

BOARD OF HIGHER EDUCATION
REQUEST FOR COMMITTEE AND BOARD ACTION

COMMITTEE: Academic Affairs

NO.: AAC 14-35

COMMITTEE DATE: April 29, 2014

BOARD DATE: May 6, 2014

BOARD OF HIGHER EDUCATION 2014 INTERPRETATION: INTERNAL AND EXTERNAL PROGRAM REVIEW POLICY FOR MASSACHUSETTS INDEPENDENT INSTITUTIONS ACCREDITED WITHOUT SANCTION BY THE NEW ENGLAND ASSOCIATION OF SCHOOLS AND COLLEGES

MOVED: The Board of Higher Education (BHE) hereby rescinds its June 19, 2001 Interpretation of its degree granting regulations for Independent Institutions of Higher Education (BHE A01-29, commonly referred to as the “2001 Interpretation”) and adopts in its place the attached “Board of Higher Education 2014 Interpretation: Internal and External Program Review Policy for Massachusetts Independent Institutions Accredited Without Sanction by the New England Association of Schools and Colleges (NEASC)” (the “2014 BHE Program Review Policy”).

The Board further delegates to the Commissioner the authority to act, following DHE staff review and any necessary public hearing requirements, on requests from established Massachusetts Independent Institutions for new degree granting authority, consistent with the 2014 BHE Program Review Policy. The Commissioner shall properly record and shall regularly report to the Board all decisions made pursuant to this delegation of authority.

Authority: M.G.L. c.15A, §§ 3, 6 and 9; M.G.L. c. 69, § 31A; 610 CMR 2.0 et seq.

Contact: Carlos E. Santiago, Senior Deputy Commissioner for Academic Affairs

Background

The Board of Higher Education's (BHE) *Degree Granting Regulations for Independent Institutions of Higher Education* allow for an internal review process for Massachusetts-based institutions, stating that "when, in the judgment of DHE staff, based on information provided by the institution, it is determined that an institution seeks authority to grant a degree closely related to degrees granted under its existing charter it may do so by an internal review process." 610 CMR 2.08(2)(c). On June 19, 2001, the BHE adopted the following interpretation (commonly referred to as the "2001 Interpretation") of the internal review process:

For institutions that are accredited in good standing by the Commission of Institutions of Higher Education (CIHE) of the New England Association of Schools and Colleges (NEASC), once Board of Higher Education approval has been received for a minimum of two programs within a degree category and level, no other Board of Higher Education approval will be required nor will the institution be required to file Articles of Amendment or hold public hearings for new programs within that approved degree category/level.

See BHE A01-29. Department of Higher Education (DHE) staff subsequently established the necessary procedures to implement the 2001 Interpretation, which included a notification requirement. Prior to advertising or enrolling new students, institutions were required to notify DHE staff of their intent to offer the new program so that DHE staff could confirm the eligibility of the proposed program under the 2001 Interpretation. Notification was accomplished by submitting 1) a notification letter; 2) a curriculum outline; and 3) documentation of the institution's status with NEASC. Although the filing of Articles of Amendment with the Secretary of State's Office was not required, it was strongly advised so that the new degree could be properly recorded in the institution's charter. Public hearings were not required.¹

The purpose of the 2001 Interpretation was to streamline and expedite the ability of established, NEASC accredited institutions to create new academic programs, and to likewise allow DHE staff to focus time and resources on new institutions, or institutions operating under sanction. The 2001 Interpretation attempted to provide clarification of the scope of the internal review process (610 CMR 2.08(2)(c)), but caused further confusion. Unfortunately, a number of adverse circumstances have arisen from the 2001 Interpretation, including situations where institutions have offered new programs without properly notifying the DHE and providing DHE an opportunity to review the proposed new program for eligibility under the 2001 Interpretation. As a result, institutions have awarded degrees for programs that would not have qualified under the 2001 Interpretation, which means that these degrees are being offered without state authorization in non-compliance with state and federal requirements.

