

TITLE 571 BOARD FOR PROPRIETARY EDUCATION

Notice of First Public Comment Period

LSA Document #25-2

BPE FEE SCHEDULE

PURPOSE OF NOTICE

The Board for Proprietary Education (BPE) is soliciting public comment on adding rules at 571 IAC 1 concerning incorporating BPE's current fee schedule. BPE seeks comment on the affected citations listed and any other provisions of Title 571 that may be affected by this rulemaking.

ADDITIONAL DOCUMENTS

Regulatory Analysis: 20250122-IR-571250002RAA

Notice of Public Hearing: 20250122-IR-571250002PHA

CITATIONS AFFECTED: 571 IAC 1

AUTHORITY: IC 21-18.5-6-27

OVERVIEW

Basic Purpose and Background

The proposed rule will incorporate BPE's current fee schedule into the Indiana Administrative Code (IAC), in compliance with IC 4-22-2-19.6, to maintain current administrative operations. The statutory purpose of BPE, as outlined in IC 21-18.5-6-1, is to protect students, educational institutions, the general public, and honest and ethical operators of institutions from dishonest and unethical practices. Before doing business in Indiana, a postsecondary credit bearing proprietary educational institution (institution), as defined at IC 21-18.5-2-12, is required to obtain authorization from BPE. Under IC 21-18.5-6-3 and IC 21-18.5-6-12(f), BPE is required to assess an authorization fee and renewal fee, each with a specified statutory minimum dollar amount.

In March 2022, BPE adopted the current fee schedule through board action with an effective date of May 2022. Currently, the mandatory application for authorization fee is two thousand five hundred dollars (\$2,500), regardless of physical presence in Indiana, plus three hundred dollars (\$300) per program for initial authorization from an institution with a physical presence or twenty-five dollars (\$25) per program for initial authorization from an institution with no physical presence. Currently, the mandatory annual renewal fee is one thousand dollars (\$1,000), regardless of physical presence in Indiana, plus twenty-five dollars (\$25) per program for institutional authorization renewal, regardless of physical presence in Indiana.

BPE charges fees to cover the cost of processing applications and evaluating institutions at initial application and renewal. This process includes: (1) a review of annual financial statement data; (2) the development of a scorecard summarizing an institution's components of its financial composite score; (3) the latest financial information data, trends, and annual revenues; and (4) the preparation of recommendations for further detailed analysis for institutions that merit further investigation. Institutions appearing on the watch list described in IC 20-19-7 have further detailed analysis, and institutional financial executives are interviewed.

The proposed rule will apply to all institutions operating in Indiana, regardless of physical presence. This rulemaking will not have a fiscal impact on state and local government because the rule is incorporating the current fee structure into the IAC.

For purposes of IC 4-22-2-28.1, small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Ross Miller, Director of State Authorization and Reciprocity
Board of Proprietary Education
101 West Ohio Street, Suite 300
Indianapolis, IN 46204
(317) 232-1033
rmiller@che.in.gov

For purposes of IC 4-22-2-28.1, the Small Business Ombudsman designated by IC 5-28-17-6 is:

Matthew Jaworowski
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 650-0126
majaworowski@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in IC 5-28-17-6, specifically IC 5-28-17-6(9), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

REQUEST FOR PUBLIC COMMENT

BPE is soliciting public comment on the proposed rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #25-2 BPE Fee Schedule
Ross Miller, Director of State Authorization and Reciprocity
Board of Proprietary Education
101 West Ohio Street, Suite 300
Indianapolis, IN 46204
(317) 232-1033

(2) By email to rmiller@che.in.gov. PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.

(3) Attend scheduled public hearing.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than February 21, 2025.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (if applicable) are on file at the Board for Proprietary Education, 101 West Ohio Street, Suite 300, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the Board for Proprietary Education office.

