610 CMR 16.00: Degree Granting Regulations for Pilot Proposals on Innovation

16:01 Authority
16:02 Scope and Purpose
16:03 Definitions
16:04 Minimum Eligibility Criteria
16:05 Application
16:06 Review Criteria
16:07 Letter of Intent
16:08 Review Procedures
16:09 Reporting Requirements
16:10 Duration
16:11 Conclusion of Pilot

16:01: Authority

610 CMR 16 is promulgated pursuant to the degree-granting authority of the Board of Higher Education under M.G.L. c. 69, § 30 *et seq.*, and M.G.L. c. 15A, § 9(a) and (b).

16:02: Scope and Purpose

610 CMR 16 is promulgated for the purpose of helping to advance the effectiveness of higher education in the Commonwealth by responsibly enabling proposals for experimentation that are responsive to: (a) a documented need, such as labor market or student demand; (b) significant changes in society, demographics, technology, educational research; or (c) public expectations regarding postsecondary education.

610 CMR 16 establishes the framework for the Board to consider, advance, and evaluate pilot proposals from a public or independent institution of higher education subject to the jurisdiction of the Board seeking to offer a program or initiative that may be or appears to be inconsistent with one or more specific Board regulatory or policy requirement(s) related to degree-granting authority. The intent of 610 CMR 16 is to support innovative practices that are aligned with the institution's mission and strategic goals, broaden access to higher education, and lead to positive student outcomes, while ensuring accountability, transparency and quality.

610 CMR 16 allows for evidence-based evaluation before the enactment of broader regulatory or policy changes.

16:03: Definitions

As used in 610 CMR 16:

Accrediting Agency. A regional or national entity that grants formal recognition or acceptance of an institution or of programs or portions of the institution and is recognized by the U.S. Department of Education as a reliable authority concerning the quality of education or training offered by the institutions of higher education or higher education programs that entity accredits.

Board of Higher Education (Board). The Commonwealth's state higher education authority established pursuant to applicable provisions of M.G.L. c. 15A, §

Commissioner of Higher Education (Commissioner). The chief executive and administrative officer of the Department of Higher Education and the Board of Higher Education, pursuant to M.G.L. c. 15A, § 6.

Degree. Any academic or honorary title or designation, such as, but not limited to, associate's, bachelor's, master's, certificate of advanced graduate study, or doctorate, awarded in recognition of college-level academic work.

Degree-Granting Authority. The authority to grant degrees, vested in institutions of higher education by the Commonwealth of Massachusetts.

Department of Higher Education (Department). The Department of Higher Education, a state agency established pursuant to applicable provisions of M.G.L. c. 15A, § 6.

Eligible Institution: A Public Institution of Higher Education or an Independent Institution that meets the eligibility criteria set forth in Section 16.04, below.

Independent Institution. Any institution of higher education, other than institutions within the public system of higher education as set forth in M.G.L. c. 15A, § 5, that offers or seeks to offer courses for credit or courses leading to an academic degree in Massachusetts.

New England Commission of Higher Education (NECHE). An accrediting agency recognized by the United States Secretary of Education.

Public Institution of Higher Education. A community college, state university, or an institution within the University of Massachusetts segment as defined in M.G.L. c. 15A, § 5.

Visiting Committee. A committee of competent individuals in relevant fields appointed by the Department to evaluate an institution and/or to evaluate particular programs within an institution.

<u>16:04: Minimum Eligibility Criteria</u>

To be eligible for consideration for approval of a pilot proposal under this regulation, an Independent Institution or a Public Institution of Higher Education must:

(1) be accredited without sanction or public notation for a minimum of six (6) consecutive years preceding the date of application by an accrediting agency that is recognized by the U.S. Department of Education;

(2) be a Massachusetts-based institution that has maintained a physical presence in the Commonwealth for a minimum of six (6) consecutive years preceding the date of application;

(3) have been operated continuously by the same governing entity for a minimum of six (6) consecutive years preceding the date of application; and

(4) not be under any investigation or corrective action reasonably related to an academic program, academic quality and/or the sufficiency of financial resources by the Commonwealth, including the Massachusetts Attorney General and the Department, or the federal government.

