State Authorization Requirements

for

Public Colleges and Universities

June 2011
INTRODUCTION

United States Department of Education State Authorization Regulation

On October 29, 2010, the United States Department of Education (USDOE) promulgated a new regulatory requirement in 34 C.F.R. § 600.9(c) that requires a postsecondary institution offering courses or programs through distance education or correspondence education to students in a State in which the institution is not physically located, or in which it is otherwise subject to State jurisdiction as determined by the State, to comply with any applicable authorization requirements in that State.

Although the new regulation has an effective date of July 1, 2011, USDOE issued a guidance letter on April 20, 2011, DCL ID: GEN 11-11, advising that it will not initiate any action to establish repayment liabilities or limit student eligibility for distance education activities undertaken before July 1, 2014, so long as the institution is making good faith efforts to identify and obtain any necessary State authorizations before that date. According to the guidance letter, evidence of good faith efforts can include any one or more of the following:

- Documentation that an institution is developing a distance education management process for tracking students’ place of residence when engaged in distance education.
- Documentation that an institution has contacted a State directly to discuss programs the institution is providing to students in that State to determine whether authorization is needed.
- An application to a State, even if it is not yet approved.
- Documentation from a State that an application is pending.

Work Group and Methodology

In order to assist Florida public universities and colleges in complying with the new regulation, a work group was formed consisting of attorneys from the Board of Governors of the State University System (SUS) of Florida, individual SUS universities, and individual colleges in the Florida College System (FCS). The States were subdivided among the work group members who were responsible for researching the state authorization requirements in fifty States (we excluded Florida) and any State-level complaint processes that exist in those States for student complaints, including any State level consumer complaint processes.

The work group used the State Approval Regulations for Distance Education: A “Starter” List, Final Revised March 17, 2011, jointly prepared by the WICHE Cooperative for Educational Technologies (WCET), the Southern Regional Education Board (SREB), the American Distance Education Consortium (ADEC), and the University of Wyoming. 
(UW), as the initial reference document for conducting their research. We offer a special thanks to those organizations for compiling the invaluable “starter” list that served as a springboard for our research and for direct contact with State higher education authorization representatives in all 50 States, whose willingness to respond to our inquiries is also greatly appreciated.

To aid in our research, we developed a questionnaire designed to provide Florida public colleges and universities with information about each State’s authorization requirements for out-of-state public institutions that offer distance learning courses or programs to residents of those States. Although the questionnaire is standardized, the work group consisted of numerous attorneys so the responses to the questions are not uniform, nor could they be given the differing State requirements and the natural variance between individual writing styles.

We utilized our best efforts to capture all of the relevant information an institution will need in determining whether authorization is required in a particular state, complete with links to applicable statutes, rules, regulations, applications, and any policy guidance promulgated by the surveyed States. We also attempted to ascertain if the States anticipate making any changes to their authorization and complaint processes and, if so, requested an explanation of the anticipated changes. Because a number of State representatives indicated that revisions are either being contemplated or are in process, institutions will need to follow up with those States where appropriate.

Now for the disclaimer: This document is to be used for informational purposes only and does not constitute legal advice from the Board of Governors or any individual institution in the SUS and FCS. Legal advice is the application of law to your institution’s particular set of circumstances. Please consult your counsel on the applicability of the State authorization requirements to your institution’s distance learning courses, programs, or other activities in which your institution may engage in the surveyed States.

Acknowledgements

A special thanks to all of the members of the Work Group who worked tirelessly to pull this information into a cohesive form for the benefit of all SUS and FCS institutions:

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<tr>
<th>Name</th>
<th>Institution</th>
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<tr>
<td>Patti Locascio, Santa Fe College</td>
<td>Sherry Andrews, University of Central Florida</td>
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<tr>
<td>Janet Lander, University of West Florida</td>
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<td>Suzanne Gardner, St. Petersburg College</td>
<td>Jeanne Miller &amp; Courtney Altes, Florida State College at Jacksonville</td>
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ALABAMA

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes. The Alabama Commission on Higher Education (ACHE) must approve any courses and programs offered by non-state institutions (public or private) pursuant to Section 16-5-10(14) of the Alabama Code. 
http://www.legislature.state.al.us/codeofalabama/1975/16-5-10.htm

See ACHE Rule 300-2-1.02 at 
http://www.ache.state.al.us/Nonresident/Multiple-Application.pdf (See page 12 of document) 

In addition, the Alabama Department of Postsecondary Education (ADPE) licenses private postsecondary institutions pursuant to Section 16-46-2 of the Alabama Code and provides exemptions for out-of-state public institutions (see exemption explanation below). http://law.onecle.com/alabama/education/16-46-2.html.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Both physical presence and merely offering distance education courses or programs to Alabama residents triggers the state authorization requirement.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Operating a postsecondary institution within the state.

   b. If something less than physical presence, please explain:

ACHE is required to approve all courses and programs offered by all out-of-state institutions to Alabama residents notwithstanding the lack of any physical presence in the state. ADPE is required to license all non-state institutions offering courses whether given in residence, by mail, or by distance learning.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:
4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Section 16-46-3(a)(8) exempts institutions from ADPE licensure that are regulated by other state boards, commissions or agencies requiring school licensure and/or performance bonding. [http://www.legislature.state.al.us/codeofalabama/1975/16-46-3.htm](http://www.legislature.state.al.us/codeofalabama/1975/16-46-3.htm). Per Annette McGrady at ADPE, out-of-state public institutions fall within this exemption.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

ADPE does require out-of-state public institutions to obtain a certificate of exemption. Requests for certificates of exemption should be in letter form and accompanied by a complete listing of all programs the institution is requesting the exemption to cover.

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

Yes. The system office for the governing board can request certificates of exemption for all institutions under its regulatory authority by submitting a list of all programs which each individual institution seeks to have covered by the exemption to ADPE. Per Annette McGrady, ADPE will issue individual Certificates of Exemptions in the name of each institution for purposes of demonstrating Title IV eligibility to US DOE.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Out-of-state public institutions are NOT exempt from the requirement to obtain authorization from ACHE for the courses or programs offered to Alabama residents. An application must be submitted to ACHE and this can be done individually by institutions or by the state governing body. The single and multi-institutional
applications are available at [http://www.ache.alabama.gov/Nonresident/Index.htm](http://www.ache.alabama.gov/Nonresident/Index.htm). The application requests information on institutional organization, programs of instruction to be offered to Alabama residents, faculty qualifications, and student support services. The institution must certify it is in compliance with Title IV program integrity rules and sign an affidavit that is part of the application. For SUS institutions, you need to submit a copy of Article IX, Section 7, Florida Constitution and section 1000.21, Florida Statutes, and for FCS institutions, you need to submit a copy of sections 1000.21 and 1004.65, Florida Statutes. All institutions are required to submit either a hardcopy or a CD of their most recent institutional catalog. There is NO fee for the application. NOTE: the ACHE website also directs institutions to register as foreign corporations with the Alabama Secretary of State. When I spoke with Rebecca Morris in the SOS Business Division office, because we are not corporations and therefore cannot provide corporate articles of incorporation and bylaws, she agreed that we don’t fit their requirements but did not know what to do. However, after talking with Annette McGrady at the ADPE, she said non-corporate public institutions would not be subject to that requirement.

8. **Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)?** If yes, please identify the responsible agency or agencies and provide contact information:

No state level complaint process exists in Alabama, except at the community college level. In talking with Elizabeth French at ACHE, due to the governance structure of higher education in Alabama, there is no state level governing body over the public universities.

9. **Does your state have other processes available for addressing student consumer complaints against postsecondary institutions?** If yes, please identify the responsible agency and provide contact information:

Yes. Consumers can file consumer complaints with the Consumers Affairs Section of the Alabama Office of Attorney General. The consumer hotline number is 1-800-392-5658 and the link to the complaint form is [http://www.ago.state.al.us/consumer_complaint.cfm](http://www.ago.state.al.us/consumer_complaint.cfm).

10. **Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:**

No.
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes. The Alaska Commission on Postsecondary Education (ACPE) must authorize all postsecondary institutions to operate in the state or to offer instruction notwithstanding whether the institution is located inside or outside the state. See Section 14.48.020 of the Alaska Statutes (scroll down to chapter 48 in the hyperlink provided below). The ACPE also has authority to grant exemptions to out-of-state public institutions pursuant to section 14.48.030.

http://www.akadvantage.alaska.gov/Portals/0/Content/ACPEStat031111.pdf

And ACPE regulations at:
http://www.akadvantage.alaska.gov/Portals/0/Content/ACPERegs031911.pdf

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Both physical presence in the state and simply offering distance learning to Alaska residents in the state notwithstanding a lack of physical presence.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Operating a postsecondary institution in the state or using an agent in the state to enroll students.

   b. If something less than physical presence, please explain:

Offering instructional programs to Alaskan residents and offering to enroll or instruct or award an educational credential to a person, whether the institution is inside or outside the state.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Alaska Commission on Postsecondary Education,
4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Section 14.48.030 authorizes the ACPE to exempt certain institutions from some or all of the authorization requirements in Chapter 48. According to Jo Anne Hayden at ACPE, out-of-state institutions that are authorized to operate in another state and are nationally or regionally accredited are exempt. See Section 14.48.030(b)(7). The ACPE regulations on exemptions are located at 20 AAC 17.015. [http://www.akadvantage.alaska.gov/Portals/0/Content/ACPERegs031911.pdf](http://www.akadvantage.alaska.gov/Portals/0/Content/ACPERegs031911.pdf)

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

The ACPE requires each institution to file a written application for an exemption, together with a $100 application fee, in order to obtain a letter of approval. SUS and FCS institutions need to submit documentation demonstrating regional accreditation and state documents authorizing their operation in the state (for SUS: Article IV, section 7, and s. 1000.21; for FCS, ss. 1000.21 and 1004.65). Exempt institutions have to be recertified by the ACPE on a biennial basis, although no fee is required. The application is available at [http://www.akadvantage.alaska.gov/Portals/0/00ExemptApp.pdf](http://www.akadvantage.alaska.gov/Portals/0/00ExemptApp.pdf)

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No. Individual institutions have to apply separately.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

N/A

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes. Pursuant to section 14.48.130, Alaska Statutes, complaints against postsecondary institutions must be filed with the ACPE. Per Jo Anne Hayden at the ACPE, students must first exhaust all processes available at the institution. Ms. Hayden is the contact person for student complaints and her contact information is above.
9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Yes. Consumers can file consumer complaints with the Consumer Protection Unit of the Alaska Office of Attorney General. The link to the complaint form is http://www.law.state.ak.us/pdf/consumer/FORM_complaint.pdf

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

Yes, ACPE is in the process of revising its administrative rules to create an exemption category for institutions offering distance learning courses or programs to Alaska resident. The ACPE public notice page is available at https://akadvantage.alaska.gov/About_Us/News_and_Public_Notices/notices.aspx
ARIZONA

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No. Per discussion with Keith Blanchard, the Deputy Executive Director of the Arizona State Board for Private Postsecondary Education (AZPPSE), Arizona does not regulate out-of-state public institutions. It only licenses private vocational and degree-granting institutions that have a physical presence in the state through the AZPPSE.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Not applicable to out-of-state public institutions.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

   b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

   Arizona State Board for Private Postsecondary Education, http://www.azppse.state.az.us. Contact person is Teri Stanfill, Executive Director, 602-542-2399, teri.stanfill@azppse.gov.

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

   N/A

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

   N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:
7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

N/A

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Per Keith Blanchard, his Board receives complaints but there is no formal complaint process and they do not have jurisdiction to entertain complaints from Arizona students about out-of-state public institutions.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Yes. Consumers can file complaints with the Arizona Consumer Information and Complaints Division of the Arizona Attorney General’s Office. The telephone number is 1-800-352-8431 and the link to the complaint form is http://www.azag.gov/consumer/complaintformintro.html

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No.
ARKANSAS

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes. All out-of-state public institutions that wish to offer coursework or degrees in the State must obtain certification from the Arkansas Higher Education Coordinating Board. See Section 6-61-301(a)(1)(b) of the Arkansas Code. 

The AHECB regulations are at http://www.adhe.edu/divisions/academicaffairs/Pages/aa_certification.aspx

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Both physical presence and simply offering distance learning courses or programs to Arkansas residents in the state notwithstanding a lack of physical presence.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

   Physical presence is established when an institution offers courses or degree programs at a physical campus in Arkansas and/or advertises distance delivery/online programs by direct mail and/or advertising to Arkansas citizens, and targeted emails and US postal mail to specific occupations.

   b. If something less than physical presence, please explain:

   Offering coursework or degrees to Arkansas residents through a distance education process where the majority of the instruction occurs while the educator and learner are at a distance from each other.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Exemptions exist for programs offered on military installations and for non-academic or church-related training.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

The first step in the certification process is to file a Letter of Notification signed by the chief academic officer with the ADHE. The Letter of Notification form is available on the website at http://www.adhe.edu/divisions/academicaffairs/Pages/aa_certification.aspx (scroll down to Form 1). The Letter of Notification has to be accompanied by a fee of $250 and the deadlines for filing the Letter are July 1, October 1, January 1, and April 1. After the Letter of Notification has been submitted, the institution must complete an application for certification which is also available on the ADHE website. Application deadlines are August 1, November 1, February 1, and May 1 and applications are reviewed by the AHECB at their quarterly meetings. A detailed description of the extensive information required for the application is available at http://www.adhe.edu/SiteCollectionDocuments/AcademicAffairsDivision/ICAC%20Rules%20and%20Regulations/rules_part1sec2_011609.pdf

The application requires information on each course or degree program to be certified; target population to be served; student demographics; external advisory groups; institutional readiness and commitment; administrator credentials; faculty and instructional support staff; student support services; evaluation and assessment; financial information (including most recent audit); accreditation; licensure/approval by other agencies; consumer disclosure; and student grievances. SUS institutions will need to submit a copy of Article IX, Section 7 of the Constitution and s. 1000.21, Fla.
Stat., and any program approval regulation. FCS institution will need to submit a copy of s. 1000.21 and 1000.60, Fla. Stat. to demonstrate state authorization. In addition to the application, there are a number of forms on the website related to faculty, administration, class to credit hour conversion; consumer disclosure; and bond and annual tuition report that has to be submitted with the application. These are all listed under the “Forms” section on the web address listed above.

Up to five programs can be certified and the fee is $500 per program (up to $2500). Per Ms. Douglas, the fee structure has been modified from what is stated on the website currently ($2500) to be more equitable. In addition to the fee, you have to post a bond in the amount of the gross tuition collected the previous fiscal year, but in no event can the bond be less than $20,000. Finally, according to Ms. Douglas, each institution is required to have a representative physically present at the AHECB meeting where its application will be considered. Once certification is granted, the initial term is for two years at which point an institution has to seek recertification. Once recertified, the term is for five years.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes, per Ms. Douglas, she is the contact person at the ADHE/AHECB for student complaints involving out-of-state institutions. Her contact information is listed above.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Consumers can file complaints with the Arkansas Attorney General Consumer Protection Division. The link to the complaint form is at [http://www.ag.arkansas.gov/consumers_consumer_complaints.html](http://www.ag.arkansas.gov/consumers_consumer_complaints.html)

The phone number is 1-800-482-8982.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No. The only modification made recently was to change the fee schedule so each institution would only pay $500 per program for certification. No other modifications are anticipated to their rules or their complaint process.
No. The only modification made recently was to change the fee schedule so each institution would only pay $500 per program for certification. No other modifications are anticipated to their rules or their complaint process.
CALIFORNIA

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No, unless the institution has a physical presence in California pursuant to Joanne Wenzel with the Department of Consumer Affairs, Bureau for Private Postsecondary Education. (BPPE) See California Education Code Sections 948885 et seq. http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=94001-95000&file=94885-94892

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence triggers the state authorization requirement.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Per Joanne Wenzel, the institution must have a physical “brick and mortar” presence in the state of California.

   b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Bureau for Private Postsecondary Education which is part of the Department of Consumer Affairs, http://www.bppe.ca.gov. Contact person is Joanne Wenzel, Deputy Bureau Chief, 916-431-6905, joanne.wenzel@dca.ca.gov.

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

There is an exemption for institutions that are accredited by a regional accrediting agency recognized by US DOE; although this exemption is scheduled for repeal on January 1, 2016 if not re-enacted. Consequently, per Joanne Wenzel, even if one of our institutions has a physical presence in California, the institution would be exempt under section 94874.1 of the California Education Code. The exemptions are set forth in California Education Code § 94874-94874.7 at http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=94001-95000&file=94874-94874.7
5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

According to Ms. Wenzel, an institution can request the BPPE to verify the institution’s exempt status, but it is not required. The application is available at: http://www.bppe.ca.gov/applications/verification_exempt.pdf

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

N/A

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes. The BPPE has a complaint form for students to complete and BPPE’s practice according to Ms. Wenzel is to refer the student back to the institution for resolution of the complaint. The contact person is Ms. Wenzel and her contact information is above. The complaint form is available at http://www.bppe.ca.gov/forms_pubs/complaint.pdf

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

No. All consumer complaints are handled by the Department of Consumer Affairs of which the BPPE is a part.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No.
COLORADO

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No, if your courses and programs are online and do not include clinical rotations, externships, internships or similar activities. The Colorado Commission on Higher Education (CCHE) has statutory responsibility for the approval of out-of-state public institutions to offer degrees or course credits to students residing in Colorado pursuant to Title 23, Article 2 of the Colorado Revised Statutes (“Degree Authorization Act”). http://www.michie.com/colorado/lpext.dll?f=templates&fn=main-h.htm&cp= (Click on “Colorado Revised Statutes” and then on “Title 23 Postsecondary Training” and go to Article 2.) The CCHE policies are available at http://highered.colorado.gov/Publications/Policies/Current/i-partj.pdf

Note that the Colorado Commission on Higher Education is part of the Colorado Department of Higher Education.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence which may include clinical rotations, externships, internships, etc..

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Pursuant to CCHE policy (Section I, Part J), physical presence is defined as having a physical presence in Colorado in the form of a main campus, headquarters, or a branch campus, or a place of business.

   b. If something less than physical presence, please explain:

Per my discussion with Heather DeLange, the Degree Authorization Officer with the CCHE, even though Colorado has been a state that requires a true physical facility presence, they are in the process of revising their “physical presence” definition such that clinical rotations, externships, internships or the like may be included. Ms. DeLange expects to take revised policies to the CCHE at its August 2011 meeting so institutions are advised to wait until the new policies have been adopted.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:
4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

N/A

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Currently, an out-of-state public institution with a physical presence in Colorado needs to submit an application to the CCHE, together with a $3000 fee. I could not locate an application form on the CCHE website, but the authorization process is set forth in CCHE policy in Section 1, Part J, 3.02.02 [http://highered.colorado.gov/Publications/Policies/Current/i-partj.pdf]. CCHE requires a copy of your mission statement and information on your governing body, faculty credentials, the programs to be offered, student access and support services, admission policies, and financial resources.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

(click on “Colorado Revised Statutes” then click on “Title 23 Postsecondary Training” and then click on Article 2.) The CDHE policies related to the complaint process are available at [http://highered.colorado.gov/Publications/Policies/Current/i-partj.pdf](http://highered.colorado.gov/Publications/Policies/Current/i-partj.pdf) (see section 6).

Heather DeLange is the contact person for student complaints and her contact information is above.

9. **Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:**

Yes. Students can file consumer complaints with the Colorado Attorney General’s Office. The link to the complaint process is [https://www.coloradoattorneygeneral.gov/departments/consumer_protection/file_consumer_complaint](https://www.coloradoattorneygeneral.gov/departments/consumer_protection/file_consumer_complaint).

The phone number for the Attorney General’s office is 303-866-4500.

10. **Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:**

Yes. Colorado’s policies are under review by the CCHE according to Ms. DeLange and she is expecting the policies to be revised to better define “physical presence” and to provide a streamlined process for state authorization of out-of-state regionally accredited public institutions that offer online courses that include in-state clinical rotations or other in-state activities, with perhaps a lesser fee since the $3000 fee charged now is for on-site visits to facilities that exist in Colorado.
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No, unless the institution has a physical presence in Connecticut pursuant to Regulation 10a-34-24 adopted by the Connecticut Department of Higher Education Board of Governors.

