

Regulation on Procedures for Licensure

I. Purpose. The purpose of this regulation is to set forth the procedures the University of North Carolina System Office (UNC System Office) will implement regarding the application for licensure, review of licensure, and modification and revocation of licensure of institutions conducting postsecondary degree activity in North Carolina pursuant on N.C. Gen. Stat. § 116-15 (hereinafter G.S.).

II. Definitions. This regulation incorporates those definitions found in G.S. 116-15 and in Section 400.4.1 of the UNC Policy Manual.

III. General Provisions

A. Except as provided in subsection B., of this section, before a private institution or its agent undertakes postsecondary degree activity in North Carolina, the institution or its agent must be licensed in accordance with this policy or declared exempt from licensure in accordance with G.S. 116-15(c), (d), or (e).

B. An institution may advertise postsecondary degree activity that is not yet licensed if all of the following conditions are met:

1. An application for licensure made in accordance with this regulation for the postsecondary degree activity has been received by the UNC System Office, and the UNC System Office has acknowledged receipt of that application.

2. The advertisement contains a disclaimer stating that the institution has an application for licensure of the postsecondary degree activity pending before the University of North Carolina Board of Governors and that licensure is required prior to the start date of the postsecondary degree activity.

3. Such other conditions as the UNC System Office may for good cause require, including the prohibition of advertising prior to licensure.

Except as provided herein, an institution may not advertise postsecondary degree activity that is not licensed or declared exempt from licensure.

C. An institution may not receive funds that are not fully refundable from students or prospective students for enrollment in an unlicensed postsecondary degree activity. If the postsecondary degree activity is not licensed by the projected start date, funds received from students or prospective students for enrollment in the postsecondary degree activity must be refunded within ten business days of the projected start date. If the institution withdraws its application for licensure, funds received from students or prospective students for enrollment in the postsecondary degree activity must be refunded within ten business days of that withdrawal.

D. Licensure authorizes an institution to conduct postsecondary degree activity only as specified by the Board of Governors.

IV. Interim Permit. An institution wishing to conduct one or more postsecondary degree activities in North Carolina which meet the standards for licensure set out in Section 400.4.1 of the UNC Policy Manual (except for the requirement regarding the length of time the institution has been in operation), may be granted an interim permit to conduct the postsecondary degree activity if the institution can demonstrate a quality of stability, experience, reputation, and performance which two years of operation would normally denote. An interim permit expires two years after it is issued by the Board. Before expiration of the interim permit, the postsecondary degree activity will be re-evaluated to determine if it qualifies for a license. An interim permit may be issued contingent upon those conditions that the Board imposes. Except as set forth in this subsection, the procedures for issuing, modifying, and revoking an interim permit are the same as those set out in section V., below, of this regulation.

V. Procedures for Licensure. Institutions applying for licensure to conduct a postsecondary degree activity or activities shall follow the following steps:

A. Preliminary Conference. The institution seeking licensure shall contact the UNC System Office and arrange for a preliminary conference to discuss the standards and procedures for applying for licensure. The preliminary conference shall occur in a time, place, and manner prescribed by the University of North Carolina System.

B. Application for Licensure. Following the preliminary conference, the institution shall submit a formal application that demonstrates the proposed postsecondary degree activity will be in compliance with each standard enumerated in G.S. 116-15(f) and Section 400.4.1. The application must also contain a letter stating the intent of the institution to apply for licensure. This letter must describe the mission of the institution, the proposed postsecondary degree activity submitted for approval, and projected enrollment. The application shall be made in the manner prescribed by the UNC System Office. Fees for applications will be set by the UNC System Office.

C. Site Visit

1. If the application indicates that the proposed postsecondary activity is reasonably likely to meet the standards enumerated in G.S. 116-15(f) and Section 400.4.1 of the UNC Policy Manual, and if appropriate in accordance with this subsection, the UNC System Office may arrange with the institution for a visit by a team of examiners to the campus and, if needed, other sites hosting the proposed postsecondary degree activity. The purpose of the visit is to confirm documentation submitted by the institution evidencing compliance with standards of good quality education and to confirm whether the institution meets the other requirements established by the Board. The team of examiners shall be composed of at least one officer of the UNC System Office, faculty members with the appropriate levels and fields of education, and other persons necessary for a sound examination. The team of examiners shall be appointed by the president of the University of North Carolina, or the president's designee, and selected based on their expertise in specific fields related to the licensure proposal. One member of the examining committee shall be appointed chair, with responsibility for leading the examination and preparing the team's report and recommendations.

