

Readopt with amendment Hec 300, effective 2-12-14 (Doc. #10520), to read as follows:

## CHAPTER Hec 300 OFFICE OF CAREER SCHOOL LICENSING

### PART Hec 301 APPLICABILITY

Hec 301.01 Career Schools Under Commission Jurisdiction. These rules shall apply to schools under the higher education commission jurisdiction, including any school undergoing an acquisition, merger, or transfer or sale of assets, except for those career schools identified in RSA 188-G:1, II.

### PART Hec 302 DEFINITIONS

Hec 302.01 Definitions. Terms as defined in RSA 188-G:1 shall be utilized in these rules in addition to the following:

- (a) “Accrediting agency” means an accrediting agency that is recognized by the United States Secretary of Education;
- (b) “Applicant” means a person, board, association, partnership, corporation or other entity seeking authorization to operate a school or provide occupational instruction qualifying an individual for employment. In the case of an application by a subsidiary of a corporation, the applicant includes the parent corporation;
- (c) “Annual gross tuition” means the total amount collected for tuition by the school for its applicable vocational courses and programs during its most recently completed fiscal year;
- (d) “Attorney General” means the NH department of justice;
- (e) “Branch” means a separate organizational subdivision of a school located at a different facility and geographical site than the main campus and which has administrative functions;
- (f) “Business to business” means the contractual agreement between the school, business or entity in which payment is made directly to the school by the business or agency;
- (g) “Course” means a sequence of units of instruction in a given subject area which may be a component of a program or may lead to a certificate;
- (h) “Curriculum” means the academic content taught in a specific program or course;
- (i) “Method of delivery” means how academic curriculum is delivered to students, including, but not limited to, classroom, online distance learning, clinical, internship, externship, simulation, and home study;
- (j) “Program” means a sequence of courses, over a period of time, which leads to a certificate;
- (k) “Satellite” means an additional location away from the main licensed campus without an administrative function;
- (l) “School” for the purposes of this chapter means licensed career school;

(m) “School closure” means a school exiting New Hampshire, closing its doors, or changing programs making it exempt from career school licensing rules; and

(n) “Teach-out” means the continuation of instruction to complete the program or course whenever the discontinues operations.

#### PART Hedc 303 LICENSURE

##### Hedc 303.01 Initial License Criteria.

(a) In order to receive a 2-year license to operate a private postsecondary career school, prior to soliciting students for enrollment, said school shall:

- (1) Be reviewed and have an on-site visit conducted by the office of career school licensing (office) to determine if all standards are met as specified in Hedc 303.03-303.04;
- (2) Provide proof of registration with the New Hampshire secretary of state;
- (3) Complete and file an “Initial Licensure Application” form, June 25, 2018, at least 90 days prior to advertising or beginning instruction, and includes:
  - a. The school’s purpose and mission or a copy of the bylaws;
  - b. Administrative responsibilities and authority documented in an organizational chart;
  - c. A description of credentialing requirements for faculty, if applicable, and a statement assuring that the faculty meets those requirements, including, but not limited to:
    1. Age requirements;
    2. Years of experience either in the field, teaching, or both; and
    3. Hold and maintain current, valid, state permits or licenses required to practice the trade being taught
  - d. A description of facilities used for educational instruction which, upon inspection, shall be of a size which is determined to be adequate and conducive to learning and contain all equipment, furnishings, and supplies necessary for the instruction of the program(s) or course(s) offered;
  - e. A facility safety plan; and
  - f. All applicable inspection reports, to include, at a minimum, a report from the local fire chief or the state fire marshal’s office;
- (4) Remit a licensure fee as specified in Hedc 304.06; and

(5) Receive an approval letter from the commissioner of education.

(b) In the event of a change to any of the information listed in Hedc 303.01(a)(1)-(3), the school shall provide the following to the office 30 days prior to the change:

(1) An explanation of the change;

(2) Any fee associated with the change as specified in Hedc 304.06; and

(2) Documentation to support the school's notification of change, as outlined in Hedc 303.01.

(c) Any change shall be subject to review or on site visit by the office within 15 business days of receipt of the change documentation as listed in Hedc 303.01(b).

Hedc 303.02 Renewal Application. Every 2 years an applicant seeking license renewal shall complete and submit a "License Renewal Application" form, June 25, 2018, along with the school's annual filing fee in accordance with Hedc 304.06 at least 90 days prior to the expiration of the current license. Such renewal application shall comply with all criteria set forth in Hedc 303.01.