In addition, independent institutions have expressed concern that the BHE approval process is timely and costly. While the BHE's 2001 Interpretation attempted to address some of these concerns, independent institutions have indicated that the 2001 Interpretation is ambiguous and confusing, and that it does not go far enough to recognize and defer to the experience and resources of established institutions that have been operating for several years without sanction by NEASC. As a result, several independent institutions, through the Association of Independent Colleges and Universities in Massachusetts (AICUM), have recently been advocating for a legislative change to the BHE's program oversight responsibility which would essentially exempt from the BHE's jurisdiction all non-profit institutions that are NEASC-

¹ The public hearing requirement is statutorily mandated. See M.G.L. c. 69, §30. A statutory change is recommended to allow for the waiver of public hearings.

approved and have been operating in Massachusetts continuously and without NEASC sanction for 10 years.

To address ongoing concerns voiced by independent institutions, as well as members and staff of the Board of Higher Education, the DHE recommends that the BHE rescind the 2001 Interpretation (BHE A01-29) and adopt in its place the attached “Board of Higher Education 2014 Interpretation: Internal and External Program Review Policy for Massachusetts Independent Institutions Accredited Without Sanction by the New England Association of Schools and Colleges (NEASC)” (the “2014 BHE Program Review Policy”—*Attachment A*).

A prior version of the attached 2014 BHE Program Review Policy was presented to the Academic Affairs Committee (AAC) on March 11, 2014, and to the Board on March 18, 2014. (See BHE 14-04). At both meetings the DHE’s proposed approach was affirmed subject to further vetting with stakeholders. To that end, the DHE held a three week public comment period, which ended on April 11th.²

Highlights of the new procedures proposed in the attached 2014 BHE Program Review Policy, as revised pursuant to the public comment process, include the following:

1. **Eliminate the use of the term “degree category.”** Under the 2001 Interpretation, a degree category was defined as a degree or group of degrees usually requiring distinctive faculty, curriculum and resources, which could be academic, applied or professional degrees. The terms academic, applied and professional are not mutually exclusive terms, and degrees within these divisions are not necessarily closely related. Use of the phrase “degree category” has caused confusion. Instead, in determining whether an application will be eligible for an internal review, the revised policy will take a broader perspective by allowing DHE staff to conduct an internal review of an application provided that the institution’s proposed new program is closely related to at least one existing, approved program. In making this determination, DHE staff will look at whether 50% of the proposed new program’s core and elective courses are derived from the courses (e.g., core, elective and general) of up to three previously approved programs.
2. **Reduce from two to one the number of BHE-approved programs that must be “closely related” to a proposed new program for an internal review.** Institutions will be eligible for internal reviews of proposed new programs once BHE/ DHE approval has been received for at least one closely related program. This presupposes that the closely related program will show that the institution has existing resources and expertise to offer the proposed new program. Originally, in its March 2014 proposal to the BHE, the DHE had suggested a “60% rule” to determine whether a proposed new program is closely related to an existing program (e.g., 60% of the courses are derived from an existing program). However, based on comments received from AICUM, the DHE has refined the rule to require a showing that 50% of the proposed program’s core and elective credits are derived from course credits of up to three previously approved programs.

² The public comment period was extended to allow the DHE an opportunity to meet with representatives of AICUM and its member institutions on April 15th to further discuss the proposal. All comments received by the DHE after April 11th and up through the date of the BHE mailing were considered in preparing this motion.

3. **Establish three levels of review with a preference for the least intensive review.**

The DHE has historically relied on physical site visits as its default process, when a program did not qualify for an internal review under the 2001 Interpretation. Preference will now be given to the least intensive review. Under the new policy DHE staff will utilize less intensive methods to allow greater efficiency for staff and institutions, while still maintaining due diligence. There will be internal reviews and external reviews, consistent with the 610 CMR 2.08. Within the external process there will be two types of reviews: remote reviews and on-site reviews. A “remote review,” is an external review conducted by DHE staff, with the assistance of one or more external reviewers conducted on the application, via distance. Preference will be given for the least intensive review, and on-site reviews by visiting committees will be required in very limited circumstances.

4. **Expedite external reviews of proposed new programs.** DHE staff will work with institutions to expedite the external review processes. This will include utilizing distance technology to shorten most site visits from two days to one for established institutions seeking to add up to two or three programs at one time. The DHE will also accept approval of a proposed new program by a federally recognized, professional accrediting agency as a substitute for a BHE-sponsored external review.

