

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-118—sSB 1139

Higher Education and Employment Advancement Committee

AN ACT CONCERNING CHANGES TO PROGRAM APPROVAL FOR INSTITUTIONS OF HIGHER EDUCATION AND DATA SHARED BY INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION

SUMMARY: This act makes various changes to the academic program approval process for independent higher education institutions, which is administered by the Office of Higher Education (OHE). It generally deems applications for new and modified programs approved if OHE does not require any further action from the applicant within 45 days after receiving the application, but allows OHE to exceed this deadline to conduct a focused or on-site review of an application in specified situations. The act establishes nine-member academic review commissions to review and adjudicate appeals of licensure or accreditation denials.

Under prior law, the State Board of Education (SBE) gave final approval to OHE's approvals concerning licensure and accreditation of independent higher education institutions and programs. SBE also held hearings requested by certain parties aggrieved by an OHE decision. The act eliminates SBE's role, thus making OHE's approval the final step in the review process and requiring it to hold the hearings requested by aggrieved parties (§§ 1-3, 7-22).

The act eliminates a requirement that the Board of Regents for Higher Education (BOR) approve UConn's new and modified degree programs, thus making the UConn Board of Trustees the final approving authority for these programs. It appears that this change may make several state statutes inapplicable to UConn in the future. The act requires both UConn and BOR to notify OHE of their new and modified degree programs.

The act eliminates (1) a provision allowing OHE to establish a council on accreditation to advise it on existing or proposed regulations; (2) a requirement that an evaluation of a program or institution be completed by SBE-appointed competent educators before a new license or accreditation is granted; and (3) an obsolete provision that allowed an existing institution to be issued a temporary, annually renewable one-year license.

EFFECTIVE DATE: July 1, 2013

§ 1 — REVIEW PROCESS AND STANDARDS

The act makes various changes to the academic program approval process for independent higher education institutions. By law, any independent higher education institution seeking to operate in Connecticut or offer a new degree program must receive approval from OHE (and, under prior law, final approval by SBE). A program can be licensed or simultaneously licensed and accredited. A

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license allows the program to begin operations and admit students, but not to grant degrees. In order to grant degrees, a licensed program must attain accreditation.

Under prior law, the institution had to follow a process outlined in OHE regulations that generally included (1) a planning assessment to evaluate the need for the program and the adequacy of resources; (2) a quality assessment, which is based on either a review of written material or a site visit, and which may be concurrent with the planning assessment; (3) review by the Advisory Committee on Accreditation; and (4) review and action by SBE (Conn. Agencies Reg., § 10a-34-4).

The act eliminates SBE's role in this process (thus making OHE the final approving authority) and creates new review standards for program modifications, nonsubstantive changes, licensure, and accreditation.

OHE Review

With certain exceptions noted below, the act deems approved all applications for program modifications, nonsubstantive changes, licensure, and accreditation if 45 days (beginning from when OHE receives the application) pass without the need for further action. It requires OHE to consider academic standards established in existing regulations (e.g., faculty and curriculum requirements) when reviewing these applications, but only the program modifications must meet these standards to be deemed approved. The act requires OHE to notify the institution of the approval within 45 days after receiving the application.

Under the act, a "program modification" is a change that does not clearly qualify as a new program or nonsubstantive change, such as (1) a new program consisting primarily of coursework from a previously approved program, (2) an approved program to be offered off-campus, (3) a change in a degree title, or (4) a change in a program title.

A "nonsubstantive change" is a new (1) undergraduate certificate program, within an existing program of higher learning, of 30 or fewer semester hours that falls under an approved program; (2) baccalaureate minor of 18 or fewer semester credit hours; or (3) option or certificate program of (a) 15 or fewer semester credit hours at the undergraduate level or (b) 12 or fewer semester credit hours at the graduate level.

The act's (1) requirements to deem approved nonsubstantive changes and program modifications and (2) definitions of these terms are generally similar to those contained in OHE's previous regulations (see BACKGROUND).

Focused and On-Site Reviews. The act specifies exceptions to the requirement that applications be deemed approved within 45 days after receipt by OHE by mandating or allowing focused or onsite reviews in certain situations. It defines a "focused review" as one by an out-of-state curriculum expert and an "on-site review" as a full team evaluation by OHE at the higher education institution. It allows the applicant to state any objection regarding an individual chosen to review an application on behalf of the OHE executive director.

