

Topic: Approval from Board of Education Before Acceptance of Filings on Behalf of Higher Ed Institutions

Question by: Laurie Flynn

Jurisdiction: Massachusetts

Date: 15 February 2011

Jurisdiction	Question(s)
	Massachusetts has a statutory provision, which directs us to refer articles of organization for an higher educational institution and articles of amendment of an existing educational institution which will give it the power to grant degrees or change its name to a name which will include college, junior college or university to the Board of Higher Education for approval before filing. The procedure has been problematic for us since the advent of electronic filing. Do others have a similar statute ? If so, how do you handle the referral process?
Manitoba	
Corporations Canada	Similar to Massachusetts legislation, federal corporate law in Canada prohibits incorporation under a name that misleads the public into thinking that the business can provide a post-secondary education when, in fact, it is not authorized to do so. Our policy requires the corporation to submit the consent of a national association of universities and colleges to a name containing terms like “university”, “college”, “institute” or other terms like these.
Alabama	
Alaska	
Arizona	
Arkansas	
California	
Colorado	Our office does not have this requirement.
Connecticut	
Delaware	
District of Columbia	In the District of Columbia customer can form any type of entity including educational institution. However, once formed the entity must obtain accreditation and license from Board of Education and other appropriate organization before it conducts any business.
Florida	Florida has much the same statute, the difference is approval from the Dept. of Education is “after” formation of the entity. We email a particular individual in the Dept. of Education once we form an entity with “college” or “university” in the name. They contact the new entity with whatever requirements they may have. Names with “bank” and other related words however must have “prior” approval. Those filings must be handled manually. If received electronically, the document is rejected and the filer is informed that approval is needed and that they must return the document manually. I’m going to talk to our IT people about

	the ability to add a tif or pdf attachment to an online filing like Lorna mentioned in her answer to your question
Georgia	
Hawaii	<p>The Hawaii Office of Consumer Protection is the state agency responsible for enforcing Chapter 446E. Unaccredited degree granting institutions which operate in, from or claim to operate under the color of Hawaii law are subject to Hawaii's Unaccredited Degree Granting Institutions law, codified in Chapter 446E of the Hawaii Revised Statutes.</p> <p>Here at our office, Business Registration Division, we email a copy or image of any registration that indicates or implies that it is an educational institution to our Office of Consumer Protection for there review</p>
Idaho	
Illinois	
Indiana	Indiana does not have a similar statute.
Iowa	
Kansas	
Kentucky	
Louisiana	
Maine	
Maryland	
Massachusetts	
Michigan	<p>Pursuant to section 202(b) of the Business Corporation Act, MCL 450.1202(b), and section 171 of the General Corporation Act, MCL 450.171, the approval of the Michigan Department of Career Development or the Michigan Department of Education must accompany the document if a name and/or purpose of a corporation imply that it may be an educational corporation.</p> <p>If the Corporation Division receives a document that implies it is an educational corporation, it refers the individual, submitting the document, to the correct department to obtain a written statement from the department or to determine if approval of the department is not necessary.</p>
Minnesota	
Mississippi	
Missouri	Missouri does not.
Montana	
Nebraska	
Nevada	<p>In Nevada, entities wishing to use the word college, university or other post secondary educational institution name must have approval from the Nevada Division of Post-Secondary Education. These words are in our online name algorithm and if present in an online filing, the filing will be rejected unless they attach approval from the division. We also have other "restricted" words built into the algorithm as well. Filings containing certain words cannot be filed online (and in some cases may not be allowed with online or desktop processes. Those that cannot be filed online may submit in paper form for manual review. Our rejection rate on Online filings is insignificant and is much less than paper filings because of the Wizard technology that guides the user through the online process.</p>

