

# SHEEO State Authorization Inventory

## Maine

**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: **Maine Department of Education, Office of Higher Education**
  - o Description:  
The Maine Department of Education regulates all postsecondary education in the state of Maine including those based inside and outside of Maine.
  - o Contact Information:  
Harry W. Osgood  
Higher Education Specialist  
Maine Department of Education  
Augusta, Maine 04333  
207-624-6846  
[harry.osgood@maine.gov](mailto:harry.osgood@maine.gov)
  - o Please state who institutions should contact if they have questions about your agency’s authority, policies, or application process?  
Same as above.
- b. Links:  
<http://www.maine.gov/education/highered/DegGrant/DegGrantAuth.htm>
- c. 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.  
Not applicable.

### 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.

- No 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
- No Public, in-state, non-degree granting institutions
- Yes Public, out-of-state, non-degree granting institutions
- No Non degree, not-for profit institutions
- Yes Non degree, for-profit institutions
- No Religious institutions
- N/A Tribally-controlled institutions

Clarifying comments:

Public, in-state degree-granting institutions are governed by either the University of Maine System Board of Trustees, the Maine Community College System Board of Trustees or the Maine Maritime Academy Board of Trustees.

- 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.

- c. Is accreditation required for an institution to be authorized in your state?

- o If yes, please explain:

Yes. Out-of-State institutions seeking authority to operate within the State of Maine must be accredited by an accrediting agency recognized by the US Secretary of Education.

- o If yes, what type of accreditation is required? Please, check all that apply as appropriate.

Regional\*

National\*

Programmatic/specialized\*

Clarifying comments:

\*While the appropriate regional accrediting agency for the geographic region in which the institution is based is preferred, other national and/or programmatic/specialized accrediting agencies recognized by the US Secretary of Education will suffice.

- d. Does your agency authorize specific academic programs offered by institutions or only institutions themselves?

Only specific programs offered by an institution leading to an academic degree can be considered for authorization – (the State Board of Education does not authorize individual courses). For Out-of-State institutions the period of authorization is linked to program degree levels (4-5 years for baccalaureate programs; 3-5 for master degree programs; and 4-6 for doctoral degree programs – renewal of authorization to operate in Maine is sought through application to the State Board prior to the expiration of current authority).

- e. Do programs in certain subject areas (see list below) require the separate approval by another state entity; for example, a professional licensing agency?

List: Education, Nursing, Social Work, Counseling Psychology, Allied Health Professions and related programs.

\*No – Because such programs would have had to be part of the institution’s accreditation which is required before authorization to operate in Maine can be considered.

### 3. Exemptions

- a. Are certain institutions or programs exempt by law or policy from your state authorization requirements?

- o If yes, please describe which institutions or programs the exemption applies to and how it works? If available, please provide any pertinent web links.

Yes.

Title 20-A: EDUCATION  
Part 5: Post-Secondary Education  
Chapter 409: Degree-Granting Institutions  
§10708. Exemptions

This chapter does not apply to educational institutions which:

1. Prior to September 18, 1981. Have specific degree-granting authority granted to them by the Legislature prior to September 18, 1981 and are offering additional or different degrees at the same level; [ 2009, c. 274, §12 (AMD) .]
2. Federal reservations. Offer programs or courses that are conducted solely on a federal reservation over which the Federal Government has exclusive jurisdiction. The commissioner shall authorize exempt status under this subsection;[2005, c. 85, §1 (amd).]
3. Noncredit courses. Offer courses or programs that are not for academic credit; and [2005, c. 85, §1 (amd).]

4. Religious, nonpublic, educational institution. Meet the following criteria.

A. The educational institution must be substantially owned, operated or supported by a bona fide church or religious organization. [2005, c. 85, §2 (new).]

B. The educational programs of the educational institution must be primarily designed for, aimed at and attended by persons who seek to learn the particular religious faith or beliefs of the church or religious organization under paragraph A. [2005, c. 85, §2 (new).]

