

SHEEO State Authorization Inventory

Kansas

Last Updated: May 2013

Please note: For purposes of this survey, the terms “authorize” and “authorization” are used generically to include approve, certify, license, regulate, recognize, empower, or similar actions relative to the operation, provision, or availability of postsecondary education in your state.

1. Agency and Contact Information

a. Agency Name: **Kansas Board of Regents**

o Description:

The Kansas Board of Regents authorizes private and out-of-state institutions to operate in Kansas by granting a Certificate of Approval that must be renewed annually.

o Contacts:

Jacqueline Johnson

Director of Private Postsecondary and Out-of-State Education

Kansas Board of Regents

1000 SW Jackson, Suite 520

Topeka, KS 66612-1368

785-296-4917

785-296-0983 (fax)

jjohnson@ksbor.org

Crystal Puderbaugh

Private Postsecondary Education Regulator

Kansas Board of Regents

785-296-2528

cpuderbaugh@ksbor.org

o Please state who institutions should contact if they have questions about your agency’s authority, policies, or application process?

Jacqueline Johnson (Director), Crystal Puderbaugh (Education Regulator), Katie Geier (Office Operations Associate) or Danielle Garretson (Office Operations Associate), Craig Haugsness (Business Analyst)

PHONE: 785-296-4917 or 785-296-1529

EMAIL: jjohnson@ksbor.org, cpuderbaugh@ksbor.org,
chaugsness@ksbor.org, kgeier@ksbor.org, or dgarretson@ksbor.org

US POST: 1000 SW Jackson Street, Suite 520, Topeka, KS 66612-1368

b. Links:

Home Page <http://www.kansasregents.org/>

Regulations http://www.kansasregents.org/private_out_of_state

Facebook <http://www.facebook.com/kansasregents>

c. The following agencies also have responsibility for authorization in the state.

Kansas Board of Cosmetology:

Chiquita C. Coggs, Executive Director

714 SW Jackson St., Suite 100

Topeka, KS 66603

Phone: (785) 296-3155, FAX (785) 296-3006

Email: kboc@kbox.state.ks.us

Website: www.accesskansas.org/kboc/

Kansas State Barber Board:

H.R. (Rocky) Vacek, Administrator

Jayhawk Tower, 700 S.W. Jackson St.

Suite 1002, Topeka KS 66603-3758

785) 296-2211 Fax (785) 368-7071

Email: barberboard@yahoo.com

d. If the division of responsibility among these agencies is not clear, please explain.

The Kansas Board of Regents has no authority over the schools governed by the Kansas Board of Cosmetology and the Kansas State Barber Board.

2. Types of Educational Providers Authorized

a. Please indicate the types of institutions that your agency authorizes, using the list below. Please answer “yes” or “no” to each item. Feel free to provide a short explanation of any ambiguity, including any necessary clarification of “in-state,” “out of state,” or other terminology.

Yes Public, in-state degree granting institutions

Yes Public, out-of-state degree granting institutions

Yes Private, in-state, not-for-profit degree granting institutions

Yes Private, out-of-state, not-for-profit degree granting institutions

Yes Private, in-state, for-profit degree granting institutions

Yes Private, out-of-state, for-profit degree granting institutions

Yes Public, in-state, non-degree granting institutions

- Yes Public, out-of-state, non-degree granting institutions
- Yes Non degree, not-for profit institutions
- Yes Non degree, for-profit institutions
- Yes Religious institutions
- No Tribally-controlled institutions

Clarifying comments:

Institutions exclusively delivering programs on property that is not jurisdictionally within or regulated by the state, such as schools located on federal military bases, or officially recognized Indian reservations, are not covered by Kansas statutes and regulations.

- b. Is an institution required to obtain approval from more than one agency to be authorized in your state (excluding purely programmatic approvals)? If so, please explain.

More than one state agency may be involved if the application for approval involves degree or certificate that falls under the authority of both agencies. For example, the Kansas Board of Regents (KBOR) is working with the Board of Cosmetology on a request for approval of an Associate Degree in Massage Therapy & Aesthetics. KBOR has no authority over the Board of Cosmetology, in terms of approving schools or programs that fall under that other Board's authority Aesthetics is such a matter. However, the massage part of the program must be reviewed by KBOR. Thus, this degree application must be reviewed by two state agencies.