If an Independent Institution or a Public Institution of Higher Education meets all of these criteria, it will be considered an Eligible Institution and the Department will accept and review a proposal consistent with the procedures and criteria set forth in this regulation.

16:05 Application

When an Eligible Institution wishes to offer a program or initiative that may be or appears to be inconsistent with one or more specific regulatory requirements or policy standards of the Board, and the proposed program or initiative does not currently fall within the scope of the institution's program approval authority, as approved by the Board, or within the scope of the institution's charter as enacted pursuant to any general or special law, the institution must submit to Department staff an application to advance a pilot proposal pursuant to this regulation. The proposal shall identify the specific Board regulation(s) or policy standard(s) that may be or appear to be inconsistent with the institution's proposed pilot program or initiative and shall demonstrate reasons why the Board should temporarily modify or waive such regulation(s) or standard(s) and advance the institution's proposal.

A complete application consists of:

1. a complete Letter of Intent (see Section 16.07, below); and
2. the payment of any required fees.

a. An Independent Institution seeking approval for a pilot proposal under this regulation shall submit the appropriate fee amount as established in 610 CMR 2.06(1)(b)(1) and shall cover applicable Visiting Committee expenses as delineated in 610 CMR 2.06(1)(b)(2). All fees required under this policy shall be paid to the Board's Licensing Fee Trust Fund and shall be used solely for the purposes of the Licensing Fee Trust Fund.

Prior to submitting an application, an institution is strongly encouraged to consult with Department staff.

16.06: Review Criteria

In determining whether to approve an Eligible Institution's application to advance a pilot proposal, the Board, acting upon recommendations of the Commissioner and information provided by the Visiting Committee and/or Department staff, shall review the institution's proposal based on the following criteria:

1. *Innovation*: The institution is proposing an innovative pilot program that seeks to increase the effectiveness of higher education and the risks of temporarily waiving or modifying the Board's standard(s) or regulation(s) to advance and evaluate the pilot program are outweighed by the proposed benefits. Factors the Board shall take into consideration in making this determination include whether the proposal sufficiently:
    a. demonstrates how it is intended to increase the effectiveness of higher education, based on validated research, similar pilots in operation elsewhere, or emergent market and/or industry best practices;
    b. demonstrates that it is responsive to: a documented need, such as labor market or student demand; changes in society, demographics, technology, educational research; or public expectations regarding postsecondary education;
    c. identifies goals and intended outcomes, including student and program or institutional outcomes, and includes proposed measures and metrics the Board and the institution will use to evaluate the success of the initiative, including the use of an external perspective; and
    d. demonstrates that students will not be harmed and will receive equivalent benefit from the initiative by identifying potential limitations and/or risks to students, mitigation strategies to address those limitations and/or risks, and ensuring informed consent.

2. *Quality and Consumer Protection:* The institution's proposal demonstrates the institution's overall ability to provide and sustain an appropriate learning environment for students and otherwise satisfies the Board's standards or regulations for degree-granting institutions of higher education. Factors the Board shall take into consideration in making this determination include whether:
    a. the proposal is consistent with the institution's existing mission;
    b. for Independent Institutions, the proposal otherwise satisfies the Board's standards, regulations, and implementation policies and procedures as required by M.G.L. c. 69, § 30 *et seq.,* and 610 CMR 2.0, and for Public Institutions of Higher Education, the proposal otherwise satisfies the Board's standards, regulations, and implementation policies and procedures as required by M.G.L. c. 15A, § 9 *et seq*.;
    c. the institution demonstrates that it will exercise sufficient administrative and fiduciary control over the initiative, including academic programming;
    d. the institution demonstrates that it has sufficient resources (e.g., financial, human, physical, and technological) to both initiate and sustain the initiative;
    e. the proposal speaks to degree or certificate nomenclature, and intended student outcomes, as appropriate;
    f. the proposal speaks to the integrity of the proposed initiative or degree program(s) (*e.g.,* admissions and degree requirements) and requires students to accomplish a defined amount and quality of work, with graduates well prepared for continued study or performance in occupations related to the program of study; and
    g. marketing of the initiative or degree program(s) will be clear and transparent with the institution publicly disclosing whether the pilot may limit a student's future eligibility for transfer opportunities, continued study, or employment and ensuring that all participating students have informed consent of the pilot nature of the initiative.

