

Education Sector Hotline

August 22, 2016

AMENDED REGULATIONS FOR COLLABORATION BETWEEN INDIAN AND FOREIGN EDUCATIONAL INSTITUTES: IS THIS ENOUGH IN THE WORLD OF NANO DEGREES?

- UGC¹ (Promotion and Maintenance of Standards of Academic Collaborations between India and Foreign Educational Institutions) Regulations, 2016 ("**2016 Regulations**") has replaced the UGC (Promotion and Maintenance of Standards of Academic Collaborations between Indian and Foreign Educational Institutions) Regulations, 2012 ("**2012 Regulations**").²
- One of the salient features of the 2016 Regulations is to promote collaboration only between the quality Indian Educational Institution ("**IEI**") and Foreign Educational Institution ("**FEI**").³
- 2016 Regulations limit the scope of applicability of the regulations to IEI and FEI conducting programmes leading to award of degrees; 2012 Regulations covered post diploma programmes as well within its ambit.
- E-application process has been introduced under the 2016 Regulations for seeking approvals for collaboration/ twinning arrangements.
- 2016 Regulations clarify that credits awarded by IEI under degree programmes covered under collaboration need to be recognized by FEI for all purposes.
- Minimum duration of programmes of study in FEI, in case of collaboration, should not be less than two (2) semesters for undergraduate programmes and one semester for post graduate programmes.
- 2016 Regulations have clarified that within the country, degree will only be awarded by IEI. Joint degrees are not permitted. The format of degree, including manner of reference to FEI, has also been clarified.

INTRODUCTION

In the last few years, the Government of India ("**Government**") has implemented reforms in different sectors in India such as information technology, health, automobiles, etc. In order to keep at par with such sectors and meet the demand for intellectual support to drive their momentum, the Government has been taking initiatives for revolutionizing the education sector as well. The 2012 Regulations applied to IEI and FEI offering non-technical courses and allowed them to partner for the purpose of offering degree and post graduate diploma programmes. The 2012 Regulations have, in July 2016, been repealed and replaced with the 2016 Regulations with a view to promote collaborations only between the quality institutions in India and abroad.

These key highlights of the 2016 Regulations vis-a-vis 2012 Regulations are:

Particulars	2012 Regulations	2016 Regulations
Eligibility	<i>Criteria for IEI</i>	<i>Criteria for IEI</i>
Criteria⁴	<ul style="list-style-type: none"> ■ Accreditation: At least grade B or its equivalent (as applicable) for privately run IEIs by National Assessment and Accreditation Council.⁵ ■ Experience: Five (5) years in offering degree/ diploma level education programme, applicable to private run institutions.⁶ <i>Criteria for FEI</i> <ul style="list-style-type: none"> ■ Accreditation: Highest grade or its equivalent (as applicable) by nationally recognized agencies in the homeland.⁷ 	<ul style="list-style-type: none"> ■ Accreditation: Should have accreditation with grade not less than A or its equivalent by any Assessment and Accreditation Agency ("AAA")⁸ authorized by University Grants Commission ("UGC").⁹ ■ Experience: Six (6) years or at least two (2) graduation batches, offering degree level education programme.¹⁰ <i>Criteria for FEI</i> <ul style="list-style-type: none"> ■ Accreditation: Highest grade or its equivalent by a AAA in homeland.¹¹ ■ FEIs to abide by other conditions prescribed by the Government statutory bodies.¹²