- c. Is accreditation required for an institution to be authorized in your state?

Yes, for degree seeking institutions, but is not necessarily required for non-degree certificate programs.

- o If yes, please explain:

Accreditation is required for ALL Degrees offered to Kansans residing in the state of Kansas. Accreditation is not required for certificate programs (those programs requiring less than 60 semester credit hours).

- o If yes, what type of accreditation is required? Please, check all that apply as appropriate.

Accreditors approved by the USDE

- Regional
- National
- Programmatic/specialized

Clarifying comments:

The appropriate accrediting entity will depend upon the program.

- d. Does your agency authorize specific academic programs offered by institutions or only institutions themselves?

The Kansas Board of Regents approves institutions and programs. If a school is offering or providing postsecondary education to Kansans (who will remain in Kansas while receiving that education), in order to operate in Kansas, a school must first obtain a certificate of authority and that will entail approval of any programs it wishes to offer in the state. If approval of the school is granted, any new programs a school subsequently wishes to offer within Kansas must also be approved.

- e. Programs in certain areas that may require separate approval.

Education

Kansas Department of Education, Teacher Licensure
Pam Coleman, Director
(785) 296-8010
pcoleman@ksde.org
Website - <http://www.ksde.org/>

Nursing

Kansas Board of Nursing
Mary Carol Pomatto, RN, ARNP, EdD
Landon State Office Building
900 SW Jackson Street, Suite 1051
Topeka, Kansas, 66612-1230
(785) 296-4929
Website - <http://ksbn.org/index.htm>

Social Work

Website - <http://www.ksbsrb.org/>

Counseling Psychology

Website - <http://www.ksbsrb.org/>

Allied Health Professions and related programs

Health Occupations Credentialing, Kansas Department of Health and Environment
Website - <http://www.kdheks.gov/hoc/index.html>

Kansas State Board of Healing Arts,
Website - <http://www.kdheks.gov/hoc/index.html>

Others [please list]

<http://www.kansas.gov/government/agencies-associations-listing/>

3. Exemptions

- a. Are certain institutions or programs exempt by law or policy from your state authorization requirements?

Yes.

- o If yes, please describe which institutions or programs the exemption applies to and how it works? If available, please provide any pertinent web links.

The following exemptions are established by K.S.A. 74-32,164 :

- (a) An institution supported primarily by Kansas taxation from either a local or state source;
- (b) an institution or training program which offers instruction only for avocational or recreational purposes as determined by the state board of regents;
- (c) a course or courses of instruction or study, excluding degree-granting programs, sponsored by an employer for the training and preparation of its own employees, and for which no tuition or other fee is charged to the student;
- (d) a course or courses of instruction or study sponsored by a recognized trade, business or professional organization having a closed membership for the instruction of the members of the organization, and for which no tuition or other fee is charged to the student;
- (e) an institution which is otherwise regulated and approved under any other law of this state;
- (f) a course or courses of special study or instruction having a closed enrollment and financed or subsidized on a contract basis by local or state government, private industry, or any person, firm, association or agency, other than the student involved;
- (g) an institution financed or subsidized by federal or special funds which has applied to the state board for exemption from the provisions of this act and which has been declared exempt by the state board because it has found that the operation of such institution is outside the purview of this act;
- (h) the Kansas City College and Bible School, Inc.; and
- (i) any postsecondary educational institution that was granted approval to confer academic or honorary degrees by the state board of education under the provisions of K.S.A. 17-6105 prior to its repeal.

Whether one of these statutory exemptions applies is fact specific. Thus, each situation must be reviewed on a case by case basis. If a specific school qualifies as a private or out-of-state postsecondary educational institution¹ that is operating in Kansas, it must obtain a certificate of approval from Kansas in order to lawfully offer its programs within Kansas, unless there is an exception that applies. There is currently no Kansas statute allowing the Kansas Board of Regents to waive the requirements of K.S.A. 74-32,162 *et seq.* if a school is subject to its dictates.

