

**PART 400 Eligibility of Educational Institutions**

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**§20-30.5-401 Issuance of certification**

- (a) Requirement of certification. Each educational institution that enrolls a student who is a holder of a Foreign Student Entry Permit must be certified by the Secretary before such enrollment. The Secretary may accept certification from any recognized regional or national certification authority in the United States. The certification reflects only the institution's authorization to accept foreign students who are present in the Commonwealth or seeking entry to the Commonwealth under a Foreign Student Entry Permit. The approval or denial of certification by the Secretary has no effect on the institution's accreditation by the Board of Regents or other academic or vocational accrediting authority.
- (b) Application for certification. Each educational institution seeking certification by the Secretary shall file a letter application that includes the following information:
- (1) The name and address of the educational institution;
  - (2) The name and title of the person authorized to apply for certification;
  - (3) The number of years the educational institution has operated in the Commonwealth;
  - (4) The affiliations, if any that the educational institution has with educational entities in the Commonwealth, and any accreditation by accrediting authorities within the Commonwealth;
  - (5) The affiliations, if any, that the educational institution has with educational entities outside the Commonwealth, and any accreditations by accrediting authorities outside the Commonwealth;
  - (6) The total number of students enrolled in each of the past five years;
  - (7) The total number of faculty members and administrators employed in each of the past five years;

- (8) The curriculum or program of study offered by the institution and the degrees or certifications of completion awarded by the institution, attaching supporting documentation of catalogs, bulletins, websites or other announcements as to the curriculum or program of study offered;
  - (9) The size of the physical facilities occupied by the educational institution;
  - (10) The health facilities or capabilities provided by the institution for the protection of students;
  - (11) Copies of the advertising directed at students or parents during the past year;
  - (12) The institution's legal status as a corporation, LLC, partnership, or individual proprietorship attaching supporting documentation with respect to legal status such as articles of incorporation and business license;
  - (13) The institution's tax status as for-profit or non-profit;
  - (14) A copy of audited financial statements prepared by a U.S. Certified Public Accountant within the prior 12 months;
  - (15) The name and address of the person who is the institution's agent for the service of process.
- (c) Foreign Student Education Oversight Panel. Upon receipt of an application for certification as a qualified educational institution, the Secretary shall convene and chair an oversight panel comprised of at least one representative from each of the following: the Northern Marianas College, the Department of Commerce, the Saipan Chamber of Commerce, the Public School System, and the community at large. The oversight panel will advise the Secretary with respect to the issuance of a certification for the applying educational institution. The Secretary may waive the convening of an oversight panel if the educational institution is in good standing with a nationally recognized accrediting body. The Secretary may also convene an oversight panel for an annual review of each qualified educational institution to assure that the requirements for certification continue to be met or for a special review of a qualifying educational institution that loses its accreditation by a nationally recognized accrediting body.
- (d) Statements made under penalty of perjury. Statements made in an application for certification are representations to the Commonwealth government that are made under penalty of perjury.
- (e) Issuance of certification. The Secretary's certification will be evidenced by a document naming the educational institution. Certifications remain in effect until revoked by the Secretary.
- (f) Conditional certification. The Secretary may issue conditional certifications where it is in the interest of the Commonwealth to do so. Any conditions on certification must be evidenced on the certification document.
- (g) Change of circumstance. Any material change in any of the facts presented to the Secretary in the application for certification must be reported to the Secretary within 90 days of the occurrence of the change. Changes in enrollment must be reported annually in January of each year.

**§20-30.5-405 Denial of certification**

- (a) Denial in writing. The denial of a certification shall be in writing, shall state the grounds for revocation with specificity, and shall be signed by the Secretary. The denial shall be served on the educational institution and shall become effective upon service.
- (b) Grounds for denial of certification. The grounds for denial of certification are:
  - (1) Failure to meet the requirements for the qualification of the educational institution;
  - (2) A false statement made to the Department;
  - (3) False or materially misleading statements in advertising directed at students or parents.
- (c) Notice of right to appeal. Each denial of an application shall contain a notice of the right to appeal and a reference to the section of these regulations governing appeals.

