

# SHEEO State Authorization Inventory

## Idaho

**Last Updated: May 2013**

**Please note:** For purposes of this survey, the terms “authorize” and “authorization” are used generically to include approve, certify, license, regulate, recognize, empower, or similar actions relative to the operation, provision, or availability of postsecondary education in your state.

### 1. Agency and Contact Information

a. Agency Name: **(Idaho) State Board of Education**

o Description:

The Idaho State Board of Education (SBOE) does not currently require any institution lacking a physical presence inside the state to register. After July 1 2011, online-only schools, recruiting agents, practicum/internships, supervised clinical experiences, etc, are no longer considered 'presence' for the purposes of registration. Only 'brick & mortar' classroom or business office operations will be considered presence for registration.

o Contact:

Harvey W. Lyter III, MBA -- "Harv"  
State Coordinator for Private Colleges & Proprietary Schools  
(Idaho) Office of the State Board of Education  
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o Please state who institutions should contact if they have questions about your agency's authority, policies, or application process?

Harv Lyter (address above)

b. Links:

Link to agency: <http://www.boardofed.idaho.gov>

Link to regulations: <http://legislature.idaho.gov/idstat/Title33/T33CH24.htm>  
& Administrative Rule (IDAPA) 08.01.11, Registration of Postsecondary and Proprietary Schools

- c. According to our records, the following agencies also have responsibility for authorization in the state.  
None.
- d. If the division of responsibility among these agencies is not clear, please explain.  
N/A

**2. Types of Educational Providers Authorized**

- a. Please indicate the types of institutions that your agency authorizes, using the list below. Please answer “yes” or “no” to each item. Feel free to provide a short explanation of any ambiguity, including any necessary clarification of “in-state,” “out of state,” or other terminology.

- Yes Public, in-state degree granting institutions
- Yes Public, out-of-state degree granting institutions
- Yes Private, in-state, not-for-profit degree granting institutions
- Yes Private, out-of-state, not-for-profit degree granting institutions
- Yes Private, in-state, for-profit degree granting institutions
- Yes Private, out-of-state, for-profit degree granting institutions
- Yes Public, in-state, non-degree granting institutions
- Yes Public, out-of-state, non-degree granting institutions
- Yes Non degree, not-for profit institutions
- Yes Non degree, for-profit institutions
- No Religious institutions [Those offering Only Religious degrees with No Academic component to the (BA.BS, MA, etc) degrees]
- No Tribally-controlled institutions

Clarifying comments:

The Idaho State Board of Education is the single State Education Authority (SEA) in Idaho with overall control and monitorship of all educational activities of all schools and institutions, unless specifically delegated in statute to another organization, agency or board.

- b. Is an institution required to obtain approval from more than one agency to be authorized in your state (excluding purely programmatic approvals)? If so, please explain.  
No, unless specific curriculum approval for technical or trade activities is recommended or required by the SBOE.
- c. Is accreditation required for an institution to be authorized in your state?  
Yes.

- If yes, please explain:  
 Accreditation by an agency recognized by both USDE and CHEA is required of all degree granting institutions. Non-Accredited institutions may register as Proprietary Schools and offer only certificate level program until accreditation is obtained.
- If yes, what type of accreditation is required? Please, check all that apply as appropriate.  
 Regional or National accreditation is acceptable.  
 Programmatic/specialized (for specialized programs like health services, religious instruction, etc), but the accrediting body must still be recognized by USDE or CHEA.

Clarifying comments:

- d. Does your agency authorize specific academic programs offered by institutions or only institutions themselves?  
 SBOE does not accredit, sanction, or approve any specific course, or program of study. Idaho relies on the accrediting agencies for academic review of curriculum quality and appropriate coursework offerings.
- e. Do programs in certain subject areas (see list below) require the separate approval by another state entity; for example, a professional licensing agency?  
**Education, Nursing, Social Work, Counseling Psychology, Allied Health and related programs:**  
 YES, but only if graduates will seek Idaho licensure in that area. If we find the curriculum does Not meet professional/trade Board standards for Idaho licensure SBOE may instruct the institution not to offer that program to Idaho residents.

### 3. Exemptions

- a. Are certain institutions or programs exempt by law or policy from your state authorization requirements?
  - If yes, please describe which institutions or programs the exemption applies to and how it works? If available, please provide any pertinent web links.
    1. Only Idaho Public Institutions of Higher Education and historic grandfathered schools, listed by-name in law, are exempt from registration. Public institutions from other states, with a physical presence in Idaho, must register annually IAW Title-33/Chapter 24,

Idaho Code, if they wish to conduct teaching operations inside the state.

