

TITLE 571 BOARD FOR PROPRIETARY EDUCATION

Regulatory Analysis

LSA Document #25-2

I. Description of Rule

a. History and Background of the Rule – Prior to doing business in Indiana, a postsecondary credit-bearing proprietary educational institution (institution) is required to obtain authorization from the Indiana Board for Proprietary Education (Board). Pursuant to [IC 21-18-6-3](#), an application for authorization must include a fee of at least one hundred (\$100) dollars for processing the application and evaluating the institution. Currently, the mandatory application for authorization fee is two thousand and 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 plus twenty-five dollars (\$25) per program for initial authorization from an institution with no physical presence. Further, an institution can annually renew their authorization by continuing to meet the requirements of [IC 21-18.5-6](#) and submitting a fee of at least twenty-five dollars (\$25) pursuant to [IC 21-19.5-6-12\(f\)](#). 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 renewal institutional authorization, regardless of physical presence in Indiana.

The statutory requirement to submit an authorization fee predates the creation of the Board in 2012. The Commission on Proprietary Education (COPE) oversaw the authorization of institutions prior to 2012. The fees were established with the creation of the Indiana Commission on Proprietary Education in 1971. The fees were raised by the Commissioners of the COPE in 2011. House Enrolled Act 1270 (2012) simultaneously abolished COPE and established the Board. Through recodification, the Board inherited COPE's mandatory application and annual review fees and their corresponding fee minimum dollar amounts. In March 2022, the Board memorialized the current fee schedule through board action with an effective date of May 2022. However, the statutorily required fee structure has not been adopted through formal rulemaking and, consequently, is absent from Indiana Administrative Code. Continued compliance of the aforementioned statutes and the continuance of current administrative operations necessitate the Board exercise its formal rulemaking authority under [IC 21-18.5-6-27](#) to incorporate a fee structure into Indiana Administrative Code pursuant to [IC 4-22-2-19.6](#).

b. Scope of the Rule – This rule will apply to all postsecondary credit-bearing proprietary educational institution operating in Indiana, regardless of physical presence.

c. Statement of Need – The statutory purpose of the Board, 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. The Board charges fees to cover the cost of processing applications and

evaluating the institutions at initial application and renewal. Volatility in the proprietary education sector has required greater scrutiny of these institutions, necessitating the Board to increase fees in 2022.

In response to many high-profile closures of institutions that impacted thousands of Hoosier students, the Board has instituted a more rigorous evaluation process which focuses on the financial health of the institutions who operate in Indiana. This process includes: a review of annual financial statement data; the development of a scorecard summarizing the institution's components of their financial composite score, the latest financial information data, trends, and annual revenues; and, the preparation of recommendations for further detailed analysis for institutions which merit further investigation. Institutions appearing on the "Watch List" have further detailed analysis and institutional financial executives are interviewed.

d. Statutory Authority for the Proposed Rule – The authority for Board to charge application and renewal fees is outlined in [IC 21-18.5-6-3](#) (Application for Authorization Fee) and [IC 21-18.5-6-12\(f\)](#) (Authorization Renewal Fee). The Board's general rulemaking authority may be found at [IC 21-18.5-6-27](#).

e. Fees, Fines, and Civil Penalties – This rule will incorporate the Board's current fee structure into the Indiana Administrative Code. Adding this policy to the Indiana Administrative Code complies with [IC 4-22-2-19.6](#), and an explanation of how these fees are assessed is included in the Cost Analysis section.

II. Fiscal Impact Analysis

a. Anticipated Effective Date of the Rule – Early/mid 2025

b. Estimated Fiscal Impact on State and Local Government – This rulemaking will not have a fiscal impact on state and local government because the rule is incorporating the current fee structure into the Indiana Administrative Code.

c. Sources of Expenditures or Revenues Affected by the Rule – This rulemaking will not require any additional expenditures, nor will it collect any additional revenue, as the rule is incorporating the current fee structure into the Indiana Administrative Code. The annual average of the total fees collected between FY 2019 and FY 2023 is \$503,729. This money is deposited into the postsecondary credit bearing proprietary educational institution authorization fund pursuant to [IC 21.18.5-6-26](#) (c).

III. Impacted Parties

All postsecondary credit-bearing proprietary educational institutions, as defined at [IC 21-18.5-2-12](#), are impacted by this rule. This currently totals 104 institutions. However, the number changes annually.