The CDHE regulations are available at http://www.ctdhe.org/Regs/RegsAcad.htm and Section 10a-34 et. Seq., Connecticut General Statutes, is available at http://www.cga.ct.gov/2011/pub/chap185.htm#Sec10a-34a.htm

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Pursuant to a discussion with Amy Hughes in the Connecticut Department of Higher Education Office of Academic Affairs, authorization to operate is only required for institutions that have a physical presence in Connecticut. Although physical presence is not defined in statute or in regulation, according to Ms. Hughes they do not regulate programs that include components like teacher placement internships and she was instructed by her supervisor to advise institutions that only physical presence triggers Connecticut’s authorization requirements.

   b. If something less than physical presence, please explain:

http://www.ctdhe.org/

Contact person is Amy Hughes, 860-947-1822, ahughes@ctdhe.org.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

N/A
4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

N/A

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

If an institution intends to establish a physical presence in Connecticut for the purpose of offering an educational program, it is required to file an application with the Connecticut Department of Higher Education nine months in advance of the date for which approval to operate is requested. The application requests information on the institution’s administration and governance, finances, faculty, curriculum, libraries, physical plant and facilities, and student records, among other things. The application is available at http://www.ctdhe.org/Regs/PDFs/InstitutionApplication.pdf and there is no application fee.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

There is no formal process according to Ms. Hughes but if a student cannot resolve a complaint with the institution, they can contact her office for assistance. Her contact information is listed above.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

Currently they are looking to make some modifications to the authorization process but Ms. Hughes had no definitive information to share. She is maintaining a mailing list so they can update people when the modifications have been made. If you want to be added to the mailing list, email Ms. Hughes at [ahughes@ctdhe.org](mailto:ahughes@ctdhe.org).
DELWARE

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No, unless an institution has a physical presence in Delaware such as an office or classrooms pursuant to Wayne Barton of the Delaware Department of Education. The Delaware Department of Education regulations are available at http://regulations.delaware.gov/AdminCode/title14/200/292.shtml#TopOfPage and Title 14, Chapter 1, Subchapter 2, § 122, et seq. is available at http://delcode.delaware.gov/title14/c001/sc02/index.shtml

NOTE: Title 14, Chapter 1, Subchapter 2, § 122(b)(8) also includes offering courses or programs “by correspondence” to residents of Delaware, which suggests that physical presence is not the only trigger. However, according to Mr. Barton, licensure is only required if an institution has an office or facility located in the state.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Offices or classrooms.

   b. If something less than physical presence, please explain:

The Delaware Department of Education, http://www.doe.k12.de.us/ The contact person is Wayne Barton, Director, Teacher and Administrator Quality Development, 302-735-4120, wbarton@DOE.K12.DE.US.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

N/A

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:
N/A

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

If an institution intends to establish a physical presence in Delaware for the purpose of offering courses or programs, the institution must apply to the Delaware Department of Education for authorization to operate pursuant to DDE regulations. Pursuant to subsection 6.00 of DDE Regulation Title 14, Part 200, Subpart 292, provides for the Secretary of Education to approve a regionally accredited institution for operation within the state if the Secretary determines that the regional accreditation meets the standards listed in the regulation. An application can be obtained by contacting Wayne Barton whose contact information is above. Any costs involved in the evaluation and approval process are borne by the institution and an annual license fee of $250 is required for each year of operation.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

No. According to Maureen Laffey with the Delaware Department of Education Higher Education Office, they refer all complaints back to the institutions.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Yes, the Delaware Department of Justice, Consumer Protection Division, handles consumer fraud complaints. The complaint process is available at http://attorneygeneral.delaware.gov/consumers/protection/complaint.shtml
and complaints can be faxed to 302-577-6499.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No.
DISTRICT OF COLUMBIA

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

   Education Licensure Commission (ELC)
   http://osse.dc.gov/seo/cwp/view,a,1224,q,558183.asp

   No, unless an institution has a physical presence in the District of Columbia according to Robin Jenkins, Executive Director of the Education Licensure Commission of the Office of State Superintendent of Education. DC Statute § 38-1309 (within Title 38, Chapter 13) requires licensure of any postsecondary educational institution that operates within DC to be licensed. “Operating” is defined to mean establishing, keeping, or maintaining any facility or location in the District through which education is offered or given, or educational credentials are offered or given, and includes contracting with any person, group or entity to perform such act. Also note that agents employed by or representing an educational institution for remuneration who solicit or offer to enroll DC students in the institution are required to be licensed in DC. The DC Code is available at http://osse.dc.gov/seo/cwp/view,a,1224,q,558610.asp (Click on DCMR Title 38, Chapter 13*).

   and the applicable regulations are at*

   *NOTE: new regulations were promulgated in May 2011 but have not been posted to the website and have not yet been implemented according to Ms. Jenkins so this link to OSSE regulations will be replaced.

   Link to the DC Regulations and Register http://www.dcregs.dc.gov/Default.aspx
   Link to the State Superintendent of Education
   http://osse.dc.gov/seo/site/default.asp?seoNav=|

2. What triggers the state authorization requirement (physical presence in the state or something less)?

   Physical presence (except for recruiting agents).

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)
Establishing, keeping or maintaining a facility or location in DC.

**IMPORTANT NOTE:** The Commission is requesting all institutions that have students enrolled in distance education programs who reside in DC to submit a letter to the Commission for a determination by the Commission of whether licensure is required. The Commission provided me with a Notice that is NOT on their website which lists the information that must be provided to Dorothy Thomas, Education Compliance Specialist with the Commission.

b. **If something less than physical presence, please explain:**

If you have an agent recruiting students in DC, the agent will have to be licensed.

3. **What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:**


4. **Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:**

DC Statute § 38-1310(a) provides a number of exemptions to licensure, one of which looks like it would be applicable to out-of-state public institutions that do not “operate” in DC as that term is defined, but according to Ms. Jenkins, there is no exemption for out-of-state public institutions.

5. **For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:**

N/A

6. **Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:**

No.
7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

If an institution intends to establish a facility or location in DC, it must submit a cover letter and an application, together with a $250.00 processing fee to the Education Licensure Commission. The application requires submission of numerous documents including the institution’s mission statement, administrative organizational chart, Ethics statement, and information on finances, faculty, instruction, library resources, admission requirements, retention and job placement plans, physical plant and equipment, student records, refund policy, etc. The annual fee is on a sliding scale of $25.00 to $500.00 depending upon the number of students in the program(s).

NOTE: the Commission has promulgated new regulations that will be implemented in Fall 2011 that will require a $5000 annual licensure fee.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes, Title 16, Chapter 21, section 2115 of the Education Licensure Commission regulations provides for persons to file complaints with the Commission for investigation.


The contact person is Dorothy Thomas, Education Compliance Specialist, Education Licensure Commission, 810 First Street, NE, 9th Floor, Washington, DC 20002, http://www.osse.dc.gov.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

No.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:
Yes. According to Ms. Jenkins, the Commission has amended its regulations to include a new chapter on agent licensure; to increase the annual licensure fee to $5000; and to address “false degrees.” She also anticipates a statutory change to provide additional specificity on what constitutes “physical presence” in DC. Vikki Shirley of the Board of Governors has been added to the DC mailing list for updates on changes to their licensure requirements and she will forward all new information to the appropriate SUS and FCS contacts upon receipt. If you would like to be added to the mailing list, please send Ms. Jenkins an email with your contact information.
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes. Title 20, Chapter 3, Article 7, Part 1A (OCGA 20-3-250.7) prohibits any person or entity from (a) operating a postsecondary educational institution or conducting postsecondary activities in Georgia, or (b) offering postsecondary instruction leading to a postsecondary degree or certificate to Georgia residents from a location outside of Georgia by correspondence or any telecommunications or electronic media technology unless issued a current certificate of valid authorization from the Nonpublic Postsecondary Education Commission (NPEC). The Georgia Code is available at http://www.lexisnexis.com/hottopics/gacode/Default.asp. The NPEC has created a two-page summary posted on their website entitled “Addressing Federal On-Line/Distance Education Requirements” (“Distance Education Summary”) which provides specific information on the type of activities that trigger the state authorization requirements. The Distance Education Summary is available at http://www.gnpec.org/Forms/PDF%20Files/OnlineRequirements.pdf. The NPEC rules can be accessed from the NPEC main menu at http://www.gnpec.org/MainMenu.asp.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Both physical presence and lesser activities trigger the state authorization requirements.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

OCGA § 20-3-250.2(26) defines “to operate an educational institution” as meaning to establish, keep, or maintain any facility or location in Georgia where education is offered or given or educational credentials are offered or granted and includes contracting with any person to perform such act and to conduct postsecondary activities within Georgia or from a location outside of Georgia by correspondence or by any telecommunications or electronic media technology. Pursuant to the NPEC Distance Education Summary, an out-of-state institution, whether or not it offers instruction to residents of Georgia only over the Internet, will need a Certificate of Authorization from the NPEC if it engages in one of the following activities:

   i. Maintains a telephone number with a Georgia area code;
   ii. Maintains a postal address with a Georgia zip code;
iii. Markets and/or recruits Georgia students via any means of media that originates in Georgia;
iv. Maintains an Internet URL that originates in Georgia or utilizes an ISP that is based in Georgia;
v. Provides payment reportable for income tax purposes via either a W-2 or Form 1099 to a resident of Georgia for any purpose directly associated with the institution’s Georgia students.

IMPORTANT NOTE: The Distance Education Summary advises institutions to “self-assess” whether the programming they offer entails any one or more of the above activities. According to Carl Camann, the Deputy Director of the NPEC, No. 3 above means advertising in a Georgia newspaper, on a Georgia television station, or other Georgia-based media. No. 4 above is triggered if an institution is paying a Georgia-based internet provider for internet services. No. 5 above requires a direct nexus between a faculty member or other professional who resides in Georgia and the Georgia resident(s) that person is providing educational services to; however, this is NOT meant to capture the “happenstance circumstance” of a faculty member residing in Georgia who teaches an on-line class in which a Georgia resident happens to be enrolled. It needs to be a more Georgia-targeted activity. Mr. Camann explained that authorization is not required if an institution has Georgia students enrolled in an online program who are participating in an externship, internship, clinical rotation or the like in Georgia as part of the program, or if students have identified a mentor who is a Georgia resident and that mentor is paid an honorarium by the institution.

If the institution is NOT engaging in any of those activities, it still needs to write a letter signed by the President or General Counsel (and have it notarized) to Mr. Camann at the NPEC stating it has reviewed the conditions that would cause it to be required to be authorized and that as a result of this review, it stipulates that it engages in none of the listed conditions. The Summary contains the exact wording the NPEC wants in the letter so please make sure you consult the Summary document for wording. Although individual notarized letters are required, Mr. Camann prefers that we submit all 39 letters in ONE packet for ease of administration. They are doing this with several other large systems and we could have the Chancellors of both of our systems submit a joint packet.

NOTE: If your institution engages in ONE or MORE of the above-listed activities, it needs to advise the NPEC in writing that an application is forthcoming and the institution must cease and desist from enrolling any further Georgia residents until a Certificate of Authorization is issued.

b. If something less than physical presence, please explain:

See above.
3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

The Nonpublic Postsecondary Education Commission, http://www.gnpec.org/MainMenu.asp. Contact person is Carl G. Camann, Deputy Director of NPEC, 770-414-3208, ccam@npec.state.ga.us.

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Exemptions are set forth in OCGA 20-3-250.3, but none appear to be applicable to SUS or FCS institutions. The Lexis-Nexis link for the OCGA is listed above.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Yes, exempt institutions need to be granted a certificate of exemption by the NPEC.

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

OCGA § 20-3-250.8 outlines the application process and the information that must be submitted with the application. The application consists of a number of forms that can be obtained from the NPEC’s main menu at http://www.gnpec.org/MainMenu.asp. At the main menu, click on “Degree and Non-Degree Granting Schools” and a Forms and Instructions page will open. The application is available at http://www.gnpec.org/forms/PDF%20Files/Application%20for%20Certificate%20of%20Authorization.pdf

In addition to the application form and required exhibits, applicants must submit information on the entrance requirements, educational goals of the institution, certificate or diploma, a statement of business practices and advertising policies, facilities and equipment, placement services, current catalog, occupancy permit, and refund policy. Application fees range from $2000 for associate degree granting
institutions to $5000 for doctoral degree granting institutions. In addition, NPEC charges a $400 evaluation fee for review of the initial program and a $600 base fee for each additional program (plus $600 per day per committee member for review of additional programs). The Schedule of Fees is listed on the Forms and Instruction page. Finally, the institution has to submit a bond, the amount of which is based on the institution’s gross tuition but in no event less than $20,000 (see Bond Requirements on NPEC website).

8. **Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:**

Yes. The NPEC has established a complaint process pursuant to OCGA § 20-3-250-14 that first requires the student to exhaust the institution’s internal processes. The complaint process is available at [http://www.gnpec.org/forms/pdf%20files/ComplaintProcess.pdf](http://www.gnpec.org/forms/pdf%20files/ComplaintProcess.pdf). Complaints can be filed with the NPEC at 2082 East Exchange Place, Suite 220, Tucker, Georgia 30084-5305, 770-414-3300.

9. **Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:**

No.

10. **Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:**

The NPEC is looking to require institutions that are NOT engaged in any of the activities listed above to agree to comply with the NPEC complaint process and sign a statement to such effect. They are also considering having such institutions sign a statement agreeing to the refund standards set forth in the NPEC Minimum Standards published on the NPEC website (click on “Degree and Non-Degree Granting Schools”), page 25 and 26. Finally, they make seek a statutory change to be included in the Attorney General’s complaint process.
HAWAII

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No. According to Jeffrey Brunton at the Department of Commerce and Consumer Affairs, Hawaii does not have a process for licensing or authorizing public postsecondary institutions to operate in Hawaii and there are no applicable statutes, rules or regulations.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

N/A

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

   b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Department of Commerce and Consumer Affairs, http://hawaii.gov/dcca/ocp/udgi/regulation. Contact person is Jeffrey Brunton, Esquire, Temporary Acting Director, 808-586-2636, jbrunton@dcca.hawaii.gov.

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

N/A

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:
7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

N/A

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

No. The Department of Commerce and Consumer Affairs has a complaint process for complaints against unaccredited postsecondary institutions, but not against public or private accredited institutions.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

No.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

According to Mr. Brunton, the Hawaii Legislature is going to set up a task force to examine the regulatory structure in Hawaii in light of the new US DOE regulations so we need to stay tuned for new developments.
IDAHO

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No, unless an institution has a physical presence in Idaho according to Harv Lyter, the Registration Coordinator for the Idaho State Board of Education (OSBE). Title 33, Chapter 24, § 33-2402, Idaho Statutes, requires postsecondary institutions which maintain a presence within the State, or which operates or purports to operate from a location within the State, to register annually and hold a valid certificate of registration issued by the Idaho State Board of Education. The Idaho Statutes are available at http://www.legislature.idaho.gov/idstat/Title33/T33CH24.htm

The registration requirements are set forth in the Idaho State Board of Education Rules which are available at http://adm.idaho.gov/adminrules/rules/idapa08/08index.htm

NOTE: Registration is NOT required in Idaho if an institution has absolutely no physical presence in Idaho (see below for what constitutes physical presence).

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence within the State triggers the registration requirements.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

An institution is deemed to have a presence in Idaho if it owns, rents, leases or uses any office or other type of physical location in Idaho, including a mailing or shipping center, or if it represents in any way, such as on an electronic or Internet website, to have an Idaho street or mailing address, including a post office box in Idaho pursuant to the definition of “Idaho Presence” in Idaho State Board Rule 08.01.11.200.03. This language is being interpreted by the ISBE to extend to Recruiting Agents and Supervisors for practicums; intern-externships; clinicals; or anyone on official school business working inside the state. According to a summary of registration information on the OSBE website, registration is required if (a) supervisors are compensated in any way by your institution, or (b) have any formal student evaluation responsibilities. The summary states that “[e]ven simple certification of participation in the practicum/clinical phase of the program would constitute ‘presence’ if that certification is part of the student’s course completion and/or graduation requirements.” However, registration is NOT required if adjunct faculty happen to live in Idaho but conduct no other school business except teaching online classes. But, meetings with Idaho resident students and recruiting activities at College Fairs or Job Markets will trigger the registration
requirements. The OSBE registration summary is available at: http://www.boardofed.idaho.gov/priv_col_univ/col_univ_registration.asp

b. If something less than physical presence, please explain:

See above.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:


4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Exemptions are set forth in OSBE Rule 08.01.11.200.04 and only recognize Idaho public postsecondary institutions and certain Idaho private postsecondary institutions that were established prior to the adoption of the rule.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

OSBE Rule 08.01.11.200 sets forth the registration process. Institutions are required to submit an application to the ISBE, together with a registration fee that is one-half of one percent (.5%) of the gross Idaho tuition revenue (GITR) of the institution during the previous year (but not less than $100 and not to exceed $5000). Under the “Frequently Asked Questions” section of the ISBE website page for Private Postsecondary
Institutions, GITR means school/business revenue generated inside the state of Idaho; although the FAQ notes that schools physically located outside Idaho probably do NOT generate GITR since revenue is generated at the “point of sale” meaning where the school is physically located and where the tuition is actually paid. The application is in Word form accessible from the registration summary page of the OSBE website, along with a registration checklist also on the summary page: http://www.boardofed.idaho.gov/priv_col_univ/documents/checklist_pei.pdf

Information to be submitted with the application includes most recent accreditation letter; current list of officers; enrollment data for prior two year; audited financial statement; and documentation demonstrating compliance with the OSBE standards set forth in Rule 08.01.11.201.

Institutions that only have active recruiting agents, clinical/practicum supervisors or business personnel operating in the state (but not generating GITR) can register as an “agent-only” institution. The standard application form still needs to be completed but the annual fee is $100.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Not yet, but they will have a complaint process in place by July 1, 2011. According to Mr. Lyter, the complaint process will be limited to whether an institution that is required to be registered in Idaho is acting in compliance with Idaho registration requirements and applicable OSBE standards, and will first require the student to exhaust any remedies available at the institution.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Yes, the Idaho Office of Attorney General Consumer Protection Division handles consumer complaints. The description of their complaint process and form is available at http://www.ag.idaho.gov/consumerProtection/forms/ComplaintFormInformation.html

Their phone number is 800-432-3545.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:
Mr. Lyter does not anticipate the OSBE making any changes in how the state registration requirements are currently being administered and interpreted; although they have been in a review process over the last three years to bring the education code up-to-date with current practice. As stated above, they will have a new complaint process as of July 1, 2011 which is likely to be codified in law.
1. **Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:**

No, state operating approval is not required if an institution is providing 100% of its instruction to Illinois residents on-line or if it otherwise falls within the exemption for institutions that have a “limited physical presence” in Illinois as defined under Title 23, Section 1030.10 of the Illinois Board of Higher Education (IBHE) rules.


2. **What triggers the state authorization requirement (physical presence in the state or something less)?**

Physical presence triggers the state approval requirements.

   a. **If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)**

According to Bob Blankenberger, the Deputy Director of the IBHE, the 1945 and 1961 Illinois laws establishing the approval requirements were based on a “brick and mortar” assumption that an institution would have a physical facility in the state. In response to evolving modes of educational delivery, the IBHE promulgated a rule providing for an exemption from approval requirements for institutions that have a limited physical presence in Illinois (Title 23, Section 1030.10(c), Ill. Admin. Code). In determining whether an institution has a limited physical presence, the institution must provide evidence: (a) of authorization to operate in at least one other state; (b) of accreditation by a body recognized by USDOE; (c) demonstrating that 10% or less of the course will be offered in the State or that 100% of the instruction is on-line from out-of-state sites; and (d) evidence that the institution is not providing core academic support services (defined as admissions, evaluation, assessment, registration, financial aid, academic scheduling, and faculty hiring and support) in Illinois. According to Mr. Blankenberger, a faculty member who resides in Illinois but who provides only online instruction would not trigger the state approval requirements, nor would faculty evaluation of student performance. Further, he indicated that most institutions offering courses that include internships, clinicals, externships or the like will still be exempt
unless those activities constitute a significant portion of the coursework required for the degree. Institutions, however, that have a recruiting office located in Illinois would have to obtain approval to operate in the state.

b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Illinois Board of Higher Education, http://www.ibhe.state.il.us/
Contact person is Bob Blankenberger, Deputy Director, 217-557-7350, blankenberger@ibhe.org.