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Procedure for collaboration

- FEI are to enter into a written memorandum of understanding (MOU) after the IEI obtains the approval of the UGC, including with respect to the draft of the MOU.¹³
- The FEI shall submit copy of the signed MOU along with the application along with the requisite information¹⁴
- UGC to acknowledge the receipt of application within a week. UGC to point out any deficiency in the application or ask for any additional documents within a month¹⁵.
- UGC to evaluate the application and issue approval within 6 months, else a letter of rejection with reasons is to be issued.¹⁶
- Approval (if granted) shall be valid for 5 (five) years, during which the UGC may review the progress made.¹⁷
- IEI and FEI shall enter into a written MOU after obtaining approval of the UGC.
- Copy of signed MOU to be sent to UGC and uploaded on website of IEI.¹⁸
- IEI shall file the application online for obtaining permission for collaboration with FEI.¹⁹
- IEI shall obtain approval from its Board of Governors/ Syndicate/ Executive Council as per the Department of Higher Education's prescribed procedure.²⁰
- Application shall be filed online on the UGC dedicated portal with digitally certified copy of MOU/ agreement.²¹
- UGC shall communicate any deficiency in the application or any additional documents required within 30 working days. Once satisfied, the application shall be forwarded to the sub-committee of the UGC for their recommendations.²²
- The sub-committee shall provide its recommendations to the UGC on the application proposals.
- Decision of the application shall be provided on the UGC Portal by the UGC within 60 days of receiving the application; else a letter of rejection shall be issued on designated UGC portal with reasons i.²³
- Approval granted shall be valid for two cycles of the minimum duration of the degree programmer covered under the regulations.
- Any application for renewal shall be made 6 (six) months before the expiration of the license.

Credit

- No specific provisions with respect to treatment of IEIs awarded credits by the FEIs.
- No specific provisions with respect to manner of the issuance of transcripts by FEIs and the credits.
- MOU shall incorporate the provision that credits awarded by the IEIs shall be accepted by FEIs for collaborations and other purposes such as academic mobility.²⁴
- FEIs shall issue transcripts for the credits obtained at FEIs.²⁵

Minimum duration of study by student in FEI campus

- No prescribed duration for study in FEI.
- At least two semesters for undergraduate programme.²⁶
- At least one semester for post graduate programme.²⁷

Award of Degree/ Diploma

- Allowed both degree and post graduate diploma programmes.²⁸
- Scope of regulation limited to degree programmes alone.
- Within India, the degree to

Scope of judicial interference and inquiry in an application for appointment of arbitrator under the (Indian) Arbitration and Conciliation Act, 1996

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- No express provisions regarding format of degree to be issues.
 - No express bar on issuance of joint degrees.
 - No express provision stating the manner in which FEIs name could be included in the degrees.
 - No specific clarity if FIE's degrees could be awarded.
- students graduating from IEI in a collaborative arrangement with FEI shall be awarded by IEI. Joint Degrees²⁹ are prohibited.³⁰
- The degree should contain IEI's logo, seal and its name alone as the awarding institution³¹
 - IEI's degree could carry a paragraph that it is awarded in collaboration with FEI³²

Consequences for violation of the Regulations

- In the event of malpractice or violation of the regulations, the UGC may take the following actions:
 - i) revoke the approval after according an opportunity to show cause;³³
 - ii) issue directions for termination of MOU/ agreement for collaboration;³⁴
 - iii) withhold the grants to be made out of UGC's funds as per Section 7(b) of the UGC Act, if any.³⁵
 - iv) recommend withdrawal of the deemed to be university ("DTU") status of the DTU IEI (if applicable).³⁶
 - v) Declare the FEI as blacklisted and prohibit such FEIs from entering in any collaborations with IEIs in future.³⁷
- The 2016 Regulations do not provide for blacklisting or any action against FEIs. However, UGC has been authorized to seek penal action against the IEIs for fraud, in case they are found to be offering collaborative programmes without its approval.³⁸ The other consequences mentioned under (i) to (iv) of the 2012 Regulations (please refer to column on the left) have been retained in the 2016 Regulations.

ANALYSIS

One big change in the 2016 Regulations vis-a-vis the 2012 Regulations is that 2012 Regulations covered post graduate diploma programmes as well within its ambit. 2016 Regulations limit the scope of applicability of the regulations to IEI and FEI conducting programmes leading to award of degrees. This seems to be an intentional change and unless the UGC clarifies otherwise, post graduate diploma programmes offered in collaboration between IEI and FEI are not subject to these 2016 Regulations and therefore free to be structured in any manner.

The 2016 Regulations have put a lot of emphasis on the standard of quality of the education imparted under such collaboration arrangements. Accordingly, the eligibility criteria for IEIs and FEIs has been revised and been made stringent to weed out institutions falling below the prescribed standards. Further, a special sub-committee of experts in the field of international education and jurisprudence is set up to scrutinize every application for collaboration arrangement. It appears that this is being done to ensure that members of such committee will be able to judge the applications better based on their practical experience and knowledge regarding the functioning of education system.