- If yes, how does the institution or program claim an exemption? For example, is the exemption automatic as long as it meets specified criteria, does the institution or program notify the agency and the exemption is granted, is there an application process, etc.?
The institution that believes it is exempt may contact the KBOR office providing the pertinent facts and asking for a letter of exemption. If the school meets the qualifications listed above, it is given a letter noting the applicable exemption. KBOR may request updates and rescind exemption, should facts change to the contrary. Schools falling under any exception should be aware that any material change in applicable facts could require them to obtain a certificate of approval in order to lawfully operate.

- b. If an institution or program is exempt from state authorization, are there any other state requirements that an institution would need to fulfill in order to operate in your state (e.g., providing contact information, list of programs, etc.)?
Possibly. It will depend upon the nature of the school and program.

- c. Does your state constitution or do your state laws provide any exemptions for religious institutions?
No, not on that basis alone.
 - Are all religious institutions exempt (please describe)?
No.

 - Are religious institutions that award only religious degrees or certificates exempt (please describe)?
No.

 - Are certain religious institutions exempt that meet other criteria (please describe)?
Yes. There are a few religious based institutions currently operating in Kansas that have been exempted. However, this is not due to their

¹ As defined by K.S.A. 74-32,163.

religious affiliation. Rather, these schools pre-existed the statutory act, and were already operating prior to its enactment. They were thus exempted from the act because of that fact.

4. Authorization of Distance Education

- a. Does your agency require purely (100%) distance education programs, including online or correspondence study programs that enroll residents of your state, to be authorized without regard to physical presence?

Yes. If an online school is engaging in activities that indicate they are “operating” in Kansas, they will be required to obtain a certificate of authority. Lack of physical presence alone will not exempt a school from compliance with state law, if the facts indicate that the school is soliciting students in Kansas or otherwise operating in Kansas. The review to determine application of Kansas statutes to such online programs is fact specific and utilizes tests typically associated with “long-arm jurisdiction” principles. On the other hand, a purely “passive” program will not usually be subject to Kansas authority.

- b. If not, does your agency determine whether an institution must be authorized based on a physical presence or “operating” standard?

Yes. See above.

5. Physical Presence Policy – Common “Triggers”

- a. If your agency uses a physical presence standard, how does your agency define physical presence? If available, please provide a link to that policy or a citation to the relevant regulation giving that standard.

Physical presence in Kansas is determined by reviewing whether an institution has an actual “brick and mortar” location in Kansas, is conducting direct marketing to Kansas residents (e.g. radio, television, newspaper, magazine, direct mail, and/or telephone ads directed at Kansans), providing education to a number of Kansans who remain in Kansas while receiving such education, etc.

- b. Please specify whether any of the following activities would constitute a physical presence or signify “operating” in your state, assuming that the named activity is the institution’s sole activity in your state. **Please answer “yes” or “no” to each question. In addition you may provide a short explanation of any ambiguity.**

- o Permitting a student to complete an internship, externship, field experience, or clinical practicum organized by the institution?

Yes.

- Does this apply only to distance education students or more generally?
More generally.
- Permitting a student to complete an internship, externship, field experience, or clinical practicum found by the student acting independently?
Yes to all.
 - Does this apply only to distance education students or more generally?
More generally.
- Employing full-time faculty in the state to provide instruction via distance education programs to students in the state?
Yes.
 - What about adjunct faculty?
Yes.
- Employing full-time faculty in the state to provide instruction via distance education programs solely to students outside of the state?
Inside or Outside.
 - What about adjunct faculty?
Yes.
- Having a contract/agreement between the institution and in-state institutions or in-state entities to provide services for students (i.e. library, gym, computer centers, etc.)?
Yes.
- Organized, consistent, on-the-ground recruiting of students in the state by employees or agents of the institution?
Yes.
 - What if the agent is only recruiting students in the state on an occasional basis (i.e. at job fairs)?
If that was the only trigger, no, but if it was this, plus other activity, yes.

