

SHEEO State Authorization Inventory

Massachusetts

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: **Massachusetts Board of Higher Education**

o Description:

The Massachusetts Department of Higher Education is the staff to the 13-member Board of Higher Education, responsible for executing the Board's policies and day-to-day operations. The Board of Higher Education is the statutorily created agency in Massachusetts responsible for defining the mission of and coordinating the Commonwealth's system of public higher education and its institutions. The Board of Higher Education works to create and maintain a system of public higher education which provides Massachusetts citizens with the opportunity to participate in academic and educational programs for their personal betterment and growth; to contribute to the area's existing base of research and knowledge; and to contribute to the Commonwealth's future economic growth and development.

The Massachusetts Board of Higher Education coordinates the review and approval for all out-of-state institutions of higher education. In-state independent institutions of higher education are not licensed by the Board; rather they are granted the authority to award degrees in accordance with the Code of Massachusetts Regulations.

o Contact Information:

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- 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:

Link to agency home page: <http://www.mass.edu>

Link to agency regulations: Degree-Granting Regulations for Independent Institutions of Higher Education, 610 CMR 2.00, et seq.
<http://www.lawlib.state.ma.us/source/mass/cmr/cmrtxt/610CMR2.pdf>

Link to enabling legislation:

M.G.L. c.15A, § 1, et seq.

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter15A>

M.G.L. c. 69, §§ 30-31C

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter69>

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.

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

Clarifying comments:

In addition, actions by the Board implementing the requirement of M.G.L. c. 69, § 31A that no educational institution chartered, located, offering courses, or otherwise doing business within the Commonwealth may award degrees within

the Commonwealth unless authorized to do so by the Commonwealth; nor shall any educational institution chartered, incorporated, or organized in another state conduct within the Commonwealth any courses available to residents of the Commonwealth leading to the award of a degree unless the educational institution has received the approval of the Commonwealth for such courses.

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.

It depends. In some instances there may be additional state authorization agencies required. The institution is responsible for obtaining necessary approvals.

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

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

- Regional
- National
- Programmatic/specialized

Clarifying comments:

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

Actions by the Board implementing the requirement of M.G.L. c. 69, § 31A that no educational institution chartered, located, offering courses, or otherwise doing business within the Commonwealth may award degrees within the Commonwealth unless authorized to do so by the Commonwealth; nor shall any educational institution chartered, incorporated, or organized in another state conduct within the Commonwealth any courses available to residents of the Commonwealth leading to the award of a degree unless the educational institution has received the approval of the Commonwealth for such courses.

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

It depends. In some instances there may be additional state authorization agencies required. The institution is responsible for obtaining necessary approvals.

3. Exemptions

- a. Are certain institutions or programs exempt by law or policy from your state authorization requirements?
No.
 - If yes, please describe which institutions or programs the exemption applies to and how it works? If available, please provide any pertinent web links.
 - 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.?
- 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.)?
- c. Does your state constitution or do your state laws provide any exemptions for religious institutions?
 - 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?
The Board of Higher Education's general policy is to require an institution to be licensed if an education institution chartered, incorporated, or organized in another state, conducts within the Commonwealth any courses available to residents of the Commonwealth leading to the award of a degree. Please note that the Commonwealth regulations governing out of state institutions do not include provisions or clauses related to "grandfathering" students currently in non-approved programs, minimum requirements regarding the number of students enrolled in specific out of state programs, nor exemptions based on specialized training or types of institution.

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

5. Physical Presence Policy – Common “Triggers”

The Board of Higher Education’s general policy is to require an institution to be licensed if an education institution chartered, incorporated, or organized in another state, conducts within the Commonwealth any courses available to residents of the Commonwealth leading to the award of a degree. Any answers on the need to be licensed would be specific to the actual situation and would be formulated after a staff review of the actual in place constellation of facts at the time of such review. The answer depends to a great deal on how Massachusetts consumers are affected e.g., would the institution target Massachusetts residents in a systematic and continuous way as part of an overall effort to serve the education market in Massachusetts? Is the institution trying to reach into another jurisdiction? What is the specific degree of interactivity? In addition, are internship, externship, clinical, mentorship, shadowing, or student teaching experiences required as part of the curriculum.

