



**RHODE ISLAND BOARD OF GOVERNORS
FOR HIGHER EDUCATION**

**REGULATIONS GOVERNING PROPRIETARY SCHOOLS
IN RHODE ISLAND**

Rhode Island Office of Higher Education
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PREFACE: RIBGHE REGULATIONS AND REGULATORY HISTORY

Assistance to postsecondary institutions seeking to initiate new programs, to modify existing programs, or to remain in operation in Rhode Island appears in three documents:

1. *Regulations Governing Institutions of Higher Education Operating in Rhode Island.* These regulations pertain to all programs of any level offered by degree-granting institutions outside of the Rhode Island system of public higher education and to institutions offering only certificate programs at the post-associate level or above. With one statutory exception, for-profit institutions may not offer degrees in Rhode Island.
2. *Regulations Governing Academic Changes in Rhode Island Public Institutions of Higher Education.* These regulations pertain to the institutions in the Rhode Island system of public higher education.
3. *Regulations Governing Proprietary Schools in Rhode Island.* These regulations pertain to schools operated on a for-profit or on a non-profit basis (i.e., organizations, associations, corporations, partnerships, or sole proprietorships) that grant awards only at the pre-associate certificate level

The *Regulations Governing Proprietary Schools in Rhode Island* apply to all schools operated, on a for-profit or a non-profit basis, for the purpose of providing training for business, trade, technical, industrial or other occupation that seek approval to offer courses, programs, pre-associate certificates or diplomas in Rhode Island.

The original standards, *Standards for Approval of Proprietary Schools*, were adopted by the Board of Regents for Education on February 15, 1973, and became the responsibility of the Board of Governors for Higher Education as of July 1, 1981. Periodically, the RIBGHE has reviewed and amended these regulations. The dates of all amendments to these regulations are listed below.

Adopted:	02/15/73 (BR)	07/01/81 (BG)
Amended:	12/10/85 (BG)	09/24/02 (BG)
	06/16/88 (BG)	08/19/03 (BG)
	03/19/92 (BG)	10/25/04 (BG)
	02/03/93 (BG)	12/06/04 (BG)
	12/01/94 (BG)	01/23/06 (BG)
	01/18/96 (BG)	06/30/08 (BG)

REGULATIONS GOVERNING PROPRIETARY SCHOOLS IN RHODE ISLAND

SECTION I: TYPES OF APPROVAL AND DEFINITIONS

This document describes the policies and procedures that govern the establishment and operation of proprietary schools in Rhode Island. The source of authority of the Board of Governors for Higher Education to regulate proprietary schools is found in Title 16, Chapter 40, of the General Laws of Rhode Island, which can be found at www.rilin.state.ri.us/Statutes/TITLE16/16-40/INDEX.HTM.

The information that follows is for those seeking approval to establish and to operate proprietary schools in Rhode Island. Included are the procedures for applying for initial approval and annual approval and a description of the standards that must be maintained.

Schools operating without a Certificate of Approval shall be prosecuted, civilly and/or criminally, to the full extent of the law.

Throughout this document the Board of Governors for Higher Education may be referred to as the Board of Governors or the RIBGHE and the Rhode Island Office of Higher Education as the RIOHE. In addition, a proprietary school may be referred to as a school.

TYPES OF APPROVAL

Any proprietary school wishing to operate in Rhode Island must first obtain a Certificate of Approval from the Board of Governors for Higher Education; renewal of this approval must be obtained annually. In *Section III*, subsections on *Pre-Application Assessment of Financial Condition* and *Initial Approval* outline the procedures that must be successfully completed for a school to begin operation. The subsection on *Renewal of Annual Approval* describes the procedures that must be followed to obtain annual renewal and the circumstances under which the commissioner of higher education may grant conditional approval to a school. *Section IV: Standards for the Operation of Proprietary Schools* lists the standards that schools must maintain in order to operate in Rhode Island.

Initial approval is the approval that must be obtained before a school may begin any advertising or operation in Rhode Island. (See *Definitions of advertising and operation* below.) Initial approval by the Board of Governors enables the school to operate for a period of not more than one year and is not renewable. (Refer to instructions on *Pre-Application Assessment of Financial Condition* and *Initial Approval* in *Section III*.)

Conditional approval is a discretionary temporary approval of less than one year that may be granted by the commissioner (only if initial approval has been previously granted) in the event that there are reservations concerning the ability of a school to meet the criteria specified in these regulations. Under these conditions, approval for a time period of less than a year may be granted so that either current students may complete their programs (in the case of a school closing), or the school may remedy other difficulties it is having in complying with these regulations.

Annual approval is the approval that follows initial or conditional approval if the commissioner is satisfied that the school has met the criteria specified in these regulations. Annual approval is in effect from September 1st through August 31st each year and, as the name indicates, must be renewed annually, subject to the procedures outlined in these regulations. (Refer to instructions on *Renewal of Annual Approval* in *Section III*.)

DEFINITIONS

Advertising: An act designed to call attention to a school or program for the purpose of soliciting or encouraging enrollment.

Avocational: Programs or courses in personal interest, personal development, leisure and recreational categories that do not: 1) lead to a formal academic award or degree, 2) produce credits that apply to a formal academic award or degree, or 3) result in the development of occupationally specific skills. Among the programs and courses commonly deemed to be avocational are: personal image enhancement; personal fitness and nutrition programs; music, dancing, public speaking or sports programs (except those offered for credit by an institution of higher education or specifically designed to develop occupational skills); relaxation therapy programs; martial arts programs; and training for the purpose of obtaining a personal driver's license or private pilot's license.

Chief administrator: The chief administrator of a school is the individual who is ultimately responsible for all activities of the school and activities conducted in the name of the school. The chief administrator's duties include responsibility for the instructional program, the organization of classes, the maintenance of the school facility, the maintenance of proper administrative records, compliance with all federal, state and local laws, and compliance with all applicable rules and regulations of the Board of Governors and all other procedures related to the administration of the school.

Correspondence school: A correspondence school means a [postsecondary] school that teaches resident and nonresident students by mailing them lessons and exercises toward the achievement of some educational aim. Upon completion, the lessons and exercises are returned to the school for grading. (Definition paraphrased from 2001 Enactment: 16-50-2.)

Course: A portion of a program covering particular subject matter.

Developmental courses and programs: Non-credit or excess credit courses or programs in the general competencies (typically in reading, writing, mathematics or study skills) necessary to perform in a regular postsecondary curriculum and educational setting.

Entity: Any organization of any type which has a legal identity apart from its members or which is recognized under the laws of either Rhode Island or the state in which the entity is organized.

Home study course: A home study course means a [postsecondary] course of instruction administered by mail and carried on in the student's home. (Definition paraphrased from 2001 Enactment: 16-50-2.)

Instructor: A person who provides academic, vocational or occupational instruction to students.

Operate or Operating: Operating a proprietary school includes three main activities: 1) establishing or maintaining within the borders of state of Rhode Island a facility or location where instruction, student services or educational program administration are provided or postsecondary educational credentials are granted to persons in the state or to persons outside of the state; 2) contracting with any person, group, or entity to operate such an institution; or 3) the activities of persons owning an interest in, employed by, or representing for remuneration a postsecondary educational institution in or outside the state who, by solicitation made in the state: a) give counsel to, enroll or seek to enroll students for education offered by the institution; b) offer to award educational credentials for remuneration on behalf of the institution; or c) hold themselves out to persons in the state as representing a postsecondary educational institution for any purpose.

Owner of a School: In the case of a school owned by an individual, that individual; in the case of a school owned by a partnership, all general and limited partners; and in the case of an incorporated school or a school owned by a corporation or by any other entity or entities, the corporation itself, each shareholder owning shares aggregating at least 10 percent of the total of the issued and outstanding shares, and/or each person owning a 10 percent or greater interest in the entity or entities.

Person: Any person or entity including, but not limited, to any individual, corporation, partnership, limited liability company, joint venture, trust, trustee (in such capacity) or unincorporated organization, or a government or any agency or political subdivision thereof (other than the RIBGHE).

Program: A group of courses organized to develop a set of specific knowledge and skills needed for a particular business, trade, technical or industrial occupation.

