

BOARD OF HIGHER EDUCATION

REQUEST FOR COMMITTEE AND BOARD ACTION

COMMITTEE: Assessment and Accountability

NO.: AAC 06-08

COMMITTEE DATE: February 9, 2006

BOARD DATE: February 16, 2006

APPROVAL OF AMENDMENTS TO 610 CMR 2.00: DEGREE-GRANTING REGULATIONS FOR INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION

MOVED: The Board of Higher Education hereby amends 610 CMR 2.00: Degree-Granting Regulations for Independent Institutions of Higher Education by striking out section 610 CMR 2.06 (1) (b) and inserting in place thereof the following new section 610 CMR 2.06 (1) (b):

1. An institution shall pay the following fees:
 - a) For initial licensure of a Massachusetts-based or Out-of-State institution: \$10,000 plus \$2,000 for each degree requested at the same time if more than one.
 - b) Annual fee each year for the first five years following initial licensure: \$4,000.
 - c) For each additional degree at Massachusetts licensed institutions: \$4,500 plus \$2,000 for each additional degree requested at the same time if more than one. (No fee for NEASC-CIHE institutions for additional degrees at existing categories/levels as approved by the Board, June 19, 2001.)
 - d) Periodic inspection or review (if a separate review from Board's participation in New England Association of Schools and Colleges review is required): \$4,000.
 - e) Other requests requiring public hearings (e.g., award honorary degree(s), change the name of an institution, or retitle an existing, authorized degree): \$500.
 - f) Institutional closure: \$500. All records must be transmitted by the institution in electronic form.
2. Fees shall be paid to the Board's Licensing Fee Trust Fund at the time the institution files articles of organization or amendment or a foreign corporation certificate with the Secretary of State or upon scheduling of periodic inspection or review. Fees shall be used solely for purposes of the Licensing Fee Trust Fund. In addition to the fee, the institution shall pay for the travel, room, board and other normal expenses of the Visiting Committee, including the BHE representative. If a subsequent visit or visits by the Committee are necessary, the Board will charge the institution for these at its discretion, based on the extent of subsequent review needed.
3. Pursuant to Section 41 of Chapter 15A of the Massachusetts General Laws, Board staff shall review and update biennially 610 CMR 2.06 (1) (b) to comply with the statutory mandate that fees shall reflect the costs incurred by the Board of Higher Education in implementing 610 CMR 2.00.

Authority: Section 41, M.G.L. c. 69, §§ 30, 30A and 31A

Contact: Aundrea Kelley, Associate Vice Chancellor for Academic Policy

**Massachusetts Board of Higher Education
Licensing Fee Changes**

Summary

- A. Licensing fee no longer adequate:
 - Fee last updated ten years ago
 - Applications are more complex
 - Review costs are higher: visiting team stipends average \$4,500; staff time costs average approximately \$5,400 per application

- B. Proposed changes will:
 - Help recoup visiting team stipends and staff costs incurred in implementing the Board's licensure function
 - Simplify cost structure by basing fee on request type rather than degree level
 - Raise fee differential to reflect higher costs incurred for review of requests for initial licensure
 - Preserve fee exemption for NEASC-CIHE institutions for additional degrees at existing Board-approved categories/levels

- C. Process for amending 610CMR to increase licensure fee includes:
 - Public Notice Period
 - Board Action
 - Comment Period
 - Implementation

Proposed Fees

Request for initial licensure	\$10,000 plus \$2,000 for each degree requested at the same time if more than one plus \$4,000 annual fee for the first five years following initial licensure
Request for Additional Degree Authority* <i>*No fee for NEASC-CIHE institutions for additional degrees at existing BHE-approved categories/levels</i>	\$4,500 plus \$2,000 for each additional degree requested at the same time if more than one
Periodic Inspection* <i>*Special cases, for cause</i>	\$4,000
Other requests requiring public hearings (e.g., to award honorary degree(s), to change the name of an institution, or to retitle an existing, authorized degree, etc.)	\$500
Institutional Closure	\$500. All records must be transmitted by the institution in electronic form.
Pursuant to Section 41 of Chapter 15A, 610 CMR 2.06 (1) (b) will be reviewed and updated by Board staff biennially.	

