

136A.61 POLICY.

The legislature has found and hereby declares that the availability of legitimate courses and programs leading to academic degrees offered by responsible private not-for-profit and for-profit institutions of postsecondary education and the existence of legitimate private colleges and universities are in the best interests of the people of this state. The legislature has found and declares that the state can provide assistance and protection for persons choosing private institutions and programs, by establishing policies and procedures to assure the authenticity and legitimacy of private postsecondary education institutions and programs. The legislature has also found and declares that this same policy applies to any private and public postsecondary educational institution located in another state or country which offers or makes available to a Minnesota resident any course, program or educational activity which does not require the leaving of the state for its completion.

History: 1975 c 201 s 1; 1978 c 603 s 1; 2007 c 144 art 3 s 1

136A.615 CITATION.

Sections 136A.61 to 136A.71 may be cited as the "Minnesota Private and Out-of-State Public Postsecondary Education Act."

History: 2007 c 144 art 3 s 2

136A.62 DEFINITIONS.

Subdivision 1. Words, terms, and phrases.

The following words, terms, and phrases shall have the meanings ascribed to them in this section for the purposes of sections 136A.61 to 136A.71.

Subd. 2. Office.

"Office" means the Minnesota Office of Higher Education.

Subd. 3. School.

"School" means:

(1) any partnership, company, firm, society, trust, association, corporation, or any combination thereof, which (i) is, owns, or operates a private, nonprofit postsecondary education institution; (ii) is, owns, or operates a private, for-profit postsecondary education institution; or (iii) provides a postsecondary instructional program or course leading to a degree whether or not for profit;

(2) any public postsecondary educational institution located in another state or country which offers or makes available to a Minnesota resident any course, program or educational activity which does not require the leaving of the state for its completion; or

(3) any individual, entity, or postsecondary institution located in another state that contracts with any school located within the state of Minnesota for the purpose of providing educational programs, training programs, or awarding postsecondary credits or continuing education credits to Minnesota residents that may be applied to a degree program.

Subd. 4. Degree.

"Degree" means any award given by a school for completion of a program or course which is designated by the term degree, associate, bachelor, baccalaureate, masters, or doctorate, or any other award which the office shall include by rule.

Subd. 5. Records.

"Records" means those school documents and files containing student data relating to academic credits, grades, degrees awarded, periods of attendance, and such other matters as the office shall determine by rule.

History: 1975 c 201 s 2; 1975 c 271 s 6; 1978 c 603 s 2; 1985 c 248 s 70; 1995 c 212 art 3 s 39,59; 2005 c 107 art 2 s 60; 2007 c 144 art 3 s 3

136A.63 REGISTRATION.

Subdivision 1. Annual registration.

All schools located within Minnesota and all schools located outside Minnesota which offer degree programs or courses within Minnesota shall register annually with the office.

Subd. 2. Sale of an institution.

Within 30 days of a change of its ownership a school must submit a registration renewal application, all usual and ordinary information and materials for an initial registration, and applicable registration fees for a new institution. For purposes of this subdivision, "change of ownership" means a merger or consolidation with a corporation; a sale, lease, exchange, or other disposition of all or substantially all of the assets of a school; the transfer of a controlling interest of at least 51 percent of the school's stock; or a change in the not-for-profit or for-profit status of a school.

History: 1975 c 201 s 3; 1975 c 271 s 6; 1978 c 603 s 3; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 4

136A.64 INFORMATION REQUIRED FOR REGISTRATION.

Subdivision 1. Schools to provide information.

As a basis for registration, schools shall provide the office with such information as the office needs to determine the nature and activities of the school, including but not limited to the following which shall be accompanied by an affidavit attesting to its accuracy and truthfulness:

- (1) articles of incorporation, constitution, bylaws, or other operating documents;
- (2) a duly adopted statement of the school's mission and goals;

(3) evidence of current school or program licenses granted by departments or agencies of any state;

(4) a fiscal balance sheet on an accrual basis, or a certified audit of the immediate past fiscal year including any management letters provided by the independent auditor or, if the school is a public institution outside Minnesota, an income statement for the immediate past fiscal year;

(5) all current promotional and recruitment materials and advertisements; and

(6) the current school catalog and, if not contained in the catalog:

(i) the members of the board of trustees or directors, if any;

(ii) the current institutional officers;

(iii) current full-time and part-time faculty with degrees held or applicable experience;

(iv) a description of all school facilities;

(v) a description of all current course offerings;

(vi) all requirements for satisfactory completion of courses, programs, and degrees;

(vii) the school's policy about freedom or limitation of expression and inquiry;

(viii) a current schedule of fees, charges for tuition, required supplies, student activities, housing, and all other standard charges;

(ix) the school's policy about refunds and adjustments;

(x) the school's policy about granting credit for prior education, training, and experience; and

(xi) the school's policies about student admission, evaluation, suspension, and dismissal.

