

610 CMR 16.00: Notice of Public Hearing

610 CMR 16.00: Degree Granting Regulation for Pilot Proposals on Innovation

Notice is hereby given pursuant to M.G.L. c. 69, § 30, M.G.L. c. 30A § 2 and c. 15A, § 9 that the Massachusetts Department of Higher Education will open a comment period relative to the adoption of regulation 610 CMR 16.00: "Degree Granting Regulation for Pilot Proposals on Innovation."

The Department of Higher Education's proposed regulation 610 CMR 16.00 seeks to provide the Board of Higher Education (Board or BHE) with flexibility to modify or temporarily waive its own regulations or standards in those instances where existing BHE regulations may impede responsible experimentation in higher education offerings. Specifically, the proposed BHE regulation establishes a framework for the Board to carefully consider, advance, and evaluate "pilot proposals" – from public or independent institutions of higher education subject to the Board's jurisdiction – that may be inconsistent with one or more specific BHE regulatory or policy requirement(s) related to an institution's degree-granting authority, but are responsive to significant changes in society, demographics, technology, educational research, or expectations regarding post-secondary education. The criteria, requirements, and procedures set forth therein will allow for responsible experimentation and advance innovation within a controlled, monitored environment, with the intention of broadening student access to sustainable degree-granting programs in high-demand fields.

The public comment period will begin when the proposed regulation is published in the *Massachusetts Register* on November 21, 2025, and will close three weeks thereafter, on December 12, 2025.

The public hearing will be held virtually on Friday, December 12, 2025, at 12:00 noon via Zoom:

When: December 12, 2025 -- 12:00 PM Eastern Time (US and Canada)

Participants must register in advance for this meeting:

https://us02web.zoom.us/meeting/register/-iG_IHKxRF-wQRYqNQbPQ

After registering, you will receive a confirmation email containing information about joining the meeting.

Written comments on the proposed amendments may be submitted at any time prior to 5:00pm EST on December 12, 2025, by directing the same to the following:

Email:

BHERegulationsComments@dhe.mass.edu

Postal Mail:

Massachusetts Department of Higher Education
One Ashburton Place, Room 1401
Boston, MA 02108
Attn: Christopher J. Grimaldi, Assistant General Counsel

Please submit electronic comments as an attached Word document and type "610 CMR 16.00" in the subject line. All submissions must include the sender's full name and address.

A copy of the proposed regulations, as well as the Department of Higher Education's fiscal effect and small business impact statement, are available on the Department of Higher Education's website at <https://www.mass.edu/bhe/review.asp>. Copies may also be obtained by calling Christopher J. Grimaldi at 617-994-6983.

For special accommodations for submission of public comments or information regarding submission of public comments in an alternative format, please contact Christopher J. Grimaldi.

610 CMR 16.00 SMALL BUSINESS IMPACT STATEMENT

The Board of Higher Education seeks to enact the following new regulations, 610 CMR 16.00: Degree Granting Regulations for Pilot Proposals on Innovation.

The Board of Higher Education (Board or BHE) is the Commonwealth's state higher education authority with regulatory authority, in varying degrees, over all twenty-nine (29) public and eighty (80) independent institutions of higher education (IHEs) located in the Commonwealth and authorized to grant degrees. Working through Department of Higher Education (Department or DHE) staff, the BHE is responsible for, among other things, the degree-granting program approval process in the Commonwealth to assure prospective students and other interested parties that licensed institutions meet minimal levels of quality while providing an appropriate learning environment for all students. Such determinations are based, in part, on an applicant-IHE's mission, programs of study, faculty and staff qualifications, leadership and organization, and financial sustainability.

Following extensive discussions with institutional stakeholders, careful reflection on the Board's formally adopted "Innovation-centered" strategic priority, and significant changes in our external environment, Department staff have prepared a draft regulation intended to help advance the BHE's consideration of responsible opportunities for programmatic experimentation. To that end, Department staff have drafted Board regulation 610 CMR 16.00, "Degree Granting Regulations for Pilot Proposals on Innovation," which provides the Board with flexibility to modify or temporarily waive its own regulations or standards in those instances where existing BHE regulations disfavor experimentation as a rapid response to shifting externalities.

