

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 38.
EDUCATIONAL INSTITUTIONS.

CHAPTER 13.
EDUCATION LICENSURE COMMISSION.

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DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 13. EDUCATION LICENSURE
COMMISSION.

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CHAPTER 13. EDUCATION LICENSURE COMMISSION.

§ 38-1301. PURPOSE.

The purpose of this chapter is to provide for the protection, education, and welfare of the citizens of the District of Columbia and its students, by:

- (1) Establishing minimum standards concerning the quality of postsecondary education, ethical and business practices, health and safety, and fiscal responsibility, to protect against substandard, transient, unethical, deceptive, or fraudulent postsecondary educational institutions and practices;
- (2) Prohibiting the granting of false or misleading postsecondary educational credentials;
- (3) Prohibiting misleading literature, advertising, solicitation, or representation by postsecondary educational institutions or their agents;
- (4) Providing for the preservation of essential academic records;
- (5) Providing for a commission to advise the Mayor and Council of the District of Columbia as to the postsecondary educational needs of the District of Columbia; and
- (6) Providing for a commission to serve as the state approving agency for veterans benefits.

(Apr. 6, 1977, D.C. Law 1-104, title I, § 101, 23 DCR 8734; Mar. 16, 1989, D.C. Law 7-217, § 2(a), 36 DCR 523.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1601.

1973 Ed., § 31-2001.

Legislative History of Laws

Law 1-104 was introduced in Council and assigned Bill No. 1-293, which was referred to the Committee on Higher Education/University of the District of Columbia. The Bill was adopted on first and second readings on September 15, 1976, and October 12, 1976, respectively. Enacted without signature by the Mayor on November 18, 1976, it was assigned Act No. 1-177 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 7-217, see Historical and Statutory Notes following § 38-1309.

Miscellaneous Notes

Appropriations authorized: Public Law 102-111, 105 Stat. 563, the District of Columbia Appropriations Act, 1992, provided \$477,000 for the Education Licensure Commission.

Establishment of District of Columbia Advisory Committee on Education: See Mayor's Order 89-256, November 7, 1989.

§ 38-1302. DEFINITIONS.

For the purposes of this chapter:

- (1) "Agent" means any person owning any interest in, employed by, or representing for remuneration, an educational institution, whether such institution is located within or outside the District, and who solicits or offers to enroll in the District students or enrollees for such institution, or who holds himself or herself out to residents of the District of Columbia as representing an educational institution for any such purpose.

- (1a) "Accredited" means approved by an accrediting association recognized by the United States

Department of Education.

(2) "District" means the District of Columbia.

(3) "Person" includes, but is not limited to, any individual, group of individuals, firm, partnership, corporation, association, company, society, trust, or any other entity whatsoever.

(4) "Educational institution" means:

(A) Any entity or person organized or chartered in the District that operates, keeps, or maintains any facility in the District through which educational instruction is offered;

(B) Any branch, extension, or facility of an entity that operates, keeps, or maintains any facility in the District through which educational instruction is offered, but organized or chartered outside of the District, that furnishes or offers to furnish in the District instruction or educational services leading toward a postsecondary degree, diploma, or certificate; or

(C) An entity that is organized or chartered and that operates outside of the District of Columbia, but through agents offers instruction or educational services to residents of the District.

(4a) "Certificate" or "diploma" means a document, designation, mark, appellation, series of letters or words, academic or honorary title, or other symbol that signifies, purports or is generally taken to signify satisfactory completion of the requirements of an academic, educational, vocational or professional program of study at the postsecondary level, but does not include completion of a program for a degree.

(5) "Degree" means a document, designation, mark, appellation, series of letters or words, academic or honorary titles, or other symbol that signifies, purports or is generally taken to signify satisfactory completion of the requirements of an academic, educational, or professional program of study for the associate, bachelor, master or doctor level of college or university education.

(6) "To grant or to confer" includes awarding, selling, conferring, bestowing, or giving.

(7) "Education", "educational service", or a like term means a class, course, or program of instruction or study at the postsecondary level in whatever form, manner, or medium provided, whether by personal attendance or correspondence.

(8) "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.

(9) "Chairman of the Council" means Chairman of the Council of the District of Columbia.

(10) "Commission" means Education Licensure Commission.