The act requires the OHE executive director or a designee to conduct a focused or on-site review of an application if the director or designee determines

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that it is needed due at least in part to the applicant offering instruction in a new degree program or a new degree level. The act also allows the OHE executive director or designee to require a focused or on-site review of any application in a health-related field where a license to practice in Connecticut is required. It is unclear if focused or on-site reviews can be conducted for other reasons (e.g., for a new certificate program that is not within an existing program).

Additionally, the act requires an on-site review of a new institution once OHE determines that its licensure application is complete. Each program must be reviewed at the institutional level, and OHE's decisions can be appealed to an academic review commission (see below). OHE must complete the review process for a new institution within nine months after receiving the application.

Accreditation by Another Entity

Under prior law, institutions that are regionally or nationally accredited had to have that accreditation accepted as satisfying the state's requirements unless SBE (changed by the act to OHE) found cause not to rely on it. The act specifies that the requirement to accept national accreditation applies only to those institutions accredited before July 1, 2013. It also allows OHE to deem accredited any program for which evidence of programmatic accreditation is presented (e.g., accreditation by a professional association).

Academic Review Commissions

The act allows institutions to appeal any denial of a licensure or accreditation application to a nine-member academic review commission. They must do so within 10 days after the denial.

The OHE executive director or a designee must select a review commission for each individual appeal. Under the act, the commissions must be selected from a 25-member panel composed of five appointments each by the governor and the House and Senate majority and minority leaders. (PA 13-261 increases the panel's size to 35 members by adding five appointments each by the House speaker and Senate president pro tempore.) Each appointing authority must select representatives from both higher education and business and industry, but no more than three from either category. The act does not establish a term length for the appointees but, under existing law, it appears that they would serve at the pleasure of the appointing authority, but no later than the appointing authority's term of office (CGS § 4-1a).

Each commission must have (1) one representative from each appointing authority and (2) a total of five business and industry representatives and four higher education representatives. It has 30 days from the date of an appeal to review and adjudicate it.

§§ 4-6 — PUBLIC INSTITUTION PROGRAM APPROVAL

The act eliminates a requirement that BOR approve UConn's new and modified degree programs, thus making the UConn Board of Trustees the final approving authority for these programs. It similarly eliminates BOR's authority to

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assess UConn for violations of program approval and licensure and accreditation requirements. The act requires both UConn and BOR to notify OHE of their new and modified degree programs. Under existing law, BOR approves degree programs for the Connecticut State University System, regional community-technical colleges, and Charter Oak State College.

It appears that this change may make various provisions in state law inapplicable to UConn in the future. Under prior law, BOR licensed and accredited all public institutions in the state, including UConn. The act eliminates BOR's licensure and accreditation of UConn, but there are several statutes that apply specifically to institutions accredited by BOR or SBE (changed by the act to OHE). Because, under the act, UConn appears to fall into neither category, it is unclear if these statutes would apply to UConn once its current accreditation expires. (UConn was most recently accredited by the former Department of Higher Education (now OHE), and so it would remain covered by the statutes until this accreditation expires.)

These statutes include, among other things, (1) eligibility for a teacher incentive loan program (§ 18), (2) a provision that exempts training programs from the definition of services under the sales tax (§ 19), and (3) eligibility for university (a) beer and (b) wine and beer permits (but not a university liquor permit) (§ 22).

§ 23 — LIABILITY WAIVER

The act exempts from liability any independent higher education institution that provides to certain entities, upon request, student data or records containing information that is confidential under federal or state law. These entities are any local or regional board of education or any state agency or department, and the disclosure must have been made in accordance with federal or state law and pursuant to a written agreement.

The exemption applies to any breach of confidentiality, use, retention, or destruction of the student data or records resulting from an act or omission of the board, department, agency, or any person providing access to the data or records obtained by these entities. The act specifies that the data and records include personally identifiable information as defined in the 1974 federal Family Educational Rights and Privacy Act's implementing regulations.

BACKGROUND

Nonsubstantive Changes and Program Modifications

The act's requirements to deem approved nonsubstantive changes and program modifications are generally similar to OHE's previous regulations. Under these regulations, nonsubstantive changes did not require prior approval; they were reported to OHE for informational purposes only. The regulations also required that program modifications be submitted to OHE and, within 45 days, either (1) deemed approved by OHE, (2) submitted to SBE for an approval decision, or (3) subjected to a full review by OHE (Conn. Agencies Reg., § 10a-34-3).

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Additionally, the act's definitions of "nonsubstantive change" and "program modification" are nearly identical to definitions of these terms in OHE's regulations (Conn. Agencies Reg., § 10a-34-2).

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