In addition, the 2014 BHE Program Review Policy allows for an “expedited procedure” for external reviews (both remote and on-site) to achieve greater efficiencies, while also maintaining due diligence. Specifically, the DHE recognizes that some institutions already submit their proposed new programs to an external non-DHE sponsored review process, prior to submitting a program for BHE approval. In instances where the institution is planning to conduct its own external review as part of its planning process, the DHE will be prepared to work with the institution, to help plan that review in a manner that both serves the needs of the institution, while meeting the DHE’s regulatory responsibilities. If planned accordingly, an institution-sponsored external review will be accepted as a “joint” external review of the program and the DHE will not conduct a separate external review, thereby expediting the review process.

5. **Mandate timeframes for the completion of both internal and external, expedited reviews.** Internal reviews of eligible programs will be completed within 30 business days of receiving a complete Notice of Intent. External Reviews conducted pursuant to “joint” external review process will be completed within 30 business days of receiving the institution’s completed application.

6. **Ensure the eligibility of proposed programs under the Interpretation.** Under the BHE’s 2001 Interpretation many institutions did not contact the Department when adding new degrees that they assumed fell under the 2001 Interpretation. Some institutions have added programs that are not closely related to degrees that have been previously approved by the Board. Furthermore, some institutions understood the 2001 Interpretation to have granted them the authority to offer any new degree under a certain degree level whether it was related or not, despite communication from Department staff to the contrary. The updated interpretation seeks to address these issues by not only eliminating “category/ level,” as noted above, but also by clarifying and adding emphasis to the DHE notification requirement. This will allow the Department to assess the level of review required prior to the institution adding the new program.

7. **Ensure institutional charters and records are up to date.** The Board of Higher Education is the custodian of records for higher education institutions. The BHE's statute and regulations rely heavily on the Secretary of State's process, which mandates that a Certificate of Organization must be filed for new corporations seeking to operate in Massachusetts, and that Articles of Amendment must be filed for existing Massachusetts corporations seeking to expand their corporate charters. See M.G.L. c. 69, § 30; 610 CMR 2.05. However, under the 2001 Interpretation, institutions are not required to submit Articles of Amendment with the Secretary of State for programs that are eligible for the 2001 Interpretation, but are required to file Articles of Amendment for all other purposes. As such, the Secretary of State's Office does not have accurate records of institutions' corporate charters. This, along with the institutions' failure to notify the DHE when adding new programs under the 2001 Interpretation, has rendered the DHE unable to properly execute its state authorization function and, in some situations, unable to effectively verify an institution's specific degree granting authority to the U.S. Department of Education for the purpose of the dispersal of Title IV funds. Under the proposed new procedures, institutions will resume submitting Articles of Amendment (which currently costs \$15.00 per filing for non-profit institutions), allowing the Department to keep accurate records which will also be on file with the Secretary of State and publicly accessible.

8. **Delegate to the Commissioner the BHE's role in the approval process.** The Commissioner will approve programs through a delegation of authority, following DHE staff review and any necessary public hearing requirements. DHE staff will continue to approve programs through the internal process, as staff has done through the 2001 Interpretation. For programs requiring external reviews, DHE staff will continue to vet programs thoroughly, based on the BHE's standards for approval, and will make recommendations to the Commissioner to either approve or disapprove the program. Institutions may appeal the Commissioner's decision to disapprove a program. In this situation, the program would be presented to the Board for a final decision.

The delegation of authority to the Commissioner will help to significantly streamline and expedite the process. Institutions are now held to the schedule of the BHE, which meets six times per year. Under the revised interpretation eligible institutions adding programs under the internal and external review processes will not be required to attend BHE committee hearings, and programs can be approved in between BHE regularly scheduled meetings.

9. **Focus on continued monitoring of institutions, though post-approval reviews:** Historically, the BHE has relied upon an "up front" approval approach to ensure that institutions are compliant with standards for approval. The new administrative process will give DHE staff more flexibility to allow for a quicker approval process, and will free up resources to allow staff to monitor institutions on a regular and on-going basis to ensure that programs currently being offered students continue to meet BHE standards. Consistent with this post-hoc monitoring process, the DHE will be able to suspend an institution's eligibility for expedited review procedures under the 2014 BHE Program Review Policy when, among other things, an institution is determined to be in non-compliance with the policy and/or with state or federal laws.