(11) "To operate" or "operating" when applied to an educational institution means to establish, keep, or maintain any facility or location in the District, or to establish, keep, or maintain any facility or location organized or chartered in the District wherefrom or through which education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform any such act.

(12) "License" or "to license" means the granting of approval to operate by the Commission to any educational institution covered under this chapter. Such approval shall be contingent upon said educational institution's compliance with all rules, regulations and criteria promulgated by the Commission, as well as compliance with all other applicable D.C. laws and regulations.

(12A) "Non-profit" means an organization or institution that is exempt from federal income tax under the provisions of 26 U.S.C. § 501(c)(3) and that meets the requirements of Chapter 4 of Title 29.

(12B) "Postsecondary" means the level of education beyond high school.

(13) "Proprietary school" means any privately-owned educational institution operated for a profit.

(14) "Facility" means a physical structure located in the District, including suitable housing, classrooms, laboratories, and library resources, as required by the nature of the program or the student body.

(Apr. 6, 1977, D.C. Law 1-104, title II, § 201, 23 DCR 8734; Mar. 16, 1989, D.C. Law 7-217, § 2(b), 36 DCR 523; Mar. 8, 1991, D.C. Law 8-239, § 2(a), (b), 38 DCR 333; Aug. 16, 2008, D.C. Law 17-219, § 4010(a), 55 DCR 7598; July 2, 2011, D.C. Law 18-378, § 3(cc), 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1602.

1973 Ed., § 31-2002.

Effect of Amendments

D.C. Law 17-219 rewrote pars. (4)(A) and (B); and added par. (14). Prior to amendment, pars. (4)(A) and (B)

read as follows:

"(A) Any entity or person organized or chartered in the District;

"(B) Any branch, extension or facility of an entity operating in the District, but organized or chartered outside of the District, that furnishes or offers to furnish in the District instruction or educational services leading toward a postsecondary degree, diploma, or certificate; or".

D.C. Law 18-378, in par. (12A), substituted "Chapter 4 of Title 29" for "subchapter I of Chapter 3 of Title 29".

Legislative History of Laws

For legislative history of D.C. Law 1-104, see Historical and Statutory Notes following § 38-1301.

For legislative history of D.C. Law 7-217, see Historical and Statutory Notes following § 38-1309.

Law 8-239 was introduced in Council and assigned Bill No. 8-584, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-322 and transmitted to both Houses of Congress for its review.

For Law 17-219, see notes following § 38-251.

For history of Law 18-378, see notes under § 38-1202.08.

Miscellaneous Notes

Licensing of proprietary schools: For amendment of proprietary school regulation related to the licensing of proprietary schools, see § 2 of the Proprietary School Regulations Amendment Act of 1982 (D.C. Law 4-134, 29 DCR 2748).

Short title: Section 4009 of D.C. Law 17-219 provided that subtitle D of title IV of the act may be cited as the "Education Licensure Commission Amendment Act of 2008".

§ 38-1303. EDUCATION LICENSURE COMMISSION--ESTABLISHED.

There is established for the District of Columbia an Education Licensure Commission ("Commission") which shall license postsecondary educational institutions subject to this chapter and their agents, ensure authenticity and legitimacy of the educational institutions, serve as the state approving agency for veterans educational benefits, provide standards and criteria, and administer rules and regulations, including rules of procedure for the Commission to ensure adequate public notice of each meeting of the Commission.

(Apr. 6, 1977, D.C. Law 1-104, § 3, 23 DCR 8734; Mar. 16, 1989, D.C. Law 7-217, § 2(c), 36 DCR 523.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1603.

1973 Ed., § 31-2003.

Legislative History of Laws

For legislative history of D.C. Law 1-104, see Historical and Statutory Notes following § 38-1301.

For legislative history of D.C. Law 7-217, see Historical and Statutory Notes following § 38-1309.

Miscellaneous Notes

Realignment of functions within the Department of Consumer and Regulatory Affairs: See Mayor's Order 96-15, February 8, 1996 (43 DCR 1112).

§ 38-1304. EDUCATION LICENSURE COMMISSION--COMPOSITION; TERMS; VACANCIES; MEETINGS; COMPENSATION.

(a) The Commission shall consist of 5 members who shall be appointed by the Mayor.