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Title 23, Section 1030.10 of the Illinois Administrative Code establishes the exemptions from the approval requirements. The rules are available at http://www.ilga.gov/commission/jcar/admincode/023/02301030sections.html
The applicable exemption for institutions with a limited physical presence is described above and is also described on the IBHE website at http://www.ibhe.state.il.us/Academic%20Affairs/distanceEd/default.htm.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

The IBHE is requiring all institutions to submit information to demonstrate entitlement to the exemption via an online request form available at http://www.ibhe.state.il.us/Academic%20Affairs/distanceEd/default.htm
The form can be submitted to IBHE staff electronically and they will provide a response that should be sufficient for Title IV eligibility purposes.

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:
Most, if not all, of the SUS and FCS institutions should be entitled to the exemption for institutions with a limited physical presence. If, however, an institution has a recruiting office in Illinois (according to Mr. Blankenberg, many institutions have recruiting offices in Chicago), they will require IBHE approval to operate in the state. The criterion for institutional approval to operate is set forth in Title 23, Section 1030.30 of the IBHE rules. The institution has to first send a Letter of Intent to the IBHE, together with a $250 fee. IBHE staff may schedule a preliminary conference with the institution to discuss the criteria that must be met by the institution and the procedure for applying for a Certificate of Approval and/or Authorization to Operate. After the preliminary conference, the institution must submit an application. The application is only available to institutions that have completed an orientation and registered with the IBHE. Information on orientation and registration is available at
http://www.ibhe.state.il.us/Academic%20Affairs/Applications/Independent/OutofState.htm

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Although the IBHE website provides students with some guidance on who they should contact regarding various types of complaints, the IBHE is in the process of creating a complaint process and an online complaint form. Currently, the IBHE consumer information is available at http://www.ibhe.state.il.us/consumerInfo/complaint.htm. Institutions will need to check back in the Fall to determine if the new complaint process is posted on their website with contact information. The contact information for the IBHE is 217-782-2551.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:


10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:
Yes. They are in the process of revising their administrative rules to provide more specificity as to what actions constitute physical presence and what actions rise to the level of being core academic services. In addition, they are going to create an online complaint form.
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No. Authorization is not required for an out-of-state public postsecondary institution to offer distance learning courses to state residents if the out-of-state public postsecondary institution is publicly funded. The Indiana Commission on Proprietary Education does not regulate these institutions.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

N/A

a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

N/A

b. If something less than physical presence, please explain:

N/A

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

N/A

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

N/A

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A
6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

N/A

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Indiana does have a complaint process but the complaint process does not apply to out-of-state public postsecondary institutions which are publicly funded.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:


The link to the online complaint form is http://12.186.81.50/ConsumerComplaintForm/ConsumerComplaintForm.htm.

The link to the printable complaint form is http://www.in.gov/attorneygeneral/files/complaint.pdf.

Consumers can also request a complaint form by calling 1-800-382-5516 or (317) 232-6330.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No.
IOWA

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes. Out-of-state postsecondary institutions must register with the Iowa College Student Aid Commission (ICSAC) pursuant to Iowa Code Chapter 261B. The link to Iowa Code Chapter 261B is on the Postsecondary Registration page at: http://www.iowacollegeaid.gov/index.php?option=com_content&task=view&id=95&Itemid=395

2. What triggers the state authorization requirement (physical presence in the state or something less)?

According to Iowa Code § 261B.3, registration is required for schools that maintain or conduct one or more courses of instruction, including courses of instruction by correspondence or other distance delivery method, offered in Iowa or which have a presence in Iowa and offer courses in other states or foreign countries.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

A conflict exists between the definitions of presence within the Iowa Code and the ICSAC’s “Postsecondary Registration Iowa Code Chapter 261B” form. According to Iowa Code § 261B.2, presence means “maintaining an address within Iowa.” The ICSAC’s “Postsecondary Registration Iowa Code Chapter 261B” form defines “presence” as “maintaining a physical, postal, telephone or internet address within Iowa,” thus “[p]resence’ does not mean, ‘located in Iowa.’” According to Carolyn Small, Postsecondary Registration Administrator, the application is outdated, thus the conflict between the statute’s and the application’s definition of presence. Ms. Small does not know of any plans to update the application at this time.

Ms. Small stated that schools that have recruiters in Iowa looking for recruits for the distance program must register with the ICSAC, as do schools that allow the instructor of a distance learning program to work on the distance learning program remotely from his or her home or another physical location in Iowa. But if the student is a registered student of a school within Florida and takes distance learning courses from his or her home in Iowa during the summer, then the school does not need to register with the ICSAC.
The link to Iowa Code § 261B.2 is: http://www.iowacollegeaid.gov/index.php?option=com_content&task=view&id=95&Itemid=395

The link to the “Postsecondary Registration Iowa Code Chapter 261B” form is: http://www.iowacollegeaid.gov/images/docs/file/PostsecondaryRegistration/CS/ch261b_reg_app_or_exempt_claim051310.pdf (located at p. 1).

b. If something less than physical presence, please explain:

Please see detailed explanation above. Currently, presence would include maintaining a physical, postal, telephone or internet address within Iowa.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

The Iowa College Student Aid Commission. Contact person is Carolyn Small, Postsecondary Registration Administrator, (515) 725-3413, carolyn.small@iowa.gov

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Iowa Code § 261B.11 exempts the following institutions from having to register with the ICSAC:

a. Schools and educational programs conducted by firms, corporations, or persons for the training of their own employees;
b. Apprentice or other training programs provided by labor unions to members or applicants for membership;
c. Courses of instruction of an a vocational or recreational nature that do not lead to an occupational objective;
d. Seminars, refresher courses, and programs of instruction sponsored by professional, business, or farming organizations or associations for the members and employees of members of these organizations or associations;
e. Courses of instruction conducted by a public school district or a combination of public school districts;
f. Colleges and universities authorized by the laws of this state to grant degrees;
g. Schools or courses of instruction or courses of training that are offered by a vendor to the purchaser or prospective purchaser of the vendor’s product when the objective of the school or course is to enable the purchaser or the purchaser’s employees to gain skills and knowledge to enable the purchaser to use the product;
h. Schools and educational programs conducted by religious organizations solely for the religious instruction of leadership practitioners of that religious organization;

i. Postsecondary educational institutions licensed by the state of Iowa prior to July 1, 2009, to conduct business in the state;

j. Accredited higher education institutions that meet the criteria established under section 261.92, subsection 1;

k. Postsecondary educational institutions offering programs limited to nondegree specialty vocational training programs; and

l. Not-for-profit colleges and universities established and authorized by city ordinance to grant degrees.

m. Please note that Ms. Small stated that these exemptions apply almost in totality to Iowa originating institutions. The link to Iowa Code § 261B.11 is: http://www.iowacollegeaid.gov/index.php?option=com_content&task=view&id=95&Itemid=395

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1 Iowa Code section 261.92(1) defines an “accredited higher education institution” as a public institution of higher learning located in Iowa which is accredited by the north central association of colleges and secondary schools accrediting agency based on their requirements as of April 1, 1969, or an institution of higher learning located in Iowa which is operated privately and not controlled or administered by any state agency or any subdivision of the state, and which meets the following requirements:

a. Is accredited by the north central association of colleges and secondary schools accrediting agency based on their requirements as of April 1, 1969, and,

b. Promotes equal opportunity and affirmative action efforts in the recruitment, appointment, assignment, and advancement of personnel at the institution. In carrying out this responsibility the institution shall do all of the following:

   (1) Designate a position as the affirmative action coordinator.
   (2) Adopt affirmative action standards.
   (3) Gather data necessary to maintain an ongoing assessment of affirmative action efforts.
   (4) Monitor accomplishments with respect to affirmative action remedies identified in affirmative action plans.
   (5) Conduct studies of preemployment and postemployment processes in order to evaluate employment practices and develop improved methods of dealing with all employment issues related to equal employment opportunity and affirmative action.
   (6) Establish an equal employment committee to assist in addressing affirmative action needs, including recruitment.
   (7) Address equal opportunity and affirmative action training needs by doing all of the following:
      (a) Providing appropriate training for managers and supervisors.
      (b) Insuring that training is available for all staff members whose duties relate to personnel administration.
      (c) Investigating means for training in the area of career development.
   (8) Require development of equal employment opportunity reports, including the initiation of the processes necessary for the completion of reports required by the federal equal employment opportunity commission.
   (9) Address equal opportunity and affirmative action policies with respect to employee benefits and leaves of absence.
   (10) File annual reports with the college student aid commission of activities under this paragraph.
5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Yes. Institutions seeking an exemption must fill out the “Exemption Claim for Postsecondary Education (261B) School Registration” and mail a paper copy as well as an electronic copy pdf format on a cd to Carolyn Small, Postsecondary Registration Administrator.

The mailing address is:
Postsecondary Approval and Registration Administrator
Iowa College Student Aid Commission
200 10th Street, Fourth Floor
Des Moines, IA 50309

The link to the “Exemption Claim for Postsecondary Education (261B) School Registration” is:

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No. Each individual school must apply separately.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Out-of-state institutions must submit the “Application for Approval and Registration of Postsecondary School Iowa Code Chapter 216B” along with the supporting documentation the application requires. The link to the “Application for Approval and Registration of Postsecondary School Iowa Code Chapter 216B” is:
http://www.iowacollegeaid.gov/images/docs/file/PostsecondaryRegistration/CS/ch261b_reg_app_or_exempt_claim051310.pdf (located at pp. 3-12).

Please note that the ICSAC now requires that schools submit the proposed policies that meet the requirements of second to last question on page 9 of application package. If a school needs to register with the ICSAC, Ms. Small will provide details on this requirement and work with the school to draft the required policies. Paragraph e and f in this requirement are policies institutions likely have in place already to address requirements of schools that participate in Title IV. Paragraph g is a military
withdrawal policy that also involves potentially the spouse of a deployed service member.

In accordance with Iowa Code § 261B.4, the application requests the following information:

a. the name or title of the school;

b. the principal location of the school in this state, in other states, and in foreign countries, and the location of the place or places in this state, in other states, and in foreign countries where instruction is likely to be given;

c. a schedule of tuition charges, fees, and other costs payable to the school by a student;

d. the refund policy of the school for the return of refundable portions of tuition, fees, or other charges;

e. the degrees granted by the school;

f. the names and addresses of the principal owners of the school or the officers and members of the legal governing body of the school;

g. the name and address of the chief executive officer of the school;

h. a copy of or a description of the means by which the school intends to comply with section 261B.9;

i. the name of the accrediting agency recognized by the United States Department of Education or a successor agency which has accredited the school and the status under which accreditation is held;

j. the name, address, and telephone number of a contact person in this state;

k. the names or titles and a description of the courses and degrees to be offered;

l. a description of procedures for the preservation of student records; and

m. the academic and instructional methodologies and delivery systems to be used by the school and the extent to which the school anticipates each methodology and delivery system will be used, including, but not limited to, classroom instruction, correspondence, electronic telecommunications, independent study, and portfolio experience evaluation.

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2 Iowa Code 261B.9 requires that Prior to the commencement of a course of instruction and prior to the receipt of a tuition charge or fee for a course of instruction, a school shall provide written disclosure to students of the following information accompanied by a statement that the information is being provided in compliance with Iowa Code 261B.9:

1. the name or title of the course;

2. a brief description of the subject matter of the course;

3. the tuition charge or other fees charged for the course. If a student is enrolled in more than one course at the school, the tuition charge or fee for all courses may be stated in one sum;

4. the refund policy of the school for the return of the refundable portion of tuition, fees, or other charges. If refunds are not to be paid, the information shall state that fact;

5. whether the credential or certificate issued, awarded, or credited to a student upon completion of the course or the fact of completion of the course is applicable toward a degree granted by the school and, if so, under what circumstances the application will be made; and

6. the name of the accrediting agency recognized by the United States Department of Education or its successor agency which has accredited the school.
Iowa Code § 261B.4 gives the ICSAC the power to set the fees for registration and renewal of registration. The ICSAC set forth the following fees:

a. Initial Application: $4,000  
b. Renewal: $4,000  
c. Substantive Change or Amendment: $1,000

According to Ms. Small, the ICSAC is not collecting the application fee at the time of filing the application. If the school’s application for registration is approved, then the application fee is collected. The application fee is good for the four year registration term. Renewal is required every four years.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes. The responsible agency is the Iowa College Student Aid Commission. According to Ms. Small, the ICSAC takes complaints from Iowa residents attending school anywhere. The contact phone is: 877-272-4456.

The process for filing a complaint with the ICSAC (called Constituent Request for Review) is discussed at:

The link to the complaint form is:

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:
Yes. Consumers can file complaints with the Consumer Protection Division of the Iowa Office of the Attorney General. The link to the Consumer Protection Division of the Iowa Office of the Attorney General is

The link to the online complaint form is:
http://www.state.ia.us/government/ag/file_complaint/online_complaint_form.html.

The link to the printable complaint form is:

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

Ms. Small indicated that there’s a possibility for changes in several areas impacted by Iowa Code Chapter 261B. These areas include, without limitation, scope, registration requirements, and an increase in the fee schedule.
KANSAS

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:


2. What triggers the state authorization requirement (physical presence in the state or something less)?

Both (1) physical presence and (2) offering or providing on-line courses to Kansans if there is sufficient minimum contact with Kansas trigger the state authorization requirement.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

According to K.S.A. 74-32, 163(k), physical presence means:

   a. The employment in Kansas of a Kansas resident for the purpose of administering, coordinating, teaching, training, tutoring, counseling, advising or any other activity on behalf of the institution, or
   b. The delivery of, or the intent to deliver, instruction in Kansas with the assistance from any entity within the state in delivering the instruction including, but not limited to, a cable television company or a television broadcast station that carries instruction sponsored by the institution.

The link to K.S.A. 74-32, 163(k) is http://www.kslegislature.org/li/statute/074_000_0000_chapter/074_032_0000_article/074_032_0163_section/074_032_0163_k/
b. If something less than physical presence, please explain:

Offering or providing on-line courses to Kansans will require authorization if there is sufficient minimum contact with the state. In determining whether a school has sufficient minimum contact with Kansas to establish that it is operating within the jurisdiction, relevant factors to consider include whether the school:

i. is providing educational programs/courses to a number of Kansans whose primary residence is Kansas and who remain in Kansas while receiving their education;

ii. specifically soliciting or targeting Kansans; e.g., engaging in direct marketing in Kansas, sending individuals to the state in order to recruit students who will remain in Kansas while going to school, advertising through Kansas radio or television stations, newspapers or magazine ads, direct mailing to Kansans who have not requested such mailings, mentioning Kansas on the school’s web site, etc.;

iii. is requiring students to complete an internship, clinical, seminar or other group, on-the-ground supervised activity conducted or located in Kansas;

iv. has agents or employees working at or from a Kansas location;

v. has an IP address in Kansas;

vi. has a representative/agent, phone number, fax number or mailing address located in Kansas;

vii. is registered to do business in Kansas;

viii. has a Kansas bank account or uses Kansas banks to handle payments;

ix. derives substantial yearly revenue from Kansans as a result of providing courses to students whose primary residence (and location while taking the classes) is Kansas; and

x. enters into contracts with Kansas residents.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

The Kansas Board of Regents. Contact person is Jacqueline Johnson, Director of Private and Out-of-State Education, (785) 296-4917, jjohnson@ksbor.org.

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

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3 These fact issues are cumulative in nature and designed to determine if a specific school is subject to the long-arm jurisdiction of Kansas.

4 This does not necessarily include operating a “passive” web site when there is little to no other contact with Kansas or providing online courses to Kansas residents who physically attend an out-of-state institution and who obtain the major portion of their education while physically attending classes in that other state.
K.S.A. 74-32, 164 exempts the following institutions from needing a KBOR certificate of approval:

a. An institution supported primarily by Kansas taxation from either a local or state source;

b. an institution or training program which offers instruction only for a vocational or recreational purposes as determined by the state board;

c. a course or courses of instruction or study, excluding degree-granting programs, sponsored by an employer for the training and preparation of its own employees, and for which no tuition or other fee is charged to the student;

d. a course or courses of instruction or study sponsored by a recognized trade, business or professional organization having a closed membership for the instruction of the members of the organization, and for which no tuition or other fee is charged to the student;

e. an institution which is otherwise regulated and approved under any other law of this state;

f. a course or courses of special study or instruction having a closed enrollment and financed or subsidized on a contract basis by local or state government, private industry, or any person, firm, association or agency, other than the student involved;

g. an institution financed or subsidized by federal or special funds which has applied to the state board for exemption from the provisions of this act and which has been declared exempt by the state board because it has found that the operation of such institution is outside the purview of this act;

h. the Kansas City college and bible school, inc.; and

i. any postsecondary educational institution which was granted approval to confer academic or honorary degrees by the state board of education under the provisions of K.S.A. 17-6105 prior to its repeal.

The link to K.S.A. 74-32, 164 is
http://www.kslegislature.org/li/statute/074_000_0000_chapter/074_032_0000_article/074_032_0164_section/074_032_0164_k/ (The main link to Chapter 74, State Boards, Commissions and Authorities, Article 32 Higher Education Coordination; State Board of Regents is http://www.kslegislature.org/li/statute/074_000_0000_chapter/074_032_0000_article/.)

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Yes. The Kansas Board of Regents will engage in a full review of the institution. Following the review, the institution must contact the Director of Private Postsecondary and Out-of-State Education to obtain a letter stating the institution is exempt.
6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No. Each individual school must apply separately.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

To determine whether out-of-state public institutions must apply for a certificate of approval from the KBOR, institutions must first fill out the attached “Kansas Private/Out-of-State Private Postsecondary Institution Questionnaire Subject to K.S.A. 74-32,162 et seq.” and mail it to Jacqueline Johnson, the Director of Private and Out-of-State Education for the KBOR. The mailing address is:

Kansas Board of Regents
1000 SW Jackson Suite 520
Topeka KS 66612-1368

If the KBOR determines that an out-of-state public institution must apply for a certificate of approval, the out-of-state public institution must submit an application for certificate of approval to the KBOR. The link to the application for certificate of approval is http://www.kansasregents.org/resources/PDF/828-ApplicationFormOnly.pdf

In accordance with K.A.R. 88-28-3, the application requests the following information:

a. an outline or syllabus of each course offered in Kansas;
b. a description of the institution’s facilities, equipment, and instructional materials;
c. a certification by an owner of the applicant institution or the owner’s designee that the building that is to house the institution meets the requirements of all local, state, and federal regulations;
d. a resume of each administrator and instructor that includes the individual’s education, previous work experience, professional activities, and, if applicable, licensure;
e. evidence of the institution’s professional development and in-service activities;
f. a copy of the proposed catalog or, if existing, a copy of each of the institution’s most recent catalogs, bulletins, and brochures, with any supplements;
g. a copy of the enrollment agreement;
h. a copy of the credential to be given to each student upon completion of a program;
i. a description of how the student and administrative records are maintained;
j. a copy of any advertising used;
k. a financial statement showing income and expenditures for the most recent, complete fiscal year;
1. a ledger sheet for each student showing the receipt of money for tuition, fees, books, supplies, and any other items charged to the student; and
2. a copy of any certificate of accreditation issued to the institution by a regional or national accrediting agency recognized by the United States department of education.