While the 2012 Regulations did not lay down treatment of IEI awarded credits by the FEIs, the 2016 Regulations categorically mention that such credits shall be accepted not only for the purpose of collaboration but other purposes such as academic mobility by FEIs. This is a significant development in safeguarding the interest of the students who undertake such courses, as it obligates the FEIs to not limit the recognition solely for collaborative arrangement. The academic mobility will also benefit the students interesting in pursuing further education at the collaborating FEIs, as IEIs' credits will be recognized at par with the FEIs credits.

Under the 2012 Regulations, there was no prescription of minimum period of study by students at the campus of FEIs. Due to this, several institutions promoted their collaboration merely by offering short duration exchange programmes. This has been addressed in the 2016 Regulations which specify that students should spend at least two semesters for an undergraduate programme and one semester for a postgraduate programme at the FEIs' campus.

The 2016 Regulations also make it amply clear that only IEI's degrees should be awarded in India, with the mention of the FEI on such degrees. This brings in clarity in the manner in which degrees are to be issued and consistency in the format of degrees issued in case of collaboration arrangements.

The 2016 regulations have also streamlined the application process and made it more time efficient by introducing online application and setting up time-limit of 2 months for UGC to process the application. During the old regime, only FEI's could apply for collaborations and since there was no option for an online application, the process appeared to be very tedious and cumbersome, particularly as FEIs would, in most cases, would not have been acquainted with the functioning of the regulatory authorities in India. The new regulations have addressed this concern area by shifting the responsibility of making application on IEI's who are on-ground in India, and are better versed with the functioning of UGC. Additionally, with allowing the application to be made online, the applicants can also track the status of their application. Hence, not only is the new process more time efficient and transparent, it is also more convenient for the applicants as it also obligates the UGC to provide its decision with adequate reasoning (in case of rejection of an application) within a set time limit. The 2016 Regulations have also reduced the validity of the approval granted for collaboration to only two cycles of the minimum duration of collaboration programme or as

otherwise specified after which the institutions shall have to apply for a renewal. Hence, in order to secure the renewals and continuity of the collaboration, the institutions will be incentivized to make sure the quality of education imparted is not compromised.

Thus, the 2016 Regulations definitely are a step forward in bringing an international outlook to the Indian education system, and ensuring global exposure to students in India. As no Indian University currently features in the top 200 places of the World University Ranking 2015-16,³⁹ such collaborations are likely help Indian institutions to learn and ameliorate from the other premier institutions. The introduction of 2016 Regulations, from a holistic point of view, is a progressive step towards the goal of putting India's education sector on the world map.

On the flip side, the UGC has overlooked the fact that there may be institutions who offer specialized courses and are renowned, but may not have the necessary accreditations to meet the eligibility criteria under the 2016 Regulations. Such flexibility should have been built in the regulations from a futuristic perspective.

The world is moving towards "nano degrees" where duration of courses are becoming shorter, and focused. Our regulators should adopt a more "out of the box" approach and leap frog in the regulatory process instead of placing obligations on institutes on offering programmes of a certain duration or ensuring that students spend atleast a minimum prescribed duration at the campus of FEI. A radical change in thinking is therefore required to keep up with changing times, if we truly want India to become an edu-hub and provide ease of access to our students.

The regulators are yet to address the demands raised several universities to open their independent campuses in India. Countries such as China and Middle-East are already allowing foreign universities to establish campuses in their counties. FEIs have the financial capability, reputation and intellectual capital to run an independent institution in India and may not be keen on entering into collaborations with IEI's due to several factors such as academic freedom, brand value, limitations as per their board of trust policies or overregulation at the hands of Indian authorities. Albeit the 2016 Regulations will promote competition between the IEIs to provide better education, infrastructure facilities and forge collaborations with high ranked institutions, the restriction on letting FEIs to operate independently may deprive the local institutes of a healthy competition at a global scale and the students a fair chance to learn from the world-class institutions in India. We hope this is just the beginning of a rapid change in the regulatory mindset.