(b) Each member of the Commission shall be a bona fide resident of the District of Columbia and shall serve for a term of 3 years, except that of the members first appointed to the Commission, 3 members shall be appointed to serve for a term of 2 years and 2 members shall be appointed to serve for a term of 3 years, to be determined by lot. Members may not be appointed to serve for more than 2 consecutive terms. Any person appointed to fill a vacancy on the Commission shall be appointed to serve the remainder of the term in the same manner as the original selection. Persons appointed to fill the remainder of a term, where the remainder is less than one-half of the original term, may be reappointed to 2 full terms.

(c) Any member of the Commission who is or has been, within 12 months of appointment, an officer, employee, student, trustee, or member of the governing board of an educational institution operating in the District of Columbia that is subject to licensure by the Commission or has a financial interest in an educational institution subject to licensure shall not participate in any matter before the Commission concerning the institution.

(d) The Commission shall choose annually from among its members a Chairperson and such other officers as it deems necessary. All meetings of the Commission shall be called by the Chairperson or a majority of the members, except the 1st meeting of the Commission shall be called by the Mayor.

(e) Three members shall constitute a quorum of the Commission and no official action of the Commission shall be taken except in an open meeting of the Commission with a quorum present.

(f) Members of the Commission shall each be entitled to compensation pursuant to the provisions of § 1-611.08, up to a maximum of \$4,000 for any 1 year. While away from their homes or regular places of business in the performance of the duties of the Commission, members shall be allowed travel expenses, including per diem in lieu of substance.

(Apr. 6, 1977, D.C. Law 1-104, § 4, 23 DCR 8734; Mar. 3, 1979, D.C. Law 2-139, § 3205(y), 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2(gg), 27 DCR 2632; Mar. 16, 1989, D.C. Law 7-217, § 2(d), 36 DCR 523.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1604.

1973 Ed., § 31-2004.

Legislative History of Laws

For legislative history of D.C. Law 1-104, see Historical and Statutory Notes following § 38-1301.

Law 2-139 was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

Law 3-81 was introduced in Council and assigned Bill No. 3-236, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 22, 1980 and May 20, 1980, respectively. Signed by the Mayor on June 4, 1980, it was assigned Act No. 3-195 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 7-217, see Historical and Statutory Notes following § 38-1309.

§ 38-1305. EDUCATION LICENSURE COMMISSION--TRANSFER OF POSITIONS; PERSONNEL; ESTABLISHMENT OF PANELS.

(a) There shall be transferred to the Commission such positions and their funding that formerly were assigned to the Board of Higher Education for the approval and licensure of post-secondary institutions.

(b) Personnel shall be appointed and compensation fixed in accordance with the provisions of Chapter 6 of Title 1.

(c) The Commission may set up panels of persons qualified to inspect, evaluate and make recommendations concerning the approval for licensure of the several kinds of institutions covered by this chapter.

(Apr. 6, 1977, D.C. Law 1-104, § 5, 23 DCR 8734; Mar. 3, 1979, D.C. Law 2-139, § 3205(y), 25 DCR 5740; Mar. 16, 1989, D.C. Law 7-217, § 2(e), 36 DCR 523.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1605.

1973 Ed., § 31-2005.

Legislative History of Laws

For legislative history of D.C. Law 1-104, see Historical and Statutory Notes following § 38-1301.

For legislative history of D.C. Law 2-139, see Historical and Statutory Notes following § 38-1304.

For legislative history of D.C. Law 7-217, see Historical and Statutory Notes following § 38-1309.

Miscellaneous Notes

**§ 38-1306. EDUCATION LICENSURE COMMISSION--REGULATIONS;
REVIEW OF LICENSED INSTITUTIONS; VALIDITY OF CURRENT
LICENSES.**

(a) Reserved.

(b)(1) The Commission shall license degree granting institutions and institutions that give instruction that result in credit toward a degree as follows:

(A) A provisional license shall be awarded to every institution upon initial licensure, which shall be for such period as the Commission deems necessary before the institution is eligible for a permanent license. The award of the provisional license shall be based upon the Commission's determination that the institution complies, or can within a reasonable time comply with all requirements of this chapter, and shall be subject to conditions that the Commission deems necessary to achieve full compliance with this chapter.

