

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 300 Department or Agency Alabama Commission on Higher Education
Rule No. 300-2-1-.02

Rule Title: Review and Approval or Disapproval of Proposed Postsecondary Course Offerings in Alabama by Non-Alabama Institutions Seeking State Authorization

 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

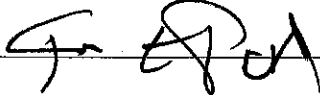
Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer 

Date September 19, 2018

(DATE FILED)
(STAMP)

Alabama Commission on Higher Education

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Commission on Higher Education (Commission)

RULE NO. & TITLE: 300-2-1-.02 Review and Approval or Disapproval of Proposed Postsecondary Course Offerings in Alabama by Non-Alabama Institutions Seeking State Authorization.

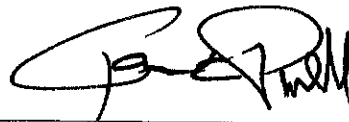
INTENDED ACTION: Amendment

SUBSTANCE OF PROPOSED ACTION: To define the scope of and to streamline the review process regarding the review of and approval or disapproval of proposed postsecondary course offerings in Alabama by non-Alabama institutions.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Persons wishing to present views on these amended rules may contact Tim Vick, Director of Operations and Fiscal Services, Alabama Commission on Higher Education, P.O. Box 302000, Montgomery, Alabama 36130-2000, Telephone 334-353-9153 between 8 a.m. and 5 p.m. each day up to and including November 5, 2018.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: November 5, 2018.

CONTACT PERSON AT AGENCY: Timothy W. Vick



James E. Purcell, Ed.D.
Executive Director

300-2-1-.02 Review and Approval or Disapproval of Proposed Postsecondary Course Offerings in Alabama by Non-Alabama Institutions Seeking State Authorization.

(1) Purpose. Per the Code of Alabama, 1975, Sections 16-5-10 (14). It is the responsibility of the Alabama Commission on Higher Education to establish policies and procedures for the review and approval or disapproval of all proposed postsecondary credit courses or program of instruction offered in the State of Alabama by non-Alabama institutions of higher education. The Code of Alabama, 1975, Section 16-5-10(10) authorizes the Commission to make rules and regulations for its meetings, procedures and execution of the powers and duties delegated to it by this article. These institutions must also be licensed to do business in Alabama by the Alabama Community College System.

(2) Definitions. For purposes of this rule, the following definitions apply:

(a) Programs of Instruction (Courses): Any course or sequence of courses for which credit toward any postsecondary degree, certificate, or diploma is to be awarded.

(b) System: The Alabama Community College System.

(c) Exempt Institutions: Those postsecondary institutions that are granted a certificate of exemption from licensure by the Alabama Community College System and for which the System has waived formal licensure application and review.

(d) Faculty: A faculty member who has a contract for formal teaching responsibilities with the proposing institution.

(e) Main Campus: The physical boundaries of the location of an institution's principal administrative offices. In the case of an institution eligible for Title IV funds, the campus designated by the U.S. Department of Education's Office of Postsecondary Education identification number (OPEID).

(f) Non-Alabama Institutions: A postsecondary educational institution, public or private, profit or nonprofit, whose main campus or headquarters is located outside the State of Alabama.

(g) Unaccredited Institution: An institution not accredited by an agency recognized by the United States Department of Education or Council on Higher Education Accreditation.

(3) Procedures for Program Approval of an Unaccredited Institution. As a prerequisite to program approval, an unaccredited institution requesting to offer degree programs in Alabama must undergo an external review of its programs of study, which may include an onsite Commission staff review and

will include a review by an outside consultant(s) chosen by the Commission. The unaccredited institution will underwrite all costs related to the external review. The review process for unaccredited institutions shall not exceed six months following receipt of the required data and information forms from the applying institution. These forms/applications can be found on the Commission's website at www.ache.edu.

(4) Exemptions from programmatic review. The following are exempt from programmatic review by the Commission, but are not exempt from the licensure process conducted by the Alabama Community College System under the provisions stated in Alabama Private School Licensure Law, found in the Code of Ala. 1975, §§16-46-1, et seq. If an institution wishes to claim an exemption from Commission program review, proper documentation must be provided to the Commission. The Commission will then determine based on the following Commission guidelines if programs/institutions are exempt from review. The Commission will then inform the Alabama Community College System concerning the disposition of these applications.

(4) (a) Institutions exempt under the Alabama Private School License Law. Those non-Alabama institutions that are granted a certificate of exemption from licensure by the System and for which the System has waived formal licensure application and review shall nonetheless are not required to apply for Commission review and approval of courses or programs of instruction. Every application for approval of a course or program of instruction shall be accompanied by a certificate of exemption from formal licensure issued by the Alabama Community College System. This includes programs proposed by institutions that are members of the National Council of State Authorization and Reciprocity Agreements (NC-SARA) or any approved successor organization wishing to establish a physical presence in Alabama (includes internships and clinical rotations).