Background

Licensing Fee No Longer Adequate

The Commonwealth relies on the Board and the work of its legal and academic policy staff to oversee the quality and consumer protection aspect of the Board's regulatory function as stated in M.G.L. c.69 and c.30A, and in 610 CMR 2.00, the Degree-Granting Regulations for Independent Institutions of Higher Education. The law states that the regulations are "designed to assure prospective students and other interested parties that the institutions licensed meet minimal levels of quality consistent with current professional judgment."

In a recent *Boston Globe* article on out-of-state institutions operating in Massachusetts, Chairman Tocco said "the state has little power to limit the universities' entry into Massachusetts because they have a right to open businesses here." He then referred to the level of scrutiny that each application for authority received, such as site visits, recommendations from independent panels of experts, and public hearings. "The panel can ask the school to hire more qualified faculty or ensure that syllabi have scholarly weight. The state will ensure that colleges entering Massachusetts do not defraud consumers. We can take a hard look at quality and customer protection, which is what we do..." During the past year, institutions that are out-of-state or owned by out-of-state companies accounted for eight (44%) of 19 institutions seeking initial or new authority and 32 (71%) of the 45 programs requested.

The Board takes its consumer protection responsibility very seriously and is widely recognized for its thoroughness and objectivity in assessing applications of out-of-state and independent institutions seeking to offer courses for credit in Massachusetts. The increasing cost of fielding expert review teams, however, has meant that the Commonwealth has recently begun to subsidize the cost of the review. If reviews are to continue to be of high quality, fees must be increased to adequately cover their actual costs. In July 2003, the Commonwealth added Chapter 15A Section 41 that allows the Board to accomplish this goal. Section 41 states:

The Board of higher education may establish fees to be charged to independent institutions of higher education which seek approval of articles of organization, articles of amendment, or foreign corporation certificates pursuant to sections 30, 30A, 31, and 31A of chapter 69 and which transfer records to the board of higher education pursuant to section 31B of said chapter 69.

Fees established to support licensure were set a decade ago and are no longer adequate to meet the costs of reviews. Three recent reviews typify costs for just the visiting team stipend, which are quite minimal given the level of expertise of team members and which exceed the amount of the corresponding licensing fee:

Request	Fee Paid	Team Stipends
Initial doctoral degree	\$1,000	\$4,500
Three new baccalaureate degrees	3,000	4,500
New institution associate degrees	4,000	5,500

Applications More Complex

Massachusetts has found, as have many other states, that applications submitted by both traditional and non-traditional institutions are increasingly complex. New kinds of partnerships are being developed between educational institutions ranging from limited liability companies to publicly traded, multi-state corporations. Increasingly, on-line courses are offered in combination with traditional course delivery systems. Growing institutional and programmatic complexity requires more staff instruction/interaction with applicants before, during and after the approval process and more time spent by teams in reviewing and evaluating the institution's request, especially with respect to institutions that are new to higher education in the Commonwealth.

These institutions require frequent and lengthy interaction with Board staff as they seek to understand and meet the requirements of 610CMR. Board staff must also oversee the careful and thorough review of every aspect of the institution that is new to the Commonwealth. Each application requires that staff identify and appoint visiting teams who have the range of expertise needed to evaluate criteria including organizational structure, governance, public disclosure documents, student services, admissions, tuition and financial aid policies and processes, faculty, academic programs and resources, including fiscal, facility, equipment, library, and human resources. During their first few years of operation in the Commonwealth, new institutions generally require close oversight by and continuing interaction with Board staff as their administrators come to understand the requirements of maintaining and expanding authority in the Commonwealth.

