

**PROPOSED AMENDMENTS TO RULES:
PROGRAM REVIEW (PRIVATE COLLEGES AND UNIVERSITIES)**

Submitted for: Action.

Summary: This item requests approval of the proposed amendments to the rule for Program Review (Private Colleges and Universities). The legislation authorizing these amendments was passed by the General Assembly and awaits the Governor's signature (SB2603). When signed, this legislation becomes effective immediately thereby authorizing the Illinois Board of Higher Education to set fees by rule.

This legislation will amend the State Finance Act, the Private College Act, and the Academic Degree Act to provide three key provisions: (1) authorizes the Board to set fees for processing requests; (2) creates new trust funds for the collection and appropriation of the new fees; and (3) dedicates the use of fees to support the Board administration and enforcement of the Private College Act and the Academic Degree Act.

Two sets of proposed amendments will be filed concurrently. A set of emergency amendments, which contain the same language as the set of proposed amendments, will become effective immediately. To ensure a contiguous process, the second set of proposed amendments will become effective before the emergency amendments expire. Both sets require Board approval of the proposed amendments before filing as specified in the Illinois Administrative Procedure Act.

Action Requested: That the Illinois Board of Higher Education approve the proposed amendments to Program Review (Private Colleges and Universities) (23 Ill. Admin. Code 1030) for publication in the Illinois Register, contingent upon Governor Quinn signing SB2603.

STATE OF ILLINOIS
BOARD OF HIGHER EDUCATION

**PROPOSED AMENDMENTS TO RULES:
PROGRAM REVIEW (PRIVATE COLLEGES AND UNIVERSITIES)**

This item requests approval of the proposed amendments to the Illinois Board of Higher Education rule for Program Review (Private Colleges and Universities). The rule guides staff reviews of the applications required by the Private College Act of 1945 and the Academic Degree Act of 1961. This includes (a) applications to establish new colleges and universities in the state and (b) applications for new degree programs, including out-of-state public, out-of-state private, and in-state private institutions. Private colleges and universities that were established in some cases prior to 1945 or 1961 are exempt from submitting proposals unless they want to offer a previously authorized degree program in a region other than the region where their home campus is located.

After Governor Quinn signs SB2603, this legislation will become effective immediately and provides the Board with tools to create and collect an Academic Application Processing Fee for the purpose of funding academic affairs staff activities. This new legislation provides three key items: (1) authorizes the Board to set fees by rule for processing requests; (2) creates new trust funds for fee collection and appropriation of monies; and (3) dedicates the use of fee revenues to support the Board's administration and enforcement of the Private College Act and the Academic Degree Act. The attached proposed rule amendments implement the first key item, new authority to set fees. The second item, creation of trust funds, is implemented in concert with the Comptroller and does not require additional rulemaking. And third, since the use of revenues is dedicated to the Board, the Board must annually request budget authority from the Legislature to expend the monies. This also does not require additional rulemaking by the Board.

The attached proposed amendments to the Program Review rule are consistent with the Academic Affairs Committee recommendations approved by the Board at the June 2008 meeting. The amendments include the Academic Application Processing Fee Structure and the definitions for the Illinois Proprietary Institutions, Out-of-State Institutions, change request, institution size, and letter/notice of intent. Board administration of the fee structure also requires some basic remittance and processing requirements provided in the amendments.

Once approved by the Illinois Board of Higher Education, the proposed amendments to the rule will be filed for publication in the Illinois Register contingent upon Governor Quinn signing SB2603. Since the new legislation will become effective immediately upon the Governor's signature the filing will include a set of emergency amendments. These amendments become effective upon filing but expire 150 days later, so a second set of proposed amendments, which contain the same language as the emergency amendments, will be filed concurrently. The process for the second set is a three-step process: (1) initial Board approval; (2) a publication and public notice period including a period for review by the staff and members of the legislative Joint Committee on Administrative Rules; and (3) final adoption by the Board. Final presentation is tentatively scheduled for the August 2009 Board meeting.