2. Sec 33-2403(4) provides a list of exemption categories that schools might fit into. Examples (but not limited to...): Avocational/Recreational, Parochial/Denominational, Employer Sponsored in-house training, Intensive Professional Review (CPA, LSAT, Bar Exams, etc), and Short Seminars (less than 72 hrs/not more than 4 times per year). These schools must still contact the office of the SBOE and claim the exemption. Applications will be reviewed on a case-by-case basis.

- If yes, how does the institution or program claim an exemption? For example, is the exemption automatic as long as it meets specified criteria, does the institution or program notify the agency and the exemption is granted, is there an application process, etc.?

(see sec 200.04 for PEI / sec 300.04 for PS)

Any School/Institution may claim an exemption under Sec 33-2403(4) by sending a letter to the State Board of Education, attn: State Coordinator for Private Colleges & Proprietary Schools. All requests for exemption are considered based upon their own merits.

- b. If an institution or program is exempt from state authorization, are there any other state requirements that an institution would need to fulfill in order to operate in your state (e.g., providing contact information, list of programs, etc.)?  
NO. However, all degree-granting institutions operating in Idaho are subject to the independent State Student Complaint Process (IDAPA 08.01.11, sec 500) whether they are exempt from annual registration or not. All complaints are investigated by the OSBE/State Coordinator.

- c. Does your state constitution or do your state laws provide any exemptions for religious institutions?

- Are all religious institutions exempt (please describe)?

No.

- Are religious institutions that award only religious degrees or certificates exempt (please describe)?

Yes, however, there can be no academic component to the degree: e.g. an Masters of Divinity Studies would acceptable for exemption, but a Master's of Arts/Sciences in Divinity would Not.

- Are certain religious institutions exempt that meet other criteria (please describe)?  
**No.**

#### 4. Authorization of Distance Education

- a. Does your agency require purely (100%) distance education programs, including online or correspondence study programs that enroll residents of your state, to be authorized without regard to physical presence?  
**No. As of June 13, 2011, Idaho is "Brick & Mortar" only for the purpose of registration. Online Only schools from outside the state need not register here.**
- b. If not, does your agency determine whether an institution must be authorized based on a physical presence or "operating" standard?  
**Primarily physical presence.**

#### 5. Physical Presence Policy – Common "Triggers"

- a. If your agency uses a physical presence standard, how does your agency define physical presence? If available, please provide a link to that policy or a citation to the relevant regulation giving that standard.  
**Brick & Mortar teaching and/or business operations inside the state. (see detailed description above); actual "feet on the ground" in Idaho.**
- b. Please specify whether any of the following activities would constitute a physical presence or signify "operating" in your state, assuming that the named activity is the institution's sole activity in your state. **Please answer "yes" or "no" to each question. In addition you may provide a short explanation of any ambiguity.**
  - Permitting a student to complete an internship, externship, field experience, or clinical practicum organized by the institution?  
**No.**
  - Does this apply only to distance education students or more generally?  
**Distance Learning Only.**
  - Permitting a student to complete an internship, externship, field experience, or clinical practicum found by the student acting independently?  
**No.**

- Does this apply only to distance education students or more generally?  
Distance Learning Only.
- Employing full-time faculty in the state to provide instruction via distance education programs to students in the state?  
No. (as long as no face-to-face interaction with students is accomplished...)
  - What about adjunct faculty?  
No, if only online instruction is involved, and no face-to-face meetings with Idaho resident students, then this is Not "presence."
- Employing full-time faculty in the state to provide instruction via distance education programs solely to students outside of the state?  
No. (Providing Only DL to students located anywhere is not a problem... as long as no face-to-face meetings take place.)
  - What about adjunct faculty?  
No. Again, it's OK just as long as students have no face-to-face interaction with the DL faculty member.
- Having a contract/agreement between the institution and in-state institutions or in-state entities to provide services for students (i.e. library, gym, computer centers, etc.)?  
Gray area: This sounds like it might equal 'presence.' Probably requires a case specific evaluation.
- Organized, consistent, on-the-ground recruiting of students in the state by employees or agents of the institution?  
No.
  - What if the agent is only recruiting students in the state on an occasional basis (i.e. at job fairs)?  
No.
- Advertising in local media sources that are largely viewed by residents of the state?  
No.
- Advertising in national media sources that can be accessed by residents of the state?  
No.