C. The programs under paragraph B must be intended to prepare students to assume leadership positions in, or enter into some other vocation closely related to, the particular faith of the church or religious organization under paragraph A. [2005, c. 85, §2 (new).]

- 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.?

[The exemption is requested from the Commissioner of Education in which evidence is provided that the applicant institution meets the criteria for exempted degree-granting status].

The exemption under this subsection does not apply to any educational institution that represents to any student or prospective student that the major purpose of its program is to prepare the student for a vocation not closely related to the particular religious faith of the educational institution or to provide the student with a general educational program substantially equivalent to the educational programs offered by schools or departments or branches of schools that are not exempt from this section. Any educational institution receiving an exemption under this subsection must inform all applicants of its exempt status in writing and must prominently display the following statement on all written materials, including, but not limited to, any electronic materials, made available to potential applicants or to the general public: "Pursuant to the Maine Revised Statutes, Title 20-A, section 10708, subsection 4, this institution is not required to obtain authorization from either the State Board of Education or the Maine State Legislature in order to: (1) use the name "junior college," "college" or "university," (2) offer courses or programs for academic credit or (3) confer degrees." [2005, c. 85, §2 (new).]

- a. 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.

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

Yes. See above.

- Are all religious institutions exempt (please describe)?
- Are religious institutions that award only religious degrees or certificates exempt (please describe)?
- Are certain religious institutions exempt that meet other criteria (please describe)?

#### 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. It has been determined that if the Maine State Board of Education sought to do so would be unconstitutional on two levels: 1) interference with inter-state commerce; 2) policing beyond state borders.

- b. If not, does your agency determine whether an institution must be authorized based on a physical presence or “operating” standard?

Online programs are not required to be authorized to be authorized by an Out-of-State institution unless the program is to have a physical presence within the boundaries of the State of Maine.

#### 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.

Physical presence means an owned, leased, rented or provided facility, within Maine, where education and/or training is provided to students for a fee. Physical presence also includes periodic visits to Maine-based students by the school’s faculty/representatives and/or the activity of Maine residents who have been hired to serve as solicitors or agents on behalf of the school.

- 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?  
**More generally.**
- 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?  
**More generally.**
- Employing full-time faculty in the state to provide instruction via distance education programs to students in the state?  
**Yes.**
  - What about adjunct faculty?  
**Yes.**
- Employing full-time faculty in the state to provide instruction via distance education programs solely to students outside of the state?  
**No.**
  - What about adjunct faculty?  
**No.**
- 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.)?  
**Yes.**
- Organized, consistent, on-the-ground recruiting of students in the state by employees or agents of the institution?  
**Yes.**
  - 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 – unless they are managed/maintained by a state resident in the employ of the institution.**
  - Hosting short term, face-to-face, seminars or conferences in the state where students meet in person?  
**Yes.**
  - Employing mentors, tutors, or preceptors in the state to aid students, who are residents of the state, on an individual basis?  
**Yes.**
  - 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?

## 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.

**How does one establish a degree granting institution in Maine?**

**The procedures for obtaining authorization and approval are as follows:**

**Initial Degree Authorization –**

**(1) Application. Officials of the applicant institution of higher education's hall**

notify the Commissioner, in writing, of their intent to obtain legislative authorization to confer a degree at the Associate level or higher. An application must be received at least six (6) months prior to the start of a legislative session.

(2) Notification to Presidents. The Commissioner will notify the Presidents of all Maine institutions of higher education indicating receipt of the initial request.

(3) Provide Materials. The Commissioner will provide to the officials of the applicant institution of higher education such materials as are necessary to the conduct and finalizing of the authorization process. Such materials shall include a copy of the procedures to be followed and standards to be met and other items as are pertinent.