- Advertising in local media sources that are largely viewed by residents of the state?
Yes.
 - Advertising in national media sources that can be accessed by residents of the state?
No.
 - Having computer servers or other equipment located in the state?
Yes.
 - Hosting short term, face-to-face, seminars or conferences in the state where students meet in person?
It depends. If that was the only trigger, no, but if it was this, plus other activity, yes.
 - Employing mentors, tutors, or preceptors in the state to aid students, who are residents of the state, on an individual basis?
Yes.
 - Requiring a student to take a proctored exam at a location or with an entity in the state prescribed by the institution?
It depends on the totality of factors present.
 - Requiring a student to take a proctored exam with an entity in the state chosen by the student but approved by the institution?
Yes.
 - Other [please explain]
It is a collection of factors, such as how much money has your institution collected from Kansas students over the last five years. If that is a relatively significant amount, then that would be a trigger to look at.
- c. Of the activities or conditions listed above that alone would not constitute a physical presence, are there any that if combined would create a physical presence?
We cannot provide a mathematical formula because determining long-arm jurisdiction is not a science. If a school offering online education has had significant or numerous contacts with the state and its residents, it can assume that it should obtain a certificate of approval in order to lawfully operate within the state. On the other hand, if the online education is passively marketed and the number or extent of contacts with Kansas is minimal, is it less likely that the terms of K.S.A. 74-32,162 *et seq* will apply.

6. Application Process

- a. Please provide a short description of the application process to obtain state authorization. If available, please provide web links to the specific references to all applicable state laws, regulations, manuals, forms, or other pertinent documents.

<http://www.kansasregents.org/resources/PDF/828-ApplicationFormOnly.pdf>

The application process generally proceeds as follows:

- School requests application materials from the above listed contacts
 - School completes and submits the application materials and fees to the above listed contacts
 - Kansas Board of Regents staff thoroughly reviews the submitted application materials and programs are reviewed based on statutory requirements
 - When appropriate, subject matter experts may be asked to evaluate programs
 - Upon request, school supplies additional information or makes corrections to meet requirements
 - Degree programs are submitted for approval as an agenda item at a monthly Kansas Board of Regents' meeting
 - For non-degree programs, staff has authority to grant approval if all requirements have been met
 - When all the applicable requirements have been met, the school is approved to operate and issued a Certificate of Approval.
 - Site evaluations may be required
 - Yearly renewal is required and documentation must be submitted that evidences continuing compliance with statutory minimums.
- b. Generally, how long does it take to approve applications (assuming that the agency has received all required information from the institution)? Please provide a typical range if appropriate.
- After all the appropriate documentation has been provided, the approval process can take as little as four weeks, or up to several months depending on the quality of submission documentation and program evaluation requirements.
- c. What is the authorization duration?
- 1 year.
- d. What does an institution need to do to maintain authorization?
- Reapply for a Certificate of Approval and continue complying with statutorily required minimums. Yearly renewal is required virtually the same documentation and process as the initial application.

- e. What kinds of information or data must an institution report to your agency as a condition for continued authorization? How frequently is this reported or updated? Is this information published or shared publicly?

This information is required every year. More frequently if there is any significant changes (e.g. ownership of the school or loss of accreditation). The only information that is published is the name of the school, their address, phone number, website, accreditation and credentials.

(see K.S.A. 74-32,169 and K.A.R. 88-8-2)

EACH INSTITUTION MUST PROVIDE SUFFICIENT EVIDENCE THAT IT MEETS and CONTINUES TO COMPLY WITH THE FOLLOWING CRITERIA:

- a) Courses, curriculum and instruction must be of such quality, content and length as may reasonably and adequately ensure achievement of the stated objective for which the courses, curriculum or instruction are offered;
- (b) space, equipment, instructional material and personnel must be adequate to provide education and training of good quality;
- (c) educational and experience qualifications of directors, administrators and instructors are such as may reasonably insure that students will receive instruction consistent with the objectives of their program of study;
- (d) the institution must maintain written records of the previous education and training of students and applicant students, and training periods must be shortened when warranted by such previous education and training or by skill or achievement tests;
- (e) a copy of the course outline, schedule of tuition, fees and other charges, settlement policy, rules pertaining to absence, grading policy, and rules of operation and conduct must be furnished to students upon entry into class;
- (f) upon completion of training or instruction, the institution must provide students with certificates, diplomas or degrees, as appropriate, indicating satisfactory completion of the program;
- (g) the institution must keep adequate records to show attendance, satisfactory academic progress and enforcement of satisfactory standards relating to attendance, progress and conduct;
- (h) the institution must maintain compliance with all local, state and federal regulations;