Subd. 2. Financial records.

The office shall not disclose financial records or accreditation reports provided to it by a school pursuant to this section except for the purpose of defending, at hearings pursuant to chapter 14, or other appeal proceedings, its decision to approve or not to approve the granting of degrees or the use of a name by the school. Section 15.17, subdivision 4, shall not apply to such records.

Subd. 3. Additional information.

If the office is unable to determine the nature and activities of a school on the basis of the information in subdivision 1, the office shall notify the school of additional information needed.

Subd. 4. Verification of information.

The office may verify the accuracy of submitted information by inspection, visitation, or any other means it considers necessary.

Subd. 5. Public information.

All information submitted to the office is public information except financial and accreditation records and information. The office may disclose financial records or information to defend its decision to approve or disapprove granting of degrees or the use of a name or its decisions to revoke the approval at a hearing under chapter 14 or other legal proceedings.

Subd. 6. Late registration penalty.

Applications for renewal for any registration received after the deadline date specified in the renewal materials provided by the office are subject to a late fee equal to 20 percent of the annual registration renewal fee.

Subd. 7. Out-of-state expenses.

A school shall reimburse the office for actual costs associated with a site evaluation visit outside Minnesota if the visit is necessary under subdivision 1 or 3.

History: 1975 c 201 s 4; 1975 c 271 s 6; 1978 c 603 s 4; 1982 c 424 s 130; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 5

136A.645 SCHOOL CLOSURE.

When a school decides to cease postsecondary education operations, it must cooperate with the office in assisting students to find alternative means to complete their studies with a minimum of disruption, and inform the office of the following:

- (1) the planned date for termination of postsecondary education operations;
- (2) the planned date for the transfer of the student records;
- (3) confirmation of the name and address of the organization to receive and hold the student records; and
- (4) the official at the organization receiving the student records who is designated to provide official copies of records or transcripts upon request.

Upon notice from a school of its intention to cease operations, the office shall notify the school of the date on which it must cease the enrollment of students and all postsecondary educational operations.

History: 2007 c 144 art 3 s 6

136A.646 ADDITIONAL SECURITY.

In the event any registered institution is notified by the United States Department of Education that it has fallen below minimum financial standards and that its continued participation in Title IV will be conditioned upon its satisfying either the Zone Alternative, Code of Federal Regulations, title 34, section 668.175, paragraph (f), or a Letter of Credit

Alternative, Code of Federal Regulations, title 34, section 668.175, paragraph (c), the institution shall provide a surety bond conditioned upon the faithful performance of all contracts and agreements with students in a sum equal to the "letter of credit" required by the United States Department of Education in the Letter of Credit Alternative, but in no event shall such bond be less than \$10,000 nor more than \$250,000.

History: 2007 c 144 art 3 s 7

136A.65 APPROVAL OF DEGREES AND NAME.

Subdivision 1. Prohibition.

No school subject to registration shall grant a degree unless such degree and its underlying curriculum are approved by the office, nor shall any school subject to registration use the name "college" or "university" in its name without approval by the office.

Subd. 1a. Accreditation; requirement.

A school must not be registered or authorized to offer any degree at any level unless the school is accredited by an agency recognized by the United States Department of Education for purposes of eligibility to participate in Title IV federal financial aid programs. Any registered school undergoing institutional accreditation shall inform the office of site visits by the accrediting agency and provide office staff the opportunity to attend the visits, including any exit interviews. The institution must provide the office with a copy of the final report upon receipt.

Subd. 2. Procedures.

The office shall establish procedures for approval, including notice and an opportunity for a hearing pursuant to chapter 14 if such approval is not granted. If a hearing is requested, no disapproval shall take effect until after such hearing.

Subd. 3. Application.

A school subject to registration shall be granted approval to use the term "college" or "university" in its name if it was organized, operating, and using such term in its name on or before August 1, 2007, and if it meets the other policies and standards for approval established by the office.

Subd. 4. Criteria for approval.