Specifically, the proposed regulation establishes a framework for the Board to carefully consider, advance, and evaluate "pilot proposals" – from public *and* independent institutions of higher education subject to Board jurisdiction – that may be inconsistent with one or more specific BHE regulatory or policy requirement(s) related to degree-granting authority (610 CMR 2), but *are* responsive to significant changes in society, demographics, technology, educational research, and/or expectations regarding post-secondary education. The criteria, requirements, and procedures set forth therein will allow for responsible experimentation and advance innovation within a controlled, monitored environment.

The Department's proposed regulation places the onus on applicant-institutions of higher education to demonstrate how their proposals will ultimately advance institutional goals, broaden student access to higher education, and lead to positive student outcomes. DHE's draft regulations align with the BHE's broad responsibility for ensuring that students and families alike are well-informed and that their consumer rights are protected, while cultivating the evidence-based evaluations that must necessarily be considered before enacting any broader regulatory changes.

M.G.L. c. 30A provides that before any regulation becomes effective, agencies of the Commonwealth must file with the Secretary of the Commonwealth a statement considering the impact of said regulation on small businesses. Such statement of consideration shall include, but

not be limited to, an estimate of the number of small businesses subject to the proposed regulation; projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation; the appropriateness of performance standards versus design standards; an identification of relevant regulations of the promulgating agency, or any other state agency, which may duplicate or conflict with the proposed regulation; and an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth.

An estimate of the number of small businesses subject to the proposed regulation

While the proposed regulation will apply to all Massachusetts independent institutions of higher education under BHE's degree-granting authority, please be advised that public higher education institutions do not fall under the definition of "small businesses" as established by the U.S. Small Business Administration in 13 CFR section 121.201. BHE believes that no more than 10 to 15 of the Commonwealth's 80 private (independent) higher education institutions fall under the definition of "small businesses" as established by the U.S. Small Business Administration in 13 CFR section 121.201.

Projected reporting, recordkeeping, and other administrative costs

The Department anticipates administrative costs related to reviewing pilot proposal program applications and annual reports submitted by IHEs that have obtained conditional approval under the regulation. Furthermore, both private and public IHEs seeking approval for a pilot proposal will be required to submit the appropriate fee amount as already established for the program approval process under 610 CMR 2.06(1), and institutions whose proposals are conditionally approved by the Board may incur administrative costs associated with annual reporting requirements over the first five (5) years of operation.

Appropriateness of performance standards versus design standards

Performance standards and design standards are appropriate for this regulation, as it seeks to establish a framework through which pilot proposals from public or independent institutions of higher education may be considered and evaluated despite inconsistency with current BHE regulations, while setting clear procedures, expectations, and review criteria for IHEs submitting such proposals.

Identification of duplicate or conflicting regulations

The Board has not identified any duplicate or conflicting regulations promulgated by any state agency. Moreover, aside from regional accreditor-specific innovation policies such as that of the New England Commission of Higher Education (NECHE), the Department is not aware of

any Federal Regulation that establishes a framework for the Board to consider, advance, and evaluate pilot proposals from a public or independent institution of higher education.

Analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth

Considering that higher education is an important economic driver in Massachusetts, the Board believes that the Commonwealth's economy stands to benefit from innovation proposals that are responsive to market demands and ultimately may spur enrollment increases and/or programs offered at a lower cost and time to degree. The state economy would also greatly benefit from an influx of postgrads in high-demand fields who ultimately choose to work and settle in the Commonwealth following their attendance at a Massachusetts-based institution of higher education. Ultimately, the proposed regulation would allow Massachusetts to stay competitive with peer states that are similarly finding ways to advance innovation within the context of higher educational programmatic offerings.