Proprietary School or School: Any organization, association, corporation, partnership, limited liability corporation (L.L.C.), sole proprietorship, or any other entity operated on a for-profit or on a non-profit basis that operates or seeks to operate to provide instruction or training for a business, trade, technical, industrial or other occupation, and that is not specifically exempted under these regulations. Proprietary schools grant no awards above the pre-associate certificate level.

Student: Any person who contracts to pay for and/or undertakes any program or course in a school, regardless of the person paying for the program or course.

SECTION II: GENERAL PROVISIONS FOR PROPRIETARY SCHOOLS AND EXEMPTIONS

GENERAL PROVISIONS

To operate as a proprietary school in Rhode Island, the following general provisions must be observed.

- Initial approval from the Board of Governors for Higher Education must be secured prior to advertising, soliciting for, or operating any school in Rhode Island. (The single exception is that prospective teachers may be recruited and interviewed for an “anticipated opening” as long as they are informed they cannot be guaranteed employment prior to the RIBGHE’s approval of the school.)
- Annual approval for all schools will expire each year on August 31, and, therefore, an annual application for renewal must be made no later than August 1.
- The operation of a school must be separate and independent from any other business enterprise.
- No school may use the word “college” or “university” in its title.
- If a school is purchased or otherwise comes under different ownership, the approval is not necessarily transferable to the new owners. (Refer to the section on *Approval of Substantive Changes in Section III.*)

EXEMPTIONS

The following types of schools, programs, and/or courses are exempt from these regulations. Exemptions are not automatic, and providers are required to apply for either approved or exempt status. The commissioner will determine if a school, program, and/or course qualifies for an exemption. Explanations for adverse determinations will be provided in writing by RIOHE. The following are eligible for consideration as exemptions:

- Schools approved under other regulations established by the Rhode Island Board of Governors for Higher Education or the Rhode Island Board of Regents for Elementary and Secondary Education.
- Schools recognized by the Rhode Island Department of Elementary and Secondary Education as exempt under the provisions of 16-40-14 of the General Laws, 1956, as amended.
- Schools, programs, or courses operated by a governmental agency.
- Driver training schools licensed by the Rhode Island Registry of Motor Vehicles.
- Flight schools holding an applicable current Federal Air Agency Certificate issued by the Federal Aviation Agency.

- Health-related programs or courses offered by non-profit hospitals in Rhode Island that are accredited by the appropriate professional medically related accrediting agency recognized by the U.S. Secretary of Education.
- Emergency medical technician (EMT) programs based on the U.S. Department of Transportation's curriculum guidelines and approved by the Rhode Island Department of Health.
- Programs and/or training leading to occupations regulated by the Rhode Island Department of Health's Office of Health Professions Regulation for which there is no specific course or curriculum requirement for licensing but which require the demonstration of certain techniques and skills via inspection (e.g., tattooing).
- Schools, programs, or courses offering instruction exclusively in avocational, recreational, or developmental subjects.
- Employment-related training for which no tuition is charged to the student.
- Programs or courses offered for the sole purpose of preparing a person to take a professional licensure examination, such as a bar exam preparation course for a recent law school graduate. Programs or courses that prepare students for specialized certification (such as Microsoft certification) are not exempt.
- Programs or courses offered primarily to meet continuing education standards required for professional licensure as defined by law or regulation in this state and for which no college-level credit is awarded.
- Short courses of study that are no more than 100 hours or 20 days in duration and for which students are charged no more than \$1,000. An exempted short course of study is further identified as one that: 1) results in its own certificate or credential and is not part of a sequence of classes for which the enrolling organization awards any program credential or certificate, 2) does not include an opportunity or a requirement that students register for or make a financial commitment to a longer program in addition to the individual class, and 3) is not advertised as leading to any professional credential or certification unless the entity that awards the credential or certification [e.g., Microsoft or Novell] indicates that the time needed to earn the credential or certification is 100 hours or less.
- Computer training offered at no additional charge with the purchase of hardware or software to the purchaser or to the purchaser's employee, as long as the seller is not primarily engaged in the business of providing instruction.
- Testing centers that provide examination scheduling, registration, administration, grading and results reporting only, as long as no additional instructional, student or administrative services are provided by the testing center within the borders of Rhode Island. Institutions located outside the borders of Rhode Island may use testing centers located in Rhode Island, as long as the institution does not seek to undertake any other form of operation in the state (refer to definition of *operate*).

- Individual instructors located within the borders of Rhode Island who provide instruction by distance learning under the auspices of an institution located outside of the state, as long as no additional on-ground instructional services or any (i.e., on-ground or at-a-distance) student or administrative services are provided within Rhode Island by the instructor. Institutions located outside the borders of Rhode Island may use individual instructors located in Rhode Island to provide instruction by distance learning, as long as the institution does not seek to undertake any other form of operation in the state (refer to definition of *operate*). Representatives of institutions that are regionally (e.g., New England Association of Schools and Colleges) or nationally (e.g., Accrediting Council for Independent Colleges and Schools, Accrediting Commission of the Distance Education and Training Council) accredited are allowed to disseminate information about their programs within Rhode Island as long as they collect no fees and enroll no students.

SECTION III: APPROVAL PROCEDURES FOR PROPRIETARY SCHOOLS

The Board of Governors for Higher Education has the authority to approve or deny the request for authorization to operate a proprietary school in Rhode Island. Securing and maintaining approval to operate a proprietary school involves a pre-application process, an initial approval application process and the annual renewal of approval. The commissioner must approve any waivers or deviations from the requirements for these processes, in advance and in writing. Informal consultation with RIOHE staff is encouraged throughout each of these processes.

PRE-APPLICATION ASSESSMENT OF FINANCIAL CONDITION (See www.ribghe.org/propreg.htm for checklist and materials.)

Before accepting a completed application for initial approval, RIOHE will make an assessment of the financial condition of all proposed schools. As much of the following information as possible should be submitted so that the evaluation can be made:

1. Organizational documents for the proposed school and for any entity which is an owner of the proposed school;
2. A current business plan for the proposed school;
3. Contact information for the proposed school's bank, lawyer and auditor/accountant as well as the necessary authorizations granting each of the above permission to discuss with RIOHE matters relating to the applicant;
4. The latest audited financial statements for the proposed school and for any entity which is an owner of the proposed school;
5. Personal financial statements for the individual owners of the proposed school;
6. Current annual tax return for the proposed school and for each owner of the proposed school;

7. Opening projected balance sheet including how much money the owners will contribute as equity and the nature thereof;
8. Projected income statement for the first year of operation, which includes all the detailed assumptions regarding revenue and expenses;
9. Projected balance sheet at the end of the first fiscal year;
10. Projected statement of cash flow at the end of the first fiscal year.

RIOHE may request additional information, as needed, to assess adequately the financial stability of the proposed school before making a decision. After reviewing the materials, RIOHE will advise the proposed school if there appears to be sufficient financial capacity to warrant going forward with the initial approval process.

INITIAL APPROVAL (See www.ribghe.org/propreg.htm for checklist and application materials.)