(B) Once a provisional license has been awarded, the Commission shall award a permanent license, subject to periodic review in accordance with subsection (b) of this section, if the Commission determines that an accredited educational institution is in full compliance with the provisions of this chapter.

(2) In accordance with procedures consistent with subchapter I of Chapter 5 of Title 2, the Commission may suspend or revoke the license of an institution for failure to comply with the provisions of this chapter and regulations issued pursuant to this chapter may reduce a permanent license to a provisional license, and refuse to issue a license.

(3) The Mayor shall issue rules to implement the provisions of the chapter pursuant to subchapter I of Chapter 5 of Title 2 that shall include, but not be limited to, a schedule of licensing fees and charges and standards and requirements for licensure of degree granting and non-degree granting programs. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays and days of Council recess. If the Council does not approve or disapprove the proposed rules in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(4) To the extent consistent with this chapter, the Commission shall utilize the rules of the Board of Higher Education entitled "Regulations Relating to the Licensing of Institutions Which Confer Degrees," issued July 1, 1970, until the rules are amended or repealed.

(5) The Proprietary School Regulations, issued October 1, 1971 (Reg. 71-30; 16 DCMR 12), shall continue in effect until repealed or amended by rules adopted pursuant to paragraph (3) of this subsection.

(c)(1) The Commission may undertake the following:

(A) An independent evaluation of an educational institution's facilities and programs that are located in the District for purposes of initial licensure of an educational institution;

(B) A periodic review of any nonaccredited degree-granting licensee;

(C) A periodic review of any nondegree granting educational institution; and

(D) A periodic review of any branch or extension of an accredited degree-granting licensee that is located outside of the District.

(2) The Commission may make an independent evaluation of an institution's facilities and programs outside the District for purposes of initial licensure of an institution that seeks to operate a branch or extension within the District and the periodic review of a licensee that is not accredited.

(3) The Commission's periodic review of facilities and programs of an accredited licensee shall, except as specified in paragraph (1) of this subsection, be made only by means of a Commission observer of an evaluation by a regional accrediting association, or, if the programs are limited to a specialty, by a specialized accrediting association.

(4) The Commission may make an on-site investigation as authorized by this subsection to conduct any evaluation authorized by this subsection and to investigate a complaint or other appearance of failure by a licensee to comply with the requirements of this chapter.

(d) Nothing in this chapter shall be construed to invalidate a current license to operate an educational institution held by any person in the District of Columbia on March 16, 1989, except that every institution operating in the District of Columbia, with or without a license, on March 16, 1989, shall come into compliance with the provisions of the chapter and rules issued pursuant to the chapter within a reasonable time, as provided in the rules.

(e)(1) The Commission is authorized to charge any institution that is licensed under this chapter for the

costs of the Commission's independent evaluations of the institution's facilities and the Commission's observations of evaluations made by accrediting associations. Any institution operating an educational program within the District shall establish, to the satisfaction of the Commission, that the program offered will be in accordance with the educational standards of the Commission.

(2) All revenues collected by, and all payments made to, the Commission under this subsection shall be deposited in the Education Licensure Commission Site Evaluation Fund established by § 38-2607.

(f) Any license issued pursuant to this section shall be issued as an Educational Services endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(Apr. 6, 1977, D.C. Law 1-104, § 6(b)-(e), 23 DCR 8734; Sept. 6, 1980, D.C. Law 3-83, § 2, 27 DCR 2894; Mar. 14, 1985, D.C. Law 5-159, § 20, 32 DCR 30; Aug. 1, 1985, D.C. Law 6-15, § 6, 32 DCR 3570; Mar. 16, 1989, D.C. Law 7-217, § 2(f), 36 DCR 523; Mar. 8, 1991, D.C. Law 8-239, § 2(c), 38 DCR 333; Apr. 20, 1999, D.C. Law 12-261, § 2003(x), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(bb), 50 DCR 6913; Apr. 13, 2005, D.C. Law 15-354, § 54, 52 DCR 2638; Oct. 20, 2005, D.C. Law 16-33, § 4002(a), 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, § 5(q), 53 DCR 6794.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1606.

1973 Ed., § 31-2006.

Effect of Amendments

D.C. Law 15-38, in subsec. (f), substituted "an Educational Services endorsement to a basic business license under the basic" for "a Class A Educational Services endorsement to a master business license under the master".