**§20-30.5-410 Revocation of certification**

- (a) Revocation of certification. The Secretary may revoke the certification of an educational institution by written notice at any time, such revocation to become effective 30 days after service of the notice on the educational institution.
- (b) Grounds for revocation. The Secretary shall state each of the grounds for revocation of certification in the written notice issued with respect to the revocation. The grounds are:
  - (1) A false statement of a material fact made in any application or supplementary documentation provided to the Department;
  - (2) A change in circumstance with respect to any material qualification of the institution or a foreign student not reported to the Department in a timely manner;
  - (3) Unhealthful or unsafe conditions at the physical facilities used by the institution or other conditions substantially detrimental to the well-being of students enrolled at the institution;
  - (4) Failure to keep records as required;
  - (5) Failure to comply with a request for inspection;
  - (6) A false or misleading statement or representation in advertising;
  - (7) A material failure to comply with the Department's regulations;
  - (8) Change of ownership without prior approval of the Secretary;

(9) Insolvency or lack of sufficient financial resources to support reasonable operations of the educational institution;

(10) Cessation of the business.

**§20-30.5-415 Record-keeping and reporting**

(a) Records with respect to foreign students. The educational institution shall maintain the following records during a foreign student's enrollment and for at least two years after termination of the student's enrollment:

- (1) Photocopy of the foreign student's passport;
- (2) Photocopy of the foreign student's entry permit;
- (3) A current address and description of the place where the student physically resides;
- (4) Date of first enrollment as a student;
- (5) Degree program and field of study;
- (6) Academic status in each term while enrolled and credits or courses completed;
- (7) Payment of tuition and fees;
- (8) Date of termination of enrollment as a student.

(b) Availability. All records maintained by the educational institution with respect to any foreign student shall be made available to the Secretary upon request.

(c) Reporting. The educational institution shall report to the Department of Commerce as follows:

- (1) Report on completion: The institution shall report within 30 days when a foreign student who has been accepted by the institution has completed the course of study for which the student was accepted. The institution shall report, in each such case, whether the student will no longer be attending the institution.
- (2) Report on enrollment: The institution shall report at the beginning of each term or session whether each foreign student who has been accepted by the institution (and as to whom no report on completion has been submitted) is still enrolled and whether the student is enrolled as a full-time or part-time status.
- (3) Report on status: The institution shall report within 30 days when a foreign student who has been accepted by the institution and is still enrolled has failed to complete a program of study within the time typically required to complete that program, and the reason for any extension of time granted by the institution to complete the program.

**§20-30.5-420 Inspections**

The Secretary or a duly authorized agent may inspect the physical premises of the educational institution and its records at any time during normal business hours upon reasonable notice to the institution.

**PART 500 Appeals**

Section 20-30.5-501 Commencing an appeal

Section 20-30.5-505 Hearings on appeal

Section 20-30.5-510 Judicial review

**§20-30.5-501 Commencing an appeal**

- (a) Commencing an appeal. An appeal is commenced by filing a notice of appeal on the standard form provided by the Department and payment of the fee required in §20-30.5-015(f) of these regulations. A notice of appeal must be filed within fifteen (15) days of service of the decision on the party who is appealing.
- (b) Content of notice. The notice of appeal shall state the reasons for the appeal and shall be supported by a statement of facts and supporting documentation setting forth the grounds for contesting the decision.

**§20-30.5-505 Hearings on appeal**

- (a) Hearing officer. The Secretary shall appoint a hearing officer to decide the appeal and prepare an opinion. The hearing officer may decide the appeal on the written submissions of the appellant and the government which shall be made on a schedule prescribed by the hearing officer. The hearing officer may order a hearing on the record, however no hearing or oral argument on an appeal is required. The hearing officer shall notify the appellant of the time and place for any hearing on the appeal and shall not schedule the hearing with less than fifteen (15) days notice or change a hearing date with less than fifteen (15) days notice.
- (b) Proceedings. In a review on appeal, the hearing officer may restrict review to the existing record, supplement the record with new evidence, or hear the matter *de novo* pursuant to 1 CMC §§9109 and 9110. Upon completion of review, the hearing officer shall affirm, reverse, or modify the findings, decision, or order of the Department. The hearing officer's decision shall constitute final agency action for purposes of judicial review.

**§20-30.5-510 Judicial review**

Judicial review of a final agency action is authorized after exhaustion of all administrative remedies and shall be initiated within thirty (30) days of the final action. Judicial review shall be pursuant to 1 CMC §9112. Appeal from a final action by the agency shall be directly to the Commonwealth Superior Court.