Hedc 303.03 Educational Program.

(a) Each program or course shall:

(1) Reflect and support the purpose and mission of the school;

(2) Provide a sequence of subjects or courses leading to competency in the respective area or field of study;

(3) Allow students to receive instruction in all subjects for the number of instructional hours as advertised in the school's catalog; and

(4) Define and measure the knowledge, skills, and competencies students have acquired as aligned with their school's policies and procedures.

(b) Alternative delivery, as defined in RSA 188-G:1(a), instruction or hybrid formats shall comply with all program and course standards listed in Hedc 303.03(a) and faculty qualifications listed in Hedc 303.01(a)(3)c.

(c) The school shall notify the office of new methods of delivery, courses, and programs by providing the office with the information listed in Hedc 304.01 30 days prior to publishing in the school catalog, on the school's website, or both.

Hedc 303.04 Annual Filing.

(a) For the purposes of calculating a school's licensing fee, as well as assurance that a school has the financial resources to operate, a school shall complete and submit an "Annual Filing Form", June 25, 2018, 45 days prior to the school's annual filing date.

(b) The school shall provide the following on the “Annual Filing Form”, as revised, June 25, 2018:

- (1) Name of school;
- (2) A signed annual gross tuition, as defined in Hedc 301.01(c); and
- (3) A signed assurance statement by an officer of the school.

(c) A school shall submit notarized proof of surety indemnification in the form of a bond, an irrevocable letter of credit, or a term deposit pursuant to RSA 188-G:3.

(d) The office shall conduct a financial review if the office has reason to believe:

- (1) The school’s financial status has changed;
- (2) The financial information submitted is incorrect; or
- (3) There is cause to question the financial status of the school.

(e) A school shall remit an annual renewal licensure fee in accordance with the fee schedule in Hedc 304.06.

#### PART Hedc 304 BUSINESS PRACTICES

Hedc 304.01 Student Protection and Disclosures. Before requiring students to provide any identifying information, schools shall, at a minimum, make the following items publicly available in the school catalog, on the school’s website, or both:

(a) Admission requirements, including any prerequisite training required for admission and a profile that enumerates the background and abilities of prospective students;

(b) Beginning and ending dates, or rolling enrollment procedures, of each program or course, that includes add or drop dates, if applicable, examination periods, calendar of holidays and other dates important to the completion of the program or course;

(c) A list and description of programs, courses, or both, to include objectives, length, and curriculum offerings at each school location;

(d) A description of school’s grading system for necessary student outcomes and requirements for completion and graduation;

(e) A withdrawal and refund policy to include, at a minimum, the following statements:

- (1) All refunds shall be paid within 30 days upon written notification from a student of cancellation or withdrawal; and
- (2) Students receiving benefits from federal programs shall be subject to federal refund policies, rules and regulations;

(f) A schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study;

(g) Policies related to transferability of credit; and

(h) Student complaint process.

Hedc 304.02 Ethical Business Practices.

(a) A school or its representative shall not make guarantees regarding employment to prospective students.

(b) Certificates shall be issued within 30 days of the completion date of the course or program to those students who have met all of the completion requirements, including tuition payment of the applicable course of study.

(c) School's shall not falsely mislead the public as to its name, nature of business, facilities, and equipment and shall not engage in fraudulent or deceitful practices in dealing with students or the public.

Hedc 304.03 Tuition Policy. Tuition and fees shall be offered and administered in a non-discriminatory manner in that:

(a) A school and its approved branch or satellite shall charge students enrolled in the same program or course a uniform rate of tuition and other fees, provided nothing herein shall prevent a school from making a uniform change in tuition or other fees in new enrollment agreements;

(b) Nothing shall prevent the school from negotiating business to business, contractual agreements for different rates of tuition and fees; and

(c) The tuition charged per unit shall not be increased for the term of the contract or enrollment agreement.

Hedc 304.04 Student Records.

(a) For the purposes of this section, the following definitions shall apply:

(1) "Instructor hours" means number of hours that instructors deliver live training in a lecture or classroom format, as an interactive workshop, as a demonstration with the opportunity for learners to practice, or virtually, using video-conferencing tools; and

(2) "Self-study hours" means study conducted by a student inside or outside of the classroom without necessitating the presence or interaction of an instructor, and does not include homework assigned outside of the designated course or program self-study hours.