K.S.A. 74-32, 181a(2) states that during fiscal year 2011, the fees shall be as follows:

n. Initial application fees:
   i. Non-degree granting institution $4,000
   ii. Degree granting institution $5,500

o. Initial evaluation fees (in addition to initial application fees):
   i. Non-degree level $1,500
   ii. Associate degree level $2,000
   iii. Baccalaureate degree level $3,000
   iv. Master's degree level $4,000
   v. Professional and/or doctoral degree level $5,000

p. Renewal application fees:
   i. Non-degree granting institution 0.3 percent [of gross tuition], but not less than $2,400 nor more than $25,000
   ii. Degree-granting institution 0.3 percent [of gross tuition], but not less than $3,000 nor more than $25,000

q. New program submission fees, for each new program:
   i. Non-degree granting program $500
   ii. Associate degree program $750
   iii. Baccalaureate degree program $1,000
   iv. Master's degree program $1,500
   v. Professional and/or doctoral degree program $2,500
   vi. Program modification fee, for each program $100

r. Branch campus site fees, for each branch campus site:
   i. Initial non-degree granting institution $4,000
   ii. Initial degree granting institution $5,500

s. Renewal branch campus site fees, for each branch campus site:
   i. Non-degree granting institution 0.3 percent [of gross tuition], but not less than $2,400 nor more than $25,000
   ii. Degree-granting institution 0.3 percent [of gross tuition], but not less than $3,000 nor more than $25,000
   iii. On-site branch campus review fee, for each site $500

t. Representative fees:
   i. Initial registration $350
ii. Renewal of registration  $250
iii. Late submission of renewal of application fee  $125
u. Student transcript copy fee  $10
v. Returned check fee  $50
w. Changes in institution profile fees:
   i. Change of institution name  $100
   ii. Change of institution location  $100
   iii. Change of ownership only  $100

The link to K.S.A. 74-32, 181a is http://www.kslegislature.org/li/statute/074_000_0000_chapter/074_032_0000_article/074_032_0181a_section/074_032_0181a_k/

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes. The responsible agency for complaints against out-of-state postsecondary institutions operating in Kansas is the Kansas Board of Regents, Private/Out-of-State Postsecondary Division. The contact person is Jacqueline Johnson, Director of Private and Out-of-State Education, (785) 296-4917, jjohnson@ksbor.org. The process for filing a complaint with the KBOR is discussed at http://www.kansasregents.org/private_postsecondary_complaint_process. The link to the complaint form is http://www.kansasregents.org/resources/PDF/524-ComplaintProcedureandForm.pdf

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Yes. Consumers can file complaints with the Kansas Attorney General's Consumer Protection Division. The link to the Kansas Attorney General's Consumer Protection Division is http://www.ksag.org/page/filing-a-complaint. The link to the online complaint form is http://www.ksag.org/page/file-a-complaint. The link to the printable complaint form is http://www.ksag.org/files/shared/ComplaintForm.pdf

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No.
Kansas Private/Out-of-State Private Postsecondary Institution Questionnaire
Subject to K.S.A. 74-32,162 et seq.

1. Is your school (a) a private school (a school that is a business enterprise, whether operated on a profit or not-for-profit basis) or (b) a school that is an educational institution chartered, incorporated or otherwise organized under the laws of any jurisdiction other than the state of Kansas?

2. Is your school providing or offering educational programs/courses in Kansas or to Kansans who will remain in Kansas while taking such courses?5

3. If you answered yes to question #2, (1) can the courses/programs your school offers to Kansans lead to an academic degree and/or (2) are the courses/programs your school offers to Kansans for the purpose of training or preparing people for a field of endeavor in a business, trade, technical or industrial occupation?

4. Does your school have a physical (brick and mortar) presence in Kansas, either at a school or business office?

5. How many persons, who currently reside in Kansas, are participating in or taking any courses or programs through your school?

6. In the last five (5) years, how many Kansans have taken classes at any of your school’s Kansas locations and/or taken any online classes from your school?

7. Has your school done any direct marketing in Kansas or does it intend to do any (sending individuals to the state in order to recruit, doing advertising through Kansas radio or television stations, newspapers or magazine ads, doing direct mail to Kansans, etc)?

8. Does your school require any student to complete an internship, clinical, seminars or other group on-ground supervised activities conducted or located in Kansas?

9. Does your school have (or intend to have) any employees or contractors (persons that administer, coordinate, teach, train, tutor, counsel, advise or conduct any other activity on behalf of the school) who perform work for your school in or from a location in Kansas?

---

5 Including on-line courses that may be accessed by students who are located in Kansas.
10. Does your school have an IP address in Kansas?

11. Does your school have a representative/agent, phone number, fax number or mailing address located in Kansas?

12. What is the approximate yearly revenue your school has derived from providing courses to students who reside in Kansas?

13. Does your school specifically mention, advertise, or note that it is offering courses to persons residing in Kansas, offering courses that meet the requirements of a licensing body in Kansas, or do anything to actively encourage enrollment by persons residing in Kansas?

14. Does your school regularly have non-internet contacts with students residing in Kansas (e.g. Do faculty, administration, counselors or other school employees or contractors, call students while they are at home in Kansas? Does your school or its instructors send email or regular mail to Kansas students? Does your school conduct web seminars in which Kansas residents participate, etc.)?

15. Do you believe that your school is exempt from Kansas law because it falls under the scope of any of the exemptions listed in K.S.A. 74-32,164? If so, please provide facts.

6 (a) An institution supported primarily by Kansas taxation from either a local or state source;
   (b) an institution or training program which offers instruction only for avocational or recreational purposes as determined by the state board;
   (c) a course or courses of instruction or study, excluding degree-granting programs, sponsored by an employer for the training and preparation of its own employees, and for which no tuition or other fee is charged to the student;
   (d) a course or courses of instruction or study sponsored by a recognized trade, business or professional organization having a closed membership for the instruction of the members of the organization, and for which no tuition or other fee is charged to the student;
   (e) an institution which is otherwise regulated and approved under any other law of this state;
   (f) a course or courses of special study or instruction having a closed enrollment and financed or subsidized on a contract basis by local or state government, private industry, or any person, firm, association or agency, other than the student involved;
   (g) an institution financed or subsidized by federal or special funds which has applied to the state board for exemption from the provisions of this act and which has been declared exempt by the state board because it has found that the operation of such institution is outside the purview of this act;
   (h) the Kansas City college and bible school, inc.; and
   (i) any postsecondary educational institution which was granted approval to confer academic or honorary degrees by the state board of education under the provisions of K.S.A. 17-6105 prior to its repeal.
KENTUCKY

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes. The Kentucky Council on Postsecondary Education (CPE) grants licenses to out-of-state institutions (public or private) pursuant to 13 KAR 1:020 in order for those institutions to operate or solicit in Kentucky and offer online courses and programs to Kentucky students. The link to 13 KAR 1:020 is http://www.lrc.ky.gov/kar/013/001/020.htm.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Licensure is required for an out-of-state institution to operate or solicit in Kentucky and offer online courses and programs to Kentucky students. “Operating or soliciting” is defined in the licensing regulation 13 KAR 1:020 Section 1 (8) as having a physical presence within Kentucky and includes criteria under which no physical presence is necessary. The link to 13 KAR 1:020 Section 1 (8) is http://www.lrc.ky.gov/kar/013/001/020.htm.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Physical presence means:
   i. An instructional or administrative site within Kentucky whether owned, leased, rented, or provided without charge;
   ii. Instruction whether theory or clinical, originating from or delivered within Kentucky utilizing teachers, trainers, counselors, advisors, sponsors, or mentors; or
   iii. An agent, recruiter, in-state liaison personnel, institution, or business located in Kentucky that advises, promotes, or solicits for enrollment, credit, or award of an educational or occupational credential.

   b. If something less than physical presence, please explain:

Criteria under which no physical presence is necessary include:
   i. An articulation agreement with a Kentucky licensed college or state-supported institution; or
   ii. Advertising, promotional material, or public solicitation in any form that targets Kentucky residents through distribution or advertising in the state.
3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Kentucky Council on Postsecondary Education. Contact person is Sarah Levy, Director of Postsecondary Licensing, (502) 573-1555, ext. 350, sarah.levy@ky.gov.

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

There are no statutory exemptions, but pursuant to 13 KAR 1:020 Section 2, institutions which do not operate or solicit in Kentucky do not need a license.


5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Yes. If the institution will not be engaging in “operating or soliciting”, then the institution must certify that in a letter to the Director of Postsecondary Licensing for CPE’s review to determine if licensure is required or not.

The mailing address is:
Council on Postsecondary Education
1024 Capital Center Drive, Suite 320
Frankfort, KY 40601

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No. Each individual school must apply separately.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Out-of-state institutions must submit the attached “Application for Licensure as an Out-of-State Institution to Operate in the Commonwealth of Kentucky Pursuant to 13 KAR 1 020.” The application requests information on:
a. the institutional, including vitae for directors, owners, trustees, and central administrators, and accreditation/licensure status;
b. finances, including bank or financial institution reference, the institution's estimated expenditures and revenue, and a guaranty of tuition refunds;
c. academic programs;
d. faculty;
e. tuition and fees;
f. facilities and equipment; and
g. the library.

The Kentucky Licensure Fee Schedule lists the following fees:

a. New college application fees:
   i. In-state institution $1,000
   ii. Out-of-State institution $5,500
b. Offering fees:
   i. If not offering entire program $200
   ii. Certificate, Diploma or Associate’s program $200
   iii. Bachelor’s program $500
   iv. Master's or Specialist program $1,500
   v. Doctoral program $2,000
c. Maintenance or Renewal of license fees:
   i. License with CPE for 5 years or more:
      1) Enrollment of 100-500 students $250
      2) Enrollment of 501-1000 students $500
      3) Enrollment of 1001-2000 students $1,000
      4) Enrollment of 2001-3000 students $2000
      5) Enrollment of 3001-4000 students $3000
      6) Enrollment of 4001-5000 students $4000
      7) Enrollment of 5,001-6,000 students $5,000.00
      8) Enrollment of 6,001-7,000 students $6,000.00
      9) Enrollment of 7,001-8,000 students $7,000.00
     10) Enrollment of 8,001-9,000 students $8,000.00
     11) Enrollment of 9,001-10,000 students $9,000.00
     12) Enrollment of 10,001 students and above $10,000.00
   ii. License with CPE for 5 years or less:
      1) Enrollment of 100-500 students $2000
      2) Enrollment of 501-1,000 students $3,000.00
      3) Enrollment of 1,001-2,000 students $4,500.00
      4) Enrollment of 2,001-3,000 students $6,000.00
      5) Enrollment of 3,001-4,000 students $8,000.00
      6) Enrollment of 4,001-5,000 students $10,000.00
      7) Enrollment of 5,001 students and above $12,000.00

8. **Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:**

Yes. Pursuant to 13 KAR 1:020 Section 13, the responsible agency for complaints against out-of-state institutions operating or soliciting in Kentucky is the Kentucky Council on Postsecondary Education. The contact person is Sarah Levy, Director of Postsecondary Licensing, (502) 573-1555, ext. 350, [sarah.levy@ky.gov](mailto:sarah.levy@ky.gov).


9. **Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:**


10. **Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:**

No.
Commonwealth of Kentucky
Council on Postsecondary Education

APPLICATION FOR LICENSURE
AS AN OUT-OF-STATE INSTITUTION
TO OPERATE IN THE COMMONWEALTH OF KENTUCKY
PURSUANT TO 13 KAR 1:020
Edition November 2009

Applicant institutions shall submit the information below to:
Council on Postsecondary Education
1024 Capital Center Drive, Suite 320
Frankfort Ky 40601-8204

Section I: Institutional Information

1. Name and address of institution. Includes URL (Web page) address.
2. Chief executive officer: Name, title, address, and phone number.
3. Institutional liaison with Council on Postsecondary Education: Name, title, address, phone number, fax number, and e-mail address.
4. Vitae for directors, owners, trustees, and central administrators (i.e., president, chief academic officer, chief financial officer) -- (Forms A(1) and A(2) attached)
5. Accreditation/licensure status
   If accredited/licensed by another agency, provide verification.
   If not accredited/licensed by another agency, indicate if, when, and from whom such accreditation/licensure will be sought.
6. Mission statement (i.e., purpose of institution)
7. Name and address of facility in Kentucky
8. Principal Administrator in Kentucky: Name, title, address, phone number, email address, and vitae

Section II: Financial Information

1. Bank or financial institution reference
2. Institution's estimated expenditures and revenue (Forms B and C attached)
3. Guaranty of tuition refunds
   A statement from an independent certified public accountant that a surety bond (form attached) is equal to or in excess of the projected unearned tuition. Note: Projected unearned tuition is based on expected enrollment and tuition.
**Section III: Academic Program Information (Complete for each program, or each course if not offering an entire program)**

1. Degree awarded
2. Admission requirements
3. Total hours for completion of major/minor and degree, and time limitation for completion of program
4. Program curriculum delineating general education, required, and elective courses for the degree, and a syllabus for each *required* course
5. Sub-specialties offered within the program, if any
6. Impact on and/or affiliation with related programs, institutions, agencies in the service area
7. Description of student clientele, including projected number of majors and program graduates for first five years
8. Program enrollment (*Form D attached*)
9. Method(s) by which program and students will be evaluated

**Section IV: Faculty Information**

1. Vitae (*Form E attached*)
2. Course assignments (*Form F attached*)

**Section V: Tuition and Fee Information**

1. Student tuition and fee schedule, including application fees, full-time and part-time tuition, and student activity or other required fees
2. Student tuition and fee refund policy

**Section VI: Facilities and Equipment Information**

1. Facility survey (*Form G attached*)
2. Verification of compliance with all applicable local, state, or federal safety and fire codes
3. Instructional equipment to be acquired and utilized during program's first five years

**Section VII: Library Information**

1. Collection (*Form H attached*)
2. Budget (*Form I attached*)
3. Lease, contract, or letter of agreement authorizing use of other library collection, if any

**Section VIII: Supporting Documents to Accompany Application**

1. College charter (Articles of Incorporation)
2. College constitution and by-laws
3. College catalogue
4. Student recruitment, enrollment, contract, and/or agreement forms
5. Accreditation/licensure reports from other agencies
6. Copy of "Application for Certificate of Authority" to transact business in Kentucky (original to be mailed directly to Kentucky Secretary of State pursuant to instructions on the form)

Attachments: Forms A-I
Commonwealth of Kentucky
COUNCIL ON POSTSECONDARY EDUCATION
Frankfort, Kentucky

KNOW ALL MEN BY THESE PRESENTS: That we, _________________________________________
_____________________________________ of ___________________________, as principal and
_______________________________________________________________
_________________________________ of __________________________________
_____________________________________, as surety, are held and firmly bound unto the Council on Postsecondary Education,
Commonwealth of Kentucky, 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601-8204, in the penal sum of
_________________ Dollars ($____________________) lawful money of the United States, for the payment of which, well and truly
to be made, we hereby bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by
these presents under the terms and conditions as required by KRS 164 and 13 KAR 1:020.

WHEREAS, the above bonded principal has made application for a License as a higher education institution for the term
beginning July 1, 20______ and ending June 30, 20______ pursuant to the provisions of KRS 164.

NOW THEREFORE, the conditions of the herein described obligation are as follows:

A. Pursuant to KRS 164 and 13 KAR 1:020, the principal shall indemnify any student, enrollee, or student’s parent(s) or
   guardian(s) suffering a loss or damage as a result of:
   1. Any fraud or misrepresentation used in procuring his enrollment; or
   2. Any fraud or misrepresentation as represented by the application for Licensure; or
   3. A student being unable to complete the course or courses because said Institution (the hereinabove named principal)
      ceased operation.

B. Such indemnification by the principal shall in no case exceed the advanced tuition paid, or to be paid, by said student or
   students or any such parent or guardian; and regardless of the number of years that said Institution’s bond is enforced, the
   aggregate liability of the surety bond shall in no event exceed the above stated penal sum of the bond.

C. Surety on said bond may be released therefrom after said surety shall have made written notice thereof directed to the
   Council at 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601-8204, at least thirty (30) days prior to said
   release, but shall remain liable for any verified complaints made by students within said thirty (30) day period or prior thereto.

D. The herein described bond may be continuous, and may be so continued from year to year upon the issuance of a
   Continuation Certificate by the surety, and delivery to the Council; provided however, regardless of the number of years
   this bond remains in force, the aggregate liability of the surety for any and all claims shall in no event exceed the penal
   sum of the bond as shown above.

E. This bond’s obligations shall be construed under the purview of the laws of the Commonwealth of Kentucky and the rules
   and regulations of the Council on Postsecondary Education, said Statutes, Rules and Regulations being incorporated by
   reference as if fully stated herein.

IN WITNESS THEREOF, the Principal and Surety have signed and sealed this instrument this __________day of
_________________________________, 20______.

_______________________________________________________________
Principal
By__________________________________________
Title

_______________________________________________________________
Surety
By_________________________________________
Attorney-in-Fact Title
# FORM A (1)

MEMBERS OF THE GOVERNING BOARD, DIRECTORS, OWNERS, CENTRAL ADMINISTRATORS, and TRUSTEES OF THE INSTITUTION

<table>
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<tr>
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<th>Address</th>
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FORM A (2)
ADMINISTRATOR’S VITAE

NAME: ________________________________  TITLE: ________________________________

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## FORM C  
ESTIMATED REVENUE

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<td><strong>TOTAL AUXILIARY ENTERPRISES</strong></td>
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<td><strong>TOTAL CURRENT FUNDS REVENUE</strong></td>
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</table>
**Complete this form for each degree, diploma, or certificate program offered, or for each course if not offering an entire program.**

**To include general education, required, and elective courses.**

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<table>
<thead>
<tr>
<th>Course #</th>
<th>Course Title</th>
<th>Level</th>
<th>Type**</th>
<th>Credit Hrs.</th>
<th>Projected Headcount Enrollment</th>
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</table>
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*Complete this form for each degree, diploma, or certificate program offered, or for each course if not offering an entire program.

**To include general education, required, and elective courses.
FORM E

FACULTY VITAE

NAME: ________________________________________________________________________________________________________________________________________

Date appointed to Undergraduate Faculty:______________________ Graduate Faculty:______________________ Rank:_______________________________

Current Teaching Assignment:_____________________________________________________________________________________________________________________________________

Academic Preparation (for each college or university attended provide the following information):

Institution:__________________________________________ Location (City & State)________________________________________________ ________________

Degree:_____________________________________________ Major__________________________________________________ Dates:___________ ____________

Institution:__________________________________________ Location (City & State)________________________________________________ ________________

Degree:_____________________________________________ Major__________________________________________________ Dates:___________ ____________

Institution:__________________________________________ Location (City & State)________________________________________________ ________________

Degree:_____________________________________________ Major__________________________________________________ Dates:___________ ____________

Institution:__________________________________________ Location (City & State)________________________________________________ ________________

Degree:_____________________________________________ Major__________________________________________________ Dates:___________ ____________

College Teaching Experience (for each institution for which you have taught, provide the following information):

Institution:____________________________________ Academic Rank__________________ Teaching Fields __________________________Dates:_____________

Institution:____________________________________ Academic Rank__________________ Teaching Fields __________________________Dates:_____________

Institution:____________________________________ Academic Rank__________________ Teaching Fields __________________________Dates:_____________

Use additional pages to provide the information requested below.

Other Employment Related to Your Teaching Field (Include dates, position titles, position descriptions)

Publications, presentations, etc.
## FORM F
### FACULTY COURSE ASSIGNMENTS

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>FT</th>
<th>PT</th>
<th>Title and Code of Assigned Courses</th>
<th>Dates of Employment</th>
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FORM G

FACILITIES

FACILITY STREET ADDRESS:

Facilities presently available that are used for this institution (if other buildings are involved, please use additional sheets.)