A school seeking a certificate of approval from the Board of Governors to operate as a proprietary school in Rhode Island must observe the following procedures and must satisfactorily meet the *Standards for the Operation of Proprietary Schools* as set forth in *Section IV* of this document. The procedures are as follows:

1. Complete the pre-application process described above and receive authorization from RIOHE to apply for initial approval.
2. Make written application to the commissioner at least six months prior to the intended date on which operation will commence.
3. Submit a non-refundable application fee of \$1,000.00 payable to the Rhode Island Board of Governors for Higher Education.
4. First, submit the required bond calculation as outlined in Standard 10.4c of these regulations. Once determination of an appropriate bond amount is made by the commissioner, submit a bond with corporate surety payable to the Rhode Island Board of Governors for Higher Education. (Refer to *Standard 10.4* for information on how bonding levels are determined.)
5. Submit a completed *Application for Initial Approval* and copies of the supporting documents listed below. (Application forms can be downloaded from www.ribghe.org/propreg.htm.) [Note: Documents requested below that were submitted in the pre-application process need not be re-submitted if there has been no change. However, potential schools may be asked to resubmit documents if they are not considered current by RIOHE staff.] The following materials are to be supplied:
 - a. completed and notarized anti-discrimination compliance agreement;
 - b. names and titles of office holders and copies of organizational documents for the proposed school and for any entity which is an owner of the proposed school;
 - c. copies of written policies pertaining to conflicts of interest;

- d. at least three letters of reference attesting to the good character and other qualifications of the officers and chief administrator (see *Standard 1: Owner, Officers and Personnel* for information on the type of letters required);
- e. personnel information for the proposed school chief administrator and all instructors;
- f. proposed catalogs, circulars, application forms and student enrollment agreement forms (see *Standard 14: School Catalogs and Related Materials*, which lists the items to be included in these materials; refer to *Standards 1-13* for descriptions of the content expected for each item);
- g. schedule of proposed tuitions and fees;
- h. proposed calendar for a complete year, showing semesters or terms, normal enrollment dates, vacation periods and holidays;
- i. proposed curriculum for each program, showing content of courses to be taught and types of knowledge and skills to be learned;
- j. proposed certificate or diploma formats to be used;
- k. proposed forms to be used for record maintenance purposes;
- l. proposed advertising and other promotional materials;
- m. business plan for the school;
- n. the latest audited financial statements for the school and financial projections for the period of the school's initial business plan prepared by a certified public accountant or a licensed public accountant; the financial statements must be accompanied by a notarized statement signed by the owner (or in the case of a corporation or other entity its authorized fiscal representative) indicating that the financial information is true and correct (see financial statements notarization form at www.ribghe.org/propreg.htm).
- o. audited financial statements for the owners prepared by a certified public accountant or a licensed public accountant;
- p. current annual tax return for the school and for each owner of the school;
- q. copies of any lease agreements pertaining to instructional or other physical facilities (see *Guidelines for Lease Agreements* at www.ribghe.org/propreg.htm);
- r. certification from the deputy fire marshal and local building inspector and state health department that the school plant adheres to the regulations as established by these agencies. However, note that certification of cosmetology/hairdressing schools by the state health department may be waived if the proprietary school requests, but the health department does not perform, an inspection of a cosmetology/hairdressing school during a given year. In any event, the cosmetology/hairdressing school must comply with all state health related laws and regulations.

- s. letter from the State Building Commission certifying compliance with and accessibility under the Americans with Disabilities Act (ADA) and all applicable federal and state statutes;
 - t. a statement concerning any accreditation or approval granted the school by a recognized agency or association;
 - u. during the initial approval application phase, a school must show evidence of initial collaboration with one or more currently approved institutions to create a teach-out plan. Six months after initial approval has been granted, the school must submit a final copy of the teach-out plan signed by authorized representatives of the schools (i.e., director(s) and owner(s), to RIOHE for approval (refer to *Standard 13* for information on teach-out plans).
 - v. Domestic business corporations must submit current copies of their Articles of Incorporation filed with the Rhode Island Office of the Secretary of State. Foreign business corporations must submit a current copy of their Certificate of Authority filed with the Rhode Island Office of the Secretary of State.
 - w. any other materials that the commissioner deems appropriate to the approval process. Note: correspondence schools should consult with RIOHE staff regarding items related to the school's facilities since some of these items may not be applicable unless the school offers a combination of at-home and on-campus study and/or requires the students to access services at an in-state location. However, correspondence schools will be required to provide additional information regarding matters such as agents and permission to engage in solicitation. Applicants should complete relevant forms identified as "for correspondence schools only." See www.ribghe.org/propreg.htm for relevant forms.
6. Submit payment to external consultants, if necessary. Note: If deemed appropriate, external consultants may be selected by the RIOHE in consultation with the school to review the proposal either in whole or in part. The amount of the stipends to the consultants will be mutually agreed upon in advance and will be paid by the school at the conclusion of the review.
 7. The applicant will be notified by RIOHE in writing of any deficiencies in the application.
 8. When the application is completed, RIOHE staff will arrange a site visit to inspect all proposed physical facilities.
 9. Upon completion of the review, RIOHE staff will present the results to the Academic and Student Affairs Committee of the Board of Governors.
 10. The commissioner, acting upon the endorsement of the Academic and Student Affairs Committee and the recommendation of RIOHE's staff, will submit a recommendation for action to the Board of Governors at a regular RIBGHE meeting.
 11. The Board of Governors must approve all initial applications prior to commencement of operations.

RENEWAL OF ANNUAL APPROVAL (See www.ribghe.org/propreg.htm for checklist and application materials.)

A school seeking renewal of annual approval must be in operation and must make application to RIOHE at least 30 days prior to the expiration date of the approval (August 31). The renewal application forms will be supplied to approved schools by RIOHE. Renewal forms may also be downloaded from www.ribghe.org/propreg.htm. Any school making application for annual renewal of the Certificate of Approval shall submit the following materials:

1. Completed annual application form.
2. Completed and notarized anti-discrimination compliance agreement.
3. A renewal fee of \$100.00 in the form of a nonrefundable check or money order payable to the Rhode Island Board of Governors for Higher Education.
4. Current financial statements (prepared by a certified public accountant or a licensed public accountant) accompanied by a notarized statement signed by the owner, indicating that the information is true and correct. Audited financial statements must be supplied annually by schools that participate in the federal Title IV student financial aid programs. Audited financial statements may be required more frequently than stipulated in *Standard 10.2* if there are questions regarding the financial stability of a school.
5. Evidence of continued bonding through the upcoming year. No bond shall have an expiration date that falls between September 1 and November 30. Bonding requirements are described in *Standard 10.4*.
6. Certification from the deputy fire marshal, local building inspector and state health department that the school adheres to the regulations as established by these agencies. New certifications should be sought well in advance of the lapsing of current certifications. However, note that certification of cosmetology/hairdressing schools by the state health department may be waived if the proprietary school requests, but the health department does not perform, an inspection of a cosmetology/hairdressing school during a given year. In any event, the cosmetology/hairdressing school must comply with all state health related laws and regulations.
7. Updated school calendar.
8. Program enrollment and completions summary. *Note:* Rather than submitting these data as part of the annual renewal package, accredited schools may supply annual enrollment and completions data consistent with the requirements of and concurrently with the submission of these data to their accrediting agencies.
9. Information on the most recently available pass rate of the school's graduates on any licensure or certification examinations required by Rhode Island for employment in the field for which the school provides training. *Note:* Rather than submitting these data as part of the annual renewal package, accredited schools may supply annual pass-rate

data consistent with the requirements of and concurrently with the submission of these data to their accrediting agencies.

10. Recent data regarding the placement rates for the school's graduates in occupations related to their courses of study. *Note:* Rather than submitting these data as part of the annual renewal package, accredited schools may supply annual placement rate data consistent with the requirements of and concurrently with the submission of these data to their accrediting agencies.
11. Statement regarding school accreditation status.
12. One copy of the current student enrollment agreement.
13. Two copies of the current school catalog.
14. Updated approval information form (supplied by RIOHE with the renewal packet). *Note* that many changes are subject to prior approval (see section on *Prior Approval for Changes* below).
15. Any other materials that the commissioner deems appropriate. For example, at the discretion of the commissioner, current tax returns for the school and for each owner of the school may be requested if it is determined that the school is financially unstable.

Note: correspondence schools should consult with RIOHE staff regarding items related to the school's facilities since some of these items may not be applicable unless the school is offering a combination of at-home and on-campus study and/or requires the students to access services at an in-state location. However, correspondence schools will be required to provide additional information regarding matters such as agents and permission to engage in solicitation. Applicants should complete relevant forms identified as "for correspondence schools only." See www.ribghe.org/propreg.htm for relevant forms.

The commissioner has the authority to approve the request for annual renewal. In the event that the commissioner has reservations concerning the ability of a school to continue to meet the RIBGHE's standards, the commissioner has the discretion to grant the school conditional approval for a period of less than one year. The granting of conditional approval shall be reported to the Board of Governors at the next regularly scheduled RIBGHE meeting. During the period of conditional approval, the school will be monitored to ascertain that the standards are being adequately met, may be required to submit audited financial statements and other materials, and may be restricted from admitting any new students.

