

**Effective 5/13/2014**

**Part 2**  
**State Authorization Procedures**

**13-34a-201 Title.**

This part is known as "State Authorization Procedures."

Enacted by Chapter 360, 2014 General Session

**13-34a-202 State authorization -- Certificate of postsecondary state authorization.**

- (1) A postsecondary school that operates in the state obtains state authorization for purposes of 34 C.F.R. Sec. 600.9 if the postsecondary school obtains a certificate of postsecondary state authorization under this chapter.
- (2) A postsecondary school may obtain state authorization in a manner different from the manner described in Subsection (1) if the alternative manner is accepted by the United States Department of Education.
- (3)
  - (a) A certificate of postsecondary state authorization is not an endorsement or approval of a postsecondary school by the division or the state.
  - (b) A postsecondary school may not represent that a certificate of postsecondary state authorization is an endorsement or approval by the division or the state.

Enacted by Chapter 360, 2014 General Session

**13-34a-203 Nonprofit postsecondary school -- Procedure to obtain certificate of postsecondary state authorization.**

- (1) The division shall, in accordance with the provisions of this section, issue a certificate of postsecondary state authorization to a postsecondary school that:
  - (a) is a nonprofit postsecondary school; and
  - (b) has operated as a nonprofit for at least 20 years.
- (2) To obtain a certificate of postsecondary state authorization under this section, a postsecondary school shall:
  - (a) submit a completed registration form to the division that:
    - (i) for a nonprofit, private postsecondary school, includes:
      - (A) a copy of the private postsecondary school's articles of incorporation;
      - (B) documentation from the United States Internal Revenue Service that demonstrates that the private postsecondary school has nonprofit status, and that the private postsecondary school has had nonprofit status for at least 20 consecutive years from the day on which the private postsecondary school submits the completed registration form; and
      - (C) satisfactory documentation that the private postsecondary school has complied with the complaint process requirements described in Section 13-34a-206; or
    - (ii) for a nonprofit, public postsecondary school, includes:
      - (A) documentation sufficient to demonstrate that the public postsecondary school has operated as a nonprofit for at least 20 consecutive years from the day on which the public postsecondary school submits the completed registration form; and
      - (B) satisfactory documentation that the public postsecondary school has complied with the complaint process requirements described in Section 13-34a-206; and

- (b) pay a nonrefundable fee, established by the division, in accordance with Subsection 13-34a-103(2)(c) to pay for the cost of processing the registration form and issuing the certificate of postsecondary state authorization.
- (3) The division shall develop and make available to the public:
  - (a) a registration form for nonprofit, private postsecondary schools, as described in Subsection (2)(a)(i); and
  - (b) a registration form for nonprofit, public postsecondary schools, as described in Subsection (2)(a)(ii).
- (4) The division shall deposit money that the division receives under Subsection (2)(b) into the Commerce Service Account, created in Section 13-1-2.
- (5) If there is a change in circumstance that may affect a postsecondary school's status under this section, the postsecondary school shall notify the division in writing of the change within 30 days after the day on which the change occurs.
- (6) A certificate of postsecondary state authorization issued under this section:
  - (a) establishes a postsecondary school by name as an educational institution, as described in 34 C.F.R. Sec. 600.9(a)(1)(i);
  - (b) makes a postsecondary school independent of the state system of higher education; and
  - (c) authorizes a postsecondary school to operate educational programs in the state that are beyond secondary education, including programs that lead to a degree or certificate.

Enacted by Chapter 360, 2014 General Session

**13-34a-204 Postsecondary school -- Procedure to obtain certificate of postsecondary state authorization.**

- (1) The division shall, in accordance with the provisions of this section, issue a certificate of postsecondary state authorization to a postsecondary school.
- (2) To obtain a certificate of postsecondary state authorization under this section, a postsecondary school shall:
  - (a) submit a completed registration form to the division that includes:
    - (i) proof of current accreditation from the postsecondary school's accrediting agency;
    - (ii) proof that the postsecondary school is fiscally responsible and can reasonably fulfill the postsecondary school's financial obligations, including:
      - (A) a copy of an audit of the postsecondary school's financial statements, with all applicable footnotes, including a balance sheet, an income statement, a statement of retained earnings, and a statement of cash flow, that was performed by a certified public accountant;
      - (B) at the postsecondary school's election, a copy of an audit of the postsecondary school's parent company's financial statements, with all applicable footnotes, including a balance sheet, an income statement, a statement of retained earnings, and a statement of cash flow, that was performed by a certified public accountant; and
      - (C) a copy of all other financial documentation that the postsecondary school provided to the postsecondary school's accrediting agency since the postsecondary school's last registration with the division under this chapter or within the 12 months before the day on which the postsecondary school submits a completed registration form under this section, whichever is longer;
    - (iii) proof of good standing in the state where the postsecondary school is organized;
    - (iv) the postsecondary school's operating history with the postsecondary school's accrediting agency since the postsecondary school's last registration with the division under this