The 2014 BHE Program Review Policy includes new procedures that will strike an appropriate balance between achieving greater administrative efficiencies, while maintaining an effective BHE state regulatory consumer protection function. Rather than wholly exempting institutions by

deferring solely to the accreditation process or years of experience, the proposed new procedures will acknowledge institutions for experience earned in creating and offering new programs by simplifying and expediting administrative procedures, while requiring the continued engagement of the DHE to monitor program quality. In addition, the 2014 BHE Program Review Policy will address ambiguities in the BHE's existing 2001 Interpretation and expand its application to include more program reviews in expedited review.

Attachment A to BHE 14-35

***Board of Higher Education 2014 Interpretation: Internal and External Program Review Policy for Massachusetts Independent Institutions Accredited Without Sanction by the New England Association of Schools and Colleges (NEASC)
(The “2014 BHE Program Review Policy”)
May 6, 2014***

The Board of Higher Education’s (BHE) Degree-Granting Regulations for Independent Institutions of Higher Education are found at 610 CMR 2.00. The regulations assure that independent colleges and universities approved by the BHE to operate in the Commonwealth meet minimal levels of quality.

The BHE regulations provide for both internal and external review processes for existing, Massachusetts-based institutions accredited without sanction by NEASC. 610 CMR 2.08. Specifically, 610 CMR 2.08(c) provides that such institutions may qualify for an expedited internal review of proposed new programs when, “in the judgment of Board staff, based on information provided by the institution, it is determined that an institution seeks authority to grant a degree closely related to a program granted under its existing charter.” 610 CMR 2.08(2)(c). Under the BHE regulations, all other proposed programs are subject to an external review process. 610 CMR 2.08(2). The BHE regulations further provide but do not mandate that site visits may be used in the external review process. 610 CMR 2.06(g). The existing regulations are ambiguous regarding which programs are eligible for an internal review and which programs are subject to a site visit during an external review, which has caused confusion. Therefore, the BHE has determined that good cause exists to interpret and define, the internal and external review processes which shall be used in evaluating and deciding applications for degree granting authority from Massachusetts-based Institutions accredited without sanction by NEASC. 610 CMR 2.08. Nothing in this policy shall be interpreted to diminish or contravene the degree-granting authority established by the current or subsequently amended charter of an institution.

I. The Policy

For an independent institution currently subject to BHE purview that (1) is accredited without sanction for a minimum of 6 consecutive years by the Commission of Institutions of Higher Education (CIHE) of the New England Association of Schools and Colleges (NEASC), (2) is a Massachusetts-based institution and has maintained a physical presence in the Commonwealth for no less than 6 years, and (3) has been operated continuously by the same governing entity for the same 6-year period, if an institution meets all of the requirements outlined below in Section A, (“Internal Reviews: Notice Only Requirement”) an external review process will not be required and the institution will not be required to hold public hearings¹ for a proposed new program. The program may be added through a Notice of Intent process, consistent with the procedures outlined in Section A, below.

All other proposed new programs will be subject to an external review, consistent with the procedures outlined below in Section B, (“External Reviews: Remote and On-Site Reviews”).

¹ The public hearing requirement is statutorily mandated. See M.G.L. c. 69, §30. A statutory change is recommended to allow for the waiver of public hearings.

A. Internal Reviews: Notice Only Requirement

1. Internal Reviews: Scope and Applicability

- a. Institutions with two or more academic programs within an existing BHE-approved level: For an institution that has received BHE approval for at least two academic programs within a level, and the institution meets the following requirements, an external review process will not be required and the institution will not be required to hold public hearings to establish a proposed new program within that approved level.

The institution shall be subject only to a notice requirement (see Section I.A.2, below) following DHE review of a letter which shall include: (1) a detailed description of the new program, the financial support and resources required for the new program, an outline of its curriculum, and qualifications of faculty; (2) a certification that 50% of the proposed new program's core and elective credits are derived from course credits (excluding general education course credits unless any such general education course credits will be identified as counting toward the major) of up to three previously approved programs; (3) a statement showing that the proposed program does not depart significantly from the institution's mission or stated objectives; (4) a certification that the institution has fully complied with its own internal review process in designing and approving the new program, including the results of any vote or recommendation by the faculty and/or curriculum committee, and; (5) certification that the institution's governing board has voted to approve the new program.