- 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.
- 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?
 - Does this apply only to distance education students or more generally?
 - Permitting a student to complete an internship, externship, field experience, or clinical practicum found by the student acting independently?
 - Does this apply only to distance education students or more generally?
 - Employing full-time faculty in the state to provide instruction via distance education programs to students in the state?
 - What about adjunct faculty?

- Employing full-time faculty in the state to provide instruction via distance education programs solely to students outside of the state?
 - What about adjunct faculty?
 - 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.)?
 - Organized, consistent, on-the-ground recruiting of students in the state by employees or agents of the institution?
 - What if the agent is only recruiting students in the state on an occasional basis (i.e. at job fairs)?
 - Advertising in local media sources that are largely viewed by residents of the state?
 - Advertising in national media sources that can be accessed by residents of the state?
 - Having computer servers or other equipment located in the state?
 - Hosting short term, face-to-face, seminars or conferences in the state where students meet in person?
 - Employing mentors, tutors, or preceptors in the state to aid students, who are residents of the state, on an individual basis?
 - Requiring a student to take a proctored exam at a location or with an entity in the state prescribed by the institution?
 - Requiring a student to take a proctored exam with an entity in the state chosen by the student but approved by the institution?
 - 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.

Independent institutions must submit a proposal, necessary fee, and petition to the Board of Higher Education. In addition, the Articles of Amendment/Organization or Foreign Corporation Certificate must also be filed with the Secretary of the Commonwealth, which is then referred to the Board of Higher Education for investigation of the institution, its faculty, equipment, courses of study, financial organization, leadership, and other relevant facts.

- 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.
The typical application process can take from 9 month to a year or more.
- c. What is the authorization duration?
There is no time limitation. An authorization is valid as long an institution remains in compliance with regulations or ceases to operate.
- d. What does an institution need to do to maintain authorization?
Remain in compliance with 610.CMR.
- 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?
With limited exception, all documents made or received by the MA-DHE are public records and subject to disclosure upon request. However, any institution under the purview of the MA-DHE must respond to inquiries on an as needed basis.
- f. Can an institution lose its authorized status? If so, how?
Yes. An investigation of an institution will be carried out when facts are brought to the attention of the Board suggesting a reasonable probability of non-compliance with 610 CMR 2.00; or suggesting a reasonable probability that a degree or degrees are being or will be awarded within the Commonwealth without proper authority; or that a course or courses available to residents of the Commonwealth leading to the award of a degree or degrees are being or will be conducted within the Commonwealth without proper authority. When an investigation is undertaken to inquire into probable noncompliance with standards, the Board will require the institution to provide specific information pertinent to the specific concern. The Board may require the institution to provide some or all of the information described in 610 CMR 2.07 and/or 610 CMR 2.08, if applicable.

- 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.

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

Not applicable.

- 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.

Prior to submitting an application, an institution is strongly encouraged to consult with Board staff. A complete application consists of the appropriate certificate or articles of amendment, if applicable, the required information, and the payment of any required fee.

The Board will require the institution to submit information appropriate to the type and level of review. The Board shall limit its review to matters directly related to the issues in question. An institution may file copies of similar information prepared for accrediting or other agencies whenever such information is relevant to the type and level of review to be conducted by the Board.

An institution shall pay the following fees:

For the initial licensure of a Massachusetts-based or Out-of-state institution:
\$10,000 plus \$2,000 for each degree requested at the same time if more than one.
Annual fee each year for the first five years following initial licensure: \$4,000.

For each additional degree at Massachusetts licensed institutions: \$4,500 plus \$2,000 for each additional degree requested at the same time if more than one. (No fee for NEASC-CIHE institutions for additional degrees at existing categories/levels as approved by the Board, June 19, 2001.)