(a) A school applying to be registered and to have its degree or degrees and name approved must substantially meet the following criteria:

(1) the school has an organizational framework with administrative and teaching personnel to provide the educational programs offered;

(2) the school has financial resources sufficient to meet the school's financial obligations, including refunding tuition and other charges consistent with its stated policy if the institution

is dissolved, or if claims for refunds are made, to provide service to the students as promised, and to provide educational programs leading to degrees as offered;

(3) the school operates in conformity with generally accepted budgeting and accounting principles;

(4) the school provides an educational program leading to the degree it offers;

(5) the school provides appropriate and accessible library, laboratory, and other physical facilities to support the educational program offered;

(6) the school has a policy on freedom or limitation of expression and inquiry for faculty and students which is published or available on request;

(7) the school uses only publications and advertisements which are truthful and do not give any false, fraudulent, deceptive, inaccurate, or misleading impressions about the school, its personnel, programs, services, or occupational opportunities for its graduates for promotion and student recruitment;

(8) the school's compensated recruiting agents who are operating in Minnesota identify themselves as agents of the school when talking to or corresponding with students and prospective students; and

(9) the school provides information to students and prospective students concerning:

(i) comprehensive and accurate policies relating to student admission, evaluation, suspension, and dismissal;

(ii) clear and accurate policies relating to granting credit for prior education, training, and experience and for courses offered by the school;

(iii) current schedules of fees, charges for tuition, required supplies, student activities, housing, and all other standard charges;

(iv) policies regarding refunds and adjustments for withdrawal or modification of enrollment status; and

(v) procedures and standards used for selection of recipients and the terms of payment and repayment for any financial aid program.

(b) An application for degree approval must also include:

(i) title of degree and formal recognition awarded;

(ii) location where such degree will be offered;

(iii) proposed implementation date of the degree;

(iv) admissions requirements for the degree;

(v) length of the degree;

(vi) projected enrollment for a period of five years;

- (vii) the curriculum required for the degree, including course syllabi or outlines;
- (viii) statement of academic and administrative mechanisms planned for monitoring the quality of the proposed degree;
- (ix) statement of satisfaction of professional licensure criteria, if applicable;
- (x) documentation of the availability of clinical, internship, externship, or practicum sites, if applicable; and
- (xi) statement of how the degree fulfills the institution's mission and goals, complements existing degrees, and contributes to the school's viability.

Subd. 5. Requirements for degree and nondegree program approval.

For each degree and nondegree program a school offers to a student, where the student does not leave Minnesota for the major portion of the program or course leading to the degree or nondegree award, the school must have:

- (1) for degree programs:
 - (i) qualified teaching personnel to provide the educational programs for each degree for which approval is sought;
 - (ii) appropriate educational programs leading to each degree for which approval is sought;
 - (iii) appropriate and accessible library, laboratory, and other physical facilities to support the educational program for each degree for which approval is sought; and
 - (iv) a rationale showing that degree programs are consistent with the school's mission and goals; and
- (2) for nondegree programs:
 - (i) qualified teaching personnel to provide the educational programs for which approval is sought;
 - (ii) appropriate educational programs leading to each award for which approval is sought;
 - (iii) appropriate and accessible library, laboratory, and other physical facilities to support the educational program for which approval is sought; and
 - (iv) a rationale showing that programs are consistent with the school's mission and goals.

Nondegree programs that are a part of an approved degree shall not require additional review or approval; they shall be considered approved as a part of the degree approval. Any nondegree program offered by a degree-granting school that is not a part of an approved degree shall be subject to clause (2), items (i) to (iv).

Subd. 6. Name.

A degree-granting school may use the term "academy" or "institute" in its name without meeting any additional requirements. A school may use the term "college" in its name if it offers at least one program leading to an associate degree. A school may use the term "university" in its name if it offers at least one program leading to a master's or doctorate degree.

Subd. 7. Conditional approval.

The office may grant conditional approval for a degree or use of a term in its name for a period of less than one year if doing so would be in the best interests of currently enrolled students or prospective students. New schools may be granted conditional approval for degrees or names annually for a period not to exceed five years to allow them the opportunity to apply for and receive accreditation as required in subdivision 1a.

Subd. 8. Disapproval of registration appeal.

(a) If a school's degree or use of a term in its name is disapproved by the office, the school may request a hearing under chapter 14. The request must be in writing and made to the office within 30 days of the date the school is notified of the disapproval.

(b) The office may refuse to renew, revoke, or suspend registration, approval of a school's degree, or use of a regulated term in its name by giving written notice and reasons to the school. The school may request a hearing under chapter 14. If a hearing is requested, no revocation or suspension shall take effect until after the hearing.

(c) Reasons for revocation or suspension of registration or approval may be for one or more of the following reasons:

(1) violating the provisions of sections 136A.61 to 136A.71;

(2) providing false, misleading, or incomplete information to the office;

(3) presenting information about the school which is false, fraudulent, misleading, deceptive, or inaccurate in a material respect to students or prospective students; or

(4) refusing to allow reasonable inspection or to supply reasonable information after a written request by the office has been received.