2. Internal Reviews: Required Procedures for the Notice Only Requirement

- a. Notice of Intent: Institutions seeking to add a program through the Internal review process must notify the Department of Higher Education (Department) of its intention to add the new program by submitting to Department staff a complete Notice of Intent, which may be in the form of a letter and which shall include: 1) an outline of the curriculum of the proposed degree; 2) a description of the resources required for the new program; 3) a statement of how the program relates to and uses resources of previously approved programs (i.e., demonstration of compliance with the 50% rule referenced above in Section I.A.1); and 4) evidence of the institution's NEASC status. The DHE shall develop a template for the submission of request for an Internal Review, after consultation with the private institutions.

- i. Prior to submitting a Notice of Intent, Institutions are encouraged, though not required, to contact Department staff to discuss the proposed new program to help assess whether the new program falls under an internal or external review process.

- b. Department Response: Within 30 business days of receiving an institution's complete Notice of Intent, the institution will receive written communication from the Department either confirming (1) that the program is eligible, and is therefore accepted under the internal review process, (2) that the program is not eligible for an internal review, or (3) that additional information is needed and must be submitted to the Department within 30 business days. An institution may begin to advertise the program and enroll students after

receiving written notification from Department staff that the proposed new program is eligible and therefore accepted under the internal review process.

- c. Deemed “acceptance” through the internal review process: A Notice of Intent to add a program through the internal review process received by the Department between September 1st and June 15th, will be deemed eligible and therefore accepted under the internal review process if the Department does not respond within 30 business days of receipt. Proof of receipt by the Department must be established by the institution, for example through a written acknowledgment, such as an e-mail, from the Department or certified mail. A Notice of Intent received by the Department between June 16th and August 31st will be processed expeditiously within a reasonable amount of time.
- d. Articles of Amendment, Public Notice and Fees: If the proposed program does qualify for an internal review, the institution shall file Articles of Amendment identifying the new degree(s) added after receiving written notification of staff acceptance. The Department will waive applicable fees under 610 CMR 2.06 (1)(b)(1)(e).
- e. Denials of Requests for an Internal Review: If Department staff determine that the institution’s proposed new program is not eligible for an Internal Review, staff shall notify the institution of such determination in writing, along with an explanation of the reasons for such determination, and advise the institution to file an application for an external review. The institution may appeal the Department staff’s decision to the Commissioner in writing within 30 business days of receiving the staff’s written denial. The Commissioner’s decision shall be final.

B. External Reviews: Remote and On-Site Reviews

All other programs, not otherwise eligible for an internal review, will be subject to an external review.

The BHE regulations state that when conducting an external review, the visiting committee “shall study all materials submitted by the institution...[and] may visit the institution and meet with its representatives to determine whether the institution should be authorized to grant the degrees(s) requested.” 610 CMR 2.06(g).

The BHE seeks to limit site visits only to those situations when an institution’s proposed program cannot adequately be assessed using less intensive means. To that end, and consistent with 610 CMR 2.06(g) the BHE is expressing a preference that external reviews be conducted remotely, to the maximum extent possible.

A site visit will not be required during an external review, except as otherwise noted in Section B.2, below.

1. Remote External Reviews: Program Eligibility Criteria

- a. *Scope and Applicability:* When it is determined that an institution seeks degree granting authority for a program not eligible for an internal review (see

Section I.A, above), but does not meet the conditions for requiring an on-site review (see Section B.2, below), staff will conduct a remote review.

- b. *Description of a Remote Review:* If eligible for a remote review, the program will be reviewed via distance, based on the institution's completed application, by an external evaluation team. Whenever feasible, a remote review shall involve video and/or teleconference, but not a physical site visit to the campus. The Department shall maintain and provide a list of BHE-approved external evaluators, but an institution may select an external evaluator not on the list as long as the Department approves such evaluator(s).