Any school that fails to follow the procedures for renewal of annual approval will be subject to the procedures outlined in the section on *Administrative Penalties and Revocation of Approval* (see below).

PRIOR APPROVAL FOR CHANGES

Approval must be secured by the school from RIOHE, before the following types of changes in practice are made.

- Changes in catalogs, bulletins, circulars, application forms, and student enrollment agreement forms must be approved prior to distribution. (*Note: Advertising and other promotional materials must be submitted either in advance of or concurrently with their submission to the media or distribution to students or prospective students [see [Standard 7.1](#)].*)
- Changes in chief administrators or instructional staff must be approved prior to implementation. (*Note: If unanticipated circumstances require immediate staff procurement, approval must be sought as soon as practicable and no later than immediately after the change takes place [see www.ribghe.org/propreg.htm for personnel information forms].*)
- Changes in existing programs and implementation of a new program or course must have prior approval. If deemed appropriate, external consultants may be selected by RIOHE in consultation with the school to review the proposed program change. The amount of the stipends to the consultants will be mutually agreed upon in advance and will be paid by the school at the conclusion of the review. The application must be submitted for approval at least 30 days prior to the intended change; additional time may be required if the new program constitutes a substantive change (see *Approval of Substantive Changes* below). Further, additional time should be allowed if evidence of RIOHE approval of a new program must be secured prior to gaining approval from the school's accrediting body. (See www.ribghe.org/propreg.htm for program information forms.)
- A change in the mode of delivery of a program must have prior approval. For example, the offering or receiving of any portion of a previously approved program by way of distance learning constitutes a change in mode of delivery and must have prior approval; the agreement with the provider or receiver of the distance learning courses or programs must also be submitted for approval. (Refer to www.ribghe.org/propreg.htm for *Guidelines for Distance Learning*.)
- Changes in physical location of the school plant, including the addition of new instructional or administrative space must have prior approval. All required certifications (fire, building, health and ADA, if necessary) must be secured, copies of any lease agreements must be submitted, and a site visit by RIOHE staff must be completed before approval will be granted. (See www.ribghe.org/propreg.htm for *Guidelines for Lease Agreements* and for fire, building and health certification forms.)

If approval for any of these types of changes is denied, the school may appeal the staff decision to the commissioner. (Refer to the section of these regulations on *Administrative Penalties and Revocation of Approval* for a discussion of actions that may be taken against schools that fail to seek prior approval for changes.)

APPROVAL OF SUBSTANTIVE CHANGES

Educational institutions are constantly changing. Most changes, such as those listed in the previous section, fall within the scope of institutional purpose and do not alter the nature of the institution. Other changes, however, can affect a school significantly by altering the control, mission, purpose, programs and/or allocation of resources. Changes that are of a substantive type require formal prior review by the Rhode Island Office of Higher Education and may require prior approval of the Board of Governors.

Substantive changes may include, but are not limited to, the following:

1. Changes in ownership. When a school is purchased or otherwise experiences a change in ownership, the approval is not necessarily transferable to the new owners. The prospective owners must comply with the requirements for securing initial approval in the following cases: 1) when a school owned by an individual is sold, 2) when any of the general partners in a partnership change, or 3) in the case of an incorporated school or a school owned by a corporation or by any other entity or entities, when ownership of 50 percent or more of the school changes. Application and information pertinent to a change in ownership should be submitted 90 days before the change is effective. Potential owners should be aware that the Board of Governors must approve a change in ownership at one of its regularly scheduled RIBGHE meetings. Purchase and sales agreements should state that the sale of the school is contingent upon the approval of the Rhode Island Board of Governors for Higher Education.

In the case of an incorporated school or a school owned by a corporation or by any other entity or entities, when any person or other entity acquires 10 percent or more ownership in the school, RIOHE must be notified and letters of reference and audited financial statements supplied (see *Standards 1.1* and *1.2*) within 30 days of the change.

2. Significant departures from the stated purpose and/or programs that were in effect at the time the school was approved by the Board of Governors.
3. Changes in legal status or in the form of control of the school, including merging with another school.
4. Dividing a school into two or more separate schools.
5. Loss of recognition by a regulatory agency:
 - a. Loss of accreditation and loss of eligibility for federal student financial aid. Loss of accreditation causes loss of eligibility to participate in the federal student financial aid programs. Loss of accreditation could lead the Board of Governors to revoke a school's approval to operate in Rhode Island (e.g., if state or federal regulations require that students graduate from an accredited program in order to be eligible for licensing in a particular occupation). Along with all current students, RIOHE must be informed within five days if a school loses its accreditation. At that time, the school must supply RIOHE with a copy of the documents the school used to inform

current students of the loss. Further, within 30 days of the loss of accreditation, the school must provide RIOHE with copies of revised catalogs, enrollment agreements, advertisements and other promotional materials the school distributes to prospective students.

- b. Loss of recognition from any other regulatory agency (such as the health department), should also be reported to RIOHE within five days.

The decisions as to whether a change is substantive is a judgment specific to an individual school, since the change must be considered within the entire school context. The commissioner has the authority to decide whether a change is substantive. Schools should consult with RIOHE staff to determine precisely what materials must be submitted in each particular case.

ADMINISTRATIVE PENALTIES AND REVOCATION OF APPROVAL

The commissioner may assess administrative penalties and the Board of Governors may revoke the approval of a school for proper cause in accordance with the following regulations and procedures.

A. ADMINISTRATIVE PENALTIES AND SUSPENSION OF CERTAIN OPERATIONS

If a school fails to meet the standards set forth in these regulations, the commissioner may impose an administrative penalty of up to \$100 per day for each violation, in accordance with a published schedule of administrative penalties. (Refer to www.ribghe.org/propreg.htm for the *schedule of penalties*.)

The school will be notified by regular first-class mail, return receipt requested, of the imposition of an administrative penalty, the reasons therefor, and the rules or regulations involved. Within seven days of the receipt of this notice, the school may file a request for hearing directed to the commissioner. The school should include in its request a statement of facts and/or a citation to regulations in support of its position that a penalty should not be imposed.

The commissioner, or his/her designee, will hear the evidence in accordance with the *Regulations Governing Hearings* (Part C below) and make a finding as to the appropriateness of the administrative penalty. The school may request reconsideration of the commissioner's finding by the RIBGHE, or its designee, whose decision shall be final. The RIBGHE, or its designee, shall consider all of the documentation submitted by the commissioner and by the school in arriving at a final decision but shall not hear arguments or receive new evidence.

The maximum amount of the administrative penalty to be assessed to a school will be the amount of the daily penalty (up to \$100 per day) times the number of days that the school is in violation of the regulations. The number of days in violation is the difference between the day the school is notified that it is in violation of the regulations and the day the school is notified

by the commissioner that the violation no longer exists. The penalty is calculated on the number of days in violation notwithstanding the time necessary to settle appeals initiated by the school.

Administrative penalties are due immediately upon assessment, except in cases under appeal where payment is due seven days after a finding is made that is negative to the school. Schools with outstanding violations and penalties on September 1st in any year will be given conditional approval; annual approval will not be granted until all violations and administrative penalties are settled.

In addition to the imposition of an administrative penalty, schools found to be in violation of certain standards (i.e., inadequate or lapsed bonds or lapsed certifications for fire, building and health [if applicable]) may be ordered by certified letter to cease some operations immediately. Until the violation is corrected, schools ordered to cease some operations will be instructed, at a minimum, to admit no new students, to start no new classes, and to return registration fees and/or deposits collected from students scheduled to start future courses. Those operations which are necessary to allow currently enrolled students to complete programs of study will be allowed to continue.

B. REVOCATION AND EMERGENCY ACTION

The commissioner may seek revocation of a school's approval if the school:

1. has committed a material or substantial violation of these regulations;
2. has a record of chronically or repeatedly violating any of these regulations;
3. has made a false statement about a material fact on any of the documents submitted to RIOHE;
4. has failed to pay administrative penalties imposed under these regulations; or
5. has acted or failed to act in a manner which gives cause for revocation pursuant to RIGL §16-40-5 (Revocation of Approvals).