16.07: Letter of Intent

After following its own local process for program approval, an institution must submit to the Commissioner of Higher Education a complete Letter of Intent, which shall: (1) demonstrate the institution's eligibility under Section16.04; (2) identify where the proposed initiative may be or appears to be inconsistent with one or more Board regulation(s) or a specific policy or policies, and otherwise confirm that the initiative is consistent with all other applicable Board regulations and policies; and (3) address all review criteria in Section 16.06(1) and (2).

The required content and format of the Letter of Intent shall be determined by the Commissioner pursuant to Department policy and procedures, provided that at a minimum, the Letter of Intent shall:

a. state the purpose and intent of the initiative and the intended innovation that it is intended to advance;
b. provide converging evidence to support there is a problem to be solved through innovation;
c. provide evidence to support efficacy of proposed innovation including, if applicable, an analysis of the experiences of other institutions that are offering or have offered a similar proposal;
d. confirm and describe how the initiative is consistent with the institution's mission;
e. describe how the initiative fulfills a demonstrated need and/or provides one or more defined benefits to existing or potential students;
f. include an analysis of the proposal's alignment with academic and workforce needs;
g. demonstrate the financial, human, physical, information, and technological resources required for the pilot and evidence that the institution has sufficient resources to begin and sustain the initiative;
h. identify potential risks to students and present risk mitigation strategies to demonstrate that students participating in it will not be harmed and will receive at least equivalent benefit from participating as those not participating in the initiative;
i. address degree or certificate nomenclature, as appropriate, ensuring that nomenclature is clear and not so similar to other degree or certificate programs so as to cause confusion to the identity of each;
j. provide proposed marketing materials which shall clearly and conspicuously include disclosures to students which, at a minimum, shall speak to the pilot nature of the program, and cost;
k. describe how the institution intends to secure the informed consent of students participating in the pilot program;
l. identify the intended student and/or program outcomes, and what measures and metrics the institution will use to evaluate the progress and success of the initiative provided that, at a minimum, success outcomes should include measures of persistence, graduation rates, total cost to students and subsequent employment and earnings outcomes;

m. include a description of formative and summative assessment plans that will be used to ensure continuing quality, relevance, and effectiveness of the initiative or program, as well as any required reporting to the institution's accreditor, licensure bodies, or other authorities; and
n. include any other pertinent information deemed relevant by the institution or requested by the Department.

The Department shall develop a template for the submission of Letters of Intent for Pilot Proposals, and shall issue implementation policies and procedures.

16.08: Review Procedures

1. *Department Response:* Within 30 business days of receiving an institution's Letter of Intent, the institution will receive written communication from the Department either confirming that the Letter of Intent is complete, and therefore will be advance to the External Review process, or that additional information is needed and must be submitted within 30 business days.

2. *External Review*: Except as provided in Section16.08(3), below, all pilot proposal applications will be subject to an external review by a Visiting Committee following the procedures established in 610 CMR 2.06(2), as supplemented below and in Department implementation policies and procedures

    a. The Visiting Committee will be appointed by the Department consistent with the procedures set forth in 610 CMR 2.06(2)(a)-(e). The Visiting Committee's charge shall include reviewing the institution's application to assess compliance with the review criteria and expectations in 610 CMR 16.05 and 16.06.
    b. A physical site visit will not be required during an external review except when the proposed program or initiative does not lend itself to remote evaluation methods, such as:
        i. Programs or initiatives that require new physical facilities, laboratories, equipment, or instrumentation;
        ii. Programs or initiatives that significantly depart from the institution's stated mission and objectives;
        iii. When a report resulting from remote external review concludes that the program or initiative cannot be adequately assessed remotely; and/or
        iv. An institution requests an on-site visit.

    c. The Visiting Committee shall study all materials submitted by the institution to Department staff; may meet with the institution; and shall assess the institution's

compliance consistent with the review criteria and expectations set forth in 610 CMR 16.05 and 16.06 and consistent with its charge. The Visiting Committee shall submit a report, including recommendations, to Department staff. A copy of the Visiting Committee's final report shall be submitted to the institution, which shall respond in writing. If Department staff determines that the institutional response needs to be reviewed by the entire Visiting Committee or any of its members, the response will be forwarded to the evaluator(s) for further review.