Periodic inspection or review (if a separate review from Board's participation in New England Association of Schools and Colleges review is required): \$4,000.

Other requests requiring public hearings (*e.g.*, award honorary degree(s), change the name of an institution, or retitle an existing, authorized degree): \$500.

Institutional closure: \$500. All records must be transmitted by the institution in electronic form.

- 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.)?
Yes. There are costs associated with the site visit related to travel and other accommodations for the reviewers.
- c. What are the costs, if any, to renew authorization?
There is an annual fee of \$4000 for the first five years following authorization.
- d. What costs are associated with receiving a waiver or exemption to authorization?
No costs. In accordance with 610 CMR, there is no waiver or exemption process.

8. Interstate Reciprocity

- a. Do your state regulations explicitly allow or prohibit interstate reciprocal agreements about authorization? If so, please describe.
- b. What is the process, if any, to obtain a reciprocal agreement with your state?
- c. Are there any reciprocal agreements currently in place or under consideration? If so, please list those agreements.
- d. If interstate reciprocal agreements are not addressed in your regulations, would your agency consider establishing such agreements? Please elaborate.
Reciprocal agreements are not authorized in the MA regulations.

9. Consumer Protection and Student Complaints

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

- If yes, please describe the process or provide a web link to the material that describes the complaint process.
<http://www.mass.edu/forstudents/complaints/complaintprocess.asp>
 - 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)?
When an individual or a group of individuals bring a consumer complaint to the Board about an independent institution of higher education within the Commonwealth, the Board will proceed in the following manner:
 - 1) When the consumer complaint concerns an institution which is under the purview of the Board, Board staff will refer the complaint to the institution for clarification and response within a specified period of time. If the forthcoming clarification and response do not satisfy the Board, the matter shall be referred to the Consumer Protection Division and/or the Public Charities Division of the Attorney General's Office.
 - 2) When the consumer complaint concerns an institution which does not come under the purview of the Board, the Board will refer the complaint directly to the Consumer Protection Division and/or the Public Charities Division of the Attorney General's Office.
 - If available, please provide a web link to the complaint form.
See above.
 - Who is the contact person for receiving complaints? Please include name, title, address, phone, and email if available.
- 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?
An investigation of an institution will be carried out when facts are brought to the attention of the board suggesting a reasonable probability of non-compliance with 610 CMR 2.00; or suggesting a reasonable probability that a degree or degrees are being or will be awarded within the Commonwealth without proper authority; or that a course or courses available to residents of the Commonwealth leading to the award of a degree or degrees are being offered or will be conducted within the Commonwealth without proper authority.

When an investigation is undertaken it inquire into probable non-compliance with standards, the Board will require the institution to provide specific information pertinent to the specific concern. The Board may require the institution to provide some or all of the information described in 610 CMR 2.07 and/or 610 CMR 2.08, if applicable.

- 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. In accordance with the provisions of M.G.L. c. 69, § 30A, if the Board has reason to believe that an institution does not comply with its regulations it shall conduct a preliminary inquiry of the matter. If this inquiry indicates a reason to believe that the institution does not comply with 610 CMR 2.00, the Commissioner of Higher Education may, if appropriate, review the alleged violations with the institution and approve a corrective course of action by the institution. Where the Commissioner does not determine it to be appropriate to review the alleged violations with the institution, or if the preliminary inquiry does not result in a satisfactory resolution of the concern, the Board may conduct an adjudicatory hearing pursuant to M.G.L. c. 69, § 30A to determine whether to revoke or suspend the institution's degree-granting authority. The Board may revoke or suspend the institution's degree-granting at the expiration of the time to file an appeal pursuant to M.G.L. c.30A (30 days) if the institution elects not to file an appeal, or upon a final decision of an appeal by the court. The Board shall notify the Secretary of State and the institution of any revocation or suspension.

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.