Staff Recommendation

Staff recommends the adoption of the following resolution:

The Illinois Board of Higher Education hereby approves the proposed amendments to the rules for the Program Review (Private Colleges and Universities) (23 Ill. Adm. Code 1030) as detailed in the attached document for publication in the Illinois Register contingent upon Governor Quinn signing SB2603.

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1030
PROGRAM REVIEW (PRIVATE COLLEGES AND UNIVERSITIES)

Section
1030.20 Definitions
EMERGENCY
1030.90 Academic Application Processing Fees
EMERGENCY

AUTHORITY: Implementing and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.31], Sections 14.5 and 14.10 of the Private College Act (P.A. 95- TBD, effective month, day 2009), and Sections 10.5 and 10.10 of the Academic Degree Act (P.A. 95-TBD, effective month, day 2009).

SOURCE: Amended and effective August 9, 1977; Emergency rules adopted at 3 Ill. Reg. 26, p. 297, effective June 13, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 38, p. 222, effective September 22, 1979; amended at 4 Ill. Reg. 48, p. 200, effective November 19, 1980; codified at 8 Ill. Reg. 1454; amended at 33 Ill. Reg. 49, effective December 23, 2008; emergency amendment at 33 Ill. Reg. _____, effective month day, 2009, for a maximum of 150 days.

Section 1030.20 Definitions
EMERGENCY

Unless otherwise stated, all definitions apply to all terms used in this Part in conjunction with both the 1945 Act and the 1961 Act.

"The 1945 Act" means the Private College Act [110 ILCS 1005].

"The 1961 Act" means the Academic Degree Act [110 ILCS 1010].

"Asynchronous" means instruction in which the teacher and students do not meet at the same time. On-line instruction is more likely to be asynchronous, allowing students to access and participate in the course when they choose to do so.

"Authorization to Grant Degrees" means the letter from the Board giving an institution authorization to grant specific degrees under the 1961 Act.

"Authorization to Operate" means the letter from the Board authorizing an institution to operate under the 1961 Act.

"Board" means the Board of Higher Education. In those cases in which the term is used to refer to prior approval or lack of prior approval for either an institution or a degree program, the term "Board" shall mean either the Board of Higher Education or one of the two previous administrative agencies that administered higher education in Illinois (the Board of Education or the Superintendent of Public Instruction), as appropriate.

"Certificate of Approval" means the letter from the Board giving an institution approval

to operate under the 1945 Act.

“Change Request” means a written proposal to modify an approved degree program. This includes degree title, prerequisites, course titles, program content, credit hours, classification of instructional programs code (CIP code), degrees offered, program admission requirements, and program elimination.

"Degree" means any designation, appellation, series of letters or words, or other symbol that signifies or purports to signify that the recipient has satisfactorily completed an organized academic program of study beyond the secondary school level. For the purposes of this Part, an "organized academic program of study beyond the secondary school level" shall be defined as:

Any academic program, regardless of duration, that offers any designation, appellation, series of letters or words or other symbol known as or labeled as an associate degree, a bachelor's degree, a master's degree, a doctor's degree, a professional degree or a certificate of advanced study; or

Any academic program of more than 12 months in duration, except for a program that is devoted entirely to religion or theology, or a program offered by any institution operating under the authority of the Private Business and Vocational Schools Act [105 ILCS 425].

"Degree program" means the standard required course of study, or its equivalent, leading to a degree.

“Institution Size” is determined by the total number of full-time equivalent (FTE) enrollments during the fall term as reported to the Integrated Postsecondary Education Data System.

"Home campus" is also known as "in-region". Both "home campus" and "in-region" are defined as the approval region within which an institution's original operating authority was granted.

“Illinois Proprietary Institutions” mean institutions described in Sections 1030.10 (a) and (b) that are not otherwise exempted in Section 1030.10(c) and meet the following criteria:

Private corporations, limited liability companies, or other entities that are initially incorporated or organized in this State, if required by law; and

Maintain a place of business within the State, and

Hold a current certificate of good standing from the Secretary of State, if required by law to file with the State; and

Are investor-owned and/or organized for profit.