(i) the institution must be financially responsible and capable of fulfilling commitments for instruction;

(j) the institution must not utilize erroneous or misleading advertising, either by actual statement, omission or intimation;

(k) the institution must have and maintain a policy, which shall be subject to state board approval, for the refund of unused portions of tuition, fees and other charges if a student enrolled by the institution fails to begin a course or withdraws or is discontinued therefrom at any time prior to completion; such policies shall take into account those costs of the institution that are not diminished by the failure of the student to enter or complete a course of instruction; and

(l) the institution must have adopted, published and adhere to a procedure for handling student complaints. Institutions shall post information so that students will be aware of the complaint process available to them; the information shall be posted in locations that are used or seen by all students on a regular basis, such as the institution's web site, enrollment agreement, catalogue or other media.

f. Can an institution lose its authorized status? If so, how?

Yes. **(see K.S.A. 74-32,172 et seq.)**

(a) The state board may revoke a certificate of approval or impose reasonable conditions upon the continued approval represented by a certificate. . .

(b) A certificate of approval may be revoked or conditioned if the state board has reasonable cause to believe that the institution is in violation of any provision of this act or of any rules and regulations adopted under this act.

g. Can a multi-institutional system or college corporation apply to your agency for authorization on behalf of all of its component institutions? If so, please describe the process.

Yes, but each branch/campus must file a separate application for a Certificate of Approval.

h. Would multi-institution public systems be treated the same as multi-location for-profit institutions?

Yes.

- i. What distinctive features in your authorization process would be useful for applicants to know (e.g., certain times during the year that you process applications for authorization, sharing of applications or information about proposed programs with institutions or other stakeholders in your state for comment)?

Each degree-granting school must be approved by our Board of Regents. They meet once a month with the exception of July and August. The school must first provide all required materials before our division can recommend that the Board grant a certificate of approval to that degree granting school.

- j. Is your agency currently planning to amend its application process by the end of 2011?

No.

- o If yes, please provide a brief description of the anticipated change.
- o If yes, when does the agency expect the change to be fully implemented?

7. Fees Associated with Authorization

- a. Is there an application fee to initiate the authorization process? If so, what is the fee or fee schedule? Please provide a web link if available.

Yes, there are fees for several different categories.

<http://www.kansasregents.org/resources/PDF/1346-88-28-6feeschangesTemp061311Finalclean.pdf>

- b. Are there any other costs associated with the state authorization process (e.g. site visits, hiring a reviewer, surety bond, tuition recovery fund, agent licensing, etc.)?

\$20,000 Bond to cover the costs of record storage etc. should the school close-

<http://www.kansasregents.org/resources/PDF/547-BondForm2009.pdf>

<http://www.kansasregents.org/resources/PDF/1346-88-28-6feeschangesTemp061311Finalclean.pdf>

- c. What are the costs, if any, to renew authorization?

<http://www.kansasregents.org/resources/PDF/1346-88-28-6feeschangesTemp061311Finalclean.pdf>

- d. What costs are associated with receiving a waiver or exemption to authorization?

None.

8. Interstate Reciprocity

- a. Do your state regulations explicitly allow or prohibit interstate reciprocal agreements about authorization? If so, please describe.
No. Current state law does not allow KBOR to waive any requirements imposed by the applicable statutes.
- b. What is the process, if any, to obtain a reciprocal agreement with your state?
The state Legislature would have to approve such agreements.
- c. Are there any reciprocal agreements currently in place or under consideration? If so, please list those agreements.
- d. If interstate reciprocal agreements are not addressed in your regulations, would your agency consider establishing such agreements? Please elaborate.

9. Consumer Protection and Student Complaints

- a. Does your agency have a process for handling complaints about postsecondary institutions or programs?

Yes.

- o If yes, please describe the process or provide a web link to the material that describes the complaint process.