2. Applications for licensure to conduct postsecondary activity submitted by institutions which have not been previously licensed to conduct postsecondary activity require a site visit. Applications for licensure to conduct postsecondary activity submitted by institutions which have been previously licensed to conduct other postsecondary activity will ordinarily require a site visit when the field of study is a significant departure from previously licensed activity; when the proposed postsecondary activity is a different degree level than was previously licensed; when the proposed postsecondary degree activity relies on labs or other physical facilities which have not been previously reviewed or which will now be used in a substantively different way; and in accordance with 400.1.1[R] of the UNC Policy Manual, governing new sites and campuses in North Carolina. The UNC System Office may for good cause require a site visit for any proposed postsecondary activity. When the UNC System Office does not require a site visit, the proposed postsecondary activity will ordinarily be reviewed by a team of examiners remotely. Costs and honoraria for a site visits and other reviews of proposed postsecondary activity are borne by the institution. Such costs and honoraria will be set by the UNC System Office.

D. Report of Team of Examiners, Staff Report, Institutional Response, and Board Action

1. Following the site visit or other review of the proposed postsecondary activity, the team of examiners shall prepare a report and a statement of recommendations (“the team report”). The team of examiners shall submit the report and statement of recommendations to the president of the University of North Carolina or the president’s designee within thirty days, or as soon as possible after completion of the examination. All recommendations are advisory to the UNC System Office. The statement of recommendations accompanying the team of examiners’ report should contain one of the following as concluding advice:

- a. That the institution be issued a license;
- b. That the institution be issued a license subject to specified conditions; or
- c. That the institution be denied a license.

Prior to any action by the Board, the institution shall be provided the report and have the opportunity to respond to it in writing (the institutional response).

2. The UNC System Office shall review the team report and any institutional response and submit a report to the president or the president’s designee (the staff report). After reviewing the team report, the institutional response, and the staff report, and after making any revisions to the staff report, the president or designee shall place the application for licensure on the Board’s agenda and inform the institution of the date on which the application will be considered by the Board. The staff report will be included in the Board’s materials for that meeting.

3. At the request of the institution, the team report and the institutional response shall be provided to the Board for consideration prior to the Board taking action on the

application. An institution requesting that the team report and the institutional response be provided to the Board shall make such request to the UNC System Office in writing not less than 30 days prior to the date on which the Board will consider the application.

4. The Board's action is the final administrative action with respect to an application for licensure.

E. Procedure for Modification and Revocation of Licensure

1. The Board may modify or revoke a license or interim permit as provided herein. Modification of a license or interim permit may include imposing conditions on the license or interim permit or imposing an expiration date on a license or interim permit.

2. Modification or revocation of a license or interim permit may be based on a failure on the institution's part to maintain one or more of the standards enumerated in G.S. 116-15(f) and Section 400.4.1 of the UNC Policy Manual, or on the institution or any of its agents making a material misrepresentation to the Board, UNC System Office, or to students or prospective students.

3. When the president or designee determines that an institution has failed to maintain one or more of the standards or has made a material misrepresentation as described herein, the president or designee shall prepare a report for the Board detailing the basis for the revocation or modification and recommending the action to be taken (the violation report). The violation report will be served on the institution by United States mail to the address last provided by the institution on its annual report. The institution shall have 33 days from the mailing of the violation report to respond in writing, which time may be extended by the president or designee for good cause shown.

4. The violation report and the institution's response, if any, shall be provided to the Board for action, if the Board deems action appropriate. Notwithstanding the existence of a violation, the Board may allow an institution to remain licensed if the institution is deemed by the Board to be making substantial and expeditious progress towards remedying its licensure deficiencies.

The Board's action, if any, is the final administrative action with respect to modifications and revocations of licensure.

VI. Annual Reports and Review of Licensure

A. Licensure of any licensed postsecondary degree activity shall be subject at any time to review by the Board to determine whether the postsecondary degree activity continues to meet standards for licensure. In the discretion of the Board, review of licensure may necessitate use of a team of examiners. Costs and honoraria of teams of examiners conducting reviews is borne by the institution and set by the UNC System Office.

B. Review of licensure of all of an institution's postsecondary degree activity conducted in North Carolina shall occur when:

1. Two years have elapsed since the Board first licensed the institution to conduct any postsecondary degree activity (the two-year review).
2. Subsequent to the two-year review, six years have elapsed, and again every six years subsequently, if the institution is accredited by an accreditor recognized by the Council for Higher Education Accreditation. If the institution is not so accredited, then review of licensure shall occur every two years.
3. The institution is legally reconstituted.
4. Ownership of a preponderance of all the assets of the institution changes pursuant to a single transaction or agreement or a recognizable sequence of transactions or agreements.
5. The institution proposes to open a new campus or site, except that the UNC System Office may in its discretion elect to review only the postsecondary degree activity which the institution proposes to offer at the new campus or site.

C. Institutions offering licensed postsecondary degree activity shall file annual reports with the UNC System Office in a form and manner prescribed by the UNC System Office. Annual reports shall provide evidence of the institution's continued compliance with the standards set forth in G.S. 116-15(f) and Policy 400.4.1. Annual fees for postsecondary degree activity shall be set by the UNC System Office.