- chapter or within the 12 months before the day on which the postsecondary school submits a completed registration form under this section, whichever is longer;
- (v) the number of Utah residents who enrolled in the postsecondary school since the postsecondary school's last registration with the division under this chapter or within the 12 months before the day on which the postsecondary school submits a completed registration form under this section, whichever is longer;
  - (vi) satisfactory documentation that the postsecondary school has complied with the complaint process requirements described in Section 13-34a-206;
  - (vii)
    - (A) the number of complaints that a Utah resident has filed against the postsecondary school since the postsecondary school's last registration with the division under this chapter or within the 12 months before the day on which the postsecondary school submits a completed registration form under this section, whichever is longer; and
    - (B) upon request, includes copies of the complaints described in Subsection (2)(a)(vii)(A);
  - (viii) a disclosure that states whether the postsecondary school or an owner, officer, director, or administrator of the postsecondary school has been:
    - (A) convicted of a crime;
    - (B) subject to an order issued by a court; or
    - (C) subject to an order issued by an administrative agency that imposed disciplinary action; and
  - (ix) a notarized personal verification by the owner or a responsible officer of the postsecondary school that the information provided under this Subsection (2)(a) is complete and accurate; and
- (b) pay a nonrefundable fee, established by the division, in accordance with Subsection 13-34a-103(2)(c) to pay for the cost of processing the registration form and issuing the certificate of postsecondary state authorization.
- (3) The division shall develop and make available to the public a registration form described in Subsection (2)(a).
- (4) The division shall deposit money that the division receives under Subsection (2)(b) into the Commerce Service Account, created in Section 13-1-2.
- (5) If a postsecondary school maintains more than one physical campus in the state, the postsecondary school shall file a separate registration form for each physical campus in the state.
- (6)
  - (a) A certificate of postsecondary state authorization issued under this section is not transferrable.
  - (b)
    - (i) If a postsecondary school's ownership or governing body changes after the postsecondary school obtains a certificate of postsecondary state authorization under this section, the postsecondary school shall submit a new completed registration form in accordance with Subsection (2) within 60 days after the day on which the change in ownership or governing body occurs.
    - (ii) If a postsecondary school fails to timely comply with the requirements described in Subsection (6)(b)(i), the postsecondary school's certificate of postsecondary state authorization immediately and automatically expires.
  - (c) If there is a change in circumstance that may affect a postsecondary school's status under this section, the postsecondary school shall notify the division in writing of the change within 30 days after the day on which the change occurs.

- (7) A certificate of postsecondary state authorization issued under this section expires one year after the day on which the certificate of postsecondary state authorization is issued.

Enacted by Chapter 360, 2014 General Session

**13-34a-205 Background checks.**

- (1) The division may require an owner, officer, director, administrator, faculty member, staff member, or other agent of a postsecondary school that applies for or holds a certificate of postsecondary state authorization to:
  - (a) submit a fingerprint card in a form acceptable to the division; and
  - (b) consent to a criminal background check by:
    - (i) the Federal Bureau of Investigation;
    - (ii) the Utah Bureau of Criminal Identification; or
    - (iii) another agency of any state that performs criminal background checks.
- (2) The postsecondary school or the postsecondary school's owner, officer, director, administrator, faculty member, staff member, or other agent who is subject to the background check shall pay the cost of:
  - (a) the fingerprint card described in Subsection (1)(a); and
  - (b) the criminal background check.

Enacted by Chapter 360, 2014 General Session

**13-34a-206 Complaints -- Information for students and prospective students.**

- (1) A postsecondary school shall provide each student or prospective student written information regarding how to file a complaint against the postsecondary school with the division, the postsecondary school's accrediting agency, and the postsecondary school's approval or licensing entity.
- (2) To satisfy the requirements described in Subsection (1), a postsecondary school may place a conspicuous link on the postsecondary school's website that links to:
  - (a) the contact information of each entity described in Subsection (1); or
  - (b) a third party's website that states the contact information for each entity described in Subsection (1).
- (3) The division shall establish a process for reviewing and responding to complaints that the division receives under this chapter.

Enacted by Chapter 360, 2014 General Session

**13-34a-207 Discontinuance of operations.**

- (1) If a postsecondary school ceases to operate, at least 30 days before the day on which the postsecondary school ceases to operate, the postsecondary school shall give the division written notice that includes:
  - (a) the date on which the postsecondary school will cease to operate; and
  - (b) for an accredited institution, a written certification, signed by the postsecondary school's owner or officer, that the postsecondary school has complied with the postsecondary school's accrediting agency's closure requirements.
- (2) After a postsecondary school submits a written notice described in Subsection (1), the postsecondary school may not recruit or enroll new students in the state.

Enacted by Chapter 360, 2014 General Session