Illinois Proprietary Institutions do not include public institutions authorized under the domestic laws of this State and private not for profit institutions permitted to be exempt from taxation under Sections 501(c)(3) of the United States Internal Revenue Code.

“Letter of intent” means the Notice of Intent form provided by the Board and completed by the institution who is seeking operating authority as provided in Section 1030.30(b).

"New degree program" means one or more of the following:

A degree program offered at a different educational level from a degree program already approved at a given institution.

A degree program in a different six-digit CIP (Classification of Instructional Programs taxonomy developed by the National Center for Educational Statistics and used in the Integrated Postsecondary Education Data System) code from that already authorized.

A new professional or specialist degree or certificate.

"New geographic location" is also known as "out-of-region". Both "new geographic location" and "out-of-region" are those sites located outside of the region within which an institution's original operating authority was granted.

“Notice of Intent” means the form provided by the Board and completed by the institution who is seeking authority to award one or more degrees as provided in Section 1030.60(b).

“Out of State Institutions” mean institutions described in Sections 1030.10 (a) and (b) that are not otherwise exempted in Section 1030.10(c) and meet one of the following:

Public institutions authorized under domestic laws other than the laws of this State; or

Private corporations, limited liability companies, or other entities that are initially incorporated or organized under domestic laws other than the laws of this State, if required; and initially operated outside the State; or

Not for profit corporations, limited liability companies, or other entities that maintain their primary place of business or home office outside this State.

"Region" refers to a geographical area within which an institution may operate a unit of instruction and is not limited to the site within the region where the institution initially applied. A region consists of one or more coterminous community college districts. The community college districts are also property taxing districts established as provided in 110 ILCS 805/Art. III. The ten regions, described by community college district and community college district numbers, are as follows (see also Illustration A):

"North Suburban Region (1)" consists of the Lake County (532), Oakton (535), and William R. Harper (512) community college districts;

"Fox Valley Region (2)" consists of the Elgin (509), Kishwaukee (523), McHenry (528), Rock Valley (511), and Waubensee (516) community college districts;

"West Suburban Region (3)" consists of the DuPage (502), Morton (527), and Triton (504) community college districts;

"Western Region (4)" consists of the Black Hawk (503), Carl Sandburg (518), Highland (519), John Wood (539), Sauk Valley (506), and Spoon River (534) community college districts;

"Central Region (5)" consists of the Heartland (540), Illinois Central District (514), Illinois Valley (513), and Lincoln Land (526) community college districts;

"South Metro Region (6)" consists of the Joliet (525), Kankakee (520), Moraine Valley (524), Prairie State (515), and South Suburban (510) community college districts;

"Prairie Region (7)" consists of the Danville (507), Lake Land (517), Parkland (505), and Richland (537) community college districts;

"Southwestern Region (8)" consists of the Illinois Eastern (529), Kaskaskia (501), Lewis and Clark (536), and Southwestern Illinois (522) community college districts;

"Southern Region (9)" consists of the John A. Logan (530), Rend Lake (521), Shawnee (531), and Southeastern (533) community college districts; and

"Chicago Region (10)" consists of the City Colleges of Chicago (508) community college district.

"Synchronous" means instruction in which the teacher and students are required to meet at the same time or the students are required to meet at the same time. In face to face instruction, this means that everyone is in the same room at the same time. In on-line instruction, synchronous instruction occurs through the use of technologies such as chat, two-way video conferencing or audio conferencing.

(Source: Emergency amendment at 33 Ill. Reg. _____, effective _____, for a maximum of 150 days)

Section 1030.90 Academic Application Processing Fees **EMERGENCY**

a) Fees.

Fees are assessed in connection with applications for certificates of approval under the 1945 Act and applications for authorization to operate and authorization to grant degrees under the 1961 Act, including the submission of letters of intent and notices of intent and for processing change requests.

1) Fee Amounts for Applications

A) Certificate of approval or authorization to operate, \$5,000.00. Only one fee of \$5,000.00 shall be charged if both are sought in the same application.