(b) At a minimum, a school shall maintain current, complete, and accurate student records of the following documents in a safe and secure environment for a minimum of 3 years:

(1) A copy of the student's signed enrollment agreement to include, at a minimum:

a. A detailed schedule of program or course hours, including, but not limited to, any one or more of the following:

1. Instructor hours; and

2. Self-study hours;

b. A detailed tuition and fee schedule; and

c. A statement for students to sign and date stating they have received and read school policies;

(2) Records of student progress reports that include information on classroom attendance and performance;

(3) A copy of the results of any enrollment evaluation or examination; and

(4) A record of all monies charged, owed, and paid.

(c) Student records shall include a unique identifier such as date of birth, last 4 digits of the student's social security number or an assigned student identification number.

(d) Records of students shall be open for inspection to the office during site visits to the school.

(e) A school shall permanently maintain student transcripts or certificates.

(f) Any changes to the original enrollment agreement shall be made in writing and signed by both school and student.

Hedc 304.05 Schools Undergoing Closure, Acquisition, Sale, Merger, or Transition to Exempt Status.

(a) Any school that plans to close shall notify the office no less than 30 days prior to the closing date and the office shall respond within 10 business days requesting a transition plan and timetable that addresses the closure including, but not limited to:

(1) One original transcript or certificate and an electronic copy of each for all current and former students who were enrolled;

(2) One original or electronic copy of catalogs for each year in existence;

(3) Public disclosure and student notification;

(4) A plan for discontinuation of programs or courses;

(5) Student records including a unique identifier such as date of birth, last 4 digits of the student's social security number or an assigned student identification number;

(6) Teach-out schedule detailing program or course completion; and

(7) Any correspondence to and from accrediting agencies in regards to closure.

(b) Any school undergoing an acquisition, sale, or merger shall provide to the office a transition plan and timetable including, but not limited to:

- (1) Correspondence to and from an accrediting agency, if applicable; and
- (2) Any changes to the information as required in Hede 303.01-303.04.

(c) Any school transitioning from non-exempt to exempt status shall provide to the office a transition plan and timetable that addresses the change in status, including, but not limited to:

- (1) A list of programs or courses and their objectives, length and tuition;
- (2) Identification of the exemption criteria used to support the exempt status pursuant to RSA 188-G:1, II(a)-(k); and
- (3) Supporting documentation for meeting the above exemption criteria.

(d) Any school meeting any of the criteria specified in Hede 304.05 (a), or (b) shall remit a fee as indicated in Hede 304.06.

Hede 304.06 Fees.

(a) Pursuant to RSA 188-G:2 IV, fees for the office shall be in accordance with the fee schedule in table 304-1:

Table 304-1 Career School Licensing Fee Schedule

Action	Fees
Initial Licensing	\$1,000
Annual Renewal Licensure Fee, based on annual gross tuition – (AGT)	
\$75,000 or less	\$450
\$75,001 or more	.006 of AGT
New Course(s)	\$75 per course/\$750 max
New Program(s)	\$750/\$75 per course, whichever is less
Governance - Acquisition, Merger, Transfer, Or Sale Of Assets	\$650
School Closure	\$250
Closed School Transcripts	
Transcript request fee per transcript	\$20
Stipends	
External consultant review	\$500 per day plus expenses

(b) Applicable fees shall be paid by check or money order made payable to “Treasurer, State of New Hampshire.”

(c) In the event of a financial hardship beyond the school's control, upon receipt of a hardship request in writing, closure fees shall be waived upon verification by the director of said hardship. Such determination shall be made within 30 days of the receipt of the written request.

## PART Hedc 305 COMPLAINT PROCESS

### Hedc 305.01 Who May File a Complaint.

(a) Any person who has a complaint against a school who has first sought redress directly from said school through its complaint process, and said process has been completed and was found to be in favor of the school, may file a complaint with the office.

Hedc 305.02 Misconduct Sufficient to Support a Complaint. Misconduct sufficient to support a complaint shall include any violation of any statute or rule which is administered by the commission.

Hedc 305.03 Complaint Form. Complaints shall be filed with the office by completing and submitting the online "Complaint Form", 2015 edition at <https://my.doe.nh.gov/ESSWEB/HigherEducation/Complaint.aspx>

Hedc 305.04 Timeframe for Filing a Complaint. Complaints shall be filed within 3 years of the scheduled start date of the course or program that is the subject of the complaint.