- Having computer servers or other equipment located in the state?  
No.
  - Hosting short term, face-to-face, seminars or conferences in the state where students meet in person?  
Maybe. Generally, student initiated activities like "study groups" would not trigger 'presence.' If, however, the institution required this as part of the teaching program it might equal presence. Specific case evaluation is probably required.
  - Employing mentors, tutors, or preceptors in the state to aid students, who are residents of the state, on an individual basis?  
Yes. Testing monitors are OK, but any part of actual teaching, instruction (like tutoring and preceptors) would equal presence. This would be no different than face-to-face meetings with faculty members.
  - Requiring a student to take a proctored exam at a location or with an entity in the state prescribed by the institution?  
No.
  - Requiring a student to take a proctored exam with an entity in the state chosen by the student but approved by the institution?  
No.
  - Other [please explain]
- c. Of the activities or conditions listed above that alone would not constitute a physical presence, are there any that if combined would create a physical presence?  
Probably Not, as long as direct teaching or school business operations are not involved.

## 6. Application Process

- a. Please provide a short description of the application process to obtain state authorization. If available, please provide web links to the specific references to all applicable state laws, regulations, manuals, forms, or other pertinent documents.  
(Degree granting Institutions) Must be accredited. Statute and Rule have provisions by which the Board may exempt in-state nonprofit postsecondary educational institutions from registration under specific circumstances.

For application criteria, forms and procedures, see [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov). Select either Private Colleges & Universities (degree granting) ... or ... Private Proprietary Schools (non-degree)

- b. Generally, how long does it take to approve applications (assuming that the agency has received all required information from the institution)? Please provide a typical range if appropriate.  
3 months, but most times sooner.
- c. What is the authorization duration?  
One year: July 1, thru June 30<sup>th</sup> of the following calendar year. 1<sup>st</sup> time applicants may apply at any time during the year, but their registration is only valid thru June 30<sup>th</sup>. Then they renew on the same schedule as all other cohort schools.
- d. What does an institution need to do to maintain authorization?  
Maintain their accreditation Status (PEI) or technical certification (PS), complete the annual registration application and pay the annual fee.
- e. What kinds of information or data must an institution report to your agency as a condition for continued authorization? How frequently is this reported or updated? Is this information published or shared publicly?  
See application forms and procedures on web pages. Reported/updated annually. Collected data is held as confidential to the extent the law allows.
- f. Can an institution lose its authorized status?  
Yes. By violating provision of registration or ... for cause, fraud or misrepresentation to students, etc.
- g. Can a multi-institutional system or college corporation apply to your agency for authorization on behalf of all of its component institutions? If so, please describe the process.  
No. Each "legally separate" school/institution must apply for degree granting status. (ex: each institution within the U. of GA 'System' with individual presence in Idaho would need its own degree granting authority.)
  - o However, Idaho registers "schools" not individual teaching sites within the state. So, (example) if the U. of FL registered with SBOE it could have 3 or more individual "teaching sites" around the state, all on one registration.
  - o These situations would require case-specific evaluation.

- h. Would multi-institution public systems be treated the same as multi-location for-profit institutions?

Yes. Only Idaho public institutions are exempt from registration. All others must apply and receive specific authorization.

- i. What distinctive features in your authorization process would be useful for applicants to know (e.g., certain times during the year that you process applications for authorization, sharing of applications or information about proposed programs with institutions or other stakeholders in your state for comment)?

Only non-degree Proprietary Schools must have a Surety Bond; degree granting institutions must be Accredited.

- j. Is your agency currently planning to amend its application process by the end of 2011?

No major procedural changes contemplated at this time. However, there will be some criteria changes from the Legislature effective July 1, 2011. Mostly in the area of Enforcement.

- o If yes, please provide a brief description of the anticipated change.  
Civil and criminal penalties and fines will be imposed for "misrepresentation" and "willful failure to register."
- o If yes, when does the agency expect the change to be fully implemented?  
Effective immediately - July 1, 2011. Enforcement practice will catch up as fast as possible. (... several actions are now already pending as of March 2012.)

## 7. Fees Associated with Authorization

- a. Is there an application fee to initiate the authorization process? If so, what is the fee or fee schedule? Please provide a web link if available.

No specific 'application' fee. The annual registration fee is one-half of one-percent of Gross Idaho Tuition Revenue (.005 x GITR) for the previous registration year (\$100 minimum to \$5,000 cap/maximum).

Are there any other costs associated with the state authorization process (e.g. site visits, hiring a reviewer, surety bond, tuition recovery fund, agent licensing, etc.)?

Surety Bonds requirement for non-degree Proprietary Schools ONLY.