- B) Letter of Intent or Notice of Intent, \$250.00
- C) Authorization to grant degrees is based on the following:
- i) Type of institution; and
 - ii) Institution size; and
 - iii) Degree level as outlined in the following section.
- C) Change request is \$250.00. The fee shall be charged for each request. One submission with ten requests shall be assessed for ten change requests (\$2,500.00).

2) Schedule of Application Fees

<u>Illinois Proprietary Institutions</u>			
	<u>Institution Size</u>		
	<u>< 200 Students</u>	<u>200-500 Students</u>	<u>> 500 Students</u>
<u>Certificate of Approval or Authorization to Operate</u>	<u>\$ 5,000.00</u>	<u>\$ 5,000.00</u>	<u>\$ 5,000.00</u>
<u>Associate Degree per Region</u>	<u>750.00</u>	<u>950.00</u>	<u>1,250.00</u>
<u>Bachelor Degree per Region</u>	<u>1,450.00</u>	<u>1,650.00</u>	<u>1,950.00</u>
<u>Masters Degree per Region</u>	<u>2,250.00</u>	<u>2,550.00</u>	<u>2,950.00</u>
<u>Doctoral/First Professional per Region</u>	<u>3,500.00</u>	<u>3,750.00</u>	<u>4,000.00</u>
<u>Letter or Notice of Intent</u>	<u>250.00</u>	<u>250.00</u>	<u>250.00</u>
<u>Change Request per Region</u>	<u>250.00</u>	<u>250.00</u>	<u>250.00</u>

<u>Out-of-State Institutions</u>			
	<u>Institution Size</u>		
	<u>< 200 Students</u>	<u>200-500 Students</u>	<u>> 500 Students</u>
<u>Certificate of Approval or Authorization to Operate</u>	<u>\$ 5,000.00</u>	<u>\$ 5,000.00</u>	<u>\$ 5,000.00</u>
<u>Associate Degree per Region</u>	<u>1,750.00</u>	<u>1,950.00</u>	<u>2,250.00</u>
<u>Bachelor Degree per Region</u>	<u>2,450.00</u>	<u>2,650.00</u>	<u>2,950.00</u>
<u>Masters Degree per Region</u>	<u>3,250.00</u>	<u>3,550.00</u>	<u>3,950.00</u>
<u>Doctoral/First Professional per Region</u>	<u>4,500.00</u>	<u>4,750.00</u>	<u>5,000.00</u>
<u>Letter or Notice of Intent</u>	<u>250.00</u>	<u>250.00</u>	<u>250.00</u>
<u>Change Request per Region</u>	<u>250.00</u>	<u>250.00</u>	<u>250.00</u>

- 3) Fee changes will follow changes in the Employment Cost Index, published quarterly by the U.S. Bureau of Labor Statistics. The Board will conduct the first review of changes on October 31, 2011 with reviews in each odd-numbered year. Such fee changes shall be not be effective until published on the Board's website at [www. ibhe.org](http://www.ibhe.org).
- 4) The fee schedule will be provided on the Board's website at www.ibhe.org, by email at info@ibhe.org or by writing to:
Illinois Board of Higher Education,
431 East Adams, Second Floor,
Springfield, Illinois 62701-1404

b) Remittance

- 1) Fees shall be a certified check, cashier's check, or money order.
- 2) The Board shall return fees if, after further investigation, the Board determines that the institution's request does not require Board approval or authorization, minus a fee of \$250.00 for processing.
- 3) Fees shall be submitted to:
Illinois Board of Higher Education,
431 East Adams, Second Floor,
Springfield, Illinois 62701-1404

c) Processing

- 1) Applications, notices, and change requests submitted to the Board with insufficient fees shall be considered incomplete. The Board will notify the institution of the amount due. No further action shall be taken by the Board until the full amount due is submitted.
- 2) The Board will not accept applications from institutions that have not provided the information necessary for the Board to process a previously submitted application.

(Source: Emergency amendment at 33 Ill. Reg. _____, effective _____, for a maximum of 150 days)