### Hedc 305.05 Receipt and Review of Complaints.

(a) Upon receipt of a complaint, the office shall determine whether or not the complaint has merit to commence an investigation.

(b) The office shall acknowledge receipt of the complaint by written notification within 10 business days. A copy of said written notification shall be sent to the complainant and to the school which is the subject of the complaint.

(c) The office shall dismiss a complaint if the complainant fails to meet one or more of the following criteria:

- (1) Meet the criteria set forth in Hedc 305.02;
- (2) Respond to a request for information from the office of career school licensing within a specified time frame; or
- (3) Participate in any investigation or hearing as ordered.

## PART Hedc 306 INVESTIGATIONS

### Hedc 306.01 Investigation.

(a) A member of the office shall interview appropriate personnel from the school who is alleged to have committed the violation or about to commit a violation, and/or any other person who might have relevant knowledge of the violation or potential violation.

(b) The member of the office assigned to investigate the matter shall review records, data, facilities and other relevant elements which are pertinent to the investigation.

(c) The member of the office shall submit a report of his or her findings regarding the investigative matter to the director for review.

(d) If the director determines that there is a violation, a sanction of fines shall be imposed pursuant to Table 306-1, Fines as follows:

Table 306-1 Fines

Action	Fines
Administrative violation of rules and statutes	\$1,000/each
Operation of a school without a license	\$3,000/month
Late Submission	\$150/day

(e) The director shall report the written findings of the investigation, to include any applicable fines as set forth in Heds 306.01(d), to the complainant and the school via registered mail.

(f) Fines shall be due within 30 days of receipt of the registered mail notification from the director. Payment of fines shall waive a school’s right to file an appeal to the commission.

(g) A complainant or a school may file a written intention to appeal the director’s decision with the commission within 15 days of receipt of the registered mail notification from the director. Filing a written intention to appeal shall stay the requirement to pay the fine within the applicable timeframe as set forth in Heds 306.01(f).

(h) Applicable fines shall be paid by check or money order made payable to “Treasurer, State of New Hampshire.”

PART Heds 307 APPEALS

Heds 307.01 Appeals.

(a) Within 15 days of filing a written intention to file an appeal, a complainant or a school may appeal the director’s decision to the commission by submitting a formal letter.

(b) The formal letter shall outline the specific disagreements with the director’s finding and shall include citations to the proper RSA’s and Heds’ s with a separate explanation for each grievance.

(c) Upon receipt of such formal letter:

(1) The commission shall inform the complainant or the school of the next scheduled commission meeting and include the appeal on the agenda; and

(2) The commission shall render a determination of the appeal within 15 business days.

Hedc 307.02 Revocation of School License.

(a) Pursuant to RSA 188-G:6, the commission shall, after due notice and hearing, revoke the license of any school licensed pursuant to RSA 188-G:2 for violating provisions of RSA 188-G:1-5 or rules of this chapter, and such revocation shall be determined after considering the presence of aggravating or mitigating circumstances as specified in Hedc 307.02 (b) and (c).

(b) The following shall be considered aggravating circumstances:

- (1) The seriousness of the offense;
- (2) The licensee’s prior disciplinary record;
- (3) Lack of willingness to cooperate with the office regarding application, renewal, fees, or disciplinary fines;
- (4) Potential harm to public health and safety; and
- (5) The purpose of the rule or statute violated.

(c) The following shall be considered mitigating circumstances:

- (1) Absence of a prior disciplinary record;
- (2) Willingness to cooperate with the office;
- (3) Acknowledgement of the licensee’s wrongdoing; and
- (4) The purpose of the rule or statute violated.

(d) Alleged violations of RSA 188-G:1-5 shall be reported to the attorney general, or other appropriate official having jurisdiction, pursuant to RSA 188-G:10.

**APPENDIX I**

RULE	STATUTE
Hedc 301	RSA 188-G:1,II
Hedc 302	RSA 188-G:1
Hedc 303	RSA 188-G:2,II
Hedc 304	RSA 188-G:2,II
Hedc 305	RSA 188-G:2, IV
Hedc 306	RSA 188-G:2,II
Hedc 307	RSA 188-G:2, IV