<table>
<thead>
<tr>
<th>Building 1</th>
<th>Building 2</th>
<th>Total</th>
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<tbody>
<tr>
<td>1) Owned by</td>
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<tr>
<td>2) Present Use</td>
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<td>3) Intended Use</td>
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<td>4) Year Constructed</td>
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<td>5) Year Rehabilitated</td>
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<td>7) Number of Floors</td>
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<td>8) Number of Rooms</td>
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<td>9) Original Cost of Building</td>
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<tr>
<td>10) Estimated Value of Building</td>
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<tr>
<td>11) Gross Area (Sq. Ft.)</td>
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<tr>
<td>12) Classroom Space (Sq. Ft.) (Net)</td>
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<tr>
<td>13) Laboratory Space (Sq. Ft.) (Net)</td>
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<tr>
<td>14) Library Space (Sq. Ft.) (Net)</td>
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<td>15) Administrative &amp; Office Space (Sq. Ft.) (Net)</td>
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<tr>
<td>16) Does the building/space comply with requirements of ADA?</td>
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</table>
Please indicate for the most recent 5-year period, the inventory and annual growth of the library collection.

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<th>LIBRARY COLLECTION</th>
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<td>Number of volumes</td>
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Prepare a 5-year budget for library expenditures.

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<td>Library staff salaries &amp; wages (before deductions)</td>
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1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes, it is required if you are offering a course that is physically delivered in the state of Louisiana and/or if it requires a clinical experience in Louisiana. Authorization is not required for other distance learning courses pursuant to Title 28 Part IX, Education of the Louisiana Board of Regents. http://doa.louisiana.gov/osr/LAC/lac28.htm

Please see http://www.legis.state.la.us/lss/lss.asp?doc=79986 as updated by the Louisiana Board of Regents in December 2010.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

The state authorization requirement is triggered by “operating” in the state which is defined as physically delivering a course in the state and/or requiring a clinical experience in the state. The Board of Regents has adopted rules and regulations for the administration of RS 17:1808. http://www.legis.state.la.us/lss/lss.asp?doc=79986. For institutions domiciled in Louisiana, the term operating applies to the offering of courses and programs through any modality. For institutions domiciled outside Louisiana, the term operate shall mean the offering of courses that are physically delivered in the state of Louisiana and/or require clinical experiences in the state of Louisiana.

a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

The regulation provides no specific guidance as to what physically delivering a course in the state means; however this certainly would involve physical presence in the state. The regulation does provide examples of how a clinical experience is defined.

The term clinical experiences shall mean site-based learning activities (e.g., clinical, internships, student teaching, practicum, field-based experiences, etc.) in settings (e.g., hospitals, schools, businesses, etc.) in which candidates are working with patients, children, teachers, principals, etc. in Louisiana and are observed/assisted/evaluated by supervisors, preceptors, coaches, teachers, principals, or other individuals to determine that course and/program requirements have been addressed. See link below for more details.

b. If something less than physical presence, please explain:

N/A

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

The Louisiana Board of Regents is the responsible agency.

Applications for licensure and registration go to:
Commissioner of Higher Education
Louisiana Board of Regents
PO Box 3677
Baton Rouge, LA 70821-3677

The contact person for distance learning is:
Dr. Larry Tremblay
Associate Commissioner for Planning, Research and Performance Louisiana Board of Regents Larry.tremblay@la.gov
225-342-4253

Dr. Tremblay is the head of the Proprietary Schools Section of the Louisiana Board of Regents

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

As noted above, only distance learning courses which include instruction in the state or which include a clinical experience in the state are subject to prior authorization. All others are exempt.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

For distance learning courses that are exempt, there is no requirement for a certificate of exemption or similar document.
6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

There is no provision for this in-state regulation and the individual I spoke with was not aware of any such process.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

All public and private postsecondary, academic degree-granting institutions offering instruction in the state of Louisiana must register annually with the Board of Regents. Regular licenses are reviewed every two years. Requests for registration forms and license applications should be made in writing and addressed to:

Commissioner of Higher Education
Louisiana Board of Regents
PO Box 3677
Baton Rouge, LA 70821-3677

Completed registration forms and license applications should be returned to the address shown above.

License Fees
The license application fee shall be $750 (future increase to $1,000 upon approval of the Legislature). Those institutions granted a license to operate will be required to pay an additional $750 (future increase to $1,000 upon approval of the Legislature) at the start of the second year of the two-year licensing period. However, the initial license application fee may be reduced to $100 for institutions seeking initial licensure in order to allow clinical practicum experiences for fewer than five (5) Louisiana residents enrolled in nursing and other health-related programs. In order to continue and renew their licenses, those institutions will be required to pay all subsequent fees, including renewal fees. License renewal fees are required during each subsequent two-year licensing period and are nonrefundable.

Institutions seeking licensure shall submit all required materials and the nonrefundable license fee to the Board of Regents. If a final determination concerning the institution's qualifications for licensure is not reached within 180 days of receipt of the license application and supporting materials, a provisional license will be issued to the institution. The provisional license will remain in effect pending a final licensing decision by the board.
8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes, the appropriate entity to which complaints should be addressed is: The Louisiana Board of Regents PO Box 3677, Baton Rouge, LA 70821-3677. The contact person is Dr. Larry Tremblay, Associate Commissioner for Planning, Research and Performance Louisiana Board of Regents Larry.tremblay@la.gov, phone number 225-342-4253. The complaint process is described below.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Yes, see below:

Individuals must make every reasonable effort to solve disputes directly with the institution. If a solution cannot be reached, an individual may file a written complaint with the Board of Regents. Board of Regents' staff will review the facts and intervene where appropriate. Such intervention shall not include legal action on behalf of the party, but may include additional investigation of the institution including a site visit to determine if the institution's license should be revoked.

Also see http://doa.louisiana.gov/osr/LAC/lac28.htm (Title 28, Part IX, Education; Chapter 5 §501 Consumer Protection) for further information.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No, not at this time.
MAINE

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes. The Maine State Board of Education ultimately determines whether a postsecondary institution may, within the boundaries of the State of Maine, offer any course or program for which academic credit is granted or confer a degree at the Associate level or higher.

Statutes: http://www.mainelegislature.org/legis/statutes/20-A/title20-Ach409sec0.html

Rule: http://www.maine.gov/sos/cec/rules/05/071/071c149.doc

Online Registration to satisfy 34 CFR 600.9 requirements: http://www.surveymonkey.com/s/ospnf

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence triggers the state authorization requirement.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

The following definition of “physical presence” is included in Rule 05-071, CMR 149: “Designation applied to any institution offering degrees and academic credits from within Maine to recipients anywhere, and it applies to any person assisting with such an institution. It further applies to any institution offering degrees and academic credits from outside of Maine if there is any person assisting the institution in any way from within Maine. This includes a) maintaining an office or mailing address in the State or b) conducting any part of the instructional program or support activities from within the State. Specifically, this includes: advertising, solicitation of potential students, enrollment of students, providing student services, student mentoring, and instruction of students.”

Rule 05-071, CMR 149 specifically provides for an application and approval process for “Telecommunications Instruction” where:

“Any higher education institution located outside the State of Maine and seeking to provide from an out-of-state source telecommunication instruction in Maine which involves physical presence in this state by the out-of-state institution must obtain approval from the State Board of Education. Physical presence shall be evident when
On-line instructional service providers, with no physical presence within the boundaries of the State of Maine, are not required to secure Maine licensure to operate as a proprietary school or State Board of Education authorization to operate in Maine as an approved degree-granting institution. In order to comply with Federal registration requirements, out-of-state, on-line service providers, with no physical presence in Maine, who offer instruction to Maine residents need to complete and return the following notification form to: Harry W. Osgood, Higher Education Specialist, Maine Department of Education, #23 State House Station, Augusta, Maine 04333. The form is available here: http://www.surveymonkey.com/s/ospnf

b. If something less than physical presence, please explain:

N/A

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Maine Department of Education coordinates the oversight.
Harry W. Osgood
Higher Education Specialist
Maine Department of Education
#23 State House Station
Augusta, Maine 04333
harry.osgood@maine.gov
☎ 207.624.6846

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Rule 05-071, CMR 149 provides the following exemptions from regulation: Any institution of higher education whose course or program offerings would not be granted academic credit and any institution of higher education whose course or program offerings would be conducted on a Federal reservation over which the United States Government has exclusive jurisdiction.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:
Yes, all institutions of higher education seeking to be considered for exempt status will be reviewed on a case-by-case basis.

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

The institution seeking to offer an academic credit course or program in Maine starts by notifying the Commissioner of the Maine Department of Education. The Commissioner then notifies the President of all Maine institutions of higher education of the request. The Commissioner then provides the requesting institution with the materials necessary to conduct the approval process. The requesting institution needs to prepare a report about the institution that includes information on organization and governance, institutional objectives, degree requirements, admission requirements, academic programs, faculty, student services, library and learning resources, facilities, and financial resources. After receiving the requesting institution’s report, the Commissioner will form a review committee. The review committee will prepare a report and include a recommendation. This report is forwarded to the Commissioner and the State Board of Education. Upon the receipt of the report and the recommendation of the Commissioner, the State Board of Education will either deny or approve the request.

Rule 05-071, CMR 149(2)(C)

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

No.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Yes. Consumers can file consumer complaints with the Consumer Protection Division of the Office of the Maine Attorney General. The link to the complaint form is:

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No.
MARYLAND

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

   Yes. The Maryland Higher Education Commission ultimately determines whether an out-of-state institution is required to be authorized in Maryland.

   Statutes: Md. Code Ann. Education Section 11-201 through Section 11-208
   http://michie.lexisnexis.com/maryland/lpext.dll?f=templates&fn=main-h.htm&cp


   Informational Page:
   http://mhec.maryland.gov/higherEd/acadAff/AcadProgInstitApprovals/Out-of-StateInstit.asp

2. What triggers the state authorization requirement (physical presence in the state or something less)?

   Maryland uses the concept of “operate in Maryland.”

      a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

   The following definition of “operate in Maryland” is included in COMAR 13B.02.01.03B(12):

      (a) "Operate in Maryland" means:
          (i) The maintenance in Maryland, for the purpose of offering instruction leading to a degree or certificate, or any instruction for credit, of a classroom (including a teleclassroom or a computer laboratory, or both, recruiting office, administrative office, or any other instructional space either through a lease or purchase of space;
          (ii) The recurring use of space for instruction in Maryland provided by another educational entity or any organization, whether or not a lease or purchase occurs; or
          (iii) The maintenance in Maryland by a nonaccredited out-of-State institution or organization of any ongoing administrative or instructional activity that purports to contribute to the granting of degrees or postsecondary certificates or course credits.
      (b) "Operate in Maryland" does not include the noninstructional activities of an out-of-State institution which is accredited by an organization recognized as an
accrediting agency by the U.S. Department of Education to grant institutional accreditation, that:
  (i) Maintains in Maryland space for noninstructional purposes, such as recruiting, registration, or other administrative purposes;
  (ii) Conducts periodic and temporary visits to Maryland for the purposes of student recruitment or contact with an institution's alumni; or
  (iii) Maintains in Maryland a mailing address or a telephone answering or relay service, or advertises such a presence.
(c) "Operate in Maryland" does not include distance education that originates outside of Maryland.

Based on a standard letter provided by Dr. Blanshan of the Maryland Higher Education Commission to all enquiries concerning 34 CFR 600.9, Maryland has stated that:

“At this point in time, a program which is completely online, offered by an accredited out-of-state collegiate institution, does not require a certificate of approval from the Commission. This exclusion is specific to collegiate online academic programs for which there are no credit offerings, no academic student support services, etc., for the program provided at any Maryland location.

However, online programs that involve instructor, mentor or supervisor led internships, practica, clinical or field experiences, student teaching, etc., in Maryland that lead to the awarding of credit hours and/or a degree or certificate do require a certificate of approval from the Commission.”

b. If something less than physical presence, please explain:

N/A

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Maryland Higher Education Commission coordinates the oversight.
Sue A. Blanshan
Director of Academic Affairs
Maryland Higher Education Commission
(410) 260-4533
sblansha@mhec.state.md.us

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:
COMAR 13B.02.01.04 provides that the authorization requirements for out-of-State degree granting institutions to operate in Maryland do not apply to an institution offering a course or a program on a military installation under certain circumstances.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Yes, all institutions of higher education seeking to be considered for this exemption are required to file an application for exemption at least 30 days before the proposed initiation date of a course of instruction.

The application is available here:  
http://mhec.maryland.gov/higherEd/acadAff/AcadProgInstitApprovals/AppExemption.pdf

Instructions for the application are available here:  
http://mhec.maryland.gov/higherEd/acadAff/AcadProgInstitApprovals/AppExemption.pdf

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Out-of-State degree-granting institutions wishing to operate in Maryland must be: (1) fully accredited by an organization recognized as an accrediting agency by the U.S. Department of Education; (2) make application to the Secretary of Higher Education at the Maryland Higher Education Commission for approval to operate; (3) submit a non-refundable application fee; (4) propose to offer programs in Maryland that are offered at their main or primary campus; (5) demonstrate that the proposed program meets a critical and compelling regional or Statewide need; and (6) be in compliance with State regulations governing out-of-State institutions found in the COMAR 13B.02.01.

The application for first time applicants can be found here:  
http://mhec.maryland.gov/higherEd/acadAff/AcadProgInstitApprovals/InitialApp.pdf
Instructions for first time applicants can be found here: 
http://mhec.maryland.gov/higherEd/acadAff/AcadProgInstitApprovals/InstructionsCompletingElectronicForm.pdf

The institution must submit per each location, a non-refundable application fee in the amount of (a) $5,000 for up to two degree programs and (b) an additional $1,000 for each degree program over two programs as provided in COMAR 13B.02.02.07D(2) and 13B.02.01.08B(2)

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

No.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Yes. Consumers can file consumer complaints with the Consumer Protection Division of the Office of the Maryland Attorney General. The link to the complaint form is: 
http://www.oag.state.md.us/Consumer/complaint.htm

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No.
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes. The Massachusetts Board of Higher Education regulates this activity.

Statutes:
http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter69

Rule: http://www.mass.edu/forinstitutions/academic/documents/610CMR.pdf

FAQ: http://www.mass.edu/forinstitutions/academic/programapprovalfaq.asp

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence is NOT required.

a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

N/A

b. If something less than physical presence, please explain:

Massachusetts General Laws Chapter 69, Section 31A, provides that: “No educational institution chartered, located, offering courses, or otherwise doing business within the commonwealth, shall award degrees within the commonwealth unless authorized to do so by the commonwealth; nor shall any educational institution chartered, incorporated or organized in another state conduct within the commonwealth any courses available to residents of the commonwealth leading to the award of a degree, unless such educational institution has received the approval of the commonwealth for such courses. The board of higher education shall be responsible for the implementation of the provisions of this section.”

Any answers on the need to be licensed would be specific to the actual situation and would be formulated after a staff review of the actual in place constellation of facts at the time of such review. The answer depends to a great deal on how Massachusetts consumers are affected e.g., would the institution target Massachusetts residents in a systematic and continuous way as part of an overall effort to serve the education market
in Massachusetts? Is the Institution trying to reach into another jurisdiction? What is the specific degree of interactivity?

The Board of Higher Education’s general policy is to require an institution to be licensed if an education institution chartered, incorporated, or organized in another state, conducts within the Commonwealth any courses available to residents of the Commonwealth leading to the award of a degree.

3. **What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:**

Massachusetts Board of Higher Education coordinates the oversight.
Claudia R. Bell, Ed.D.,
Academic Program and Policy Specialist
Academic Policy
(617) 994-6913
cbell@bhe.mass.edu

4. **Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:**

N/A

5. **For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:**

N/A

6. **Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:**

There do not appear to be any exemptions.

7. **If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:**

Independent institutions of higher education (which include for-profit, non-profit and out-of-state institutions seeking to operate in Massachusetts that are not Massachusetts public institutions of higher education) seeking new degree authority or name changes
after 1943 must submit a petition to the Board of Higher Education for new or initial authority. Independent institutions must submit a proposal, necessary fee, and application to the Board of Higher Education. The board then appoints a committee to review the application and visit the institution. The committee submits a report to the board and the institution may respond to this report. There is an opportunity for a public hearing and then the board makes its' decision. In addition, the Articles of Amendment/Organization or Foreign Corporation Certificate must also be filed be with the Secretary of the Commonwealth of Massachusetts, which is then referred to the Board of Higher Education for investigation of the institution, its faculty, equipment, courses of study, financial organization, leadership, and other relevant facts. The program application form is available here: http://www.mass.edu/forinstitutions/academic/documents/newprogramappform_independentnew.doc

The application fees are outlined in 610 CMR 2.06(1)(b) and include $10,000 plus $2,000 for each degree requested at the same time if more than one plus an annual fee of $4,000 for each of the first 5 years of licensure.

Out-of-state institutions have additional criteria that must be met to be licensed. These additional criteria are outlined in 610 CMR 2.07(5).

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes.

Department of Higher Education
One Ashburton Place, Room 1401
Boston MA 02180
☎ 617.994.6950
☎ 617.727.0955 or 617.727.6397
http://www.mass.edu/forstudents/complaints/complaintform.asp
http://www.mass.edu/forstudents/complaints/complaintprocess.asp

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Yes. Consumers can file consumer complaints with the Public Inquiry & Assistance Center of the Office of the Attorney General of Massachusetts. The link to the complaint form is:
https://www.eform.ago.state.ma.us/ago_eforms/forms/piac_ecomplaint.action
10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No.
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No. Out-of-state public institutions are considered “public” in Michigan and are not subject to the state’s licensure requirements according to Michael Beamish of the Department of Licensing and Regulatory Affairs (previously known as the Department of Energy, Labor & Economic Growth. The Department issued a publication entitled “Establishing a Non-Public Postsecondary Educational Institution in Michigan” that is available at [http://michigan.gov/documents/mdcd/PSU_Non-Public_Postsecondary_Education_Options_229497_7.pdf](http://michigan.gov/documents/mdcd/PSU_Non-Public_Postsecondary_Education_Options_229497_7.pdf) which states that “public universities, community colleges and technical colleges are not required to seek approval or licensure to operate, advertise, recruit or employ faculty within the state.” This is intended to communicate to all out-of-state public institutions that licensure in Michigan is not required.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

N/A for public institutions, but physical presence is the trigger for all other non-public institutions.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Physical presence means a “brick and mortar” facility in Michigan and does not include conducting courses such as internships, clinicals, practicum’s, etc. that are part of an online course or program or employing faculty members who reside in Michigan who teach online courses or programs. In addition, advertising is permitted without licensure or approval and for institutions that are authorized by their home state to offer baccalaureate degrees, student recruiters may work in Michigan without being required to register.

   b. If something less than physical presence, please explain:

Department of Licensing and Regulatory Affairs as of February 2011 (formerly the Department of Energy, Labor and Economic Growth), through its Bureau of Commercial Licensure (formerly Bureau of Workforce Transformation) [http://www.michigan.gov/mdcd/0,1607,7-122-1683_49816--,00.html](http://www.michigan.gov/mdcd/0,1607,7-122-1683_49816--,00.html) (click on “Postsecondary Services” and then “Educational Corporations Program”).
Michael Beamish, Bureau of Commercial Licensure, 517-241-6806, beamishm@michigan.gov.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

N/A

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

N/A

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

N/A

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

No, according to Mr. Beamish, the complaint process in the WCET document is only for complaints against proprietary institutions. There is no state-level complaint process for complaints against out-of-state public institutions. They expect the institution and its home state to handle those complaints.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:
10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No.
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

http://www.ohe.state.mn.us/pdf/4840_rules.pdf

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Offering a degree or certificate program that can be completed fully on-line.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Physical presence is not required.

   b. If something less than physical presence, please explain:

In Minnesota, registration is required if a student can complete a program or earn a degree from an out-of-state institution through distance learning courses without ever leaving Minnesota. If a student is physically attending an out-of-state college or university and wishes to take courses through distance education over the summer, for example, the institution would be able to offer those courses without having to register in the state.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Minnesota Office of Higher Education.