2. *On-Site External Reviews: Program Eligibility Criteria*

- a. *Scope and Applicability:* On-site reviews shall be conducted in limited circumstances, when the proposed program does not lend itself to remote evaluation methods, such as:
 - i. Programs that require new physical facilities, laboratories, equipment, or instrumentation.
 - ii. Programs that significantly depart from the institution's stated mission and objectives.
 - iii. When a report resulting from remote external review concludes that the program cannot be adequately assessed remotely; and/or
 - iv. An institution requests an on-site visit.
- b. *Description of On-Site Review:* This process involves a full team evaluation, including a physical site visit.

3. *External Reviews (Both Remote and On-site): Required Procedures.*

- a. Application process: The application process for external reviews, including the filing of Articles of Amendment and public hearings, is the same process as outlined in 610 CMR 2.00, except as otherwise noted below for "expedited" external reviews.
- b. Fees: The fee schedule for both remote and on-site external reviews follows the current fee schedule listed in 610 CMR 2.06(1)(b)(1)(c).
- c. Selection and Appointment of Review Committee: The review committee for both remote reviews and on-site reviews will be appointed by the Department in consultation with the institution consistent with the standards set forth in 610 CMR 2.06(2)(a)-(e).
 - i. Optional Expedited Procedures for "joint" external reviews (both on site and remote): The BHE standards state that the BHE will consult with the applicant institution in selecting and appointing a visiting (e.g. external review) committee. 610 CMR 2.06(2). The Department recognizes that some institutions may already conduct external reviews of their programs prior to initiating the BHE program review process. In instances where the institution is planning to conduct its own external review as part of its planning process, an institution may opt to reach out to the Department to initiate the process for planning a joint external review. The Department

will work with the institution, upon request, to help plan that review in a manner that serves the needs of the institution, while meeting the Department's regulatory responsibilities under 610 CMR 2.00. In such circumstances, the following procedures shall apply:

1. Letter of Intent: An institution should develop a new program through its applicable campus-based academic governance processes and shall send to the Department a letter of intent, submitted by the institution's President, 60 business days prior to initiation of the institution-sponsored external review. The letter should provide a fair and succinct description and rationale for the proposed program, and shall state that the institution is seeking to plan a joint external review with the Department..
 2. External Review: Prior to the initiation of the external review, and based on the Letter of Intent, the Department and the Institution shall discuss the composition of the review team, the charge of the review team and, in the case of a site visit, the duration and scope of the visit. If agreement can be reached on these elements without compromising the requirements of 610 CMR 2.00, the Department shall accept the institution-sponsored external review as a "joint" external review for the program and will not conduct a separate external review, provided that the work product of the joint external review committee is of sufficient quality and completeness to allow the Department to responsibly execute its responsibilities under 610 CMR 2.00.
 3. Selection of Reviewers: The proposed program must be evaluated by disinterested reviewers, following the principles stated in 610 CMR 2.06(2)(a)-(f), to be selected by the institution and approved by Department staff.
 4. Application: Within 40 business days after the completion of the external review, the institution shall submit an application, which shall include: the proposal, Articles of Amendment, applicable fees, the evaluators' report to the institution, and the institution's response to the evaluators' report.
 5. Department determination: Within 30 business days of receiving the Institution's application, Department staff shall make determinations on the following: whether the application is complete, whether the proposed program meets the standards in 610 CMR 2:00, and whether to approve or disapprove the program. If the Department determines that the application is incomplete, the institution shall have 30 business days to submit an amended application, and the Department shall then have 30 business days to respond to the amended application.
- d. Acceptance of External Program Reviews Conducted by Impartial Third Parties, in Lieu of a Department External Review: The Department shall accept the determination of a professional accrediting agency recognized by the U.S. Department of Education as a substitute for a BHE-Sponsored external review, if the Department staff determine that the agency's standards and processes are as rigorous as the standards and processes in 610 CMR 2.00. After such professional accrediting agency completes its review and determines that an institution has the appropriate status to begin advertising the program, recruiting

students, and accepting applications from prospective students, the Department shall accept such determination as a substitute for BHE-Sponsored external review. The institution shall notify the Department of any subsequent determination or approvals needed for full accredited status for the program. The Department will maintain a list of pre-approved professional accrediting agencies that meet this requirement.

