

SHEEO State Authorization Inventory

New York

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: **Bureau of Proprietary School Supervision
New York State Education Department**
- Description:
The Bureau of Proprietary School Supervision regulates private vocational schools including non-degree/certificate programs.
 - Contact Information:
Monica Borden
School Licensing Supervisor
Bureau of Proprietary School Supervision
New York State Department of Education
518-474-3969
mborden@mail.nysed.gov
 - 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.acces.nysed.gov/bpss/>
- c. The following agency also has responsibility for authorization in the state and was requested to complete a survey.
Office of College and University Evaluation.
- d. If the division of responsibility among these agencies is not clear, please explain.
Office of College and University Evaluation regulates degree-granting institutions. Bureau of Proprietary School Supervision regulates all non-degree schools. There are various other agencies that regulate programs such as: Department of Motor Vehicles, Department of State, Insurance Department, and Department of Criminal Justice Services.

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
- No Public, out-of-state degree granting institutions
- No Private, in-state, not-for-profit degree granting institutions
- No Private, out-of-state, not-for-profit degree granting institutions
- No Private, in-state, for-profit degree granting institutions
- No 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
- Yes Non degree, not-for profit institutions
- Yes Non degree, for-profit institutions
- Religious institutions
- 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.

In cases where schools offer exempt programs and non-exempt courses, ALL programs must obtain approval by BPSS.

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

No.

- If yes, please explain:
- 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?

We license schools, but also approve every course/curriculum offered at the school, on an individual basis.

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

Education

Office of College and University Evaluation

www.highered.nysed.gov/highered

E-mail: ocue@mail.nysed.gov

Nursing

NYS Education Department Office of the Professions – Nursing Board

www.op.nysed.gov/prof/nurse/

Nursing: opunit4@mail.nysed.gov

Nurse Practitioner: opunit3@mail.nysed.gov

Social Work

www.op.nysed.gov/prof/sw/

opunit5@mail.nysed.gov

Counseling Psychology

www.op.nysed.gov/prof/psych/

opunit5@mail.nysed.gov

Allied Health Professions and related programs

Certified Dental Assisting

www.op.nysed.gov/prof/dent/

opunit3@mail.nysed.gov

Others [please list]

Truck Driving Schools – Department of Motor Vehicles

www.nydmv.state.ny.us/forms/cr76.pdf

518-473-5595

Security Guard – Department of Criminal Justice Services

<http://criminaljustice.state.ny.us/ops/sgtraining/index.htm>

dcjsopssecurityguard@dcjs.state.ny.us

Real Estate – Department of State

http://www.dos.ny.gov/licensing/re_salesperson/re_sales_edu.html

518-474-4429

Insurance – Insurance Department
<http://www.ins.state.ny.us/iabedu.htm>
coned@ins.state.ny.us

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.
There are multiple exemptions, found at:
<http://www.acces.nysed.gov/bpss/schools/revisedlaw.htm#S5001>
 - 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.?
Exemptions are not granted – schools are required to receive legal advice to ensure that they are operating in an exempt fashion. Previous attempts at issuing formal exemptions resulted in misuse by institutions. If a school chooses to operate without a license, they are advised to be able to verify pertinent exemptions upon request of the Commissioner.
- 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.)?
See above.
- c. Does your state constitution or do your state laws provide any exemptions for religious institutions?
 - Are all religious institutions exempt (please describe)?
For schools that teach religion only – not schools that train people in careers in religion (teachers, ministers, etc.).
 - Are religious institutions that award only religious degrees or certificates exempt (please describe)?
No.
 - 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.

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

Physical presence is identified as any training location, office or recruiting space, corporate location, and/or server.

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.

See above.

- 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?

Yes.

- Does this apply only to distance education students or more generally?

Any school that allows an internship/externship site in NYS would qualify as physical presence.

- Permitting a student to complete an internship, externship, field experience, or clinical practicum found by the student acting independently?

Yes.

- Does this apply only to distance education students or more generally?

Applies to all schools.

- Employing full-time faculty in the state to provide instruction via distance education programs to students in the state?

Not considered physical presence unless school has an actual office in NYS.

- What about adjunct faculty?
No – see above.
- Employing full-time faculty in the state to provide instruction via distance education programs solely to students outside of the state?
No – see above.
 - What about adjunct faculty?
No – see above.
- 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?
Agents must be licensed as out-of-state recruiters.
 - What if the agent is only recruiting students in the state on an occasional basis (i.e. at job fairs)?
Same as above.
- 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?
Yes.
- 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?
Yes.

- Requiring a student to take a proctored exam with an entity in the state chosen by the student but approved by the institution?
Yes.
 - 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.
<http://www.acces.nysed.gov/bpss/schools/steps.htm>
- 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.
Schools are allowed 8 months from initial review by BPSS staff, to complete the application process. Depending on the issues found during the review, it could take between 3-12 months from initial application until approval.
- c. What is the authorization duration?
Two year initial license, then renewals every four years
- d. What does an institution need to do to maintain authorization?
Submit application for renewal and undergo a detailed file and onsite inspection
- 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?
Financial viability, student progress, current staff and curriculum approvals.
- f. Can an institution lose its authorized status? If so, how?
Yes – if serious violations of Education Law are uncovered, in cases of fraud, or for financial distress.
- 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 school holds an independent license.

- 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)?
- j. Is your agency currently planning to amend its application process by the end of 2011?
 - o If yes, please provide a brief description of the anticipated change.
There is legislation pending that would allow for changes in application fees, teacher licensing requirements, financial statement requirements, and school ownership changes.
 - o If yes, when does the agency expect the change to be fully implemented?
Spring 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.
Currently \$250 application fee + fees for agents, teachers, directors and curriculum approvals. Pending legislation will increase the new school application fee to \$5000 and will increase other fees slightly.
- 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.)?
Tuition Assessment - .5% of gross tuition annually, agent licensing, teacher licensing, director licensing, curriculum approvals.
- c. What are the costs, if any, to renew authorization?
\$500-\$12,000 – depending on gross tuition income. Renewal fees will increase by 50% with new statute.
- 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.
No.
- 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.
All written complaints must be investigated. Students are asked to complete a Student Complaint Form, and each complaint is assigned to a specific investigator.
 - 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)?
Students may complain to us, however, we will refer it to the state responsible for the school – the home state.
 - If available, please provide a web link to the complaint form.
<http://www.acces.nysed.gov/bpss/students/documents/ComplaintForm.pdf>
 - Who is the contact person for receiving complaints? Please include name, title, address, phone, and email if available.
Edward Kramer – Supervising Investigator – ekramer@mail.nysed.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?
A letter of inquiry is sent, and if school does not respond appropriately, schools are investigated.
- 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.
Appeals are informal until/unless disciplinary action is undertaken.

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?