The schools' complaint process should be posted at each school.

The process for filing a complaint with KBOR is discussed at http://www.kansasregents.org/private_postsecondary_complaint_procedure

and the form for filing such a complaint is posted on-line at <http://www.kansasregents.org/resources/PDF/524-ComplaintProcedureandForm.pdf>

POLICY AND PROCEDURE:

Private and out-of-state postsecondary institutions operating in Kansas must meet and maintain certain standards of quality in order to qualify for a certificate allowing them to offer or provide training or course work to Kansas citizens. It is the mutual goal of the Kansas Board of Regents and the certified institutions to provide quality educational training and

programs. When problems arise, students should make every attempt to find a fair and reasonable solution by taking the following steps:

1. Discuss the problem thoroughly with the teacher.
If there is no resolution continue to Step 2.
2. Discuss the problem with the manager or director of the school.
If there is no resolution continue to Step 3.
3. Discuss the problem with the owner of the school.
Unless the complaint involves a violation of a state or federal law that KBOR is authorized to enforce, KBOR cannot intervene or direct the school to change its decision.

If the matter concerns a possible violation of state or federal law and the school's decision is not satisfactory, the complainant may contact KBOR. We ask persons with such complaints to write to KBOR and provide the information that is asked for in our form.

Once KBOR receives this written information, KBOR staff will take the following steps:

1. The school will be notified and given an opportunity to respond. This is usually done in writing. If the matter involves laws over which KBOR has authority, we will investigate and try to resolve the issue with the school.
2. If no resolution is reached, the matter may be referred to the Consumer Protection Division of the Office of the Attorney General or other governmental agencies that may have authority over aspects of the complaint.
3. The complainant will be notified of the substance of the resolution or the failure to reach resolution.
4. If an individual does not wish to be identified or to put anything in writing, we will provide them with the phone number of the Attorney General's Office. We also remind citizens that they always have the right to seek advice from a private attorney.

- If yes, does this complaint process extend to institutions not authorized by the agency that may enroll residents of the state (such as explicitly distance education programs with no physical presence or exempt institutions)?
No.
 - If available, please provide a web link to the complaint form.
<http://www.kansasregents.org/resources/PDF/524-ComplaintProcedureandForm.pdf>
 - Who is the contact person for receiving complaints? Please include name, title, address, phone, and email if available.
Jacqueline G. Johnson
Director, Private/Out-of-State Postsecondary Education
1000 SW Jackson, Ste 520, Topeka, KS 66612
(785) 296-4917
jjohnson@ksbor.org
- b. If your agency has no formal process for handling complaints related to postsecondary institutions, what state agency would handle a complaint?

10. Enforcement

- a. If your agency finds that an institution or program is operating in your state without authorization, what is the resulting warning or enforcement action?
A letter is mailed to the institution explaining why they need to apply for a Certificate of Approval and appropriate statutes and regulations are cited. We then give the school 60 days to comply. If no attempt to comply is made within a reasonable time frame, we contact the Kansas Attorney General's office to request assistance.
- b. Can an institution or program appeal a warning or enforcement action? If yes, please describe the process or provide web links to the regulations/policies.
Yes, they may contact our office and explain why they think an approval from our office isn't necessary. We are happy to speak with representatives of schools, but also ask that official positions be put in writing so that there is an adequate record of the matter and communications.

11. Legislative or Regulatory Changes

- a. Is your agency or state legislature planning to amend its regulations or alter its physical presence policy by the end of 2013?

No.

- If yes, please provide a brief description of the anticipated change.
- If yes, when does the agency expect the change to be fully implemented?

- b. Is your agency or state legislature making changes in your state regulations or statutes so that institutions with locations in your state would be considered legally authorized in accordance with the federal institutional eligibility regulations?

No.

- If yes, please provide a brief description of the anticipated change.
- If yes, when does the agency expect the change to be fully implemented?

- c. Is your agency or state legislature making any other changes in your state regulations or statutes with regard to state authorization?

No.

- If yes, please provide a brief description of the anticipated change.
- If yes, when does the agency expect the change to be fully implemented?

12. Is there anything else about the authorization process in your state that we and others ought to know about?