D.C. Law 15-354, in subsec. (b)(3), deleted ", within 180 days of March 16, 1989," following "The Mayor".

D.C. Law 16-33, in subsec. (d), designated par. (1) and added par. (2).

D.C. Law 16-191, in subsec. (e), validated a previously made technical correction.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3(bb) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

For temporary (90 day) amendment of section, see § 4002(a) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For legislative history of D.C. Law 1-104, see Historical and Statutory Notes following § 38-1301.

Law 3-83 was introduced in Council and assigned Bill No. 3-259, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on May 20, 1980, and June 3, 1980, respectively. Signed by the Mayor on June 20, 1980, it was assigned Act No. 3-200 and transmitted to both Houses of Congress for its review.

Law 5-159 was introduced in Council and assigned Bill No. 5-540, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 20, 1984, and December 4, 1984, respectively. Signed by the Mayor on December 10, 1984, it was assigned Act No. 5-224 and transmitted to both Houses of Congress for its review.

Law 6-15 was introduced in Council and assigned Bill No. 6-141, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 14, 1985 and May 28, 1985, respectively. Signed by the Mayor on June 7, 1985, it was assigned Act No. 6-30 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 7-217, see Historical and Statutory Notes following § 38-1309.

For legislative history of D.C. Law 8-239, see Historical and Statutory Notes following § 38-1302.

Law 12-261, the "Second Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-615, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Law 15-38, the "Streamlining Regulation Act of 2003", was introduced in Council and assigned Bill No. 15-19, which was referred to Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 3, 2003, and July 8, 2003, respectively. Signed by the Mayor on August 11, 2003, it was assigned Act No. 15-146 and transmitted to both Houses of Congress for its review. D.C. Law 15-38

became effective on October 28, 2003.

For Law 15-354, see notes following § 38-101.

Law 16-33, the "Fiscal Year 2006 Budget Support Act of 2005", was introduced in Council and assigned Bill No. 16-200 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 2005, and June 21, 2005, respectively. Signed by the Mayor on July 26, 2005, it was assigned Act No. 16-166 and transmitted to both Houses of Congress for its review. D.C. Law 16-33 became effective on October 20, 2005.

For Law 16-191, see notes following § 38-1202.01.

Miscellaneous Notes

Short title of subtitle A of title IV of Law 16-33: Section 4001 of D.C. Law 16-33 provided that subtitle A of title IV of the act may be cited as the Education Licensure Commission Amendment Act of 2005.

§ 38-1307. EDUCATION LICENSURE COMMISSION--FUNCTIONS.

In addition to those duties specified in other sections of this chapter, the Commission shall:

- (1) Advise the Mayor and the Council with respect to the postsecondary educational needs of the District of Columbia;
- (2) File with the Mayor and the Council quarterly reports relating to:
 - (A) The educational institutions granted or denied licenses under this chapter during the reporting period; and
 - (B) Other matters that come under the Commission's purview;
- (3) Receive, and cause to be maintained, copies of student academic records in conformity with the following provisions:
 - (A) In the event an educational institution operating in the District, or any educational institution licensed under this chapter operating outside of the District, proposes to discontinue its operation and has no other repository for its records, the chief administrative officer, by whatever title designated, of the institution shall cause to be filed with the Commission the original or legible true copies of all records of the institution specified by the Commission. The records shall include, at a minimum, the academic records of each former student;
 - (B) The Commission shall maintain and dispose of the records in accordance with the provisions of Chapter 17 of Title 2. Academic records shall be maintained for at least 50 years from the date the student attended the institution;
 - (C) The Commission is authorized to charge an institution for all costs involved in the transfer of records; and
- (4)(A) In the event it appears to the Commission that the records of an institution discontinuing its operations are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the Commission, the Commission may apply to the Superior Court of the District of Columbia for an order authorizing the Commission to seize and take possession of the records; and
 - (B) Any chief officer or member of a governing board of an institution who willfully fails to comply with the provisions of this subsection or willfully aids and abets any person in a scheme to avoid the requirements of this subsection may be held personally liable for all costs and damages resulting from the conduct, in addition to other penalties provided by this chapter.

(Apr. 6, 1977, D.C. Law 1-104, § 7, 23 DCR 8734; Mar. 16, 1989, D.C. Law 7-217, § 2(g), 36 DCR 523; Mar. 8, 1991, D.C. Law 8-239, § 2(d), 38 DCR 333.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1607.