(4) Preparing Report; Content. Officials of the applicant institution of higher education shall prepare a report and forward it to the Commissioner. The report must provide in-depth information about the institution by giving attention to the following topics:

- a. Institution Objectives
- b. Organization and Governance
- c. Academic Programs
- d. Degree Requirements
- e. Admission Requirements
- f. Faculty
- g. Student Services
- h. Library and Learning Resources
- i. Physical Facilities
- j. Financial Resources

Other areas to be addressed, but not included in the topical listing, should be added by institution officials in an effort to give as clear a picture as possible of the institution's operation.

(5) Form Review Committee. After information requested in #4 is received, the Commissioner will form a Review Committee authorized to review and evaluate the submitted material and to conduct on-site visits when applicable. The membership of the Committee will be determined by the Commissioner after consultation with officials of the applicant institution subject to the final approval of the State Board of Education. The committee will consist of at least five (5) individuals who will be representative of Maine's institutions of higher education. Other members may be added by the State Board of Education. One of the members will be a member of the Maine Higher Education Council who will serve as Chair of the Committee. Expenses incurred by the Committee will be the responsibility of the applicant institution of higher education.

(6) Review Committee Prepares Report. The Review Committee will prepare a report detailing the facts based upon a review of the submitted materials, the application of standards for evaluating requests as adopted by the State Board of

Education, and information obtained from the on-site visit, if one was conducted, and include a recommendation as to whether the request for degree granting authority should be authorized. Prior to completion of the final report, the Review Committee will prepare an initial draft copy, without recommendation, and submit this to officials of the applicant institution for their review of the accuracy of the facts presented.

(7) Review Committee Forwards Report. The final report and recommendation shall be forwarded to the Commissioner within four weeks following the Committee's visit or by the last Friday in November. A copy of the report, and recommendation, shall also be forwarded to the President of the applicant institution. At this time, officials of the applicant institution will be notified concerning their responsibility to obtain a bill sponsor and to take the necessary steps to get a bill drafted and filed in preparation for legislative action.

(8) Commissioner Transmits Report. The Commissioner will transmit the report of the Review Committee to the State Board of Education. The Board will receive the report and recommendation at its December meeting with final action to be taken at the next regular meeting at which time the Commissioner will make a recommendation for action.

If the officials of the applicant institution wish to make any comments, reaction, or rebuttal relative to the contents of the final report of the Review Committee, this shall be in writing to the Board and shall be available for receipt by the Board not later than at its December meeting. Concurrently, this material shall be made available to the Chair of the Review Committee and if the Committee wishes to respond to its content, this shall be done in writing and submitted to the State Board of Education at least ten days prior to the date of its meeting at which time final action is scheduled.

(9) State Board Action. The State Board of Education will make a recommendation on the request and transmit this to the Joint Legislative Committee on Education, and officials of the applicant institution will be notified of this action.

For a full version of the procedures see [CH 149 \(A\)](#)

- 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.

From 6 – 8 months.

- c. What is the authorization duration?

For Out-of-State institutions the period of authorization is linked to program degree levels (4-5 years for baccalaureate programs; 3-5 for master degree programs; and 4-6 for doctoral degree programs – the renewal of authorization to operate in Maine is sought through application to the State Board prior to the expiration of current authority).

- d. What does an institution need to do to maintain authorization?  
For In-State institutions the authorization is on-going unless there is reason to re-visit consideration of such authorization. For Out-of-State institutions the period of authorization is linked to program degree levels (4-5 years for baccalaureate programs; 3-5 for master degree programs; and 4-6 for doctoral degree programs – renewal of authorization to operate in Maine is sought through application to the State Board prior to the expiration of current authority).
- 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 response to items 7. a. and d. above.
- f. Can an institution lose its authorized status? If so, how?  
Yes.
- 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. Only the accredited entity proposing to offer a program or programs of study leading to an academic degree will be considered for authorization.
- h. Would multi-institution public systems be treated the same as multi-location for-profit institutions?  
Yes.
- 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)?  
None.
- j. Is your agency currently planning to amend its application process by the end of 2011?  
No.
- If yes, please provide a brief description of the anticipated change.
  - If yes, when does the agency expect the change to be fully implemented?