Brian Geraghty;
brian.geraghty@state.mn.us
651-259-3976

George Roedler, Jr.
george.roedler@state.mn.us
651-259-3975
4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Seminaries and other religious institutions
http://www.ohe.state.mn.us/pdf/statute136A.pdf (136A.657)

Educational program; non-profit organizations
Educational program; business firms
http://www.ohe.state.mn.us/pdf/statute136A.pdf (136A.653)

Private career schools (vocational schools) licensed by the OHE
http://www.ohe.state.mn.us/pdf/Chap141Statutes.pdf

Minnesota public colleges and universities

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

It varies, depending on the type of institution. For detailed information, see the links provided above.

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Institution must complete a very detailed nine page application. A description of the application process can be found at:
http://www.ohe.state.mn.us/mPgcfm?pageID=205

The registration form can be accessed at:
http://www.ohe.state.mn.us/pdf/136pack.pdf

Application fees for degree granting institutions that offer one degree:
Associates—$2,000
Bachelors—$2,500
Masters—$3,000
Doctoral--$3,500

$500 for each additional program offered.

8. **Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:**

Minnesota has a complaint process that seems to comply with 34 C.F.R. s.609(a)(1). It can be accessed at [http://www.ohe.state.mn.us/mPg.cfm?pageID=205](http://www.ohe.state.mn.us/mPg.cfm?pageID=205). The agency responsible is the Minnesota Office of Higher Education. Contact persons are:

**Brian Geraghty**
[Brian.geraghty@state.mn.us](mailto:Brian.geraghty@state.mn.us)
651-259-3976

**George Roedler**
[George.roedler@state.mn.us](mailto:George.roedler@state.mn.us)
651-259-3975

9. **Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:**

The Minnesota attorney general has a consumer fraud complaint process that includes complaints relating to scholarship and financial aid scams. A Consumer Report Form can be downloaded from the AG’s website. The link is: [http://www.ag.state.mn.us/Consumer/Complaint.asp](http://www.ag.state.mn.us/Consumer/Complaint.asp)

10. **Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:**

No changes are anticipated at the present.
MISSISSIPPI

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No. Currently, Mississippi does not regulate degree-granting postsecondary institutions that not domiciled, incorporated, or otherwise located in the state and that offer courses and/or programs entirely online.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence. At present, this does not include students who might be doing clinical or other internships.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

For academic degree granting institutions, no definitive triggers have been adopted. However, the Mississippi Commission of Proprietary Schools and College Registration (“CPSCR”), which governs vocational schools and Mississippi community colleges, has developed a list of activities that would trigger the need to acquire authorization. These include:

   i. The institution maintains a telephone number with a Mississippi area code;
   ii. The institution maintains a postal address with a Mississippi zip code;
   iii. The institution markets and/or recruits Mississippi students via any means of media which originates in Mississippi.
   iv. The institution maintains an Internet URL which originates in Mississippi or utilizes an ISP which is based in Mississippi; or
   v. The institution provides payment reportable for income tax purposes via either a W-2 or Form 1099 to any individual resident of the State for any purpose associated with the institution’s Mississippi students.

Menia Dykes, the spokesperson for the Mississippi Commission on College Accreditation (“MCCA”), says that a similar set of triggering activities is being developed for out-of-state academic degree granting institutions that will be posted on its website when completed.

   b. If something less than physical presence, please explain:
3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Mississippi Commission on College Accreditation (MCCA)
Menia Dykes
mdykes@mississippi.edu
601-432-6372

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

N/A

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Again, the CPSCR has developed a process that will probably be adapted for use by the MCCA. The procedure is as follows:

a. An institution seeking a certificate of registration should contact in writing: The applicable state agency (In the case of a state university or state college, this would probably be the MCCA);

b. Request a copy of the application packet and enclose a check or money order of $25 as payment.

c. Complete the packet and return

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:
Not at present.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Only a general consumer complaint process provided by the attorney general’s office. Complaints should be addressed to:
Consumer Protection Division
Office of the Attorney General
P.O. Box 22947
Jackson, Mississippi 39225-2947

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

Yes. The MCCA is in the process of developing new requirements and procedures and hopes to have them available on its website within the next few weeks.
MISSOURI

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

   [http://www.dhe.mo.gov/](http://www.dhe.mo.gov/) This is the web address of the Missouri Department of Higher Education website. The website has a link entitled, “New Requirements for Distance Education,” that contains the state policy.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

   Simply offering distance education courses or programs. No physical presence required.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

   b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

   The Missouri Department of Higher Education

   Leroy Wade
   Leroy.Wade@dhe.mo.gov
   573-751-2361

   Rusty Munhollon
   rusty.munhollon@dhe.mo.gov
   573-751-5221

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

   a. Missouri public institutions

   b. Missouri not-for-profit independent institutions accredited by a U.S. Department of Education recognized accrediting commission

   c. Not-for-profit religious institutions accredited by a U.S. Department of Education recognized accrediting commission
d. Not-for-profit religious institutions offering only religiously designated degrees and programs

e. Charitable institutions that provide instruction without financial charge

f. Schools offering only non-vocational or recreational courses or programs

g. Employer sponsored instruction or training available only to employees

h. Training by restricted membership trade or professional associations for members only

i. Schools or training programs regulated and approved by other state agencies

j. Elementary and/or secondary schools (i.e., schools enrolling students primarily under the age of 16)

http://www.dhe.mo.gov/psc/exemption.php

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

The institution must submit an application to the MDHE indicating which specific category is applicable to it, along with supporting documentation. The documentation required for each category is very specific. Once an institution has been deemed eligible for an exemption, a notification letter will be provided verifying its exempt status. The school is considered exempt as long as it continues to operate within the boundaries of the exemption criteria.

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

The Missouri requirements for authorization of an out-of-state public institution are remarkably simple. The public institution is required to submit a letter to MDHE affirming its compliance with both regional accrediting standards and MDHE Principles of Good Practice for Distance Learning and Web-Based Courses. The Principles can be accessed at:

Missouri Department of Higher Education  
Attention: Distance Education Certification  
205 Jefferson Street  
P.O. Box 1469  
Jefferson City, MO 65102

8. **Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)?** If yes, please identify the responsible agency or agencies and provide contact information:

Missouri does not yet have a complaint process that meets the requirements of 34 C.F.R. § 609(a)(1). One is being developed with the intent of having it available on the MDHE website by July 1.

9. **Does your state have other processes available for addressing student consumer complaints against postsecondary institutions?** If yes, please identify the responsible agency and provide contact information:

Missouri doesn’t have another process to specifically address student consumer complaints against a postsecondary institution. The attorney general has provisions for filing general consumer complaints, which can be found at:  
http://ago.mo.gov/consumercomplaint.htm

10. **Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:**

No modifications in the state authorization requirements are contemplated, however, as noted above, the state does plan to have a complaint process for students completed and provided on the MDHE website by July.
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes. Montana Code Annotated Section 20-25-107 (1) requires prior approval of the Montana Board of Regents as to the adequacy of the course of study. However, MCA Section 20-25-107 (2) provides an exemption from this requirement to any educational institution accredited by an educational accrediting association whose accrediting is found by the regents to be generally recognized by state and other universities in the United States. The Montana Board of Regents recognizes the Southern Association of Colleges and Schools as an accrediting agency.

Additionally, although foreign corporations generally are required to obtain a certificate of authority to transact business, in the hyperlink provided by the Director of e-Learning Business Development, Thomas H. Gibson he states that the Secretary of State has formally advised them that out of-state public institutions that desire to deliver online education to students living in Montana do NOT have to meet the foreign not for profit corporation registration requirements set forth in Title 35 of the Montana Code Annotated in order to conduct the business of online education in Montana.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

N/A

a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

N/A

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Montana Code Annotated Sec. 20-25-107 (2)
http://www.mus.edu/borpol/bor300/320-1.pdf
5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

No

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

N/A

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Attorney General Steve Bullock
Department of Justice
P.O. Box 201401
Helena, MT 59620-1401
Phone: (406) 444-2026
Fax: (406) 444-3549
E-mail: contactdoj@mt.gov
Montana State Board of Regents http://mus.edu

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

The campuses of the Montana University System each have established policies for handling student complaints, ranging from discipline, to academic issues, to administrative issues. Those policies are specific to each campus. In addition, the Board of Regents has a process to address student complaints once students have exhausted their remedy at the campus level. The final decision by the Board of Regents is a final decision, leaving only legal action available to the complainant. The State of Montana also has a complaint process established by the State Consumer Protection Council in the office of the Attorney General (as noted above). These complaints
typically are associated with such issues as false advertising, or failure to live up to promises made to consumers. We are presently working directly with the AG in order to outline the complaint process ties to our existing policies so that students will have every avenue possible open in order to lodge a complaint about higher education.

10. **Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:**

Mr. Gibson, the e Learning Director, is not aware of any efforts or activities currently underway nor anticipated, to address either of these matters with respect to review of policy or law.
NEBRASKA
(All answers are for the statutes and rules governing the Coordinating Commission for Postsecondary Education.)

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Only if the institution will have a physical presence.
http://nebraskalegislature.gov/laws/statutes.php?statute=85-1103.01

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Physical presence in Nebraska is evidenced by arrangements for sites where such an institution offers one or more courses for college credit on an established schedule at locations other than the personal residence of individual students.

   b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Institutions offering associate degrees and above fall under the Coordinating Commission for Postsecondary Education:
Kathleen L. Fimple, Ph.D.
Academic Programs Officer
402-471-0030
Kathleen.fimple@nebraska.gov

Private career schools offering only associate degrees or below fall under the Nebraska Department of Education-Private Postsecondary Career School unit:
Carol Grell
402-471-4825
Carol.grell@nebraska.gov
4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Only physical presence

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

No, although a letter is available stating that the institution is not required to apply based on lack of physical presence. A letter or email verifying lack of physical presence is sufficient to obtain the letter.

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

Yes, if they identify each institution and provide a verification letter.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

If there is a physical presence:
http://www.ccpe.state.ne.us/PublicDoc/Ccpe/LegalRegs/Chapters/RulesRegsChpt1.asp

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

No formal process at this time, although pending legislation will codify existing practice of the Coordinating Commission for Postsecondary Education. The process, however, only applies to institutions authorized to operate in the state.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Depending on the complaint, it might be handled by the Attorney General’s Consumer Protection Division http://www.ago.ne.gov/consumer/whatisthecp.htm

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to
receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

Legislation is pending that would expand physical presence to include administrative offices. It would also clarify some of the application process and, as noted above, identify a complaint process.
NEVADA

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes. The Nevada Commission on Postsecondary Education regulates the licensing/authorization for public and private out-of-state postsecondary institutions.

**Nevada Revised Statute-NRS 394.099; defines “Postsecondary educational institution”;** The term includes a branch or extension of a public or private postsecondary educational institution of another state that is located in this state or which offers educational services or education in this state.

**Nevada Revised Statute -NRS 394.415, Licensing of postsecondary educational institution;**
The Commission is the sole authority for licensing a postsecondary educational institution. Any person who operates or claims to operate such an institution must be licensed by the Commission. The Administrator may require any person who operates or claims to operate such an institution to furnish information which will allow the Commission to determine whether a license is required.

Links:
http://www.leg.state.nv.us/nrs/NRS-394.html#NRS394Sec099
http://www.cpe.state.nv.us/
http://www.leg.state.nv.us/NRS/NRS-394.html#NRS394Sec421

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Offering educational services or education in the state of Nevada.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

   b. If something less than physical presence, please explain:

**NRS 394.087 “Offer” defined.** “Offer” includes, in addition to its usual meanings, advertising, publicizing, soliciting or encouraging any person, directly or indirectly in any form, to perform the act described.
3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Nevada Commission on Postsecondary Education
Contact: David Perlman, Administrator
Phone: 702-486-7330
E-mail: dperlman@cpe.state.nv.us

Nevada Revised Statute-NRS 394.421; Powers and duties of Commission.
   a. The Commission shall:
      i. Establish minimum criteria including quality of education, ethical and
         business practices, health and safety, and fiscal responsibility, which
         applicants for a license to operate, or for an agent’s permit, must meet before
         the license or permit may be issued and to continue the license or permit in
         effect. The criteria must not unreasonably hinder legitimate educational
         innovation.
      ii. Adopt regulations concerning the content of the agreement to enroll.
   b. The Commission may:
      i. Issue, suspend or revoke a license, or a provisional license;
      ii. Authorize a postsecondary educational institution to offer a degree in a
          specific subject; and
      iii. Authorize a postsecondary educational institution to add vocational
           programs or degrees in specific subjects to its curriculum.

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

NRS 394.099; Post secondary education does not include an institution or person
offering only educational services or programs at the introductory level on the use of
computer software to persons who have purchased that software from the institution or
person.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:
7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Nevada Administrative Code- NAC 394.521; Requirements for offering distance education. (NRS 394.411, 394.421)

a. An institution may offer an educational unit using distance education if the:
   i. Subject matter of the educational unit is appropriate for delivery by distance;
   ii. Institution uses equipment and technology that is adequate to deliver the subject matter by distance;
   iii. Institution develops a process that will be followed to deliver the education;
   iv. Institution develops a process for the instructor to monitor, throughout the period of instruction, whether a student has attained the objectives of the educational unit;
   v. Institution provides instructors who are qualified to use the equipment and technology that delivers the distance education; and
   vi. Institution has developed adequate safeguards for testing that ensure the integrity of the tests and assessments, including, without limitation:
      1) A positive means of identification that ensures the student who is enrolled in the distance education actually participates in the distance education;
      2) A controlled process by which proctors for the tests are selected, trained and monitored;
      3) A verifiable process to maintain the confidentiality of the test materials; and
      4) A process for the periodic review and evaluation of the safeguards for testing.

An institution that offers distance education shall provide proof to the Commission that it has complied with the requirements of this subsection.

a. As used in this section:
   i. “Distance education” means education, training, courses or programs that are delivered to a student who is geographically separate from the instructor.
   ii. “Educational unit” means a component of a training program, including, without limitation, a course, subject, topic, module or block.

Description of Application Process: For schools not currently licensed by the Commission on Postsecondary Education:

a. There is a form for if you "Do not know if I need to be licensed by the Commissioned Postsecondary Education."
b. Application form is lengthy and expects detailed information about finances, degrees, courses, faculty, and distance education.

c. Commission meets quarterly.

d. Applications must be submitted at least 60 days prior to a Commission meeting.

e. "A major part of processing your application involves obtaining curriculum approval from a subject matter expert (there may be a nominal charge) and no application will be placed on the agenda until such time as the curriculum has been reviewed and approved."

f. "Bonding requirements will be determined on the number of anticipated number of students enrolled in the first year of operating, times the tuition, times the ratio of course length to one year."

There is an application fee of $1,500. The state may also levy fee for a subject matter expert review of the application and an on-going security bond.

Link to assist out-of-state schools gain approval for Nevada:
http://www.cpe.state.nv.us/CPE%20Info%20for%20New%20Schools.htm
http://www.cpe.state.nv.us/CPE%20Online%20Info.htm

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes.
Nevada Commission on Postsecondary Education
Attn: Student Complaints
3663 East Sunset Road, Suite 202
Las Vegas, NV 89120
http://www.cpe.state.nv.us/

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

No

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No
NEW HAMPSHIRE

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No.

New Hampshire Code of Administrative Rules; Pos 1001.01 Institutions Excluded from Commission Jurisdiction. Institutions excluded from commission jurisdiction shall be as follows:

a. An out-of-state institution with no physical presence in the State of New Hampshire that is accredited by a regional or national agency recognized by the U.S. Department of Education, the Council for Higher Education Accreditation, or both that:
   i. Offers credit-bearing courses, programs and/or degrees exclusively by online computer delivery in which the server is located outside of this state, including online instructors residing in this state that do not physically meet with students;
   ii. Sends recruiters to college fairs or advertises in this state;
   iii. Partners with an approved New Hampshire institution to provide credit to New Hampshire college and university students enrolled in study abroad experiences or other special study activities; or
   vi. Contracts with a New Hampshire entity that does not directly develop or deliver instruction.

New Hampshire Code of Administrative Rules; Pos 1001.02 Institutions Under Commission Jurisdiction. (b) Pursuant to RSA 188-D:8 and RSA 292:8-b through 8-j, any institution seeking to operate in the state of New Hampshire and offer credit-bearing courses, programs or degrees, shall first obtain approval of the commission and submit an evaluation subject to the provisions of Pos 1004.

Links: All Statutes and Regulations:
http://www.nh.gov/postsecondary/

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence triggers the authorization requirement.
a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

New Hampshire Code of Administrative Rules; Pos 1001.02 Institutions Under Commission Jurisdiction (a) Physical presence shall be determined by a N.H. telephone exchange or post office box mail drop, or if advising/mentoring or instruction in person is taking place inside the boundaries of the state of New Hampshire.

Based on (a), it appears that E-distance learning via internet does not suffice as “physical presence”.

b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

The New Hampshire Postsecondary Education Commission
Kathryn G. Dodge, Executive Director
Phone: 603-271-2555 ext. 350
E-mail: Kdodge@pec.state.nh.us

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

New Hampshire Code of Administrative Rules; Pos 1001.01 Institutions Excluded from Commission Jurisdiction. Institutions excluded from commission jurisdiction shall be as follows: (b) An out-of-state institution with no physical presence in the State of New Hampshire that is accredited by a regional or national agency recognized by the U.S. Department of Education, the Council for Higher Education Accreditation, or both that:
(1) Offers credit-bearing courses, programs and/or degrees exclusively by online computer delivery in which the server is located outside of this state, including online instructors residing in this state that do not physically meet with students;
(2) Sends recruiters to college fairs or advertises in this state;
(3) Partners with an approved New Hampshire institution to provide credit to New Hampshire college and university students enrolled in study abroad experiences or other special study activities; or
(4) Contracts with a New Hampshire entity that does not directly develop or deliver instruction.
5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

New Hampshire Statute 186; 13-b an out-of-state institution "planning to establish a branch, branches or extension courses, in this state, shall apply" to the commission. This process only applies to those organizations with a physical presence in the state. e.g. those seeking to establish and incorporate a physical branch in New Hampshire.


The approval process is governed by agency Rules, Chapter Pos 1003-1005. Generally the process is as follows:

a. Request evaluation by contacting the Executive Director of the Commission and setting up a meeting to discuss plan.

b. Submit a plan as outlined in agency Rules, chapter Pos 1003-1004. (Evaluation Plan must be submitted 6 months in advance of start date.

c. The Executive Director appoints an evaluation team, which performs a site visit and prepares an Evaluation Report.

d. Full commission approves or disapproves the application.

e. Institution may appeal disapproval.

f. Commission reports its finding to state legislative education committee biennially.

There is an application fee. A fee schedule exists in table in agency Rules Chapter Pos 1009, Agency's breakdown of fees available at:

Out-of-state institution fees consist of:

a. Incorporation of a branch within the state; $10,000.

b. Approval of a new program or degree, $3,000.
c. Continuing review (Annual Report) $500; (Site Visit) $2,000 plus stipends for Evaluation Committee. See comments for other fees.

Out-of-state institutions may avoid the full application process in several ways;

a. The institution is outside the jurisdiction of the Commission because it does not have a physical presence in the state. ONLY IF ALREADY APPROVED.

b. The institution seeks administrative approval under the following:

i. The institution wishes to offer closed credit-bearing internships, practicums, courses, programs or degrees for which the general public are not admitted and the institution does not publicly advertise.

ii. The institution wishes to offer open credit-bearing course(s) that do not exceed 50% of degree requirement, credit-bearing internships or practicums, non-credit-bearing courses; and non-credit, non-course based residencies, internships or practicums.

iii. The institution wishes to offer credit-bearing internships to students employed in the State of New Hampshire.

iv. The institution wishes to have recruiter(s) residing in the State of New Hampshire.

v. The institution wishes to partner with an approved NH institution to offer a credit-bearing course, program or degree(s)

vi. The institution wishes to contract with a NH entity that directly develops or delivers instruction. There is a $500 fee per request.


