

A new Part 159 is added to Chapter V, prior to Subchapter A, of Title 19 NYCRR to read as follows:

Part 159. Administration Relating to the Division of Licensing Services

Section 159.1 Live Distance Offerings

(a) Definitions. As used in this section, the following terms shall have the following meanings:

(1) “Approved instructor” means a person authorized, pursuant to applicable law, to provide personal instruction to students for the purpose of satisfying: educational requirements leading to an original license, certification, or registration issued by the Division; or continuing educational requirements leading to a renewal license, certification, or registration issued by the Division.

(2) “Approved entity” means any entity, authorized pursuant to applicable law: to offer educational courses or enroll students in such educational courses leading to an original license, certification, or registration issued by the Division; or to offer continuing educational courses or enroll students in such courses for the purpose of satisfying continuing educational requirements leading to a renewal license, certification, or registration by the Division.

(3) “Division” means the Division of Licensing Services of the Department of State.

(4) “Live distance education” means providing instruction, in real-time, where the approved instructor and the students are physically separated, but the use of remote technology allows each person participating in the educational program to view and communicate with each other in a live and interactive manner that transmits simultaneous live audio and video.

(5) “Live distance examination” means offering a proctored examination where the students and proctor are physically separated, but the use of remote technology allows each person participating in the examination to view and communicate with each other in a live and interactive manner that transmits simultaneous live audio and video.

(b) Unless otherwise expressly prohibited by law, an approved entity may, subject to the provisions in this subdivision and following approval by the Division, offer live distance education.

(1) Live distance education shall not be offered for segments of a course that require practical, in-person, or hands-on-learning.

(2) Prior to offering a live distance education course, an approved entity shall apply and disclose to the Division, on a form provided by the Division the following:

(i) a detailed description of the technology used, that the approved entity will rely upon, to provide live distance education, which must contain simultaneous live audio and video instruction;

(ii) a detailed description of the methods used, that the approved entity will rely upon, to ensure active participation by students;

(iii) a detailed description of the methods used, that the approved entity will rely upon, to verify the identity of students enrolled in an approved course of study;

(iv) a detailed description of the methods used to obtain a signed certification from each enrolled student evidencing that the student participated in the instruction;

(v) a detailed description of the instructions that will be provided to students to ensure that such students comprehend how to participate in a live distance course;

(vi) a detailed description of the methods used that the approved entity will rely upon to ensure the privacy and security of student records, and

(vii) such other information as the Division finds appropriate.

(c) An approved entity, that is approved to offer live distance education may also, subject to the provisions in this subdivision and following approval by the Division, offer live distance examinations.

(1) Live distance examinations shall not be offered to test segments of, or relating, to a course that requires practical, in-person, or hands-on-learning.

(2) Prior to offering live distance examinations, an approved entity shall apply and disclose to the Division, on a form provided by the Division the following:

(i) a detailed description of the technology used, that the approved entity will rely upon, to provide the examination, which must contain simultaneous live audio and video instruction;

(ii) a detailed description of the methods used, that the approved entity will rely upon, to ensure active participation by students and measures to detect and prevent fraud;

(iii) a detailed description of the methods used, that the approved entity will rely upon, to verify the identity of students taking a live distance proctored examination;

(iv) a detailed description of the methods used that the approved entity will rely upon to ensure the privacy and security of student examination records, and

(v) such other information as the Division finds appropriate.

(3) An approved entity that is approved to offer live distance education but does not satisfy the provisions in this subdivision shall not provide live distance examinations.

(d) Every approved entity that elects to offer live distance education shall, in addition to existing requirements imposed by applicable law, retain a record of each student's participation in and completion of the live distance learning program for a period of five years, and such records must be available for review and inspection by the Division. Each approved entity that elects to provide live distance education shall ensure that each location where an approved instructor is providing instruction is appropriate, free of distraction, and conducive to learning.

(e) A duly authorized designee of the Division may audit any course offered and may verify attendance and inspect the records of attendance of the course at any time during its presentation or thereafter.

(f) The Division may deny, suspend, or revoke the approval or renewal of a live distance education course, live distance examination authorization, or the authorization of an approved entity, if it is determined following a hearing, that they are not in compliance with applicable law and rules, or if the course or examination does not adequately reflect, present, or test the approved curriculum.