1973 Ed., § 31-2007.

Legislative History of Laws

For legislative history of D.C. Law 1-104, see Historical and Statutory Notes following § 38-1301.

For legislative history of D.C. Law 7-217, see Historical and Statutory Notes following § 38-1309.

For legislative history of D.C. Law 8-239, see Historical and Statutory Notes following § 38-1302.

§ 38-1308. SUPPLEMENTAL FUNDING.

The Mayor and the Council shall be authorized to obtain supplemental funding for the Commission. The Council shall approve the receipt of any such supplemental funding.

(Apr. 6, 1977, D.C. Law 1-104, § 8, 23 DCR 8734.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1608.

1973 Ed., § 31-2008.

Legislative History of Laws

For legislative history of D.C. Law 1-104, see Historical and Statutory Notes following § 38-1301.

§ 38-1309. POSTSECONDARY EDUCATIONAL INSTITUTION; REQUIREMENTS.

(a) No person or postsecondary educational institution incorporated in the District of Columbia or outside of the District of Columbia shall operate a postsecondary educational institution in the District of Columbia, offer postsecondary education, have the power to grant or confer or offer to grant or confer a postsecondary degree or a diploma or certificate, offer postsecondary courses for credit, or issue transcripts or other documents to reflect credit toward a postsecondary degree, diploma or certificate, unless:

(1) The institution is granted a license to do so from the Commission or granted an exemption by the Commission in accordance with this chapter; and

(2) The institution is either organized or chartered in the District of Columbia and operates, keeps, or maintains a facility in the District through which educational instruction is offered, or organized or chartered outside the District of Columbia and is registered as a foreign corporation pursuant to § 29-101.99 or § 29-301.64, and operates, keeps, or maintains a facility in the District through which educational instruction is offered, or is otherwise properly authorized to do business in the District of Columbia and operates, keeps, or maintains a facility in the District through which educational instruction is offered.

(b) No person shall state or imply that its educational program or course of instruction is approved for veteran's training in the District by the District of Columbia State Approving Agency or by the United States Veterans Administration, unless that person has obtained proper approval from the commission.

(c) Except as provided for in this chapter, no person shall sell, barter, or exchange for any consideration, or attempt to sell, barter, or exchange for any consideration, a degree, diploma, or certificate.

(d) The Commission, before granting any license, may require satisfactory evidence:

(1) That, in the case of an individual, unincorporated group of individuals, or incorporated institution, the individual, a majority of the group, or a majority of the trustees, directors, or managers of the incorporated institution are persons of good repute and qualified to conduct an institution of learning; and

(2) That no degree shall be awarded by an institution that is not accredited if more than one-half of the requirements for the degree are earned by correspondence or extramural study, unless this fact is conspicuously noted upon the degree conferred.

(e) No degree shall be granted in medicine or any healing art, or in dentistry, for study pursued or work done by correspondence.

(Apr. 6, 1977, D.C. Law 1-104, § 9, as added Mar. 16, 1989, D.C. Law 7-217, § 2(h), 36 DCR 523; Feb. 5, 1994, D.C. Law 10-68, § 29(a), 40 DCR 6311; Aug. 16, 2008, D.C. Law 17-219, § 4010(b), 55 DCR 7598.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1609.

Effect of Amendments

D.C. Law 17-219 rewrote subsec. (a)(2), which had read as follows:

"(2) The institution is either organized or chartered in the District of Columbia, or organized or chartered outside of the District of Columbia and is registered as a foreign corporation pursuant to § 29-101.99, or § 29-301.64, or is otherwise properly authorized to do business in the District of Columbia."

Legislative History of Laws

Law 7-217 was introduced in Council and assigned Bill No. 7-86, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on November 29, 1988, and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-292 and transmitted to both Houses of Congress for its review.

D.C. Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

For Law 17-219, see notes following § 38-251.

§ 38-1310. EXEMPT INSTITUTIONS.

