



South Carolina Commission on Higher Education

Nonpublic Postsecondary Institution Licensing
1333 Main Street, Suite 200, Columbia, SC 29201
Telephone (803) 737-2260; FAX (803) 737-2297
Web site: www.che.sc.gov

CLARIFICATION OF JURISDICTION (Updated 3/21/2011)

Please refer to the Nonpublic Postsecondary Institution License Act; Chapter 62, SC Commission on Higher Education (CHE) Regulations; and forms, policies, and procedures of the Commission. Contact CHE licensing staff to obtain forms and ask any questions.

SECTION 59-58-20. Definitions, includes the following:

- (17) "Operating or soliciting" refers to having actual presence¹ within the State of South Carolina and includes for the purposes of application of this Chapter:
- (a) an instructional or administrative site within South Carolina whether owned, leased, rented, or provided without charge;
 - (b) instruction whether theory or clinical² [~~within or~~ (strikethrough)] originating from South Carolina utilizing teachers³, trainers, counselors, advisors, sponsors, or mentors⁴;
 - (c) an agent, recruiter, in-state liaison personnel, institution, or business that solicits for enrollment or credits or for the award of an educational or occupational credential; and
 - (d) advertising, promotional material, or public solicitation in any form that targets South Carolina residents through distribution or advertising in the state.⁵

Refer to SECTION 59-58-30., for exclusions to the licensing authority. Briefly, they include institutions chartered before 1953; institutions that offer kindergarten through high school; religious or theological training; recreational programs; South Carolina publicly supported institutions; courses or programs regulated and licensed or approved under an occupational licensing law of the State (such as cosmetology, barbering, nursing); employer-sponsored training; test review courses; programs or courses on federal military installations; and accredited institutions conducting seasonal recruiting through high school recruiting fairs.

Commission reserves the right to examine the status of any exempt institution based on information available in the future to the Commission or based on changes in authority the General Assembly grants to the Commission.

1 [The Commission does not require licensing of institutions that enroll residents of South Carolina into online or distance programs unless the institution operates or solicits in South Carolina.]

2 [The Commission does not require licensing of institutions where a practicum or clinical experience is in South Carolina.]

3 [The Commission does not require licensing of institutions that offer programs online or at a distance where the sole activity is employment of faculty members who are residents of South Carolina.]

4 [The Commission does not require licensing of institutions where an in-state proctor administers exams for courses delivered by distance learning.]

5 [The Commission does not require licensing of institutions that use search engine marketing (Yahoo, Bing, Google) or web site advertisements that originate outside the borders of South Carolina.]

The following information is from the March 17, 2011, US Department of Education, Office of Postsecondary Education, GEN-11-05 "Dear Colleague" letter subject: Implementation of Program Integrity Regulations.

Question 16:

If a State does not regulate such activities by out-of-State institutions, the institution is considered to be legally operating in that State.

Question 22:

If...the State does not require the institution to obtain State approval under the circumstances to offer distance education to its residents, would the institution be required for the purposes of section 600.9(c) to have a document from the State stating that no approval by that State is required?

No. However, an institution would be expected to demonstrate upon request from the Department that no State approval was required.

Regarding student complaints, Regulation 62-27 gives the Commission the authority to intervene on the behalf of a person filing a complaint against an institution that is exempt from the oversight of the Commission. Under requirements of Federal Regulation 668.43(b), institutions must provide students with contact information for filing complaints with the institution's State approval or licensing entity and any other relevant State official or agency that would appropriately handle a student's complaint. Out-of-state institutions must publish the information even though the South Carolina does not otherwise regulate the out-of-State institution's provision of distance education.

The following is the suggested language for South Carolina.

Residents of South Carolina may access a complaint form through the web site of the Commission http://www.che.sc.gov/AcademicAffairs/License/Complaint_procedures_and_form.pdf

The form must be completed, signed, and notarized. It may be submitted with the required documentation to reshleman@che.sc.gov or sent to Nonpublic Institution Licensing, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201.