8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes.
Executive Director
N.H. Postsecondary Education Commission
3 Barrell Court, Suite 300
Concord, NH 03301-8543
or patricia.moquin@pec.state.nh.us

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

N/A
10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

N/A
NEW JERSEY

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No. The New Jersey Commission on Higher Education.

New Jersey Statute; N.J.S.A. 18A:68-3:
   a. No corporation shall furnish instruction or learning in the arts, sciences, or professions for the purposes of admitting any person to the grade of a degree, or shall confer or participate in conferring a degree, giving to any person a diploma of graduation or of proficiency in a course of study, in learning, or in scientific arts or methods, within this State, until it shall have filed a certified copy of its certificate of incorporation with the Commission on Higher Education and obtained from the commission a license to carry on the business under such rules as the commission may prescribe.

   b. The cost for consultants utilized by the Commission on Higher Education and other out-of-pocket expenses incurred by the commission for licensure and related reviews shall be paid by the institution seeking a license or license renewal.

New Jersey Administrative Code; 9A:1-5.1 Licensure required:
   (a) Out-of-State institutions wishing to offer credit-bearing courses, degree completion programs, or complete degree programs in New Jersey shall petition the Commission for licensure.

Link:
http://www.state.nj.us/highereducation/PDFs/CollegeLicensureStatutes.pdf

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

“Physical presence” means that an entity offers credit-bearing courses from or conducts some portion of the learning experience at a location established in New Jersey by the
entity, whether established directly or under the auspices of another entity or an institution.

“Credit-bearing course” is an instructional activity upon a student’s successful completion of which an institution of higher education awards recognition applicable to meeting the requirements for a degree or other formal academic award.

9A:1-1.3 Licensure
(a) An institution seeking to offer credit-bearing courses or degree programs in New Jersey shall first provide evidence of incorporation and petition the Commission for licensure. No institution shall offer or advertise the availability of its credit-bearing course(s) or program(s) before receiving formal approval of its petition. Licensure shall require the institution to meet all the standards set forth in this chapter.

9A:1-7.5 Approval for out-of-State institutions
(a) Out-of-State institutions (see N.J.A.C. 9A:1-5) that wish to offer credit-bearing distance learning with a physical presence in New Jersey must first be licensed by the Commission, with advice from the Presidents’ Council, to offer specific courses or degree programs.
(b) If an out-of-State institution is licensed to offer a course(s) or degree program(s) in New Jersey and wishes to offer any additional course(s) or program(s) with a physical presence in this State, the Executive Director shall submit the matter to the Presidents’ Council for review and recommendation to the Commission.

b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

The New Jersey Commission on Higher Education
Director of Academic Affairs (Position is currently vacant)
Phone: 609-292-2955
E-mail: nj_che@che.state.nj.us

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

N/A
5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

New Jersey Administrative Code; 9A:1-5.1 - 9A:1-5.3: General Description of process;
1. Institution Petitions Commission at least 1 academic year prior to requested date of implementation
2. Petition requirements listed at 9A: 1-5.2. Includes 6 items one of which is "any information the commission specifically requests." suggesting that consultation should be had before petition is submitted.
3. Commission sends summary of petition to New Jersey Colleges for comment.
4. Petition is sent to the President's Council for review and recommendation.
5. Commission makes decision.
6. Licensed institutions are subject to periodic review and must renew licenses if wish to continue offering courses. Licenses for out-of-state institutions conducting distance education are good for 1-5 years.

N.J.S.A. 18A: 68-3(b): There is no application fee, however the institution seeking licensure must reimburse the commission for the cost for consultants utilized by the Commission on Higher Education and other out-of-pocket expenses incurred by the commission for licensure and related reviews.

Link:

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

N/A
9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

N/A

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

N/A
NEW MEXICO

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

   Yes. [http://www.nmcpr.state.nm.us/nmac/parts/title05/05.100.0002.htm](http://www.nmcpr.state.nm.us/nmac/parts/title05/05.100.0002.htm). Additional guidelines for adult education can be found at [http://www.hed.state.nm.us/uploads/files/Approved%20State%20DE%20Policy%20Rev%20Feb%2009%281%29.pdf](http://www.hed.state.nm.us/uploads/files/Approved%20State%20DE%20Policy%20Rev%20Feb%2009%281%29.pdf), and a helpful FAQ can be found at [http://www.hed.state.nm.us/Licensure.aspx](http://www.hed.state.nm.us/Licensure.aspx). Please note that these regulations apply to private out-of-state institutions only; public out-of-state institutions are subject to program, but not institution, approval.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

   Physical presence.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

   “Presence” is defined as offering courses, programs, or degrees on site or from a geographic site in New Mexico or maintaining an administrative, corporate, or other address in the state.

   b. If something less than physical presence, please explain:

   Please note: If the institution recruits in New Mexico and is not exempt (even if no physical presence), then it must be licensed.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

   New Mexico Higher Education Department, Stephanie Ellis, Private and Proprietary Schools Administrator, 505-476-8442 or stephanie.ellis@state.nm.us.

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

   Public out-of-state institutions are NOT required to meet the requirements set forth above, but individual programs are required to be approved pursuant to NMSA 1978,
§21-25-1 through §25-25-5. However, due to the new federal regulation, public out-of-state institutions are given a one-year waiver from this requirement, which extends through June 30, 2012.

Regionally-accredited institutions are exempt, but exempt institutions must still file annual reports. Exemptions are defined by 5.100.2.8 NMAC, which is available at http://www.nmcpr.state.nm.us/nmac/parts/title05/05.100.0002.htm. In addition to accredited institutions, Native American schools, religious schools, and trade schools regulated by the New Mexico Regulation and Licensing Department are also exempt.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Institutions seeking an exemption must provide a form and requested documentation particular to the exemption. For example, an institution claiming exemption as regionally accredited must submit proof of such accreditation.

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A; public institutions do not fall under the authorization regulation.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Forms for both the application for exemption and for the annual report can be found at http://www.hed.state.nm.us/uploads/files/Approved%20State%20DE%20Policy%20Rev%20Feb09%281%29.pdf. A one-time $500 fee is required when applying for exemption.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Complaints are handled by the New Mexico Higher Education Department, 2048 Galisteo Street, Santa Fe, NM 87505-2100, 505-476-8442. The complaint form is available at http://www.hed.state.nm.us/uploads/FileLinks/b23fc959f37c44bb8e3caae612e0dba7/PPS%20Complaint%20Form.pdf.
9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

State rule provides a requirement that students or other parties with complaints or grievances against an institution first seek to resolve their complaint or grievance directly with the institution in accordance with the institution's complaint or grievance policy. A student or other party not satisfied with an institution's resolution of a complaint may submit a complaint to the Department in writing on the form provided below. A student must file a complaint with the department within three (3) years of his/her last date of enrollment.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

(No answer provided.)
NEW YORK

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:


2. What triggers the state authorization requirement (physical presence in the state or something less)?

Only institutions with a “physical presence” in New York are required to apply for permission to operate in the state.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Operating an instructional site (a physical location at which instruction is given by a faculty member to a group of students) in New York State. Sponsoring organized activities within New York State that are related to the academic program (e.g., advising, mentoring, study groups, examination administration for groups of students). Having a representative, whether paid or not, acting on its behalf within New York State to arrange or conduct instructional or academic support activities.

   b. If something less than physical presence, please explain:

N/A

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

For post-secondary degrees, Office of College and University Evaluation, [oceuinfo@mail.nysed.gov](mailto:oceuinfo@mail.nysed.gov), or (518) 474-3901).
For clinical internships (sometimes necessary for state professional licenses), Office of Professional Education and Program Review, OPPROGS@mail.nysed.gov, or (518) 474-3817, extension 360.


4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

None. Each out-of-state institution that meets the “physical presence” definition must apply for authorization.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

As long as the out-of-state public institution does not have a physical presence, no authorization is needed. If the out-of-state public institution does have a physical presence, forms and procedures for the addition of a distance learning format to a registered program, as well as forms and procedures for the proposal of a new degree to be offered via distance learning, can be found at http://www.highered.nysed.gov/ocue/ded/reviewoptions.html.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Complaints against colleges in the State University system should be directed to:
State University of New York
Central Administration
State University Plaza
Albany, NY 12246

Complaints against colleges in the City University system should be directed to:
The City University of New York
Central Administration
535 East 80th Street
New York, NY 10021

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

A complaint involving discrimination against enrolled students on the part of an institution or faculty, or involving sexual harassment, should be filed with the U.S. Office for Civil Rights, 75 Park Place, New York, NY 10007. Complaints about two-year colleges concerning sexual harassment/discrimination based on race, ethnicity, gender and disabilities may also be reported to the Office of Equity and Access, VATEA Program, 10th Floor, Education Building Addition, Hawk Street, Albany, NY 12234. A complaint of consumer fraud on the part of the institution should be directed to the Office of the New York State Attorney General, Justice Building, Empire State Plaza, Albany, NY 12223.

The Office of College and University Evaluation does not intervene in matters concerning an individual’s grades or examination results, as these are the prerogative of the college’s faculty.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

(No answer provided.)
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:


For certificate and diploma programs, [http://www.nccommunitycolleges.edu/PROPRIETARY_SCHOOLS/docs/PDFFiles/InquiryInfoPacket.pdf](http://www.nccommunitycolleges.edu/PROPRIETARY_SCHOOLS/docs/PDFFiles/InquiryInfoPacket.pdf).

2. What triggers the state authorization requirement (physical presence in the state or something less)?

a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

For post-secondary degrees, something less than physical presence is required – North Carolina regulates if the institution is “conducting post-secondary degree activity” within the state. For certificate and diploma programs, the Office of Proprietary School Services only regulates if a physical presence exists in North Carolina.

b. If something less than physical presence, please explain:

For post-secondary degrees, North Carolina considers the following to constitute “conducting post-secondary degree activity”:

i. Use of employees or agents within North Carolina; or

ii. Transmission, presentation, or dissemination of information over or through electronic equipment that is located in North Carolina and owned, leased, rented, licensed, or otherwise reserved for use by the institution; or

iii. Use of real property or facilities that are located in North Carolina and owned, leased, rented, licensed, or otherwise reserved for use by the institution; or

iv. Agreement with a third party to transmit, present, or disseminate information on behalf of the institution through any of the means described in a, b, or c, above.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:
The University of North Carolina General Administration on behalf of the University of North Carolina Board of Governors administers the application process for post-secondary degrees. Contact Maggie Ryan, Assistant Director of Licensure and Workforce Studies, at 919-962-4558, or mryan@northcarolina.edu.

The North Carolina Community College System/Office of Proprietary School Services administers the application process for certificate and diploma programs. Contact Dianette Jackson, Education Consultant/Program Auditor II, at 919-807-7149, or jacksond@nccommunitycolleges.edu.

4. **Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:**

For post-secondary degree programs, exemptions can be found in Section X of the above-linked Rules and Standards (beginning on page 29) and include institutions continuously conducting post-secondary degree activity in North Carolina since July 1, 1972, programs relative to religious education, and institutions conducting post-secondary degree activity within the military.

5. **For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:**

For continuous activity, the institution must present acceptable information to the Board of Governors. For religious education, the form and instructions can be found in a Word format by Googling “North Carolina post-secondary application for religious exemption.”

For military exemptions, the institution must send written correspondence to General Administration identifying the military base and degrees offered (no form).

6. **Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:**

State governing boards should follow the processes outlined above to seek an exemption.

7. **If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:**
For post-secondary degrees, the process is described in the above-linked Rules and Standards (beginning on page 25) and is a twelve-step process that includes a preliminary conference, application, examination visit, and approval by the Board of Governors. Annual reporting once licensure is obtained is also required. A link to the application can be found at http://www.northcarolina.edu/aa_planning/licensure/process.htm.

For certificate and diploma programs, a similar process is outlined at http://www.nccommunitycolleges.edu/PROPRIETARY_SCHOOLS/docs/PDFFiles/lnquiryInfoPacket.pdf. However, this licensure process only applies to institutions with a physical presence.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

For post-secondary degree programs, if the complaint cannot be resolved after exhausting the institution’s grievance procedure, the student may file a complaint with the following office: Post-Secondary Education Complaints, c/o Assistant Director of Licensure and Workforce Studies, University of North Carolina General Administration. 910 Raleigh Road, Chapel Hill, NC 27515-2688, telephone (919) 962-4558. The student may contact UNC General Administration for further details. For certificate and diploma programs, student complaint procedures and forms can be found at http://www.nccommunitycolleges.edu/PROPRIETARY_SCHOOLS/complaints.htm.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Please see above.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

(No answer provided.)
NORTH DAKOTA

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Depends.

No, if the institution is “not operating” an educational institution in ND. North Dakota Century Code section 15-20.4-02(12) exempts institutions “not operating in the state.” ND Century Code § 15-20.4-01(10) defines ‘to operate’ an educational institution as “to establish, keep, or maintain any facility or location in this state where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform any such act.”

No, if the institution’s physical presence in ND is limited to practicums, internships, clinicals or student teaching.

ND House Bill 1092, which Governor Dalrymple signed on 5/20/2011, adds this additional exemption to the ND Century Code § 15-20.4-02. This exempts “[i]nstitutions whose only physical presence in this state consists of students enrolled in practicums, internships, clinicals, or student teaching in this state.”

Potentially yes, if the institution has any additionally physical presences in ND. However, please note, that public education institutions from other states are already exempted from authorization. See question [5] below.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

As noted above, ND House Bill 1092, exempts all “[i]nstitutions whose only physical presence in this state consists of students enrolled in practicums, internships, clinicals, or student teaching in this state.” Therefore, institution needs physical presence in the state.

a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

If the institution has mere practicums, internships, clinicals or student teaching in ND, the institution has not met the physical presence test. Each institution wishing to qualify for this exemption must fill out the CTE Exemption Request Form, and the State Board of Career and Technical Education will grant the exemption as appropriate.
b. If something less than physical presence, please explain:

N/A

3. What agency or agencies are responsible and who is the contact person for each
(include name, telephone number and email address)? If more than one agency is
involved, briefly describe their role in the state authorization process:

Agency: North Dakota Department of Career and Technical Education
Contact Name: Debra Huber
Contact Title: Administrator
Contact Phone: 701-328-2678
Contact Email: DeHuber@nd.gov

4. Please identify any exemptions from the state authorization requirements and cite
to applicable statutes, rules or regulations and provide a link:

In North Dakota Century Code, Chapter 15 - 20.4, section 15-20.4-02(6), Exemptions, ND exempts “postsecondary educational institutions established, operated, and governed by this or any other state or its political subdivisions, as determined by the board and any educational consortium that includes one or more of the institutions.”

North Dakota Century Code, Chapter 15 - 20.4, section 15-20.4-02 identifies other institutions as exempt from needing the State Board for Career and Technical Education’s authorization to operate. These institutions include, but are not limited to, the following: primary & secondary schools; education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the board, solely for that organization's membership, or offered on a no-fee basis; schools of barbering regulated under chapter 43-04; schools of cosmetology regulated under chapter 43-11; schools of nursing regulated under chapter 43-12.1; and postsecondary educational institutions not operating in this state. However, obviously these types of institutions may need authorization from another entity – they are just outside the regulations of the State Board for Career and Technical Education.

5. For institutions subject to an exemption, does the state require the institution to
obtain a certificate of exemption or similar document and, if so, what is the
process and what documentation is required:

Yes. According to Chapter 106-06-01, Criteria for Authorization, Rule 106-06-01-01(2) states that “[p]ostsecondary educational institutions claiming to be exempt under North Dakota Century Code section 15-20.4-02 shall provide to the board, in writing, sufficient information supporting the exemption.”
However, according to North Dakota’s Department of Career and technical Education’s May 31, 2011 Memo to Colleges, “Distance education institutions seeking an exemption from regulation, click here for the appropriate form: CTE Exemption Request.” “For all other institutions seeking an exemption from regulation, please send a letter of request citing the exemption(s) being claimed (NDCC 15-20.4-02) and a detailed rationale supporting the request in light of proposed operations in the state.”

Address your request to:
State Board for Career and Technical Education
c/o Debra Huber
600 East Boulevard Avenue #270
Bismarck, ND 58505-0610

NOTE: The memo also states that “North Dakota’s licensing boards (e.g., Board of Nursing, Educational Standards and Practices Board) may also have applicable programmatic requirements. You may access information on North Dakota’s Boards and Commissions, here: ND Boards and Commissions.”

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

Probably No. Although all “postsecondary educational institutions established, operated, and governed” by any “other state or its political subdivision” are exempted from state authorization, the processes for exemption may be different. For example, an institution qualifying for exemption to provide “distance education services to North Dakotans” must file out the CTE Exemption Request Form, whereas “all other institutions seeking an exemption from regulation” must “send a letter of request citing the exemption(s) being claimed (NDCC 15-20.4-02) and a detailed rationale supporting the request in light of proposed operations in the state.”

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

As indicated in question [5] above, out-of-state public institutions are exempt from state authorization.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:
According to North Dakota Century Code section 15-20.4-03(7), the State Board of Career and Technical Education must “[i]nvestigate as it may deem necessary, on its own initiative or in response to any complaint lodged with it, any person, group, or entity subject to, or reasonably believed by the board to be subject to, the jurisdiction of this chapter; and in connection therewith to subpoena any persons, books, records, or documents pertaining to such investigation. The board may require answers in writing under oath to questions propounded by the board and may administer an oath or affirmation to any person in connection with any investigation. The board may, after hearing, revoke or suspend authorizations to operate. Subpoenas issued by the board are enforceable by any district court.”

As stated in North Dakota’s Department of Career and technical Education’s May 31, 2011 Memo to Colleges, “the State Board for Career and Technical Education does not have the authority to provide a complaint procedure for institutions it has not authorized to operate in North Dakota. Contact information for The North Dakota Office of the Attorney General, Consumer Protection and Antitrust Division, is as follows:

Office of Attorney General
Consumer Protection & Antitrust Division
Gateway Professional Center
1050 East Interstate Ave. Ste. 200
Bismarck, ND 58503-5574
(701)328-5570
(701)328-5568 (Fax)

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

The North Dakota Office of the Attorney General, Consumer Protection and Antitrust Division, is as follows:

Office of Attorney General
Consumer Protection & Antitrust Division
Gateway Professional Center
1050 East Interstate Ave. Ste. 200
Bismarck, ND 58503-5574
(701)328-5570
(701)328-5568 (Fax)

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to
receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

(No answer provided.)
OHIO

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Depends.

No, if purely online. Purely online courses do not require state authorization. According to the Board of Regents Accreditation/Authorization Overview, “Regents policy is not to regulate out-of-state institutions that offer online degree work that does not include any activities within the state's borders (e.g., classes, solicitation, tutoring, workshops, licensure pieces, and so forth). Therefore, all degree programming delivered in Ohio or online institutions engaging in any physical activities creditable toward degrees in Ohio should hold a Certificate of Authorization by the Ohio Board of Regents and/or the State Board of Career Colleges & Schools.”

Yes, if course includes a component (such as clinical placement or student teaching) that will be completed in OH. According to Ohio Board of Regents Website out-of-state institutions that offer online programs to Ohio residents would be required to obtain program authorization from the Chancellor of the Ohio Board of Regents if any of the following occur:

- The institution maintains a “brick and mortar” presence in Ohio;
- The online program contains a component (e.g., student teaching, clinical placement, practicum) that will be completed in Ohio; or
- The institution solicits Ohio residents for its programs (for-profit institutions only).

Institutions that do not meet one of the conditions listed above may contact the agency for a letter indicating that its distance education programs are exempt from the authorization requirement. The letter should be sent on official letterhead and may be submitted via paper or electronic copy.

Sources:
http://regents.ohio.gov/academic_programs/program_approval/pdfs/AccreditationOverview.pdf
https://confluence.umassonline.net/display/OBS/Ohio+HEA+Requirements
http://www.ohiohighered.org/academic-program-approval

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence.
a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

According to the Board of Regents Accreditation/Authorization Overview, “Regents policy is not to regulate out-of-state institutions that offer online degree work that does not include any activities within the state's borders (e.g., classes, solicitation, tutoring, workshops, licensure pieces, and so forth). Further, a physical presence includes a brick and mortar presence in Ohio; the online program contains a component (e.g., student teaching, clinical placement, and practicum) that will be completed in Ohio; or the institution solicits Ohio residents for its programs (for-profit institutions only).