3. *Acceptance of External Reviews Conducted by Impartial Third Parties:* In lieu of requiring an external review under Section 16.08(2), the Department may accept an external review conducted by NECHE or another accrediting agency recognized by the U.S. Department of Education, if: (a) Department staff determine that the accrediting agency's standards and processes are appropriately aligned to the Board's standards and processes related to degree-granting authority; and (b) after such accrediting agency completes its external review, and determines that an institution has the appropriate status to begin advertising the initiative, recruiting students, and accepting applications from existing or potential students. The Department reserves the right to request additional information necessary to determine whether the initiative meets the Board's standards. The institution shall notify the Department of any subsequent determination or approvals required by the accrediting agency to reach or maintain full accredited status for the initiative. The institution shall commit to the timely sharing with the Department of any and all communications, reports, or other information exchanged between the institution and its accreditor(s) and/or licensing authorities.

4. *Public Comment:* Upon the completion of the External Review process under Section 16.08(2) or (3), and Department staff determination that the application has reached a stage of readiness for final public comment before a recommendation is made to the Board, notice of the proposed initiative will be posted on the Department's and institution's website for a minimum of 21 calendar days prior to Board consideration for approval. At the end of the comment period, Department staff will review and take into consideration any and all comments received. The institution will also be asked to describe its efforts, where required, to solicit public comment and to provide supporting documentation that it has satisfied the Board's requirements as described above.

5. *Board Determination*: Upon the conclusion of the review of public comment and the process, the Commissioner will evaluate materials submitted by the institution, the written report(s) of the Visiting Committee, along with the response(s) of the institution, and will make a specific recommendation to the Board. The Board shall take action, by formal vote, to either approve or disapprove the request. The Board may consider the

number, scale, and type of other approved pilots pursuing the same or similar initiative in determining whether to approve a new application.

16.09: Reporting Requirements

1. *Annual Institution Reports:* For at least the first five years of operation of the initiative, the institution shall submit to the Board annual status reports, providing narrative and statistical information on the institution's compliance with any applicable Board regulations and standards and with the goals and representations set forth in connection with the institution's proposal, including the institution's enrollment; finances; assessment of progress in meeting program and student outcomes, including student learning outcomes, as applicable; reports or other information regarding the initiative that may be required by an Accrediting Agency, licensing agency, or other authority; and other information as may be requested by Department staff.

16.10: Duration

1. *Conditional Approval:* Initial approval is limited to a maximum of five (5) years and may be subject to conditions deemed necessary or appropriate by the Board. Institutions may request an extension by submitting a rationale for the extension and updated evaluation data on enrollment, student learning outcomes, and other information as requested by Department staff. The Board may extend or shorten the conditional approval time period based on an evaluation of the pilot under Section 16.10 which shall take into account sufficient time and data to assess the impact and success of the pilot.
2. *Revocation:* Nothing herein shall limit the Board's authority and responsibility pursuant to 610 CMR 2.10, or M.G.L. c. 15A, § 9(b) to initiate revocation or suspension action against an institution's degree granting authority to offer a pilot program if facts are brought to the attention of the Board suggesting a reasonable probability of the institution's non-compliance with applicable state law or regulation and/ or non-compliance with the institution's conditional approval.

16.11: Conclusion of Pilot

1. Based on an evaluation of the authorized pilot(s), the Board will either: grant full approval to the program(s) or initiative(s) by removing the pilot designation; extend conditional approval of the pilot(s) for another period of time; consider future regulatory or policy changes to codify and scale the pilot(s); or otherwise work with the institution to phase out the pilot(s) if unsuccessful.