IV. Changes in Proposed Rule

This rulemaking will not make any substantive changes to current practice or current fees. This rulemaking's sole purpose is to ensure the agency's compliance with [IC 4-22-2-19.6](#) by incorporating the Board's current fee structure

into the Indiana Administrative Code. This specific rulemaking incorporates the fee structure as it relates to application, authorization and renewal fees.

570 IAC 2-1-1	Adds applicability section stating the definitions in the rule apply throughout the article.
570 IAC 2-1-2	Defines the board for proprietary education. The definition references Indiana Code for simplicity and consistency between the rule and law.
570 IAC 2-1-3	Defines institution. The definition references Indiana Code for simplicity and consistency between the rule and law.
570 IAC 2-1-4	Defines institution with a physical presence. This definition is needed for clarity when looking at the fee schedule to differentiate the types of institutions.
570 IAC 2-1-5	Defines institution with no physical presence. This definition is needed for clarity and to differentiate from the term above.
570 IAC 2-1-6	Defines program. This definition further clarifies terms used in the fee schedule so impacted parties will understand what each fee is referencing.
570 IAC 2-1-7	Establishes the application cycle and requires the payment of the applicable fee in the fee schedule.
570 IAC 2-1-8	Establishes the renewal cycle and requires the payment of the applicable fee in the fee schedule.
570 IAC 2-1-9	Establishes the fee schedule. This schedule is put into rule to comply with HEA 1623 (2023), and for clarity for impacted parties.

V. Benefit Analysis

a. Estimate of Primary and Direct Benefits of the Rule – The proposed rule ensures the consistent assessment of fees for applications and renewals by institutions for programs with a physical presence in the state and for those programs with no physical presence in the state. Further, this rulemaking is ensuring the Board's compliance with [IC 4-22-2-19.6](#).

b. Estimate of Secondary or Indirect Benefits of the Rule – The secondary, or indirect benefit of this rule, is that compliance with [IC 4-22-2-19.6](#) will allow the Board to continue collecting fees in the same methods that has been used for decades. This rule ensures the Board has the resources to ensure institutions operating in Indiana are monitored for fiscal stability with more warning of possible sudden unannounced closure.

c. Estimate of Any Cost Savings to Regulated Industries – This rulemaking is not changing any of the current fee amounts, so there are no cost savings.

VI. Cost Analysis

a. Estimate of Compliance Costs for Regulated Entities – There are no compliance costs imposed by this rule. This rulemaking adds a rule to the Indiana Administrative Code so that the Board's fee structure complies with statutory provisions at [IC 4-22-2-19.6](#).

b. Estimate of Administrative Expenses Imposed by the Rules – There will be no administrative expenses imposed by this rule as the rule incorporates the current practice and fee structure.

c. The fees, fines, and civil penalties analysis required by [IC 4-22-2-19.6](#) – The rule is not creating any new, nor increasing any existing civil penalties. Instead, this rulemaking is adding new rules to ensure the Board's fees comply with new statutory requirements found at [IC 4-22-2-19.6](#).

This application and renewal fees satisfy [IC 4-22-2-19.6\(2\)](#) as the fee is a based price plus an additional amount based on the number of programs offered by the institution. The specific dollar amount can be reasonably calculated by institutions by multiplying the amount by the number of programs offered plus the base fee. The authorization fee is a set amount satisfying the requirement of [IC 4-22-2-19.6\(a\)](#).

d. If the implementation costs of the proposed rule are expected to exceed the threshold set in [IC 4-22-2-22.7\(c\)\(6\)](#) – The implementation costs of the proposed rule are not expected to exceed the threshold set in [IC 4-22-2-22.7\(c\)\(6\)](#).

VII. Sources of Information

To develop this rule, the Board relied on the current fee structure which can be found at <https://www.in.gov/bpe/forms-and-applications/new-institution-authorization/>. Historical data on the amount of application, authorization and renewal fees collected from institutions was provided by Board staff.

VIII. Regulatory Analysis

Given that this rulemaking will not impose any new costs but has the benefit of ensuring the Board complies with [IC 4-22-2-19.6](#), it is the Board's judgment that this rulemaking will have a positive impact on the state and regulated entities.

IX. Contact Information of Staff to Answer Substantive Questions

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Notice of First Public Comment Period with Proposed Rule: [20250122-IR-571250002FNA](#)

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