- e. Staff Recommendation and Commissioner's Decision: Except as otherwise specified herein, the process for staff reviews and recommendations involving applications subject to an external review is the same process as outlined in the 610 CMR 2.00. In addition, the program will not be presented to the Board for action. Rather, staff will make a recommendation to the Commissioner for action under the Commissioner's delegation of authority.
- f. Appeals: In the event that the Commissioner decides not to approve a program, an institution may appeal the decision in writing to the BHE within 30 days of receiving the Commissioner's final decision. Department staff shall then present the institution's proposal, along with the Department staff's underlying recommendation and the Commissioner's decision to be considered by the BHE at a regularly scheduled Academic Affairs Committee meeting.

II. Applicability/ Exceptions

The 2014 BHE Program Review Policy applies only to institutions currently subject to BHE purview that: (1) are accredited without sanction for a minimum of 6 consecutive years by the Commission of Institutions of Higher Education (CIHE) of the New England Association of Schools and Colleges (NEASC); (2) are Massachusetts-based and have maintained a physical presence in the Commonwealth for no less than 6 years, and (3) have been operated continuously by the same governing entity for the same 6-year period.

These new procedures do not apply to requests for new programs from institutions:

1. established for less than six years;
2. not regionally accredited by NEASC for a minimum of six consecutive years;
3. regionally accredited by NEASC, but operating under sanction;
4. under any investigation or corrective action reasonably related to an academic program or to academic quality by the state or the federal government, including the Massachusetts Attorney General and the Department; and/or
5. determined by the Department to be materially out of compliance with this policy, or to have not acted in good faith in following this policy.

Any application for approval of a new institution will require an on-site evaluation and shall be presented to the BHE for approval.

Notwithstanding whether a program is approved through an internal or external review process, institutions subject to BHE purview shall remain responsible for developing and operating programs consistent with the BHE's minimum standards set forth in 610 CMR 2.0, et seq., and the BHE shall remain responsible for all enforcement and compliance activities, including investigations of alleged non-compliances (610 CMR 2.10) and procedures for periodic inspections (610 CMR 2.05(5) and 2.09).

These policies and procedures shall be used to interpret the regulations set-forth in 610 CMR 2.0 et seq., but in the event of a conflict, the BHE regulations shall apply.

III. Amendments

The Commissioner shall interpret and apply these policies to achieve the overall intended objective of achieving administrative and cost efficiencies, eliminating redundant regulatory and reporting requirements, streamlining and expediting the program review process, and imposing more certain time limits for completing the program approval process, while maintaining a strong and effective state consumer protection function. The Commissioner may modify these policies and procedures with the approval of and in consultation with the Chair of the BHE and the Chair of the BHE's Academic Affairs Committee.

IV. Reporting Requirements

a. Annual Department Reports

The Department shall annually compile data on the number of proposed new programs submitted for Internal Review, the results of all such submissions, and the average length of time required for the Department to process such submissions.

The Department shall provide a report of such data on an annual basis to the BHE. Such reports shall be publicly accessible.

b. Periodic BHE Review

The BHE shall periodically review and report on the implementation and effectiveness of this policy; BHE reports resulting from such reviews shall be publicly accessible.

V. Retroactive Approval of Programs Offered without BHE Approval

The BHE recognizes that between June 2001 and the Fall of 2013, mutual misunderstandings as to the scope and applicability of the "2001 Interpretation" led to the development and offering of programs without prior approval by the BHE. The BHE intends to address these programs by providing institutions with an opportunity to submit proposals for these programs for internal staff reviews, and providing the Commissioner the discretion to approve the proposals using this policy as guidance; retroactive approval will be allowed consistent with 610 CMR 2.06(6).

An institution shall, within six months of the implementation of this policy, submit to the Department for review, all programs developed and offered by the institution without prior BHE approval, including such programs offered prior to June 2001. The Commissioner shall, within his sole discretion, approve or deny such programs, using this policy as guidance. Any program developed and implemented before June 2001 shall be deemed approved. The Department will notify the institution in writing as to the result of the Commissioner's decision or deemed approval status. The timeframes stated in this policy for the completion of the Department's review of these programs will not apply, but the Department will act as expeditiously as possible; the institution will not be prohibited from offering these programs pending the outcome of the Department's review.

Effective Date: May 07, 2014