SUBJECT: ACADEMIC AFFAIRS
Policy 221 – Authorization to Operate Postsecondary Institution in the State of Montana
Adopted: May 17, 2001; Revised: May 23, 2014

Board Policy

A. **Authorization Required.** Pursuant to §20-25-107, MCA, no person, corporation, association or institution shall issue any degree or such similar literary honors as are usually granted by universities or colleges without the prior approval of the regents of the adequacy of the course of study. In order to establish an authorization system that meets the minimum level of state oversight required by U.S. Department of Education regulations, the board of regents does not recognize any educational accrediting associations for purposes of §20-25-107(2), MCA.

B. **Scope of Coverage.** The phrase "degree or such similar literary honors as are usually granted by universities and colleges" as used in §20-25-107 MCA means, certificates of applied science, associate degrees, baccalaureate and bachelor's degrees, master's degrees, doctoral degrees and any degree which the grantor purports to be similar or equivalent regardless of how it is denominated.

C. **Exemptions from Coverage.** § 20-25-107, MCA does not apply to (1) religious institutions that are owned, controlled, operated and maintained by a religious organization lawfully operating as a non-profit religious corporation and that award only religious degrees or certificates;(2) schools of barbering, cosmetology, electrology, esthetics and manicuring, which are regulated under Title 37, Chapter 31, MCA; and (3) flight schools possessing a valid certificate issued by the Federal Aviation Administration.

D. **Authorization for Public Institutions**. Public Institutions seeking authorization to operate in Montana must establish, in the manner provided for by the Office of the Commissioner of Higher Education, that they are accredited by one of the following accrediting agencies:
- New England Association of Schools and Colleges
- Middle States Association of Colleges and Schools
- North Central Association of Colleges and Schools
- Northwest Commission on Colleges and Universities
- Southern Association of Colleges and Schools
- Western Association of Schools and Colleges
- Any accrediting agency approved by the Council on Higher Education Accreditation.
- Any accrediting agency approved by the U.S. Department of Education.

The board of regents reserves the right to withdraw recognition of any of the above listed accrediting agencies at its discretion.

Schools formally accepted as candidates for accreditation by any of the above agencies shall be treated as accredited for as long as they remain in that status.

E. **Authorization for Private Institutions.** Private Institutions seeking authorization to operate in Montana must meet the following requirements, in the manner provided for by the Office of the Commissioner of Higher Education:

1. **Accreditation by one of the following accrediting agencies:**

- New England Association of Schools and Colleges
- Middle States Association of Colleges and Schools
- North Central Association of Colleges and Schools
- Northwest Commission on Colleges and Universities
- Southern Association of Colleges and Schools

- Western Association of Schools and Colleges
- Any accrediting agency approved by the Council on Higher Education Accreditation.
- Any accrediting agency approved by the U.S. Department of Education.

The board of regents reserves the right to withdraw recognition of any of the above listed accrediting agencies at its discretion.

Schools formally accepted as candidates for accreditation by any of the above agencies shall be treated as accredited for as long as they remain in that status.

2. **Demonstration of Financial Integrity.** An institution will be deemed to demonstrate financial integrity if:
   a. The institution has (i) been accredited for at least twenty years by an accrediting agency that is recognized by the U.S. Department of Education; (ii) operated continuously in this state for at least twenty years; and (iii) never filed for bankruptcy protection pursuant to Title 11 of the United States Code;
   b. The institution maintains a Financial Responsibility Composite Score of at least 1.0, determined by the U.S. Department of Education pursuant to 20 U.S.C. § 1099c; OR
   c. If the institution cannot establish financial integrity by way of subsection 2.a. or 2.b. above, it must submit a good and sufficient surety bond in an amount to be determined by the Office of the Commissioner of Higher Education. The bond shall be executed by the institution as principal and by a surety company qualified and authorized to do business in this state. The bond shall be conditioned to provide indemnification to any student or enrollee or his or her parent of guardian, determined to have suffered loss of tuition or any fees as a result of any act or practice of the institution.

F. **Accreditation for Newly Established Institutions.** A newly established institution actively seeking accreditation from one of the above listed agencies can establish that it meets the accreditation requirement provided it enters into a formal affiliation agreement with an institution ("affiliated institution") that is accredited by one of the above listed agencies. Such agreement must include, at a minimum, the following provisions:

- The affiliate institution is responsible for awarding credits and degrees; and
- The affiliate institution is responsible for maintaining transcripts.

Until such institution obtains its own independent accreditation by one of the above listed accrediting agencies, it must remain a party to a valid and binding agreement with an affiliated institution in order to be in compliance with § 20-25-107, MCA and this policy.

G. **Additional Requirement for Institutions Seeking Approval to Participate in the State Authorization Reciprocity Agreement**. Any institution seeking approval to participate in the National State Authorization Reciprocity Agreement through application to the Board of Regents agrees to abide by the terms and conditions of the *Application for Institutional Approval to Participate in SARA*.

H. **Duly-Authorized Members of the State Authorization Reciprocity Agreement.** With the exception of institutions that meet the definition of physical presence set forth in section 5 of the *State Authorization Reciprocity Agreements: Policies and Standards*, institutions domiciled in states

other than Montana that are duly-authorized members in good-standing of SARA are exempt from meeting the requirements of this policy.

I. **Procedures Applicable to Closure of Institution.**

1. **Notification.** In the event an institution closes and ceases operations, the chief administrative officer is required to provide timely notification, in writing, to the Office of the Commissioner of Higher Education and currently enrolled or recruited students of its intentions. The written notification to the Office of the Commissioner of Higher Education must include:

   - Name, mailing address, email address and telephone number of the chief administrative officer (or designee), valid for post-closure communications;
   - The date on which the institution will officially close;
   - A written plan for access to and preservation of permanent records;
   - What actions the institution plans to take in regards to its students;
   - A report of the status of all students currently enrolled and those students on leave of absence whose education and training program will not be fully completed by the date of the institution's closure;
   - A written statement from the chief administrative officer affirming that all recruitment efforts, program marketing, advertisement, solicitation and enrollment of new students has ceased.

2. **Transcripts.**

   a. Institutions domiciled in the State of Montana. Those institutions physically domiciled in Montana must provide to the Office of the Commissioner of Higher Education all student transcripts in its possession. The Office of the Commissioner of Higher Education shall maintain all such records for a period of twenty years from receipt.

   b. Institutions domiciled in states other than Montana. Those institutions physically domiciled in states other than Montana must provide to the Office of the Commissioner of Higher Education all student transcripts in its possession that relate to residents of the State of Montana. The Office of the Commissioner of Higher Education shall maintain all such records for a period of twenty years from receipt.

J. This policy supplements, rather than displaces, board policy 320.3 ("Recognition; Canadian Public Institutions"). For campuses and programs of the Montana university system and the Montana community colleges, the provisions of board policy 320.2 ("Accreditation; Montana university system units and community colleges") are applicable.

History:

Item 110-105-R0301, Accreditation (New), approved by the Board of Regents on May 17, 2001 as revised by Item 118-104-R0103, approved by the Board of Regents on April 2, 2003; editorial change made April 8, 2004, to change the name "Northwest Association of Schools and Colleges" to "Northwest Commission on Colleges and Universities." Item 150-104-R0311, revised March 4, 2011 for Policy Clarification. Item 161-103-R1113 revised and changed Policy from 320.1 (Accreditation, in Academic Affairs) to 221 (in Governance and Organization, November 22, 2013. Item 163-117-R0514, revised May 23, 2014.