

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION STATE OF NEBRASKA

Guidance for Applicants for Authorization to Operate in Nebraska that are Seeking to Offer Programs that are Subject to Approval by Additional Nebraska Agencies, Boards, or Commissions

RE: Commission Rule 7 (281 NAC 7) Rules and Regulations for the Postsecondary Institution Act

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

1. Neb. Rev. Stat. § 85-2408 requires that, except as provided in section 85-2407ⁱ, no postsecondary institution shall operate in the State of Nebraska by establishing a physical presence in the state until it has received an authorization to operate by the Coordinating Commission for Postsecondary Education (*Coordinating Commission*).

2. There may be instances in Nebraska statute and/or the Nebraska Administrative Code that require a postsecondary institution seeking to operate in Nebraska to apply for and receive authorization or approval to offer specific degree programs or experiences from a Nebraska state agency, board, or commission (*Nebraska entity*) in addition to the Coordinating Commission. For example, postsecondary institutions seeking to offer a prelicensure nursing education program must be approved by the Nebraska Board of Nursing prior to admitting students (Neb. Rev. Stat. §§ 38-2232 to 38-2234 of the Nurse Practice Act and 172 NAC 97 Approval of Basic Nursing Program in Nebraska).

3. As a matter of consumer protection, and to ensure compliance with Nebraska law, whenever an applicant for authorization to operate in Nebraska under the Postsecondary Institution Act (Neb. Rev. Stat. §§ 85-2401 to 85-2428) is also required by Nebraska statute to be authorized or approved by another Nebraska entity by virtue of its programmatic offerings, the Coordinating Commission will not take action on the application until the applicant provides proof that it has received all other necessary approvals from Nebraska entities with the following exceptions:
 - (a.) If an application also includes programs that do not require authorization or approval by another Nebraska entity, the Coordinating Commission may, at its discretion, act on the application for authorization and limit the authorization only to such programs as do not require additional state approvals;

(b.) If another Nebraska entity requires the Coordinating Commission to authorize the operation of a postsecondary institution in Nebraska prior to or in conjunction with that Nebraska entity's approval/authorization process, the Coordinating Commission will work with the Nebraska entity to consider the application at an appropriate time within the Nebraska entity's process.

ⁱ 85-2407. Act; exemptions.

The following are exempt from the Postsecondary Institution Act:

(1) Any institution or organization which offers education or instruction, and which is licensed and regulated solely by an agency of the federal government with respect to curriculum and qualifications of instructional staff; or

(2) Any private postsecondary career school as defined in the Private Postsecondary Career School Act, except for purposes of interstate reciprocity agreements for the provision of postsecondary distance education across state boundaries entered into and administered pursuant to subdivisions (5) and (6) of section 85-2405.

September 2023

The Commission approved the Guidance for Applicants for Authorization to Operate in Nebraska that are Seeking to Offer Programs that are Subject to Approval by Additional Nebraska Agencies, Boards, or Commissions at its September 22, 2023 meeting