History: 1975 c 201 s 5; 1975 c 271 s 6; 1978 c 603 s 5; 1982 c 424 s 130; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 8; 2008 c 298 s 8-12

136A.653 EXEMPTIONS.

Subdivision 1. Exemption.

A school that is subject to licensing by the office under chapter 141, is exempt from the provisions of sections 136A.61 to 136A.71. The determination of the office as to whether a particular school is subject to regulation under chapter 141 is final for the purposes of this exemption.

Subd. 2. Educational program; nonprofit organizations.

Educational programs which are sponsored by a bona fide and nonprofit trade, labor, business, professional or fraternal organization, which programs are conducted solely for that organization's membership or for the members of the particular industries or professions served by that organization, and which are not available to the public on a fee basis, are exempted from the provisions of sections 136A.61 to 136A.71.

Subd. 3. Educational program; business firms.

Educational programs which are sponsored by a business firm for the training of its employees or the employees of other business firms with which it has contracted to provide educational services at no cost to the employees are exempted from the provisions of sections 136A.61 to 136A.71.

Subd. 4. Voluntary submission.

Any school or program exempted from the provisions of sections 136A.61 to 136A.71 by the provisions of this section may voluntarily submit to the provisions of those sections.

History: 1978 c 603 s 6; 1Sp1993 c 2 art 2 s 18; 1995 c 212 art 3 s 59

136A.657 EXEMPTION; RELIGIOUS SCHOOLS.

Subdivision 1. Exemption.

Any school or any department or branch of a school (a) which is substantially owned, operated or supported by a bona fide church or religious organization; (b) whose programs are primarily designed for, aimed at and attended by persons who sincerely hold or seek to learn the particular religious faith or beliefs of that church or religious organization; and (c) whose programs are primarily intended to prepare its students to become ministers of, to enter into some other vocation closely related to, or to conduct their lives in consonance with, the particular faith of that church or religious organization, is exempt from the provisions of sections 136A.61 to 136A.71.

Subd. 2. Limitation.

This exemption shall not extend to any school or to any department or branch of a school which through advertisements or solicitations represents to any students or prospective students that the school, its aims, goals, missions or purposes or its programs are different from those described in subdivision 1. This exemption shall not extend to any school which represents to any student or prospective student that the major purpose of its programs is to prepare the student for a vocation not closely related to that particular religious faith, or to provide the student with a general educational program recognized by other schools or the broader educational, business or social community as being substantially equivalent to the educational programs offered by schools or departments or branches of schools which are not exempt from sections 136A.61 to 136A.71, and rules adopted pursuant thereto.

Subd. 3. Scope.

Nothing in sections 136A.61 to 136A.71, or the rules adopted pursuant thereto, shall be interpreted as permitting the office to determine the truth or falsity of any particular set of religious beliefs.

Subd. 4. Statement required; religious nature.

Any degree awarded upon completion of a religiously exempt program shall include descriptive language to make the religious nature of the award clear.

History: 1978 c 603 s 7; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 9

136A.66 LIST OF REGISTERED INSTITUTIONS.

The office shall maintain a list of registered institutions authorized to grant degrees and schools authorized to use the name "college" or "university" and shall make such list available to the public.

History: 1975 c 201 s 6; 1975 c 271 s 6; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 10; 2008 c 298 s 13

136A.67 REGISTRATION REPRESENTATIONS.

No school and none of its officials or employees shall advertise or represent in any manner that such school is approved or accredited by the office or the state of Minnesota, except a school which is duly registered with the office, or any of its officials or employees, may represent in advertising and shall disclose in catalogues, applications, and enrollment materials that the school is registered with the office by prominently displaying the following statement: "(Name of school) is registered as a private institution with the Minnesota Office of Higher Education pursuant to sections 136A.61 to 136A.71. Registration is not an endorsement of the institution. Credits earned at the institution may not transfer to all other institutions."

History: 1975 c 201 s 7; 1975 c 271 s 6; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 11; 2008 c 298 s 14

136A.675 RISK ANALYSIS.

The office shall develop a set of financial and programmatic evaluation metrics to aid in the detection of the failure or potential failure of a school to meet the standards established under sections 136A.61 to 136A.71. These metrics shall include indicators of financial stability, changes in the senior management or the financial aid and senior administrative staff of an institution, changes in enrollment, changes in program offerings, and changes in faculty staffing patterns. The development of financial standards shall use industry standards as benchmarks. The development of the nonfinancial standards shall include a measure of trends and dramatic changes in trends or practice. The agency must specify the metrics and standards for each area and provide a copy to each registered institution and post them on the agency

Web site. The agency shall use regularly reported data submitted to the federal government or other regulatory or accreditation agencies wherever possible. The agency may require more frequent data reporting by an institution to ascertain whether the standards are being met.