(b) Programs submitted by institutions that are accredited by a regional, national or specialized/programmatic accrediting body recognized by the United States Department of Education, a list of which can be found on the United States Department of Education's website under the Database of Accreditation of Postsecondary Institutions and Programs. Documentation concerning accreditation is required.

(c) Non-degree programs or non-credit courses.

(d) Programs offered by institutions that were originally incorporated as an Alabama institution that are now owned by institutions and corporations headquartered in other states. These institutions must have been in continuous operation in Alabama since their inception, with no more than a one-year interruption of operations due to a change in ownership. Legal documentation of Alabama origin must be submitted to the Commission.

(e) Once a program has been approved by the Commission to be offered at an Alabama location, it does not have to be reviewed again as long as the location of the program (facility, not city) does not change. Should a

program change physical location, it must be approved again.

(5) Commission Review Criteria. The Commission shall establish review criteria designed to evaluate the academic quality of proposed courses or programs of instruction. ~~The review includes, but is not restricted to: The qualifications of faculty and supporting staff, the quality of academic support resources (library, laboratories, etc.), and the academic validity of the proposed courses.~~ In general, program proposals must meet standards used by the Commission proposals for new off-campus offerings by in-state public institutions and in doing so be in full compliance with the Southern Association of Colleges and Schools Commission on Colleges (SACS COS) guidelines or those of other regional, national or specialized/programmatic accrediting bodies recognized by the United States Department of Education. Since the use of state appropriated funds is not involved, the question of unnecessary duplication is not an issue when proposals of non-Alabama institutions are reviewed.

(6) Site visits. The Commission reserves the right to conduct a site visit to the proposed location for an evaluation of a course or program of instruction before or subsequent to concluding its review of a pending application. There is no charge to the institution for mileage or per diem payments to staff employees of the Commission for such visits. However, in the event that the Commission appoints other education or external specialists as on-site visit consultants, the institution will pay the consultants a consulting fee determined by the Commission, as well as expenses.

(7) Timeline for Review for non-exempt programs.

(a) New programs or previously approved programs being relocated to new facilities will be reviewed in a four-year cycle to coincide with the license renewal cycle established by the System for the institution.

1. If new programs are to be implemented at an existing site or previously approved programs are to be moved to a new facility in the midst of a licensure review cycle, the institution will notify the Commission of those changes by letter and the review will take place at the time of the next licensure renewal with the System.

(b) In the absence of unavoidable delays, the Commission will report its approval or disapproval of proposed courses or program(s) of instruction to the System and to the applying institution within sixty (60) working days following receipt of the required data and information forms from the applying institution. These forms/applications can be found on the Commission's website at www.ache.edu.

(8) Fees. ~~Application materials for initial program approval or for renewal shall be accompanied by a programmatic review fee in accord with the programmatic review fee schedule published within the Commission's application(s) for programmatic approval and posted to the Commission's website. The programmatic review fee schedule may be revised from time to~~

time upon reasonable notice at the discretion of the commission. By statute, the Commission is authorized to promulgate a schedule of programmatic fees, commensurate with the cost of Commission activities related to the programmatic review, not to exceed fifteen thousand dollars (\$15,000). At this time, the Commission will not assess a fee for its programmatic reviews, but retains the right to do so in the future, upon six months' notice, should circumstances warrant.

(9) Appeals. Any person or institution aggrieved by the action of the Commission in its administration of this rule may, by written petition filed with the Commission within thirty (30) days after notice of the aggrieving action, request a rehearing by the Commission. The Commission shall schedule the requested rehearing to be held no less than twenty (20) nor more than thirty (30) days after receipt of the petition. The aggrieved party may present written and oral evidence supporting its petition and may be represented by counsel, if desired. The decision of the Commission following the rehearing shall be final.

Author: ~~Elizabeth French~~ James E. Purcell

Statutory Authority: Code of Ala. 1975, §§16-5-1, et seq.

History: Filed December 10, 1985. Rule 300-2-1-.02 was formerly referenced as Chapter 300-2-1; it has been repealed and reinserted as a rule within this chapter. The rule title remains unchanged from its previous chapter title. The contents are also unchanged except for slight format changes and the addition and deletion of certain definitions: Filed April 10, 1989. Amended: Filed August 21, 1996; effective September 25, 1996. Amended: Filed January 6, 2003; effective February 10, 2003. Amended: Filed May 6, 2004; effective June 10, 2004. Amended: Filed February 8, 2010; effective March 15, 2010. Amended: Filed November 5, 2013; effective December 10, 2013. Amended: Filed May 9, 2016; effective June 23, 2016. Amended: Filed September 19, 2018