial, church or religious school as defined by Wyo. Stat. § 21-4-101(a)(iv) which is maintained by a church, religious denomination or religious organization comprised of multi-denominational members of the same recognized religion, lawfully operating the school or institution pursuant to applicable laws governing its organization and the school or institution:

(A) Offers elementary and secondary education programs only; or

(B) Operates as a degree granting post secondary education institution, provides instruction through means *not defined as distance education* and the institution:

(I) Issues diplomas or degrees restricted to the beliefs and practices of the affiliated church, religious denomination or religious organization and includes a statement on the face of issued diploma or degrees and course transcripts referencing the theological or religious nature of the subject area for which any diploma or degree is awarded, clearly reflecting the nature of the diploma title as “Diploma of Religious Studies” or “degree title as “Associate of Religious Studies”, “ Associate of Arts of Religious Studies”, Bachelor of Religious Studies” or “Bachelor of Arts of Religious Studies”;

(II) Annually files with the Department evidence of nonprofit religious organization status for purposes of federal taxation and organization under the laws of Wyoming in the manner and form required by the Department;

(C) Any institution not operating on or before March 3, 2010, shall report to the Department any degree which the institution will award and the religious affiliation that the institution maintains in not less than sixty (60) days prior to first issuing any degree or diploma as a religious institution in accordance with Section 13(a)(i) of these Rules. This notification shall be in writing and in the manner and form prescribed by the Department.

(ii) A home-based educational program as defined by Wyo. Stat. § 21-4-101(a)(v);

(iii) Aircraft flight training schools approved and authorized by the federal aviation agency of the United States of America; or

(iv) A non-degree granting school teaching techniques of outdoor recreation, leadership, ecology or conservation domiciled in the State of Wyoming.