Prior to revocation of approval, the school will be given an opportunity to be heard to show cause why approval should not be revoked. Notice of the time and place of the hearing and the reasons for the proposed revocation, citing either specific portions of statute or these regulations, will be served by first-class mail, return receipt requested, on an officer of the school at least 20 days prior to the hearing.

The hearing will be conducted by the commissioner or his/her designee. The *Regulations Governing Hearings* (Part C below) will apply. The school shall have the burden of proof to show cause why approval should not be revoked. The commissioner's recommendation shall be forwarded to the RIBGHE, which shall have final authority to accept, reject, or modify the commissioner's recommendation. A representative of the school, or the school's attorney, may

address the RIBGHE prior to its consideration of the commissioner's recommendations; however, no additional evidence may be presented to the RIBGHE.

If the commissioner finds that the public health, safety or welfare of the students imperatively requires emergency action and incorporates a finding to that effect in his/her order, including the grounds upon which the finding is based, summary suspension of approval may be ordered, pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined.

The commissioner, as agent of the RIBGHE, may also seek to prevent or remedy any violation of these regulations or may seek revocation or suspension of a school's approval, through appropriate court action in accordance with the General Laws of the State of Rhode Island.

C. REGULATIONS GOVERNING HEARINGS

All hearings will be held in accordance with the following:

Notices: Whenever the commissioner seeks to impose administrative penalties or to revoke a school's approval, the school will be afforded an opportunity for hearing after reasonable notice. The notice will include: 1) a statement of the time, place, and nature of the hearing; 2) a statement of the legal authority and jurisdiction under which the hearing is to be held; 3) a reference to the particular sections of the statutes and rules involved; and 4) a short and plain statement of the matter.

Presentation of Evidence:

1. All parties shall have an opportunity to present evidence, cross examine witnesses and be represented by counsel.
2. The formal rules of evidence shall not apply; however, the hearing officer may exclude irrelevant, cumulative or hearsay evidence as he or she deems appropriate.
3. Oral proceedings will be transcribed if requested in advance by any party. The party requesting transcription will be required to pay the cost thereof.

Recommendations/Decisions:

1. Findings of fact shall be based upon the evidence submitted to the hearing officer and any stipulations agreed to by the parties.
2. The burden of proof shall be by a preponderance of the evidence.
3. The hearing officer shall prepare a written decision including findings of fact in support of the decision.

Informal Disposition: Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

SECTION IV: STANDARDS FOR THE OPERATION OF PROPRIETARY SCHOOLS

The Board of Governors for Higher Education shall initially approve a school, and, thereafter, the commissioner shall annually renew the approval of a school, provided all of the following standards are met.

STANDARD 1: OWNER, OFFICERS AND PERSONNEL

- 1.1. All owners and officers of the school must be of good character and ensure that the school operates in an ethical manner, in compliance with all federal, state and local laws, and in compliance with all applicable rules and regulations of the Board of Governors. No less than three letters of reference for each owner and officer attesting to his/her good character must be submitted upon initial application and whenever there is a change in owners or officers. Of the three reference letters, two from professional sources are preferable. References should describe the nature and length of their relationship with the subject of the letter.
- 1.2. The owners must have sufficient financial resources, as determined by RIOHE, to ensure the fiscal stability of the school.
- 1.3. The school must have in place written policies and procedures applicable to chief administrators and owners that address conflicts of interest and provide protection against fraud and self-dealing by persons exercising control over the school.
- 1.4. With regard to the chief administrator of the school, the following requirements must be met:
 - a. The chief administrator of the school is ultimately responsible for all activities of the school or done in the name of the school. The chief administrator's duties include responsibility for the instructional program, the organization of classes, the maintenance of the school facility, the maintenance of proper administrative records, ensuring that the school operates in an ethical manner and in compliance with all federal, state and local laws, ensuring that the school operates in compliance with all applicable rules and regulations of the Board of Governors and for all other procedures related to the administration of the school.
 - b. One person must be designated as the chief administrator of the school.
 - c. The chief administrator must hold a high school diploma or a GED. He or she must have background and training that are deemed sufficient to administer the school (e.g., a degree in an appropriate field from an accredited college or university; five years' experience in school administration or in the instructional field).
 - d. The chief administrator must be of good character and be professionally competent. At least three letters of reference attesting to his/her character and professional competence must be submitted; preferably at least two of these references should be from former employers in an education-related field.

References should be asked to describe the nature and length of their relationship with the subject of the letter.

- 1.5. The qualifications for instructors will depend on the kind of instruction offered and will be considered on an individual basis. However, all instructors must meet the following requirements:
 - a. Each instructor must hold all licenses, certificates and ratings that are required by industry standards, the federal government or the state of Rhode Island, or any of its agencies, **to practice** in the field of employment.
 - b. Each instructor must be fully qualified **to teach** in the instructional field by holding all licenses, certificates and ratings that are required by the state of Rhode Island, or any of its agencies, to teach in the instructional field.
 - c. In the absence of state requirements (as outlined in b. above), each instructor must be fully qualified to teach in the instructional field by having a combination of at least five years of education, training, and/or occupational experience in the specific area of teaching to provide instruction that will assist students toward successful achievement of the objectives of the program.
 - d. Upon initial employment at the school, each instructor must provide evidence of sufficiently recent educational or occupational experience to assure up-to-date knowledge of content, practice and technique in the teaching fields along with knowledge of current teaching methods. All instructors are expected to maintain all required professional licenses and certifications.
 - e. Students enrolled in instructor-training programs (i.e., student teachers) are allowed to obtain instructional experience by teaching a particular subject/course **only** when a licensed and approved instructor is present in the classroom at the time instruction is delivered.
- 1.6. When the employment of a chief administrator or instructor is discontinued for any reason, the commissioner must be notified within five days. The chief administrator or instructor will then be removed from the list of approved personnel.

Refer to www.ribghe.org/propreg.htm for personnel information forms for owners, chief administrators and instructors.

STANDARD 2: ADMISSION REQUIREMENTS AND PROCEDURES

- 2.1. For each of its programs, the school must establish, publish, and consistently apply uniform requirements for admission of students and must maintain adequate records thereof. The school must maintain and apply assessment methods or admission criteria for determining a student's ability to complete successfully the specific program for which the student has applied and evaluate the appropriateness of the methods used.

- 2.2. The previous education and training of each applicant must be reviewed and credit awarded for those experiences, as the school deems appropriate; applicants must be given the option of having their training period shortened accordingly.
- 2.3. The school must conform to current federal Title IV Student Financial Aid regulations regarding the providing of commissions, bonuses or other incentive payments to persons or entities engaged in student recruitment or admission activities (see 34 CFR 668.14).

STANDARD 3: POLICIES AND PROCEDURES RELATING TO STUDENT RIGHTS AND RESPONSIBILITIES

Schools must establish, widely publish and consistently enforce the following policies and procedures relating to students' rights and responsibilities in the school.

- 3.1. Rules and procedures pertaining to attendance must be consistent with the objectives of the program and with the student enrollment agreement. The rules and procedures must describe how attendance, tardiness and absences are calculated, explain if and how missed time can be made up, and define satisfactory and unsatisfactory attendance. The rules and procedures must specify conditions for suspension and dismissal and conditions for re-entrance of those students dismissed for violating the attendance policy.
- 3.2. Rules and procedures pertaining to the satisfactory progress of enrolled students must include –
 - a. maintaining a clearly defined grading or other evaluation system;
 - b. keeping progress evaluation records which reflect whether the student is making satisfactory progress toward completing all courses within the allotted time for the program;
 - c. specifying progress evaluation standards that stipulate what is considered failing or unsatisfactory progress and the condition for dismissal and re-entrance;
 - d. providing the student with timely information on the status of his/her progress;
 - e. conditions for suspension and dismissal and conditions for re-entrance of students dismissed for failing to maintain satisfactory progress.
- 3.3. Procedures pertaining to students with disabilities must comply with the requirements of Section 504 of the federal Rehabilitation Act of 1973 and describe:
 - a. the steps a student must take to report a documented disability to the school;
 - b. the office to which the documentation should be reported;
 - c. the steps, schedule and written documentation procedures the school will follow in making reasonable accommodations; and

- d. due process, appeals procedures, and assurances available to a student who is dissatisfied with the accommodation(s) offered.
- 3.4. Rules and procedures pertaining to student conduct must describe unsatisfactory conduct. The rules must specify conditions for dismissal and conditions for re-entrance of those students dismissed for violating the conduct policy.
- 3.5. Rules and procedures pertaining to complaints must describe how student and/or third-party complaints, both academic and nonacademic, are filed and investigated and how the school will attempt to resolve complaints. These procedures should address at least the following:
- a. steps students and/or third-party individuals may take to file a complaint, including alternative individuals to whom the complaint may be made (if the complaint pertains to the person who would normally hear complaints);
 - b. steps and schedule the school will follow in investigating and resolving the complaint;
 - c. due process, appeals procedures, and assurances available to students and/or third-party individuals who file complaints.

