





TO: Higher Education Committee

FROM: John L. D'Agati 

SUBJECT: Authorization for the Department to Enter into a Consent Agreement with Mid-America Baptist Theological Seminary, Northeast Branch to Clarify Its Authority to Operate in New York State

DATE: October 6, 2016

AUTHORIZATION(S): 

SUMMARY

Issue for Decision

Should the Board of Regents authorize the Department to enter into a consent agreement with the Mid-America Baptist Theological Seminary to clarify its authority to operate in New York State?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

This item will come before the Higher Education Committee for a recommendation to the full Board at its October 2016 meeting.

Procedural History

Not applicable.

Background Information

There are two ways that institutions of higher education are authorized to operate in New York State; (1) as New York State degree-granting institutions, chartered or incorporated by the Board of Regents or; (2) as out-of-state institutions of higher education with the consent of the Board of Regents to operate in New York State.

Section 3.56 of the Rules of the Board of Regents governs the process for institutions of higher education in other states that wish to offer higher education programs in New York State to obtain the consent of the Board of Regents. Section 3.56(a) requires that an application for such consent include “evidence of educational quality and resources equivalent to that of New York institutions of higher education offering similar programs.”

The Mid-America Baptist Theological Seminary exists in, and was incorporated by, the state of Tennessee in 1975. On April 18, 1986, the New York State Board of Regents authorized the Seminary to operate a branch campus in New York State, register a Master of Divinity (M.Div.) degree program at that campus and confer that degree on students who successfully completed that registered program. The Seminary established a campus, the Mid-America Baptist Theological Seminary, Northeast Branch, in Schenectady, N.Y.

In 2004 and 2005, the Board of Regents authorized the Seminary to confer the Associate of Applied Science (A.A.S.) degree and to award certificates related to the Master of Divinity (M.Div.) degree and the Associate of Applied Science (A.A.S.) degree on students who successfully completed those registered programs at the Schenectady campus. It was subsequently determined that changes made in the Seminary’s A.A.S. program resulted in it no longer meeting the New York State requirements for that degree award and the Seminary requested to change the degree awarded for completion of that program to an Associate of Occupational Studies (A.O.S.) degree.

Recently, the Department became aware that, although Department records imply that the Tennessee corporation was authorized to confer registered degrees in New York State, the Seminary actually awards Tennessee degrees, not New York degrees, to the students who complete the programs at the New York branch campus. The Department records are inconsistent with the actual status of the Seminary as a Tennessee corporation that is authorized to operate a branch campus in New York State and to confer degrees in Tennessee pursuant to Tennessee law to students who successfully complete degree programs offered at the branch campus in New York State. As a result, the Department and the Seminary seek to enter into a consent agreement to clarify that the Seminary’s status in New York State is granted pursuant to §3.56 of the Rules of the Board of Regents, as an out-of-state institution of higher education with the consent of the Board of Regents to operate in New York State.

Pursuant to the consent agreement, NYSED and the Mid-America Baptist Theological Seminary would agree to the following:

- That the Seminary is a Tennessee corporation that is authorized by the New York State Board of Regents to establish and operate a branch campus in Schenectady County, New York State, under the name “Mid-America Baptist Theological Seminary, Northeast Branch,” and to offer at such branch campus programs leading to the Associate of Occupational Studies (A.O.S.) and Master of Divinity (M.Div.) degrees and certificates related in purposes and consent to those degrees;

- That the degrees and certificates conferred and to be conferred on students who successfully complete and/or completed said degree programs offered at said branch campus were and shall be issued by the Seminary pursuant to, and in accordance with, the laws of Tennessee;
- That pursuant to §3.56 of the Rules of the Board of Regents (8 NYCRR), the Seminary shall be deemed to have permission to operate in New York State to offer at said branch campus the following degree programs for the following time periods:
 - (a) the Master of Divinity (M.Div.) degree program commencing on April 18, 1986, *nunc pro tunc*, and ending on April 30, 2021;
 - (b) the Associate of Applied Science (A.A.S.) degree program commencing on December 17, 2004, *nunc pro tunc*, and ending on the effective date of the agreement (which is when the consent agreement is signed); and
 - (c) the Associate of Occupational Studies (A.O.S.) commencing on the effective date of the agreement and ending on April 30, 2021.
- That said degree programs shall be deemed to have permission to operate in New York State pursuant to 8 NYCRR §3.56(b) for such respective time periods, and for any renewal period(s) thereafter, however, such programs shall not be listed on the Inventory of Registered Programs for New York as of the effective date of the agreement;
- That prior to expiration of said permission to operate, the Associate of Occupational Studies (A.O.S.) and Master of Divinity (M.Div.) degree programs at said branch campus, and any renewals thereof, the Seminary may apply to NYSED to renew said permission to operate;
- That should the Seminary seek to offer at said branch campus additional program(s) for degree(s) other than the Associate of Occupational Studies (A.O.S.) and Master of Divinity (M.Div.) degrees, the Seminary shall apply to NYSED for permission(s) to operate such additional degree program(s);
- That prior to expiration of said permission(s) to operate granted pursuant to the agreement, and any renewals thereof, the Seminary may apply to NYSED to renew such permission(s) to operate;
- That within 30 days after the effective date of the agreement, the Seminary shall file or cause to be filed with the New York State Department of State a Certificate of Amendment of its Application for Authority to do business in New York State to revise the Application for Authority (including the description of activities the corporation proposes to engage in New York State per paragraph 3 of such Application), to conform to and be consistent with the terms of the agreement, provided that prior to filing the Certificate of Amendment with the New York State Department of State, the Seminary shall submit such Certificate to NYSED for purposes of obtaining the consent of the Commissioner of Education to such filing.

Related Regents Items

N/A

Recommendation

Department staff recommend that the Board of Regents take the following action:

VOTED: That the Board of Regents authorize the Department to enter into a consent agreement with the Mid-America Baptist Theological Seminary to clarify its permission to operate in New York.

Timetable for Implementation

If the Board of Regents authorizes the Department to enter into the consent agreement, the Department will immediately remove the Seminary's programs from the Inventory of Registered Programs in New York State. If necessary, within 30 days after the effective date of the agreement, the Seminary shall take action with the appropriate Tennessee state authorities to make any appropriate amendments to the Seminary's certificate of incorporation to ensure consistency with and to effectuate the terms of the agreement.