If BPE does not receive substantive comments during the public comment period or public hearing, the rule may be adopted with text that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

PROPOSED RULE

SECTION 1. 571 IAC 1 IS ADDED TO READ AS FOLLOWS:

ARTICLE 1. BOARD FOR PROPRIETARY EDUCATION

Rule 1. Board for Proprietary Education

571 IAC 1-1-1 Applicability

Authority: IC 21-18.5-6-27

Affected: IC 21-18.5-6-3; IC 21-18.5-6-12

Sec. 1. The definitions in this rule apply throughout this article. (*Board for Proprietary Education; 571 IAC 1-1-1*)

571 IAC 1-1-2 "Board for proprietary education" defined

Authority: IC 21-18.5-6-27

Affected: IC 21-18.5-5-1; IC 21-18.5-6-3; IC 21-18.5-6-12

Sec. 2. "Board for proprietary education" has the meaning set forth in IC 21-18.5-5-1. (*Board for Proprietary Education; 571 IAC 1-1-2*)

571 IAC 1-1-3 "Institution" defined

Authority: IC 21-18.5-6-27

Affected: IC 21-18.5-2-12; IC 21-18.5-6-3; IC 21-18.5-6-12

Sec. 3. "Institution" has the meaning set forth in IC 21-18.5-2-12. *(Board for Proprietary Education; 571 IAC 1-1-3)*

571 IAC 1-1-4 "Institution with a physical presence" defined

Authority: IC 21-18.5-6-27

Affected: IC 21-18.5-6-3; IC 21-18.5-6-12

Sec. 4. "Institution with a physical presence" means an institution that currently occupies a physical location for student instruction or an administrative office to facilitate student instruction. *(Board for Proprietary Education; 571 IAC 1-1-4)*

571 IAC 1-1-5 "Institution with no physical presence" defined

Authority: IC 21-18.5-6-27

Affected: IC 21-18.5-6-3; IC 21-18.5-6-12

Sec. 5. "Institution with no physical presence" means an institution that does not currently occupy a physical location for student instruction or an administrative office to facilitate student instruction. *(Board for Proprietary Education; 571 IAC 1-1-5)*

571 IAC 1-1-6 "Program" defined

Authority: IC 21-18.5-6-27

Affected: IC 21-18.5-6-3; IC 21-18.5-6-12

Sec. 6. "Program" means each diploma, certificate, or degree program offered by an institution. *(Board for Proprietary Education; 571 IAC 1-1-6)*

571 IAC 1-1-7 Application cycle

Authority: IC 21-18.5-6-27

Affected: IC 21-18.5-6-3; IC 21-18.5-6-4; IC 21-18.5-6-12

Sec. 7. Institutions seeking initial authorization to operate in Indiana shall submit an application containing the requirements of IC 21-18.5-6-4 to the board for proprietary education with the fee outlined in section 9 of this rule. *(Board for Proprietary Education; 571 IAC 1-1-7)*

571 IAC 1-1-8 Renewal cycle

Authority: IC 21-18.5-6-27

Affected: IC 21-18.5-6-3; IC 21-18.5-6-4; IC 21-18.5-6-12

Sec. 8. Institutions shall renew authorization annually by submitting an application containing the requirements of IC 21-18.5-6-4 and the renewal fee outlined in section 9 of this rule. *(Board for Proprietary Education; 571 IAC 1-1-8)*

571 IAC 1-1-9 Fee schedule

Authority: IC 21-18.5-6-27

Affected: IC 21-18.5-6-3; IC 21-18.5-6-12

Sec. 9. (a) The fees set by the board for proprietary education are as follows:

(1) Two thousand five hundred dollars (\$2,500) per application for initial institutional authorization from an institution with a physical presence plus three hundred dollars (\$300) per degree program for initial degree program authorization.

(2) Two thousand five hundred dollars (\$2,500) per application for initial institutional authorization from an institution with no physical presence plus twenty-five dollars (\$25) per program for initial program authorization.

(3) One thousand dollars (\$1,000) per application for institutional authorization renewal from an institution with a physical presence plus twenty-five dollars (\$25) per program for program renewal and three hundred dollars (\$300) per degree program for initial degree program authorization.

(4) One thousand dollars (\$1,000) per application for institutional authorization renewal from an institution with no physical presence plus twenty-five dollars (\$25) per program for program renewal.

(b) Fees must be paid not later than thirty (30) days after the application has been submitted.

(c) Nonpayment will result in the denial of the institutional authorization or renewal and program authorization or renewal.

(d) Failure to pay in accordance with the fee payment schedule, which results in the substantial nonpayment of the fee, may result in the revocation of the institutional authorization or renewal and program authorization or renewal.

(e) Fees are nonrefundable and may not be refunded or applied to a subsequent application or renewal if the:

(1) institutional authorization or renewal, or program authorization or renewal, is denied or revoked; or

(2) application is withdrawn after the payment is deposited.

(Board for Proprietary Education; 571 IAC 1-1-9)