History: 2007 c 144 art 3 s 12

136A.68 RECORDS.

A registered school shall maintain a permanent record for each student for 50 years from the last date of the student's attendance. A registered school offering distance instruction to a student located in Minnesota shall maintain a permanent record for each Minnesota student for 50 years from the last date of the student's attendance. Records include a student's academic transcript, documents, and files containing student data about academic credits earned, courses completed, grades awarded, degrees awarded, and periods of attendance. To preserve permanent records, a school shall submit a plan that meets the following requirements:

(1) at least one copy of the records must be held in a secure, fireproof depository or duplicate records must be maintained off site in a secure location and in a manner approved by the office;

(2) an appropriate official must be designated to provide a student with copies of records or a transcript upon request;

(3) an alternative method approved by the office of complying with clauses (1) and (2) must be established if the school ceases to exist; and

(4) if the school has no binding agreement approved by the office for preserving student records, a continuous surety bond must be filed with the office in an amount not to exceed \$20,000. The bond shall run to the state of Minnesota.

History: 1975 c 201 s 8; 1975 c 271 s 6; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 13

136A.685 PRIVATE INSTITUTIONS; ADJUDICATION OF FRAUD OR MISREPRESENTATION.

The office shall not provide registration or degree or name approval to a school if there has been a criminal, civil, or administrative adjudication of fraud or misrepresentation in Minnesota or in another state or jurisdiction against the school or its owner, officers, agents, or sponsoring organization. Such an adjudication of fraud or misrepresentation shall be sufficient cause for the office to determine that a school:

(1) does not qualify for exemption under section 136A.657; or

(2) is not approved to grant degrees or to use the term "academy," "institute," or "university" in its name.

History: 1995 c 212 art 3 s 40; 1996 c 366 s 1

136A.69 FEES.

Subdivision 1. Registration fees.

The office shall collect reasonable registration fees that are sufficient to recover, but do not exceed, its costs of administering the registration program. The office shall charge \$1,100 for initial registration fees and \$950 for annual renewal fees.

Subd. 2. Degree level addition fee.

The office processing fee for adding a degree level to an existing program is \$2,000 per degree.

Subd. 3. Degree or nondegree program addition fee.

The office processing fee for adding a degree or nondegree program that represents a significant departure in the objectives, content, or method of delivery of degree or nondegree programs that are currently offered by the school is \$500 per degree or nondegree program.

Subd. 4. Visit or consulting fee.

If the office determines that a fact-finding visit or outside consultant is necessary to review or evaluate any new or revised degree or nondegree program, the office shall be reimbursed for the expenses incurred related to the review as follows:

- (1) \$300 for the team base fee or for a paper review conducted by a consultant if the office determines that a fact-finding visit is not required;
- (2) \$300 for each day or part thereof on site per team member; and
- (3) the actual cost of customary meals, lodging, and related travel expenses incurred by team members.

Subd. 5. Modification fee.

The fee for modification of any existing degree or nondegree program is \$100 and is due if there is:

- (1) an increase or decrease of 25 percent or more from the original date of program approval, in clock hours, credit hours, or calendar length of an existing degree or nondegree program;
- (2) a change in academic measurement from clock hours to credit hours or vice versa; or
- (3) an addition or alteration of courses that represent a 25 percent change or more in the objectives, content, or methods of delivery.

History: 1975 c 201 s 9; 1975 c 271 s 6; 1989 c 293 s 58; 1Sp1993 c 2 art 2 s 19; 1995 c 212 art 3 s 41; 2003 c 133 art 2 s 17; 2007 c 144 art 3 s 14; 2008 c 298 s 15

136A.70 [Repealed, 1Sp1993 c 2 art 2 s 26]

136A.705 PENALTY.

The director may assess fines for violations of a provision of sections 136A.61 to 136A.71. Each day's failure to comply with a provision of sections 136A.61 to 136A.71 shall be a separate violation and fines shall not exceed \$500 per day per violation. Amounts received under this section must be deposited in the special revenue fund and are appropriated to the Office of Higher Education for the purposes in sections 136A.61 to 136A.71.

History: 2007 c 144 art 3 s 15

136A.71 INJUNCTION.

Upon application of the attorney general the district courts shall have jurisdiction to enjoin any violations of sections 136A.61 to 136A.71.

History: 1975 c 201 s 11