- b. What are the costs, if any, to renew authorization?  
Complete the annual application (from the web page) and pay the annual registration fee (see above).
- c. What costs are associated with receiving a waiver or exemption to authorization?  
None. A letter/email to the Board office requesting a waiver and citing specific Idaho law criteria/reasons will be reviewed by the State Coordinator.
- If approved, a clear statement of waiver will be issued free of charge.
  - If not approved, the school must register.
  - An unfavorable decision may be appealed to the Board's Executive Director.

## 8. Interstate Reciprocity

- a. Do your state regulations explicitly allow or prohibit interstate reciprocal agreements about authorization? If so, please describe.  
No specific reciprocity arrangements in force at this time.
- b. What is the process, if any, to obtain a reciprocal agreement with your state?  
N/A.
- c. Are there any reciprocal agreements currently in place or under consideration?  
No.
- d. If interstate reciprocal agreements are not addressed in your regulations, would your agency consider establishing such agreements? Please elaborate.  
Idaho would be open to the discussion.

## 9. Consumer Protection and Student Complaints

- a. Does your agency have a process for handling complaints about postsecondary institutions or programs?  
Yes. (See IDAPA 08.01.11-sec 500) Idaho formalized our process IAW 34 C.F.R. sec-600.9 requirements.)
- If yes, please describe the process or provide a web link to the material that describes the complaint process.  
Complaint process described in Admin Rule (July 1, 2011) section 500. Forms and instructions available upon request from the State Coordinator.

- If yes, does this complaint process extend to institutions not authorized by the agency that may enroll residents of the state (such as explicitly distance education programs with no physical presence or exempt institutions)?  
 NO: Complaints about such institutions with No physical presence in Idaho should/will be referred to the state authority in the state where the institution is based.  
 YES: However, institutions with physical presence in Idaho that are otherwise exempt from annual registration, are still subject to the state's independent Student Complaint Process.
  - If available, please provide a web link to the complaint form.  
 Forms are available upon written or email request to the State Coordinator's office.
  - Who is the contact person for receiving complaints? Please include name, title, address, phone, and email if available.  
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- b. If your agency has no formal process for handling complaints related to postsecondary institutions, what state agency would handle a complaint?  
 N/A.

## 10. Enforcement

- a. If your agency finds that an institution or program is operating in your state without authorization, what is the resulting warning or enforcement action?  
 Title 33/Chapter 24, Idaho Code: Sec 33-2409 and Administrative Rule (IDAPA) 08.01.11-Sec 500, provide civil and criminal penalties for violations. Cease & Desist Orders may be issued by the Executive Director. The Exec Director also has significant investigative powers including subpoenas for a school's records and documents. (see T-33, Chp 24, sections 33-2407, -08, -09)

- b. Can an institution or program appeal a warning or enforcement action? If yes, please describe the process or provide web links to the regulations/policies.  
Yes, within 30 days notice of any action, a school/institution may request a hearing before the Board. Schools/Institutions have due process under the Idaho Administrative Procedures Act.

## 11. Legislative or Regulatory Changes

- a. Is your agency or state legislature planning to amend its regulations or alter its physical presence policy by the end of 2011?  
We did so during the 2011 legislative session (Jan-April 2011) effective July 1, 2011. We are now re-aligning Admin Rule and Board Policy to match.
  - o If yes, please provide a brief description of the anticipated change.  
Added significant investigative and enforcement powers, including civil and criminal penalties for willful misrepresentation or neglect to register.
  - o If yes, when does the agency expect the change to be fully implemented?  
All Changes Effective July 1, 2011.
  
- b. Is your agency or state legislature making changes in your state regulations or statutes so that institutions with locations in your state would be considered legally authorized in accordance with the federal institutional eligibility regulations?
  - o If yes, please provide a brief description of the anticipated change.  
Formalized a Student Complaint Process, required under New Fed Rules. Instructions and forms available upon request to this office.
  - o If yes, when does the agency expect the change to be fully implemented?  
Effective July 1, 2011
  
- c. Is your agency or state legislature making any other changes in your state regulations or statutes with regard to state authorization?  
At this time, only those necessary to re-align with 2011 Statute changes (from 2011 legislative session). However, Phase-III of a long-term, comprehensive plan to update the Rules is planned (2012 & 2013 Legislative sessions).
  - o If yes, please provide a brief description of the anticipated change.
  - o If yes, when does the agency expect the change to be fully implemented?

**12. Is there anything else about the authorization process in your state that we and others ought to know about?**