(a) The following types of educational institutions or activities are excluded from the coverage of this chapter:

- (1) Courses of instruction not purporting to lead to a degree conducted by any person solely for the training of the employees of the person, and for which no fee is charged;
- (2) Education offered by the District or federal government or any instrumentality of the governments, except course approval for veterans under an Act to amend Chapter 35 of Title 38, United States Code, to provide that after the expiration of the Korean conflict veterans' education and training program, approval of courses under the war orphan's educational assistance program shall be by State approving agencies (38 U.S.C. § 3500 et seq.);
- (3) Education solely avocational or recreational in nature and not leading to a degree and institutions offering the education exclusively, as determined by the Commission;
- (4) Education offered by an eleemosynary or nonprofit institution, organization, or agency, if no fee is charged for the education and no credit toward a degree or any degree, diploma, or certificate is awarded;
- (5) Courses or programs of instruction given by or approved by a professional body, fraternal organization, civic club, or benevolent order principally for the professional education of its own members or advancement or similar purpose and for which no degree or degree credit is awarded and for which there is no public advertising; and
- (6) An educational institution that is organized or chartered outside of the District of Columbia and does not operate in the District of Columbia, except that any agent of an institution who operates in the District shall not be exempt, and the Commission may apply the standards of this chapter to the institution in determining whether to license an agent.

(b) A degree-granting institution shall be entitled to a conditional exemption from all other provisions of this chapter if, upon request to the Commission:

- (1) It can show that it has been authorized by the Congress of the United States to grant degrees;
- (2) It is accredited by a regional accrediting association recognized by the United States Department of Education;
- (3) It files annually with the Commission the following:
 - (A) A current audited financial statement of the institution;
 - (B) A certified statement as to the institution's accreditation status, including whether any conditions have been imposed and whether any action has been taken toward revoking or limiting that status; and
 - (C) A copy of each course catalogue and a response to the Commission's annual data survey;
- (4) It makes provision for a representative of the Commission to serve as an observer on all visits to the institution by evaluators from a regional accrediting association; and
- (5) It furnishes to the Commission a copy of all reports submitted to and received from the accreditation association, including the reports of an evaluation submitted to the institution by the accrediting association and notices of accrediting association action regarding accreditation of the institution.

(c) An institution entitled to a conditional exemption under subsection (b) of this section that is required by a regional accrediting association to show cause why its accreditation should not be revoked, or that has had its accreditation withdrawn, shall notify the Commission immediately of the action by the regional accrediting association. The exemption shall expire and the institution shall become fully subject to the licensing requirements of this chapter as of the date it receives notice of the withdrawal of accreditation status by the regional accrediting association.

(d) The Commission, upon request, may reinstate an institution's conditional exemption once accreditation is re-established and the Commission has determined that it meets the provisions of this chapter appropriate to the exempt status.

(e) A conditional exemption authorized by this section extends only to programs or courses within the scope of the institution's accreditation as certified by the accrediting association.

(f) The Commission shall issue a conditional exemption to an off-campus program offered within the District of Columbia by an unconditionally accredited degree training institution or group of institutions. All other requirements of conditional exemptions under this section shall apply to the programs, when the Commission determines that:

(1) The local offering is for the institution's own students, regularly enrolled on its home campus and does not fulfill more than 25% of the normal degree requirements; or

(2) The local offering is open only to employees of a person, and there is no cost to the employee.

(g) Nothing shall be stated or implied, in any diploma, degree, certificate, or document evidencing same, or elsewhere in the publications or correspondence of the institution that a program excluded from the requirements of this chapter has been reviewed, approved, or authorized by the Commission, the District government or any officer of the District government.

(h) Any self study undertaken by an educational institution as part of the accreditation process, any site evaluation by an accrediting association, or any other report submitted by the educational institution to the accrediting association or by the accrediting association to the educational institution that contains an evaluation judgment about the institution that is not prepared for publication shall, when submitted to the Commission in accordance with this chapter, be exempt from public disclosure under the provisions of subchapter II of Chapter 5 of Title 2, and the Commission shall not disclose the report or take official licensure action solely on the basis of the contents of the report. The Commission shall disclose whether or not an educational institution has received the award, reaffirmation, amendment, or revocation of accreditation from an accrediting association.

(Apr. 6, 1977, D.C. Law 1-104, § 10, as added Mar. 16, 1989, D.C. Law 7- 217, § 2(h), 36 DCR 523; Mar. 8, 1991, D.C. Law 8-239, § 2(e), 38 DCR 333; Feb. 5, 1994, D.C. Law 10-68, § 29(b), 40 DCR 6311.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1610.