## 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.**
- b. 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.)?  
**All reviews are conducted by a State Board approved Review Team within the State of Maine. Any applicant costs will be associated with application preparation; provision of two (2) copies in hard copy and one (1) copy in electronic format; reimbursement of round-trip mileage for Review Team members to the in-state review site; provision of refreshments and lunch for Review Team members.**
- c. What are the costs, if any, to renew authorization?  
**There are no fees assessed for renewal of authorization. See response to Item 8. c. for related costs to the applicant.**
- d. What costs are associated with receiving a waiver or exemption to authorization?  
**None.**

## 8. Interstate Reciprocity

- a. Do your state regulations explicitly allow or prohibit interstate reciprocal agreements about authorization? If so, please describe.  
**No.**
- b. What is the process, if any, to obtain a reciprocal agreement with your state?  
**Not applicable.**
- c. Are there any reciprocal agreements currently in place or under consideration? If so, please list those agreements.  
**Not applicable.**
- d. If interstate reciprocal agreements are not addressed in your regulations, would your agency consider establishing such agreements? Please elaborate.  
**Possibly.**

## 9. Consumer Protection and Student Complaints

- a. Does your agency have a process for handling complaints about postsecondary institutions or programs?  
**Yes.**

- If yes, please describe the process or provide a web link to the material that describes the complaint process.

#### D. Enforcement Actions

A violation of the provisions of this chapter or the rules adopted under this chapter is prima facie evidence of a violation of the Maine Unfair Trade Practices Act. Responsible owners, officers and employees of licensees are personally liable to any person harmed by intentional violations of this chapter or applicable rules, including violations regarding refunds, for the amount of damage caused by the violation.

05-071 - DEPARTMENT OF EDUCATION, Chapter 147

### 9. Complaints: Procession of Complaints

#### A. Investigations

The Department shall cause to be investigated all complaints of noncompliance with the rules. Complaints shall be addressed to the Department in writing with specific facts and allegations and signed by the complainant. The school shall be notified of any complaints which are to be investigated.

#### B. Dismissal

If, upon investigation, the Department concludes that there is no reasonable evidence of noncompliance with the requirements of this rule, it shall dismiss that complaint and notify both the school and the complainant of its action.

#### C. Further Action

If upon preliminary investigation, the Department determines that there is reasonable evidence of non-compliance with the rule, the Department shall take further action. This may included but is not limited to:

- Further investigation by staff or agents of the Department;
- Referral of investigation to other authorities;

- Holding a fact-finding hearing which shall not be an adjudicatory hearing;
  - Holding a meeting with school officials;
  - Bringing action in Superior Court to enjoin any person from violating this Chapter.
- 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.
  - If available, please provide a web link to the complaint form.
  - Who is the contact person for receiving complaints? Please include name, title, address, phone, and email if available.  
Harry W. Osgood  
Higher Education Specialist  
Maine Department of Education  
Augusta, Maine 04333  
207-624-6846  
[harry.osgood@maine.gov](mailto:harry.osgood@maine.gov)
- b. If your agency has no formal process for handling complaints related to postsecondary institutions, what state agency would handle a complaint?

## 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?

05-071 - DEPARTMENT OF EDUCATION, Chapter 147

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- 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.

**12. Violations**

Any violation of this Chapter shall be handled under the provisions set forth in Title 20-A M.R.S.A 9503, 9506, 9507 and 9508

**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?

No.

- If yes, please provide a brief description of the anticipated change.
- If yes, when does the agency expect the change to be fully implemented?

- 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?

No.

- If yes, please provide a brief description of the anticipated change.
- If yes, when does the agency expect the change to be fully implemented?

- c. Is your agency or state legislature making any other changes in your state regulations or statutes with regard to state authorization?

No.

- If yes, please provide a brief description of the anticipated change.
- 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?**

No.