VII. Notifications from Licensed Institutions. Institutions which are licensed to conduct postsecondary activity shall provide notice to the UNC System Office in the form prescribed by the UNC System Office upon the occurrence of any of the following:

- A. If the institution or any of its programs are accredited, any change in status to any such accreditation, including being placed on warning or probation;
- B. If the institution or any of its programs are accredited, upon notification that any such accreditation is being reviewed, including regularly scheduled reviews;
- C. The filing of any petition or application by the institution to become accredited by an accrediting body;
- D. If the institution participates in Federal Student Aid (FSA) funding pursuant to Title IV of the Higher Education Act of 1965, as amended (Title IV), upon:
 1. Notification that FSA is seeking to limit, suspend, terminate, or fine the institution, pursuant to 34 C.F.R. 668 Subpart G;
 2. Notification that FSA is seeking an emergency action against the institution;
 3. Notification that the Department of Education's Office of the Inspector General is auditing the institution;

4. Any change in the status or terms of the institution's Program Participation Agreement (PPA), including the PPA's expiration or the issuance of a provisional PPA;
 5. The institution applying for recertification of its PPA and the Department of Education's determination whether the institution will be recertified or not;
 6. If the institution is required to report to the Department of Education the proportion of its revenue which is derived from sources authorized by Title IV, upon a determination made by the institution or by the Department of Education, or any of its offices or components, that the institution has derived more than 90 percent of its revenue from sources authorized by Title IV for any year;
 7. The institution posting a letter of credit or increasing an existing letter of credit, or the Department of Education demanding that the institution does so;
 8. The institution being placed on any heightened cash-monitoring method of payment from FSA; or
 9. A determination made by the institution or by the Department of Education, or any of its offices or components, that the institution's financial responsibility composite score is 1.5 or below.
- E. The institution or its corporate parent learning that a governmental entity has begun a criminal, civil, or administrative investigation of the institution or any person or entity with an ownership interest in the institution;
- F. In any audit conducted on the institution or corporate parent, including without limitation a yearly audit conducted to meet FSA requirements, the opinion expressed by the auditor is adverse, qualified, or disclaimed, or the auditor expresses doubt about the continued existence of the institution or corporate parent as a going concern;
- G. The filing of any lawsuit, including a counterclaim or cross claim, against the institution, including any petition for bankruptcy of the institution or corporate parent;
- H. Any loss of authorization to operate in another state, or a postsecondary education licenser of another state putting the institution on probation, warning, or a similar status;
- I. Any substantive change in a licensed program. If the institution is accredited and the institution's accreditor has a substantive change policy, the term "substantive change" as used herein shall include all circumstances considered by the institution's accreditor to be a substantive change. "Substantive change" as used herein shall also include a change in the delivery method of more than one-fourth of the courses constituting a licensed program; or
- J. The institution undergoes a change in ownership, as described in section 400.4.2[R] of the UNC Policy Manual. Notification of a change in ownership should be made not less than 90 days prior to the projected closing date of the change in ownership.

VIII. Delegation to the President. If the staff report is complete pursuant to section V.D.2., above, an institution which seeks to begin postsecondary degree activity prior to the next regularly scheduled meeting of the Board may be issued a license by the president or designee. The issuance of such a license is committed to the discretion of the president or designee and should ordinarily only occur upon a showing of hardship to the institution, students, or prospective students. In order for such a license to remain in effect past the next regularly scheduled meeting of the Board, the Board must ratify the issuance of the license at its next regularly scheduled meeting.

IX. End of Licensure

A. A license issued under this regulation continues in effect except as provided in this subsection.

B. A license or interim permit to conduct postsecondary activity ends when:

A. It is revoked as provided herein; or

B. The licensed or permitted postsecondary degree activity ceases to have any students enrolled, except that the license or interim permit may be continued in the discretion of the president or the president's designee for good cause shown; or

C. The institution fails to file a complete annual report in the form and manner prescribed by UNC System Office, or pay its assessed annual fee, by December 31st of a given year, except that the license or interim permit may be continued in the discretion of the president or the president's designee for good cause shown; or

D. If the institution was issued a license or interim permit subject to specified conditions, or its license was modified pursuant to section V.E., above, to include specified conditions (which conditions may include an expiration date), when the Board determines that the institution has failed to meet those conditions or that expiration date is reached; or

E. The Board fails to ratify the president's issuing of a license or interim permit at the next regularly scheduled meeting of the Board occurring after the president issues a license pursuant to section VIII., above, of this regulation.

X. Other Matters

A. Effective Date. The requirements of this regulation shall be effective on the date of adoption of this regulation by the president.

B. Relation to Federal and State Laws and Policies. The foregoing regulation is meant to supplement, and does not purport to supplant or modify, those statutory enactments, regulations, and policies which may govern or relate to the subject matter of this regulation.