

## AMENDMENT TO THE RULES OF THE BOARD OF REGENTS

Pursuant to sections 101, 207, 212 of the Education Law, and section 97-III of the State Finance Law.

1. Section 3.56 of the Rules of the Board of Regents is amended, effective March 29, 2017 to read as follows:

§3.56. Consent of the Board of Regents to operation in New York by institutions of higher education operating outside New York.

[An individual, association, copartnership or corporation authorized to confer degrees or offer courses of study at the higher education level] An institution authorized to confer degrees in a state other than New York, which seeks the permission of the Regents to offer educational programs in New York, shall comply with the following procedures and requirements:

(a) Application. An application for initial approval and applications for renewal of such approval shall be submitted to the Regents [for their approval] on forms prescribed by the [department] Department, setting forth evidence of educational quality and resources equivalent to those set forth in Part 52 of this Title for the programs the institution is seeking permission to operate in New York [of New York institutions of higher education offering similar programs], as determined by the [commissioner] Commissioner. Such application shall include the fees set forth in subdivision (f) of this section, and evidence, satisfactory to the [commissioner] Commissioner, of the need for the proposed program [or programs], and that the long-range plan for the program is in accordance with the [Regents statewide plan for the development of post-secondary education, 1980] Regents 2012-2020 Statewide Plan for Higher Education (University of the State of New York, State Education Department, Albany, NY [12230: October 1980] 12234, available at [Bureau of Postsecondary Planning] Office of Higher Education,

[Room 5B44, Cultural Education Center] State Education Building, Albany, NY [12230] 12234).

(b) [A proposed program must be registered with the department. Registration of a proposed program shall be accomplished in accordance with the provisions of Part 52 of this Title.] Terms of Initial Approval and Renewal. The term for initial approval for permission to operate in New York shall be five years, unless otherwise modified by the Board of Regents. The institution shall apply for renewal of its permission to operate every five years.

(c) Scope of Permission to Operate.

(1) Out-of-state institutions applying for initial approval or renewal of such approval under this section on or after March 29, 2017 may only hold permission to operate one program at one location in New York State unless otherwise authorized by this subdivision. For the purposes of this part, *program* shall mean courses or instructional or other field experiences (e.g., clinical placements) that are offered by the institution in New York for purposes of earning credit, a degree, certificate, credential, or other academic award.

(i) In rare circumstances and upon receipt of evidence satisfactory to the Commissioner that the educational needs in New York will be addressed by allowing an institution to offer more than one program or offer a program at more than one location in New York, the institution may apply to the Commissioner for a waiver of the limitation in this paragraph.

(ii) Institutions that were granted permission to operate more than one program and/or a program at multiple locations prior to March 29, 2017, shall be grandfathered in, and may continue to operate those programs; provided, however, that the institution

shall apply for renewal of such permission to operate in accordance with the provisions of this section.

(2) If the program for which an out-of-state institution is seeking permission to operate also includes a distance education component and the institution is required to obtain approval by the Department to offer distance education in New York pursuant to Subpart 49-2 of this Title, and the only distance education the institution is seeking permission to operate in New York relates to the program for which the institution is seeking permission to operate, the institution may apply for both permission to operate and approval to offer distance education through a single application under this section, and shall only be subject to the fees required by this section. When submitting a combined application for permission to offer distance education in a program in which the institution seeks permission to operate in New York pursuant this paragraph, the institution shall meet the requirements of both this section and Subpart 49-2 of this Title.

(d) Review of Applications. Applications for initial approval and renewal of such approval shall be reviewed by the Department to determine whether the application meets the requirements set forth in subdivision (a) of this Part.

(1) For those applications that meet the requirements for permission to operate under this section, the Department shall make a recommendation for approval to the Board of Regents. At a regularly scheduled public meeting, the Board of Regents shall consider the Department's recommendation and make the final determination on permission to operate.

(2) Applications that do not meet the requirements set forth in subdivision (a) of this section will not be recommended for approval to the Board of Regents and the Department shall provide the applicant with the reasons for its decision in writing. The institution may appeal the Department's decision not to recommend an application for

approval, to the Commissioner or her/his designee, in a timeframe and manner prescribed by the Commissioner, and may submit additional information in support of its position.

(e) If an institution holding permission to operate fails to pay the required fees set forth in this section, or has not maintained compliance with the requirements set forth in this section, the Department may revoke permission to operate and/or limit the institution from enrolling new students in New York State at any time. The institution shall have the right to appeal the determination of the Department to the Commissioner or his/her designee, in a timeframe and manner prescribed by the Commissioner, and may submit additional information in support of its position, prior to such revocation, or any limitation on enrollment.

(f) Fee Schedule.

(1) Initial Application Fee. Institutions seeking initial permission to operate under this section, on or after March 29, 2017 shall be subject to a non-refundable application fee of \$10,000, to be submitted with its application for initial approval. If a waiver is granted by the Commissioner to allow an institution to seek permission to operate more than one program pursuant to subparagraph (i) of paragraph (1) of subdivision (c) of this section, an additional fee of \$2,500 for each additional program for which permission to operate in New York is sought shall be submitted with the initial application.

(2) Renewal Fee. An institution seeking renewal of its permission to operate on or after March 29, 2017 shall be subject to a non-refundable application fee of \$2,500, to be submitted with the renewal application. If a waiver is granted by the Commissioner to allow an institution to seek permission to operate more than one program pursuant to subparagraph (i) of paragraph (1) of subdivision (c) of this section,

an additional fee of \$2,500 for each additional program for which permission is sought shall be submitted with the renewal application.

(3) Annual Administrative Fee. In addition to the fees prescribed in paragraphs (1) and (2) of this subdivision, an institution granted permission to operate either through an initial approval or through renewal of existing approval on or after March 29, 2017, shall be subject to an annual non-refundable fee of \$5,000 commencing in the year that the institution obtains initial approval or renewal of its existing approval on or after March 29, 2017 and for each subsequent year throughout the term of its approval to operate in New York State. The fee for each annual period shall be due no later than 60 days prior to the start of each annual period for such institution.