The school shall provide an explicit response to all complaints and maintain comprehensive records of all complaints and their resolutions. These records must be made available to RIOHE upon request. *Note:* All students and/or third-party individuals who file complaints with RIOHE will be initially directed to follow the school's complaint procedure. The complaint should be addressed in a timely manner and the result should be conveyed to the complainant in writing with a copy to RIOHE. If following that procedure fails to resolve the issue, RIOHE will then refer students and/or third-party individuals with complaints related to federal laws and regulations to the appropriate federal or state agency; individuals with complaints relevant to accrediting agency standards will be referred to the accrediting agency.

- 3.6. Students must be provided with copies of all documents they sign (e.g., enrollment agreements, adjustments to enrollment agreements, and financial aid applications).

STANDARD 4: TUITION AND FEES, PAYMENT ARRANGEMENTS AND SCHOLARSHIPS

- 4.1. All tuition, fees, and other charges must be stated in the school catalog, brochures, and student enrollment agreement.
- 4.2. In the catalog, the methods of payment that are available to enrolling students must be described. If student financing is available through any arrangement or agreement between the school and a lending institution, the complete terms of such arrangement or agreement must be submitted to RIOHE. In addition, if any form of financing is available at the school, all charges and the true annual percentage interest

rate and the names and addresses of the lending institutions must be submitted to RIOHE.

- 4.3. School-based scholarship programs may be offered provided the terms of the programs are published and submitted to RIOHE for prior approval.

STANDARD 5: REFUND POLICY

Each school must maintain and publish in the catalog and student enrollment agreements a clear and concise policy for the refund of the unused portion of tuition, fees, and other charges in the event the student fails to enter the course, withdraws, or is discontinued at any time prior to completion of the program. The policy must contain the following:

- 5.1. In the case of a potential student who requests cancellation and/or refund within three business days from signing the student enrollment agreement and before classes have begun, the school must cancel the application and refund in full all monies paid to the school.
- 5.2. In the case of a potential student whose enrollment application is rejected by the school, the school must cancel the application and refund in full all monies paid to the school.
- 5.3. Refunds must be based on the period of enrollment computed on the basis of course time expressed in clock hours and/or credit hours.
- 5.4. The effective date for refund purposes must be –
 - a. if the student is terminated by the school, the last day of attendance;
 - b. if the student withdraws, the earliest of the following:
 - 1) postmarked date of written notice from the student, or
 - 2) ten school days following the last day of attendance.
- 5.5. If tuition is collected in advance of entrance and if the student does not enter the school, not more than \$100.00 may be retained by the school.
- 5.6. For courses of one year (12 calendar months) in duration or less, in cases of termination or withdrawal after classes commence, the minimum refund policy must provide a student with at least the following:
 - a. during the first quarter of the program, 75 percent of the tuition, less a registration fee not to exceed \$100.00;
 - b. during the second quarter of the program, 50 percent of the tuition, less a registration fee not to exceed \$100.00;
 - c. during the third quarter of the program, 25 percent of the tuition, less a registration fee not to exceed \$100.00;

- d. during the fourth quarter of the program, the student may be considered obligated for full tuition and fees.
- 5.7. For programs longer than one year (12 calendar months), 100 percent of the program price attributable to the period beyond the first year must be refunded when the student withdraws from school during the first year. Thereafter, the same refund policy described in *Standard 5.6* must be used for each subsequent year or part thereof.
- 5.8. Refunds of extra expense to the student (such as instructional supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other such ancillary miscellaneous charges where items are separately stated and shown in the data furnished to the student before enrollment) must be made in a manner equivalent to that described above for tuition. Costs of supplies and materials actually used by the student need not be refunded.
- 5.9. Refunds must be made within 30 days after the effective date of termination or cancellation.
- 5.10. In all cases, the student must receive the most generous refund possible. If a school is accredited by an accrediting agency recognized by the U.S. Department of Education, the accrediting agency's refund policy will prevail if that refund is more generous to the student than the refund required by Rhode Island law and these regulations. Otherwise, the Rhode Island refund will prevail.

STANDARD 6: INSTRUCTIONAL PROGRAMS (refer to www.ribghe.org/propreg.htm for program information forms)

- 6.1. In terms of content, length of instruction, and mode of delivery, all programs must be of such nature and quality as to assure reasonably that the students will adequately develop the knowledge and skills necessary for obtaining employment in the occupation for which training is offered. Evidence that programs are of appropriate content, length and mode of delivery may be illustrated by:
 - a. conformity with appropriate accrediting agency standards, applicable industry standards, applicable state or federal licensing standards or other credible measures;
 - b. comparability with similar programs in the state or region;
 - c. conformity with the *Guidelines for Distance Learning* (see www.ribghe.org/propreg.htm).
- 6.2. The needs the program addresses, such as societal needs, labor market needs and student demand, must be explained. Data concerning prospects for employment and job market analyses, plus the source of these data and analyses, must be provided.
- 6.3. All programs must be approved prior to being offered or described in the catalog or advertising and other promotional materials.

- 6.4. Sufficient qualified instructors must be maintained to teach all subjects needed for completing the offered programs during the length of time stipulated in the catalog.
- 6.5. If an approved program is discontinued for any reason, the commissioner must be notified within seven days. The program will then be removed from the list of approved programs.
- 6.6. After successful completion of training and meeting all contractual obligations to the school, the student must be given evidence by the school indicating that the program was completed satisfactorily.
- 6.7. A school must provide each student enrolled in a program that requires state licensure or other certification with specific information about the following:
 - a. licenses, credentials, or additional course work beyond that provided by the school required to practice the profession or vocation in the state;
 - b. the degree to which completion of the required coursework meets state license or credential requirements;
 - c. whether the program has received the necessary approval or accreditation for students completing the program to apply for all required licenses or credentials.

STANDARD 7: ADVERTISING, PROMOTION AND RECRUITMENT

Every school must maintain high ethical standards in its advertising, promotion and recruitment activities. The school is responsible for ensuring that all recruiting practices and advertising and promotional materials provide clear and accurate descriptions of the school's programs and policies. Promotion, advertisement and recruitment conducted by or on the behalf of the school (whether oral, written, electronic or visual) shall be free of false, exaggerated or misleading claims and conform to the following standards:

- 7.1. All advertising and other promotional materials for the recruitment of students and/or relating in any way to the educational function of a school must be submitted to the Rhode Island Office of Higher Education either in advance of or concurrently with their submission to the media or distribution to students or prospective students. *Note:* Advertisements will be reviewed to ensure that they are factually accurate and are not misleading in any regard (e.g., students should not be led to believe that they will be guaranteed employment unless such statements are true). Materials must be in conformance with the requirements set forth herein in paragraphs 7.2 through 7.13.
- 7.2. All advertising and other promotional materials seeking prospective students must be clear, accurate, supportable and include no misleading information. No deceptive statements may be made concerning other proprietary schools.
- 7.3. The fact of approval may not be used in advertising or other promotional materials or letterheads except in the following manner: "meets the legal requirements to operate

as a school in the State of Rhode Island” or “approved by the Rhode Island Board of Governors for Higher Education.”

