

SHEEO State Authorization Inventory

Montana

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: **Montana University System, Montana Board of Regents**

o Description:

Degree-granting institutions must get the Board of Regents’ approval, and must document current accreditation by one of the six regional accreditation agencies recognized by the Montana Board of Regents or by the Council on Higher Education Accreditation (CHEA), and must meet the business registration requirements of the Montana Secretary of State, if applicable. There is no separate State agency in Montana that regulates, licenses, or oversees proprietary schools, but the educational and business requirements for State Authorization are the same, as set forth by Statute and by the Montana Board of Regents.

o Contact Information:

Dr. Thomas H. Gibson
Director, Academic Processes & eLearning Business
Montana University System
Montana Board of Regents
406-444-0311
tgibson@montana.edu

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.mus.edu/borpol/bor300/320-1.pdf>

c. According to our records, the following agencies also have responsibility for authorization in the state.

The Montana Secretary of State has statutory responsibility for registering businesses that wish to transact business in the State of Montana. Title 35 of the Montana Code Annotated requires that non-public entities may not transact

business in MT without obtaining a Certificate of Authority from the Montana Secretary of State. It is the opinion of the Montana University System that providing an online education to students residing in MT constitutes “regularly transacting business.” The registration forms to obtain a Certificate of Authority for both “foreign for-profit” and “foreign not-for-profit” institutions can be found at: <http://sos.mt.gov/Business/Forms/index.asp>.

- d. If the division of responsibility among these agencies is not clear, please explain. Public institutions are not required to register with the Secretary of State or to obtain a Certificate of Authority. All others must register, regardless of whether as a for-profit or as a not-for-profit institution.

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 (that offer other than divinity degrees)
- No Tribally-controlled institutions

Clarifying comments:

- 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.
Non-public entities must obtain a Certificate of Authority from the MT Secretary of State. The registration forms can be found at: <http://sos.mt.gov/Business/Forms/index.asp>.
- c. Is accreditation required for an institution to be authorized in your state?
Yes.

- If yes, please explain:
Institutions must be currently accredited by one of the six regional accreditation agencies or by an agency recognized and accepted by the Council on Higher Education Accreditation (CHEA).
- 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?

Institutions only.

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

Education

Not for delivery, but yes for licensing to teach in Montana.

Nursing

Requires conformity with State Board of Nursing requirements for clinical work at the undergraduate level. For more information please contact:

**Dr. Cynthia Gustafson
 Executive Director
cgustafson@mt.gov**

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.

Public institutions are exempt from the registration requirements of the Montana Secretary of State.

- 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.)?

No.

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

No.

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

Yes.

- 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?

Yes.

- 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”

- 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?
No.
 - Does this apply only to distance education students or more generally?
Not applicable.
- 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?
Not applicable.
- Employing full-time faculty in the state to provide instruction via distance education programs to students in the state?
Yes, if they are providing academic instruction to students in the State.
 - What about adjunct faculty?
Yes, same as above.
- 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, if in-State students are being served in the process.
- 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)?
Not applicable.

- 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?
No.
 - Employing mentors, tutors, or preceptors in the state to aid students, who are residents of the state, on an individual basis?
Yes, providing that in-State students are receiving local instruction.
 - 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]
Any institution providing an education to students residing in MT is presumed to be operating in MT.
- 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?
Not applicable.

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 get the Board of Regents' approval and be accredited by one of six agencies recognized by the Board of Regents, or by CHEA. There is no State agency in Montana that regulates actual licenses for

higher education program delivery. Non-public entities must obtain a Certificate of Authority from the MT Secretary of State. Registration forms can be found at: <http://sos.mt.gov/Business/Forms/index.asp>.

For a copy of the single page informational memo, please visit: <http://mus.edu> and find the State Authorization banner.

- 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.
Typically 3-10 days.
- c. What is the authorization duration?
As long as current accreditation remains in effect and annual reports are provided to the Secretary of State to maintain the business registration.
- d. What does an institution need to do to maintain authorization?
Maintain accreditation and State business registration.
- 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?
An institution must report any change in its accreditation status or its business registration status, at the time the change occurs.
- f. Can an institution lose its authorized status? If so, how?
Loss of accreditation in good standing, or failure to maintain a current business registration with the Office of the Secretary of State, as 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.
Yes, if a Public System Office verifies accreditation standing, dates, renewals, individual member campus name and address, as well as a pledge to ensure that accreditations are maintained.
- h. Would multi-institution public systems be treated the same as multi-location for-profit institutions?
No. Multi-location private institutions (for-profit and N-F-P) are also required to complete the business registration with the Secretary of State.
- 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)?

Nothing that would be considered distinctive.

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

No.

- 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?

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.

The fees will apply only to those non-public entities that must also register with the MT Secretary of State. Public institutions are exempt and will incur no direct costs. The application fee will vary depending on the nature of the entity's tax status, as determined by the IRS (i.e. private for-profit or not-for-profit).

- 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.)?

No.

- c. What are the costs, if any, to renew authorization?

There are annual renewal fees for renewing the Certificate of Authority to transact business in Montana. The fee varies depending upon the nature of the entity's tax status.

- d. What costs are associated with receiving a waiver or exemption to authorization?

Not applicable.

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?

There is no recognized process at this time.

- c. Are there any reciprocal agreements currently in place or under consideration? If so, please list those agreements.

No.

- d. If interstate reciprocal agreements are not addressed in your regulations, would your agency consider establishing such agreements? Please elaborate.
Such a move would be evaluated and considered.

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.
Web site is currently under development.
 - 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)?
Yes, as individuals may also file complaints with the MT Office of Consumer Protection.
 - If available, please provide a web link to the complaint form.
Currently under development.
 - Who is the contact person for receiving complaints? Please include name, title, address, phone, and email if available.
Start with Commissioner's Office, with likely referral to campus, complaint bureau, or to accreditation agency, depending upon the nature of the complaint.
- b. If your agency has no formal process for handling complaints related to postsecondary institutions, what state agency would handle a complaint?
Not applicable.

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?
A formal letter to cease activity from the Office of the Commissioner would be generated on behalf of the Board of Regents of Higher Education.
- 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.
Currently under development.

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?

Not to the best of our knowledge.

- 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?

Not to the best of our knowledge.

- 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?

Not to the best of our knowledge.

- 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?

- We receive repeated requests from institutions that provide NO email contact response reference, many that have only partial mailing addresses so that authorization letters cannot be properly addressed, and some that are coming from clerical help that don't identify a central campus contact point to address/send the authorization to!
- When we request a copy of the most recent accreditation letter from the agency, we don't want a link that has to be looked up, researched, and printed. We want a scanned copy of the letter in an electronic format that we can review and file electronically.
- We have received multiple ghost requests from agents stating certain conditions and asking what we would do – We will not respond without a clear identification of the entity seeking State Authorization. Clearly identify the client and the concern and we'll get you a straight to the point answer.

- Don't insist that everything happen via surface mail, as you may be in for a long wait.
- Finally, don't refer me to a web site that you know how to easily navigate but where I can't even find reference to accreditation or academic affairs or even a faculty/staff email directory! There are some really crummy web sites out there.
- Move away from the standard 12 question template of "what if" to simply asking what our requirements and processes are. We are generally not going to take the time to answer every question that is repeatedly asked the same exact way by every campus that subscribes to a particular listserv.
- Please don't send a blank email with an attached PDF request. Take the time to identify who the sender is, a name and title, an institution, and a return email address.