An example of a traditional institution with a new kind of partnership is reflected in an application for a graduate program received from a new out-of-state institution in late October 2005. The required fee was \$3,000. Through a review of the documentation submitted, staff learned that Massachusetts residents would take classes via videoconference in the Commonwealth, with half of the classes offered from a New York institution and the other half by a Canadian institution. As part of the degree program, students would travel to classes in each of those locations as well. Since the institutions would be new to Massachusetts, the Board must review both institutions. The current licensure fee will fall far short of the stipend costs for the review teams and will not contribute anything to cover the costs of Board staff.

BHE Staff Activities/Tasks Related to Licensure

The cost of staff time devoted to consideration of an average application for degree authority – which can take from approximately six to eighteen months or more from the time of receipt to approval – ranges from approximately \$3,700 to \$7,200. Complex applications can require additional staff time. Following is a list of ordinary academic and legal staff responsibilities related to the licensure function:

- Orientation for campus representatives (president, chief academic officer, and/or compliance officer);
- Pre-application meetings and continuous instruction, communication, and interaction with campus representatives throughout the approval process;
- Review and analysis of Articles of Amendment from Secretary of State;
- Evaluation of applications for completeness;
- Visiting team selection, scheduling, and orientation;
- Instruction, correspondence, and interaction with visiting team before, during, and after site visits;

Site visits at applicant campuses;
Review of team report;
Review and analysis of institutional response;
Advisement, scheduling, and administration of public hearings;
Analysis and evaluation of all documentation;
Preparation of staff report and staff recommendation to the Board; and
Notification of Board decision to Secretary of State, applicant institution, and AICUM.

Other States

Massachusetts has far fewer fee categories than many states, particularly those, like Florida, which charge a separate fee for every service provided. In addition to fees for initial licensure and additional authority, 21 states also require renewal fees to maintain the right to offer degrees – 16 on an annual basis and 5 on a cycle of 2 to 5 years. These annual fees range from a few hundred dollars up to \$10,000 or more in states that levy annual fees as a percentage of tuition, or per degree or course. Georgia's new program fees range from \$1,000 to \$5,000 per degree. Georgia also charges \$1,800 per team member for a typical three-day visit, and processing fees of \$100 to \$500 for new program applications, school name changes and ownership changes. Georgia's licensure renewal fees total 2/10 of one percent of gross tuition up to a maximum of \$25,000 per year. Oregon charges the same initial and triennial authorization fee per program of \$2,500 to \$4,800 depending on the degree level. In Wyoming the initial licensure fee of \$10,000 is good for five years.

Several states have increased fees since 2003. Virginia now charges \$6,000 to initially license an unaccredited institution and another \$6,000 every year for recertification. Upon accreditation, the annual recertification fee in Virginia drops to \$2,000. Texas increased its fee for reviewing amendments to a certificate of authority from \$100 to \$500. Citing intensive staff time, Texas also increased its fees from \$3,000 to \$5,000 for initial certification of unaccredited institutions and from \$550 to \$5,000 for approvals of accredited branch campuses. Accompanying site visit charges were raised from \$1,500 to \$2,500. Texas certificates of authority are valid for two years.

Proposed Changes to Licensing Fee

The current fee structure differentiates by degree level, charging a higher fee at each successively higher level. The new fee structure proposes a unified approach – one basic fee for new authority and one lesser amount for expanded authority. The new structure also institutes a small fee for requests that require public hearings and other administrative handling by Board staff.

The proposed approach simplifies the old fee structure and addresses the currently inadequate fee amounts. Rather than differentiating by degree level, the proposed structure differentiates between institutions with existing degree authority and those seeking expanded or new authority from the Board. Since October 2001 certain NEASC-CIHE-approved institutions may offer additional degrees at certain existing categories/levels under a process that does not require licensure fees. Under the proposed fee structure, the NEASC-CIHE option will continue.

Proposed Language

The new approach to licensing fees would substitute the following language for 610 CMR 2.06 (1) (b).