- 7.4. The name and location of the school must appear in all advertising and other promotional materials. No photograph, cut, engraving, electronic image or illustration may be used in the catalog or other materials in such a manner as to convey a false impression of a school’s size, importance, location, equipment, or facilities.
- 7.5. Letters of endorsement, commendation, or recommendation may be used in the catalogs, advertising and other promotional materials provided prior consent is obtained from the author and no fee is paid for either the consent or use of the endorsement. Such letters must be kept on file, subject to inspection. Testimonial letters may be used only when they are strictly factual and portray current conditions.
- 7.6. All advertising and other promotional materials, including but not limited to direct mail, radio, television, Web-based advertising, e-mail solicitation or directories seeking prospective students, must clearly indicate that training is being offered.
- 7.7. No dollar amount may be quoted in any advertising or other promotional materials as representative or indicative of the earning potential of graduates.
- 7.8. If placement statistics are used in any advertising or other promotional materials, the school must be able to substantiate the statistics with school records. These records must be made available on request to RIOHE staff.
- 7.9. If a placement service is advertised, adequate records must be maintained by schools advertising such placement services that will reflect employment data.
- 7.10. A school may not advertise as an employment agency or other type of agency under the same name or a confusingly similar name or use the same telephone number. No representative may solicit students for a school through an employment agency.
- 7.11. No statement may be made that the school or its programs have been “accredited” unless the accreditation is that of the appropriate nationally recognized accrediting agency recognized by U.S. Department of Education; further, clear distinction must be made between candidate status and full accreditation.
- 7.12. Financial aid shall not be used as a primary incentive in advertisement, promotion or recruitment; however, the availability of financial aid may be presented, including a listing of the financial aid programs in which the school participates.
- 7.13. The commissioner, at any time, may require that a school furnish proof of any of its promotional claims. If acceptable proof cannot be furnished, a retraction of the claim promulgated in the same manner as the original claim must be published by the school. Continuation of misleading advertising will constitute cause for revocation of approval.

STANDARD 8: EQUIPMENT AND MATERIALS REQUIREMENTS

- 8.1. Equipment required for training as determined by the objectives of the program must be provided. The equipment must be comparable to that found in up-to-date establishments offering employment in the occupations for which training is being offered.
- 8.2. Equipment must be provided in sufficient quantity to meet the maximum authorized enrollment of any class.
- 8.3. All equipment must be of good quality, be maintained in good working order and be equipped with proper safety devices.
- 8.4. Prospective students must be informed about the equipment and materials they must supply for the program and the approximate cost of these items.

STANDARD 9: SCHOOL FACILITY

- 9.1. The school facility must meet all applicable governmental health, safety, and building standards (including the Americans with Disabilities Act [ADA] and all applicable federal and state laws). A letter from the State Building Commission must be on file at the Rhode Island Office of Higher Education, attesting that the facility is accessible under the requirements of the ADA and comparable state laws. In addition, the school facility must be inspected annually by the deputy fire marshal, state health inspector,¹ and the local building inspector, and current certificates of inspection must be filed with RIOHE as part of the renewal of annual approval.
- 9.2. Adequate space must be provided for classroom instruction and laboratory experience. The instructional areas must be appropriate for the number of students enrolled, the objectives of the program, and up-to-date industry standards.
- 9.3. Adequate space must be provided for offices and for housing equipment and materials.
- 9.4. The commissioner or his designee may at any time during regular business or school hours, with or without notice, visit a school. During such visitation, the commissioner or his designee may request of an officer or director of the school (and shall be provided with immediate access to) such records or information as are required to verify that the school continues to meet the conditions of approval.

STANDARD 10: FINANCIAL STABILITY

- 10.1. A school's financial capacity must be appropriate to its scale of operations. The school must demonstrate, principally from its annual comprehensive financial statements,

¹ Some programs (e.g., cosmetology programs) require health inspections. Schools should check with the RIOHE to determine whether a health inspection is required. Inspectors are usually in short supply, so schools are advised to request any necessary fire, building and health inspections from the appropriate agency well in advance.

and from the other financial information specified in *Section III*, that it has adequate capability to satisfy its contractual obligation to students, including the capability to provide the programs and services described in its official publications and to meet its financial obligations.

10.2. The financial information specified in *Section III* must be furnished to the Rhode Island Office of Higher Education prior to filing the completed initial application, when applying for annual renewal or when RIOHE determines that there is cause to believe that the school is not financially stable. As noted in *Section III*, the financial statements must be accompanied by a notarized statement signed by the owner, or, in the case of a corporation or other entity, its authorized fiscal representative, indicating that the financial information is true and correct (see financial statements notarization form at www.ribghe.org/propreg.htm). The financial information must include the following:

- a. Initial applicants must submit an audited balance sheet, prepared within 90 days of the application date and a statement projecting revenues and expenditures for the 12-month period for which approval is sought. In deriving the revenue figures, the anticipated number of students times the tuition rate will be used. The statement must be prepared by a certified public accountant or licensed public accountant. In addition, if the school is owned by an individual, a detailed statement of personal worth prepared within 90 days of the application date must be submitted. The statement must be prepared by a certified public accountant or a licensed public accountant.
- b. An applicant seeking renewal of annual approval to operate must submit financial statements, including a balance sheet, statement of revenues and expenditures, and a statement of cash flows. The statements must be prepared by a certified public accountant or a licensed public accountant. The type of financial statement required (i.e., compiled, reviewed or audited) will be determined by RIOHE based on the assessed financial stability of the school. As part of the annual financial statement review process, RIOHE will verify that the school has maintained its annual report with the Rhode Island Office of the Secretary of State.

Note: Schools participating in the federal Title IV student financial aid programs should submit audited financial statements annually, since annual audited statements are required by the U.S. Department of Education.

Schools that participate in the federal Title IV student financial aid programs may submit annual audited financial statements consistent with the federal reporting deadline (currently six months following the close of the fiscal year). Annual financial statements for schools that do not participate in the Title IV programs should be submitted within ninety days following the close of the applicant's fiscal year; if requested in writing with the reason(s) given, a single extension may be granted by RIOHE for financial statements.

- c. Upon review, if there is a question about the financial stability of the school, other financial data necessary to evaluate the school properly, such as quarterly statements or fully audited statements, must be submitted at the request of the commissioner. Additional periodic financial reporting and/or the development of a teach-out plan (see Standard 13) may be required if a school is deemed not to be financially stable. In cases where quarterly statements are required, these statements must be received by RIOHE no later than 45 days following the close of the quarter.
- d. Any deviations or exceptions from these requirements must be approved, in writing and in advance, by the commissioner.

10.3. A school is not financially stable if –

- a. in the case of an initial applicant, working capital is less than the amount needed to support the school’s operation for the length of the course; or
- b. in the case of an existing school, there is a history of operating losses or, if for the current fiscal year, the school had a deficit net worth (liabilities exceeding assets), or it has a ratio of current assets to current liabilities of less than one to one; or
- c. it participates in the federal student financial aid programs (HEA, Title IV) and does not meet the standards of financial responsibility outlined by U.S. Secretary of Education in federal regulations (see 34 CFR 668 Subpart L).

10.4. Before an initial approval or renewal of annual approval is issued to a school, the school must show evidence that it is covered by a bond, as prescribed, signed by a surety company authorized to do business in Rhode Island. The surety company must have a rating of at least *A* in the *AM Best Key Rating Guide*.

- a. The bond must be submitted in the format specified by RIOHE. (See www.ribghe.org/propreg.htm for the bond form.)
- b. The bond must be conditioned on the principal’s carrying out and complying with each and every contract made and entered into by said school with any student and paying back to such student at least all amounts collected in tuition and fees in case of:
 - 1) failure of the school to comply with the laws, standards or regulations required for initial or continued approval by the Board of Governors;
 - 2) failure to comply with its contracts to furnish training to its students; or
 - 3) inability to continue operations.
- c. The required dollar amount of the bond must not be less than the total maximum amount of unearned revenue reduced by net accounts receivable at any point throughout the period of bond coverage, but in no case less than \$10,000.00. The commissioner must approve in advance and in writing any waivers to this calculation. In the case of a school deemed not financially stable, the amount of the bond may be increased.