	<p>All online articles with any attachments are reviewed post-process to ensure the attachments meet filing requirements. If there is a deficiency, the filer is notified and given a few days to remedy the deficiency, otherwise the entity is placed on hold, and if not remedied, filing is cancelled.</p> <p>We implemented our Online Articles services on December 11, 2010 for domestic corporations and LLCs. After 2 months a total of 47% of those entity filings offered online and 44% of all new entity filing are processed online with minimal review. Processing time for paper filings have been reduced from 7 – 10 days to 2 -3 days even with online filing review being completed immediately.</p>
New Hampshire	We do have a similar statute. Right now we are not doing electronic filing, but we have been working closely with our Post Secondary Education Department and we get notifications from them as soon as they have approved something. Otherwise we will reject for the approval.
New Jersey	
New Mexico	
New York	NY has similar requirements. Any certificate with educational purposes (promoting education in any way) or certain educational words in its name will require written approval from the Department of Education. Colleges, universities and museums are formed by the Department of Education. If a certificate which requires Education consent is submitted for filing without the consent, it is returned to the filer with instructions to contact Education directly. Many certificates are rejected for this reason.
North Carolina	North Carolina does not.
North Dakota	North Dakota does not have a similar provision.
Ohio	Ohio does not have the same statutory requirement, but we have similar filings that require approval from the Attorney General's office, or Department of Commerce (if the business name includes the word "bank"). Our plan for an online system is to have an option to upload a copy of this approval when filing online.
Oklahoma	Oklahoma does not.
Oregon	If I understand you correctly, you have to get approval for certain filings from another agency before you can file them. We have that situation with entities that have certain bank terms in the name. When our system looks at the filing, it compares the name to the table of bank terms. If there is a match, the filing is flagged for filing officer review. The filing officer creates a nonfileable status for the application and sends back a letter of explanation. When the filer gets a letter of approval from the other agency, they upload a pdf of that approval with their corrected filing and that allows them to be filed. It does require a filing officer review to change the status, but we review all new filings anyway, chiefly for name reasons.
Pennsylvania	
Rhode Island	<p>In Rhode Island we have a very similar requirement that extends to all education levels. We are required to seek the prior approval of the Department of Education for Elementary and Secondary schools, as well as, the Office of Higher Education for institutions of higher learning.</p> <p>At this time we do not accept foreign certificates of authority online; however, if we received a domestic filing electronically, we "reject" the filing with the explanation that we are required to seek prior approval, print a copy of the document and contact either the Department of Education or Office of Higher Education to seek their approval. Once approval has been granted we</p>

	<p>scan the document into our system and process it as if it was a "paper filing." If the approval cannot be obtained we declare the filing "null & void" and issue a refund.</p> <p>Of course, I understand that what works for RI, might not be the solution for all. We typically receive less than 20 filings a year that would require the prior approval of the Department of Education.</p>
South Carolina	
South Dakota	
Tennessee	
Texas	<p>Entity using specific words in a name, such as <i>college</i> or <i>university</i>, is required to obtain written consent from the Texas Higher Education Board prior to submission to the SOS. Written consent can be attached to an electronic filing as a pdf, tif, or txt file.</p> <p>1. How to obtain approval from the Texas Higher Education Coordinating Board (THECB) for use of the terms “college,” “university,” “school of medicine,” “medical school,” “health science center,” “school of law,” “law school,” or “law center” in an entity name.</p> <p>The Texas Education Code prohibits the use of the terms "college," "university," "school of medicine," "medical school," "health science center," "school of law," "law school," and "law center." If a proposed name includes these terms, or terms of similar meaning, whether in English or another language, the entity must obtain the prior approval of the Texas Higher Education Coordinating Board ("THECB"). Tex. Ed. Code, § 61.313.</p> <p>For authorization to use any of these terms in an entity name, a request letter should be submitted to the THECB stating the following:</p> <ol style="list-style-type: none"> 1. Name of the entity as proposed to be filed with the secretary of state. 2. A brief statement of the business of the entity. One or two sentences should be sufficient; do not cut and paste boilerplate language from the certificate of formation. 3. The following disclaimer, providing it is true: "The entity is not now nor will be a private institution of higher education or an educational or training establishment." <p>If you wish to have your response faxed to you by THECB, in the body of the letter request a fax and provide your fax number. The request letter must contain the address and telephone number of the entity or person requesting the authorization (business letterhead is acceptable). The letter may be sent by the entity requesting the authorization or an agent representing the entity (attorney or other entity authorized to represent the entity to facilitate the approval)</p>

	<p>Please mail or fax this information to:</p> <p>Academic Affairs and Research Division Texas Higher Education Coordinating Board P.O. Box 12788 Austin, TX 78711 512-427-6168 (fax)</p> <p>A copy of the approval letter from THECB should be submitted with your certificate of formation or other filing instrument to the secretary of state.</p>
Utah	We have the same requirement in Utah. A letter from Consumer Protection is required to complete a post-secondary school filing. We treat it the same way we treat the need for good standings.....we give them two weeks to provide the letter or we disallow the filing.
Vermont	
Virginia	
Washington	Washington does not.
West Virginia	
Wisconsin	
Wyoming	

Additional comments:

Full text of email:

Good afternoon IACA

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