1. An institution shall pay the following fees:
 - a) For initial licensure of a Massachusetts based or out-of-state institution: \$10,000 plus \$2,000 for each degree requested at the same time if more than one.
 - b) Annual fee each year for the first five years following initial licensure: \$4,000
 - c) For each additional degree at Massachusetts licensed institutions: \$4,500 plus \$2,000 for each additional degree requested at the same time if more than one. (No fee for NEASC-CIHE institutions for additional degrees at existing categories/levels as approved by the Board.)
 - d) Periodic Inspection for periodic inspection or review (if a separate review from Board's participation in New England Association of Schools and Colleges review is required): \$4,000.
 - e) Other requests requiring public hearings (e.g., award honorary degree(s), to change the name of an institution, or to retitle an existing, authorized degree: \$500.
 - f) Institutional closure: \$500 All records must be transmitted by the institution in electronic form.
2. Fees shall be paid to the Board's Licensing Fee Trust Fund at the time the institution files articles of organization or amendment or a foreign corporation certificate with the Secretary of State or upon scheduling of periodic inspection or review. Fees shall be used solely for purposes of the Licensing Fee Trust Fund. In addition to the fee, the institution shall pay for the travel, room, board and other normal expenses of the Visiting Committee, including the BHE representative. If a subsequent visit or visits by the Committee are necessary, the Board will charge the institution for these at its discretion, based on the extent of subsequent review needed.
3. Pursuant to Section 41 of Chapter 15A of the Massachusetts General Laws, Board staff shall review and update biennially 610 CMR 2.06 (1) (b) to comply with the statutory mandate that fees shall reflect the costs incurred by the Board of Higher Education in implementing 610 CMR 2.00.

Current Language

1. An institution shall pay the following fees:
 - a) Associate. For an initial associate degree: \$2,000
For each additional associate degree: \$1,000
 - b) Bachelor. For an initial baccalaureate degree: \$2,500
For each additional baccalaureate degree: \$1,000
 - c) Graduate. For an initial graduate degree: \$3,000
For each additional graduate degree: \$1,000
 - d) Periodic Inspection. For periodic inspection or review (if a separate review from Board's participation in New England Association of Schools and Colleges review is required): \$2,000.
2. No fee is required for requests to award honorary degree(s), to change the name of an institution, or to retitle an existing, authorized degree.
3. Fees shall be paid to the Board's Licensing Fee Trust Fund at the time the institution files articles of organization or amendment or a foreign corporation certificate with the Secretary of State or upon scheduling of periodic inspection or review. Fees shall be used solely for purposes of the Licensing Fee Trust Fund. In addition to the fee, the institution shall pay for the travel, room, board and other normal expenses of the Visiting Committee. If a subsequent visit or visits by the Committee are necessary, the Board will charge the institution for these at its discretion, based on the extent of subsequent review needed.

Process for Amending 610CMR

610 CMR 2.13 allows the Board to amend the provisions by vote of the Board with notice to the independent institutions under the purview of the Board and in accordance with Board bylaws. According to 610 CMR 2.13: *Amendment 610 CMR 2.00 may be amended by vote of the Board at any regular or special meeting of the Board with notice as provided in the Board's bylaws and similar notice being provided to the chief executive office of the independent colleges and universities that are under the purview of the Board.* Notice regarding the proposed fee structure change will be published in accordance with the Board bylaws and will be provided to the presidents of the institutions under the Board's purview, as well as to the Executive Director of AICUM. M.G.L. c. 30A further requires:

35 days before comment period	Notify local Government Advisory Committee (Department of Housing and Community Development and the Massachusetts Municipal Association).
21 days before comment period	Newspaper advertisement of comment period. Notice to any person or Group of Persons who have requested notification. Notice to Register (published at least one week prior). Electronic and paper copy to Regulations division. Proposed regulation available by the agency to the public. Review Comments.
After comment period	File regulation Filing form, CMR "draft" pages prepared by the Regulations Division marked in red to indicate changes, and any items "Incorporated by Reference".

Regulations are forwarded to the Secretary of State for publication.