In the footnotes to the financial statements, the school will describe its procedure for calculating maximum unearned revenue and obtain a statement from its auditors that this calculation adequately reflects the maximum amount of unearned revenue net of accounts receivable at any point during the year.

- d. In the event that the school has made a good faith effort, but has been unable to obtain surety on its bond, the Rhode Island Office of Higher Education, in order to protect the interests of enrolled students, may accept an irrevocable letter of credit exclusively in the name of the Rhode Island Board of Governors for Higher Education. The letter of credit must be obtained by the school from a financial institution with at least \$35.0 million in excess capital and of at least investment grade quality, as rated by a nationally recognized rating agency or from a financial institution with a confirmation or guarantee from an institution with the required capital and rating. The required value of the letter of credit would be determined under the same guidelines used to establish the value of the bond.

This method of securing the bond may only be requested after a school has demonstrated its inability to obtain conventional surety, may only be used as a temporary measure and may only be initiated if authorized by the commissioner.

This alternative to the surety requirement does not constitute satisfaction or a waiver of the requirement, is subject to review and revocation by the commissioner, and should not extend beyond the next annual renewal (August 31).

- e. If refunds to students are to be made from the bond, the Rhode Island Office of Higher Education will determine an equitable distribution of the funds available to eligible students. Tuition and fees collected in advance will be given first priority for repayment.

STANDARD 11: RECORDS

- 11.1. Schools must maintain student records according to all state and federal requirements pertaining to confidentiality and accessibility. Students must be informed of their right to access their files.
- 11.2. In a format and form approved by RIOHE, appropriate student records must be established and maintained, including:
 - a. An accurate and current academic transcript that contains:
 - 1) the student's name;
 - 2) dates of attendance and completion or termination;
 - 3) the total number of credit/clock hours earned at the school and of credit/clock hours granted for course work completed at other institutions;

- 4) program of study and dates of enrollment for each course or unit of instruction;
 - 5) grades for each course or unit of instruction and an explanation of the grading system;
 - 6) credential granted.
- b. Accurate and current financial aid records that contain:
 - 1) the student's name and permanent address;
 - 2) dates of attendance and completion or termination;
 - 3) all financial aid the student receives at the school;
 - 4) notes on financial aid counseling received by the student;
 - 5) all records relating to federal student financial aid, as required by the U.S. Department of Education.
 - c. Copy of the student enrollment agreement and other documents relating to payment for educational services.
 - d. Records of payments received from and refunds made to the student.
 - e. Transcripts must be maintained in perpetuity, and financial aid records must be maintained according to regulations established by the funding source. Other student records, including student enrollment agreements, and records of payments and refunds, must be maintained for at least five years.
- 11.3. Student records and other pertinent data must be available as requested by RIOHE.
- 11.4. Transcripts must be made available on request to students who have fulfilled their contractual obligations to the school.
- 11.5. Records must be securely maintained and protected against flood, fire, theft, vandalism and other perils. RIOHE must be informed of where student and other records are housed and of any changes in the location of said records.

STANDARD 12: REPORTS

- 12.1. An annual report containing the information requested and on forms prescribed must be filed with the Rhode Island Office of Higher Education.
- 12.2. If the school is required by the U.S. Department of Education to file Integrated Postsecondary Education Data System (IPEDS) surveys, it must do so.
- 12.3. If the reapproval of a school is in question, if the school has been granted conditional approval, or if there is cause to believe that the school is not financially stable, the Rhode Island Office of Higher Education may require additional information and reports.

STANDARD 13: SCHOOL CLOSURE/TEACH-OUT PLAN²

13.1. Schools must have a plan approved by RIOHE that includes specific provisions for the treatment of currently enrolled students in the event of closure. Closing schools must communicate to all enrolled students that these provisions exist and are available to them. Closing schools must provide opportunities for students to complete their educational programs at another institution or must provide a full tuition and fee refund to students in the event that the commissioner determines that the school has not fulfilled its contractual obligation to them.

The plan will contain detailed procedures that will be used in the event of closure, including:

- a. Arrangements made for students to receive continued instruction;
 - b. Procedures for making tuition and fee refunds, including the source of such funds (e.g., bonds, letters of credit, other);
 - c. Written descriptions that will be used to inform enrolled students of these plans.
- 13.2. The RIOHE-approved plan must further provide for the retention and disposition of records in the event of closure. Arrangements must be made for the transference of complete academic and financial aid records to other institutions or agencies in the event of closure, and currently enrolled and former students, including graduates, must be informed of the location of those records and how they can gain access to them. The institution/agency holding the records will be directed to inform RIOHE if the records are later moved.

STANDARD 14: SCHOOL CATALOG AND RELATED MATERIALS

14.1. Schools must provide to students, and to prospective students, information that is complete, accurate and not misleading. The information provided must be sufficient to enable prospective students to make rational decisions about enrolling in the school and to enable enrolled students to understand their rights and responsibilities as students in the school. In order to provide this information and to comply with the disclosure requirements outlined in *Standards 1-13* of these regulations, each school must establish, publish, and disseminate to students (and to prospective students upon request) materials including, but not limited to, official catalogs and other materials which contain:

- a. Full legal name, address and telephone number of the school;
- b. Date of publication;
- c. Statement of accreditation, if appropriate;
- d. Description of physical facilities;
- e. Description of room and board accommodations, if any;
- f. Admission and graduation requirements;

² This section may be applied to schools deemed to be financially at risk; see Standard 10: Financial Stability.

- g. Attendance policies;
- h. Grading system;
- i. Student conduct policies;
- j. Conditions for withdrawal and dismissal;
- k. Grounds for termination by the school (e.g., lack of satisfactory academic progress, nonpayment) and procedures for termination by the student;
- l. Course and program descriptions;
- m. Descriptions of instructors and their credentials;
- n. Schedules of tuition and fees;
- o. Course cancellation policies;
- p. Academic calendar showing semesters or terms, normal enrollment dates, vacation periods and holidays;
- q. Refund policies;
- r. Sources of and rules and procedures relating to financial aid;
- s. Descriptions of complaint policies and procedures;
- t. Procedures for access to student records;
- u. Procedures for students with disabilities;
- v. Descriptions of placement and other student services;
- w. All other student policies and procedures promulgated by the school, including those required by these regulations, or required by other state or federal regulations.

14.2. Each school will have a student enrollment agreement that all students will sign. All students will receive a copy of the signed agreement. At a minimum, this document must include:

- a. Course or program title, certificate to be awarded, and length of time normally required to complete the program as identified in the school catalog;
- b. Costs (tuition, fees, books, supplies and all other costs) and method and terms of payment;
- c. Starting and ending dates and class schedule (e.g., full-time, part-time, day, evening);
- d. Refund policy;
- e. Acknowledgement that the student has read, understands and has received a completed, signed copy of the agreement;
- f. Signature and date line for student and representative of the school.

14.3. Any changes made to a student's enrollment agreement during the course of attendance will be documented in writing. This document will be signed by both the student and a representative of the school, and a copy will be supplied to the student.

14.4. The school will notify RIOHE and affected students of substantial changes in any of the items in *Standards 14.1* or *14.2* and must indicate in writing whether any of the items is subject to change.

MATERIALS THAT SUPPORT AND CLARIFY THESE REGULATIONS

Certain statutes, forms, guidelines and procedures are referred to throughout these regulations. Since these supporting and clarifying documents change more frequently than do the regulations, they have been made available electronically rather than being included as a formal part of the regulations. The following materials may be found on the Web at the URLs indicated:

Title 16, Chapter 40 of the Rhode Island General Laws

www.rilin.state.ri.us/Statutes/TITLE16/16-40/INDEX.HTM

Guidelines for Distance Learning

www.ribghe.org/propreg.htm

Guidelines for Lease Agreements

www.ribghe.org/propreg.htm

Checklists and Forms

www.ribghe.org/propreg.htm

- Pre-Application Checklist and Materials
- Initial Approval Checklist and Application
- Annual Approval Checklist and Application
- Personnel Information Forms
- Program Information Forms
- Bond Form
- Financial Statements Notarization Form
- Supplemental Information Forms: For use by correspondence schools only