Legislative History of Laws

For legislative history of D.C. Law 7-217, see Historical and Statutory Notes following § 38-1309.

For legislative history of D.C. Law 8-239, see Historical and Statutory Notes following § 38-1302.

For legislative history of D.C. Law 10-68, see Historical and Statutory Notes following § 38-1309.

§ 38-1311. BOND OR SURETY REQUIREMENT; MAYOR TO ISSUE RULES.

The Mayor may promulgate rules, subject to review by the Council as provided in § 38-1306(a), to establish a bond or surety requirement not to exceed \$250,000 per institution based on the number of students and cost of instruction and \$3,000 per agent. The bond or security for the institution shall be for the purpose of protecting students should an institution breach its contract with its students, declare bankruptcy or otherwise terminate its educational program without providing adequate student refunds.

The bond or security for the agent shall be for the purpose of protecting students from misrepresentation of the education or credentials to be received. The rules may allow the Commission to waive the surety requirement for a financially sound, nonprofit institution that has been licensed for 5 consecutive years.

(Apr. 6, 1977, D.C. Law 1-104, § 11, as added Mar. 16, 1989, D.C. Law 7- 217, § 2(h), 36 DCR 523; Mar. 8, 1991, D.C. Law 8-239, § 2(f), 38 DCR 333.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1611.

Legislative History of Laws

For legislative history of D.C. Law 7-217, see Historical and Statutory Notes following § 38-1309.

For legislative history of D.C. Law 8-239, see Historical and Statutory Notes following § 38-1302.

§ 38-1312. VIOLATIONS; PENALTIES.

(a) Any person or persons who, directly or indirectly, participate in, aid, or assist in offering postsecondary education or the operation of a postsecondary educational institution by any unlicensed individual or individuals, association, or institution, or by any individual or individuals, association, or institution whose license has been revoked, who advertises or claims any authority to offer education, except pursuant to the provisions of this chapter, or who violates a provision of this chapter shall be guilty of a misdemeanor, and upon conviction in the Superior Court of the District of Columbia shall be punished by a fine of not more than \$500.

(b) Each day of noncompliance shall constitute a separate violation of this chapter.

(c) Violations of this chapter shall be prosecuted in the District of Columbia Superior Court by the Corporation Counsel of the District of Columbia.

(d) Nothing contained in this chapter shall preclude any person from being subject to a penalty under provisions of § 28-3904, if the person engages in an unlawful trade practice.

(Apr. 6, 1977, D.C. Law 1-104, § 12, as added Mar. 16, 1989, D.C. Law 7-217, § 2(h), 36 DCR 523.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1612.

Legislative History of Laws

For legislative history of D.C. Law 7-217, see Historical and Statutory Notes following § 38-1309.

§ 38-1313. TRANSFER OF THE EDUCATION LICENSURE COMMISSION FROM THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS TO THE STATE EDUCATION OFFICE.

(a) All positions, personnel, property, records and unexpended balances of appropriations, allocations and other funds available or to be made available to the Department of Consumer and Regulatory Affairs that support the functions of the Education Licensure Commission, established by § 38-1303 are hereby transferred to the State Education Office, established by § 38-2601.

(b) All of the powers, duties, and functions delegated to the Department of Consumer and Regulatory Affairs concerning the activities of the Education Licensure Commission, including those delegated pursuant to this chapter, are hereby transferred to the State Education Office, established by § 38-2601.

(Apr. 6, 1977, D.C. Law 1-104, § 12a, as added Nov. 13, 2003, D.C. Law 15-39, § 303, 50 DCR 5668; Apr. 13, 2005, D.C. Law 15-354, § 84(a), 52 DCR 2638; Oct. 20, 2005, D.C. Law 16-33, § 4002(b), 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 15-354 validated a previously made technical correction.

D.C. Law 16-33, in the section heading, subsec. (a), and subsec (b), substituted "Education" for "Educational".

Emergency Act Amendments

For temporary (90 day) addition, see § 303 of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) addition, see § 303 of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

For temporary (90 day) amendment of section, see § 4002(b) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 15-39, see notes following § 38-160.

For Law 15-354, see notes following § 38-101.

For Law 16-33, see notes following § 38-1306.