– Kabir Darshan Choudhary, Aarushi Jain & Vivek Kathpalia

You can direct your queries or comments to the authors

¹ University Grants Commission

² The 2016 Regulations came into force on July 11, 2016, available at: [http://www.ugc.ac.in/pdfnews/5003871_Foreign-Collaboration-Regulations-2016-\(1\).pdf](http://www.ugc.ac.in/pdfnews/5003871_Foreign-Collaboration-Regulations-2016-(1).pdf)

³ http://www.ugc.ac.in/pdfnews/3825480_Foreign-Collaboration-Regulations.pdf

⁴ This table only highlights the key differences between the 2012 regulations and 2016 regulations. There are other conditions relating to eligibility as well, which are the same under both the regulations.

⁵ Regulation 3(2)(a) of the 2012 Regulations. The proviso provides that IEIs maintained by the Central Government, UGC and the State Government are exempt from the accreditation for the purpose of these regulations.

⁶ Regulation 3(2)(b) of the 2012 Regulations. Regulation 3(2)(a) of the 2012 Regulations. The proviso provides that IEIs maintained by the Central Government, UGC and the State Government are exempt from the accreditation for the purpose of these regulations.

⁷ Regulation 3(1) (a) of the 2012 Regulations

⁸ Regulation 2(b) defines AAA, Assessment and Accreditation Agency", in respect of Indian Educational Institutions means an agency recognized under the University Grants Commission (Recognition and monitoring of Assessment and Accreditation Agencies) Regulations, 2014.

⁹ Regulation 3(2)(a) of the 2016 Regulations.

¹⁰ Regulation 3(2)(b) of the 2016 Regulations. The proviso provides that IEIs maintained by the Central Government, UGC and the State Government shall be exempt from the requirement for six (6) years' experience.

¹¹ Regulation 3(1)(a) of the 2016 Regulations

¹² Regulation 3(1)(c) of the 2016 Regulations

¹³ Regulation 4 of the 2012 Regulations

¹⁴ Regulation 5(a) of the 2012 Regulations

¹⁵ Regulation 5(b) of the 2012 Regulations

¹⁶ Regulation 5(c) of the 2012 Regulations

¹⁷ Regulation 5(d) of the 2012 Regulations

¹⁸ Regulation 4 of the 2016 Regulations

¹⁹ Regulation 5(a) of the 2016 Regulations

²⁰ Regulation 5(a) of the 2016 Regulations. The Circular Number: F.No. 6-2/20015-ICC dated December 17th, 2015 provides for the procedure for obtaining the approval from the Board of Governors.

²¹ Regulation 5(b) of the 2016 Regulations

²² Section 3(2)(b) of the 2016 Regulations provide for evaluation of collaboration proposal by the sub-committee of the UGC comprising of experts in international jurisprudence and international academics and representatives from Association of Indian Universities and All India Council of Technical Education.

²³ Regulation 5(e) of the 2016 Regulations

²⁴ Regulation 5(c) of the 2016 Regulations

²⁵ Regulation 6(d) of the 2016 Regulations

²⁶ Regulation 5(c) of the 2016 Regulations

²⁷ Regulation 5(c) of the 2016 Regulations

²⁸ Regulation 2(d) of the 2012 Regulations

²⁹ Regulation 2(j) defines a Joint Degree to mean a single degree jointly awarded by the Indian Educational Institution and the collaborating Foreign Educational Institution.

³⁰ Regulation 6(d) of the 2016 Regulations

³¹ Regulation 6(d) of the 2016 Regulations

³² Regulation 6(d) of the 2016 Regulations

³³ Regulation 5(e) of the 2012 Regulations

³⁴ Regulation 7(a) of the 2012 Regulations

³⁵ Regulation 7(b) of the 2012 Regulations

³⁶ Regulation 7(c) of the 2012 Regulations

³⁷ Regulation 7(e) of the 2012 Regulations

³⁸ Regulation 7(d) of the 2016 Regulations

³⁹ Times Higher Education World University Rankings 2015-2016, available at: <http://timesofindia.indiatimes.com/home/education/news/No-Indian-school-on-list-of-200-most-international-universities/articleshow/50570749.cms>

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