Sources:
http://regents.ohio.gov/academic_programs/program_approval/pdfs/AccreditationOverview.pdf
http://www.ohiohighered.org/academic-program-approval

b. If something less than physical presence, please explain:

N/A

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

For distance education exemption:
Agency: Ohio Board of Regents
Contact Name: Shane DeGarmo
Contact Title: Assistant Director, Program Approval
Contact Phone: 614.387.1215
Contact Email: sdegarmo@regents.state.oh.us

For state authorization questions:
Agency: Ohio Board of Regents
Contact Name: Shane DeGarmo
Contact Title: Stephanie Davidson, Vice Chancellor for Academic Affairs
Contact Phone: 614.466.1152
Contact Email: s davidson@regents.state.oh.us

Source: http://www.ohiohighered.org/academic-program-approval

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:
According to ORC 1713.02(C), no out-of-state public college “that intends to offer or offers a course or courses within this state, but that did not offer a course or courses within this state on or before October 13, 1967, may confer degrees, diplomas, or other written evidences of proficiency or achievement or offer any course or courses within this state until it has received a certificate of authorization from the Ohio board of regents, nor shall the institution identify itself as a “college” or “university” unless it has received such a certificate from the board.”

There is an exemption for schools identified as “bible colleges.”

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Public institutions are not exempt from state authorization requirements, and must apply according to to Ohio Administrative Code 3333-1-08 (authority to pass the administrative code found in Ohio Revised Code section 1713.03).

According to the UMass Online website, Shane DeGarmo, with the Ohio Board of Regents, indicated the following is a quick outline of the appropriate procedures:
If the institution is engaging in activities that requires approval, the institution would be required to complete the program authorization process, which includes the following steps:
• The institution submits a letter of intent and the applicable fees to the Regents;
  o (NOTE: Please see Ohio Revised code section 3333-1-13 for the fee schedule).
• The institution develops a proposal for each program to be submitted for review;
• The institution hosts a site visit. Review teams composed of discipline experts spend time on the campus or administrative headquarters and meet with personnel relevant to the request;
The review team writes a report containing program strengths and weaknesses, and suggestions and recommendations; the institution responds to the recommendations of the report by writing an institutional response; the team reviews the response and makes a recommendation to the Chancellor’s staff to approve or not approve the program; if authorization is recommended, the staff prepares a summary of the request, which is posted on the Regents’ website; once the ten-day posting period has ended, the piece is removed from the website and forwarded to the Chancellor’s office for his review and approval; the Chancellor performs his review; and if the Chancellor approves the request, the institution is issued a certificate of authorization.

The pricing of the application, according to Ohio Revised Code section 3333-1-13, is as follows:

I. Initial Program Fees [An Initial Program Fee is charged for the first program at a particular degree level]:

<table>
<thead>
<tr>
<th>Degree Type</th>
<th>Out-of-State Institution (with Site Visit):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Associates</td>
<td>$3,000</td>
</tr>
<tr>
<td>Baccalaureate</td>
<td>$3,000</td>
</tr>
<tr>
<td>Masters</td>
<td>$5,000</td>
</tr>
<tr>
<td>Doctoral/Professional</td>
<td>$5,000</td>
</tr>
</tbody>
</table>

II. Degree Review Fees [Charged in addition to the Initial Program Fee]

<table>
<thead>
<tr>
<th>Degree Type</th>
<th>Paper Review (with no Site Visit):</th>
<th>Out-of-State Institution (with Site Visit):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Associates</td>
<td>$1,000*</td>
<td>$4,000</td>
</tr>
<tr>
<td>Baccalaureate</td>
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</tr>
<tr>
<td>Masters</td>
<td>$1,000*</td>
<td>$5,500</td>
</tr>
<tr>
<td>Doctoral/Professional</td>
<td>n/a</td>
<td>$7,500</td>
</tr>
</tbody>
</table>

*Fees may be waived in cases where a new undergraduate major: 1) is an area closely related to an existing program; 2) all or nearly all needed resources are demonstrably in place; and 3) the institutional proposal is sufficiently clear that no substantial additional information or revision is required.

III. Institutional Reauthorization, Review Fee:
No concerns from regional accrediting agency and/or other appropriate accrediting bodies; completion of Regents information document to update list of programs and related activities. $300

Full reauthorization, including review and site visit. Institution will bear all other reasonable costs associated with such review (e.g. external consultant fees and related expenses). $7,500

Sources: https://confluence.umassonline.net/display/OBS/Ohio+HEA+Requirements; http://codes.ohio.gov/oac/3333-1; http://codes.ohio.gov/oac/3333-1-13

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Not currently found.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

For private, for-profits school complaints:
http://scr.ohio.gov/ConsumerInformation/FilingaComplaint.aspx

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

(No answer provided.)
OKLAHOMA

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

According to OK State Regent for Higher Education Policy, Chapter 3 and OK Academic Affairs Procedures Handbook institutions offering courses exclusively online, with no physical presence in Oklahoma, do not require state authorization. Based on this fact, the Oklahoma State Regents for Higher Education ("OSRHE") does not issue exemptions to those institutions, because none is needed if an institution does not have a physical presence in Oklahoma. However, an institution may request written confirmation that they do not have a physical presence in Oklahoma and they do not have to apply for state authorization to offer distance learning. To request such written confirmation, institutions can, collectively or individually, submit a letter to Dr. Houston Davis, Vice Chancellor for Academic Affairs. If institutions submit a collective letter, the OSRHE expects the letter be sent from a university system or coordinating board on behalf of all institutions listed within the letter.

The letter should include detailed written information pertaining to the institution’s potential physical presence in Oklahoma, including following: proctored exams within the state; experimental student learning activities (such as externships, internships, clinicals or practicum requirements) within the state; administrators or adjunct faculty oversight students within the state; and any other institutional presence in Oklahoma. If learning activities are required, the institutions should explain logistics associated with identifying a site and any administrative oversight for the learning activity (i.e., is the onus on the student or the institution to identify the site and formalize any agreement). The letter should also include the level of involvement the site employees will have in evaluating the student’s academic performance during the learning activity. The letter should include a statement of affiliation from the institution’s accrediting agency (which lists the programs approved for distance learning).

Institutions should address the letter to the following individual:
Houston D. Davis, Ph.D.
Vice Chancellor for Academic Affairs
Oklahoma State Regents for Higher Education
P.O. Box 108850
Oklahoma City, Oklahoma 73101-8850

Source:
OK State Regent for Higher Education Policy, Chapter 3
Ok Academic Affairs Procedures Handbook
Mr. Jose Dela Cruz, Coordinator – Academic Affairs Project
2. **What triggers the state authorization requirement (physical presence in the state or something less)?**

Physical presence triggers state authorization.

   a. **If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)**

Although not an exhaustive list, the follow may constitute presence in Oklahoma: leasing or maintaining any building; instructional site;, administrative offices; equipment or facilities of any kind in Oklahoma; possessing an Oklahoma telephone number; having administrators/staff/faculty in Oklahoma; and experiential learning activities [i.e. internships, externships, practica, etc.].

**Source:** Mr. Jose Dela Cruz, Coordinator – Academic Affairs Project

   b. **If something less than physical presence, please explain:**

3. **What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:**

Oklahoma State Regents for Higher Education

Contact Name: **Gina M. Wekke**
Contact Title: Assistant Vice Chancellor for Academic Affairs
Contact Phone: 405.225.9142
Contact Email: gwekke@osrhe.edu

Contact Name: **Jose Dela Cruz, Jr.**
Contact Title: Coordinator – Academic Affairs Project
Contact Phone: 405.225.9100 (main line number)
Contact Email: jcruz@osrhe.edu

**Source:** [http://www.okhighered.org/current-college-students/diploma-mills.shtml](http://www.okhighered.org/current-college-students/diploma-mills.shtml)

4. **Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:**

As indicated above, an institution that offers distance education exclusively online does not have to apply for state authorization. If the institution has physical presence within OK then they must apply for authorization, following the procedure in question [7].
5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

As stated above, institutions that offer exclusively online programs to Oklahoma residents are not required to complete an application. The institution may send a letter to the Vice Chancellor explaining the distance education.

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Institutions that seek authorization and recognition to operate in Oklahoma must have accreditation status that details what the institution is authorized to offer as approved by one of the following three agencies: A regional accrediting agency; A national accrediting agency authorized to approve degree programs by the U.S. Department of Education for Title IV purposes; or The Oklahoma State Regents for Higher Education (see policy, Section 3.1).”

Out-of-state institutions that are nationally or regionally accredited are expected to adhere to the same high standards of program delivery described in the Oklahoma State Regents for Higher Education (“OSRHE”) Electronically Delivered and Traditional Off-Campus Courses and Programs Policy (3.16). Institutions that offer courses and programs completely online with no physical presence in Oklahoma may not fall under the jurisdiction of this policy.

If an institution is approved to offer degree programs by a regional or national accrediting body, that institution must seek authorization from the State Regents by following the process outlined below:

a. The institution’s president or director must write a formal request to offer program(s) to:
   Dr. Glen D. Johnson, Chancellor
   Oklahoma State Regents for Higher Education
   PO Box 108850
   Oklahoma City, Oklahoma 73101-8850

b. The letter of request must include the following information and materials:
i. A letter from the institution’s accrediting agency stipulating what program(s) has/have been approved.

ii. The number of credit or clock hours that will be awarded.

iii. All student costs/fees related to the program(s).

iv. An accrediting agency review cycle/dates for the institution and programs requested;

v. A copy of the institution’s last evaluation report and any subsequent action by the accrediting body of record;

vi. The start date for the program(s);

vii. The location and contact person for the Oklahoma location;

viii. Catalogs, recruiting materials, brochures, web site information, etc.; and

ix. Additional materials upon request.

For institutions with a physical presence, subsequent programs approved by the accrediting agency after initial State Regents recognition must be submitted in the same manner. Changes in accreditation status must be reported immediately by both the accrediting agency and the institution.

Once this information is received and reviewed by the State Regents, an appropriate response will be sent to the institution's president or director.

Currently, there is no cost associated with the authorization process. However, the OSRHE are currently discussing this topic.

Source: Ok Academic Affairs Procedures Handbook
OK State Regents for High Education website
Mr. Jose Dela Cruz, Coordinator – Academic Affairs Project

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

OSRHE policy does not have a formal process for handling student complaints at this time; however, changes to the policy are expected. Student complaints are handled administratively by providing the student with contact information for the most appropriate campus leadership office with the authority to resolve the complaint. Additionally, students are provided with information pertaining to the accrediting body’s complaint process.

Once the student has exhausted all possibilities at the institution, OSRHE staff will provide dispute resolution by communicating with the student and, with the student’s permission, the respective institution. Intervention is necessitated when an institution is in violation of State Regents’ policies or their own internal campus policies.

Source: Mr. Jose Dela Cruz, Coordinator – Academic Affairs Project
9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Please see the above question [8].

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

(No answer provided.)
OREGON

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Not by regulation or statute. In fact, the applicable authorization regulations state, “these rules do not apply to a school that offers degrees or credits from outside or Oregon and is unassisted within the state, so that any concomitant learning or evaluation occurring within Oregon is accomplished exclusively through interstate communication.”

However, from the Oregon Office of Degree Authorization Website, it says that exempt status must be determined by application and review.
http://www.osac.state.or.us/oda/

Link to application/approval forms:
http://www.osac.state.or.us/oda/online_program_approval.html

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence or in-state “assistance” which may include:
  • Maintaining an office or mailing address in the state, or
  • Conducting any part of the instruction program or support activities from or in the state.

a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Oregon’s Office of Degree Authorization.
Contact Name: Alan Contreras
Contact Title: Administrator
Contact Phone: 541-687-7478
Contact Email: alan.L.contreras@state.or.us
4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Online degree programs may be exempt from state authorization if an ODA review determines that the degree offered is valid for use in Oregon, and that the program does not have any assistance in the state of Oregon, as defined by Oregon Administrative Rule 583-030-0015(23).

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Yes. The exemption for online programs with “no assistance” in state is as follows: ONLINE PROGRAMS WITH NO ASSISTANCE as defined in OAR 583-030-0015(23)
A complete application file for purely online programs includes:
- Initial Approval Request form
- A list of degree programs offered
- A description for each degree program that explains the structure, learning goals, delivery method, basis for assessment and award of credit, and any other requirements
- Information regarding requirements, fees and policies affecting Oregon students
- Payment of the review fee: a check for $250 payable to State of Oregon – ODA

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

If there is “in-state assistance” – i.e. Physical Presence, then the authorization process is as follows:
ONLINE PROGRAMS WITH PRACTICUM OR OTHER ASSISTANCE
A complete application file for online+practicum programs will include:
1. Initial Approval Request form
2. A list of online+practicum programs offered
3. A description for each degree program that explains the structure, learning goals, requirements, delivery method, basis for assessment and award of credit
4. A description of the structure and supervision model for the practicum that explains the learning goals, criteria for site selection, and role and qualifications of site supervisor.

5. Programs that offer preparation for the practice of a licensed profession in the state of Oregon must show evidence that they prepare students to meet any standards established by the appropriate Oregon licensing board.

6. A Qualifications sheet for any supervisor, proctor, instructor, discussion leader, or other mentor assisting students in the practicum.

7. Information regarding requirements, fees and policies affecting Oregon students.

8. Payment of the review fee by the institution, by check payable to State of Oregon – ODA. The review fee for an online program with practicum or other assistance is $500 per program.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

(No answer provided.)

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Oregon Department of Justice also handles consumer related complaints:
http://www.doj.state.or.us/finfraud/index.shtml

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No.
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

They do if the institution has a physical presence.
http://www.pde.state.pa.us/portal/server.pt/community/higher_education/8711/institutional_approval_information/522454
http://www.portal.state.pa.us/portal/server.pt?open=18&objID=883996&mode=2

Even without physical presence, there is a Questionnaire to be filled out that can be obtained by emailing: RA-COLLUNIVSEMINFO@state.pa.us

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Former authorization is triggered by Physical Presence. However, the informal Questionnaire seems to be required.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

*Physical presence* – The operation of an entity that offers courses, programs, or degrees or maintains a campus, or an administrative, corporate or other address, including a post office box, telephone number, recruiters, instructors, advertising in local media and publications at a location in this Commonwealth.

   b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Sandra Edmunds, Deputy Secretary: RA-COLLUNIVSEMINFO@state.pa.us
Pennsylvania Department of Education, Postsecondary Education
Contact Name: Carol M. D. Gisselquist
Contact Title: Higher Education Associate
Contact Phone: 717-787-4448
Contact Email: cgisselqui@state.pa.us

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:
By inference – exemption for foreign entities with no physical presence. Formal approval is needed for foreign (out-of-state) corporations desiring authority to establish a physical presence in the state in order to operate an education enterprise. "Education enterprise" is defined as "an educational activity in this commonwealth which is sponsored by a foreign corporation and for which college credits or continuing education units (CEU) are awarded or tuition or fees are charged or collected." (22 Pa. Code § 31.2 Definitions.) The term "continuing education units" refers generally to recognized awards for continued training and would include "continuing professional education" (CPE) units, "continuing medical education" (CME) units and similar awards.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Yes. They seem to require a questionnaire that can be obtained by emailing: RA-COLLUNIVSEMINFO@state.pa.us

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

Does not appear possible.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Approval only needed if there is a physical presence. However, the Questionnaire referenced above seems to be the initial starting point for all institutions. The Department of Education may require a formal application from the party or entity seeking approval from the Secretary of Education to conduct academic programs for credit and to award academic, higher education degrees. To obtain the application, PDE requests that representative/s first meet with PDE staff in Harrisburg to discuss their intentions with department staff, at which time the application form may be obtained. Entities that are not higher education institutions but wish to operate an education enterprise in Pennsylvania should consult with PDE staff as to what is required by the Department of Education.

There does not appear to be a fee.
8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Could not determine.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

The Pennsylvania Attorney General’s Office also handles consumer related complaints: [http://www.attorneygeneral.gov/Complaints.aspx](http://www.attorneygeneral.gov/Complaints.aspx)

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

Not at this time.
RHODE ISLAND

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

It depends on physical presence. [http://www.ribghe.org/distance%20learning.pdf]

i. It shall be the policy of the Board of Governors for Higher Education that, so long as a provider of distance learning has no physical presence in Rhode Island, it will not be subject to Board of Governors regulations. [Please see page A-3.2 of the policy for a definition of physical presence.]

ii. If a provider has or seeks to establish a physical presence in Rhode Island, it shall be subject to the appropriate set of Board of Governors regulations and Rhode Island Office of Higher Education standards… [http://www.ribghe.org/hiedreg.htm]

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Except for pure Distance Learning situation as set forth above, approval must be obtained before an institution may begin any operation or advertising in Rhode Island or before it may begin offering any programs, certificates or degrees at levels or in subject areas.

a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

The key seems to be advertising or operating. “Advertising” is defined as: An act designed to call attention to an institution or program for the purpose of soliciting or encouraging enrollment. “Operation” is defined as: 1) establishing or maintaining within the borders of the state of Rhode Island a facility or location where instruction, student services or educational program administration are provided or postsecondary educational credentials are granted to persons in the state or to persons outside of the state; 2) contracting with any person, group, or entity to operate such an institution; or 3) the activities of the institution in or outside the state who, by solicitation made in the state: a) give counsel to, enroll or seek to enroll students for education offered by the institution; b) offer to award educational credentials for remuneration, on behalf of the institution.

b. If something less than physical presence, please explain:
3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

The Rhode Island Board of Governors for Higher Education.
Deborah Grossman-Garber
Associate Commissioner for Academic Policy and Planning
Rhode Island Office of Higher Education
80 Washington Street Suite 524
The Shepard Building
Providence, RI 02903
Phone: 401-456-6010
Email: dgrossman-garber@ribghe.org

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

As set forth above, “no physical presence” is an exemption. There also seems to be certain exemptions from the “Advertising” and/or “Operating” standard including: Certain recruitment activities are exempted fully, such as the activities of representatives of regionally or nationally accredited institutions who come to Rhode Island to participate in college fairs, to meet with students in high schools or to meet with students and/or their parents in other group settings and who collect no fees during these activities are exempt from these regulations. Representatives of regionally or nationally accredited institutions who come to Rhode Island to recruit athletes under NCAA guidelines are also exempt from these regulations.

If the institution thinks it may still need approval, then is also an annual temporary exemption from the “Approval Process” that may be sought by writing to the Commissioner of the RIBGHE.

There are also many examples given of types of Programs that may apply for a full exemption by applying for an exemption to the Commissioner of the RIBGHE. Given the spirit of the list, it seems possible that Rhode Island may grant exemptions to Out-of-State Public Institutions with minimal activity in the state.
http://www.ribghe.org/hiedinst.pdf

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Not for the pure Distance Learning + No physical presence situation.
For other situations, Yes. See question above. Seems to require a letter to the Commissioner of the RIBGHE requesting an exemption with any evidence necessary to support the request.

6. **Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority?** If yes, what is the process and what documentation is required:

It does not appear to be the case.

7. **If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:**

If the institution determines that it is **not exempt**, then the application and approval process is lengthy, requires a details proposal/application and should be reviewed here: [http://www.ribghe.org/hiedinst.pdf](http://www.ribghe.org/hiedinst.pdf)

The Fee is $1000. In short, it requires Initial Approval application process followed by Full Approval application process to be completed within five years of the Initial Approval. To receive initial approval, these institutions must provide evidence that they have initiated discussions with the New England Association of Schools and College (NEASC). Within five years and before receiving full approval, these institutions must be accredited by NEASC at all levels for which they are seeking Rhode Island approval.

8. **Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)?** If yes, please identify the responsible agency or agencies and provide contact information:

At present, the Board does not have a formal procedure or process to address complaints from students who are attending non-public degree granting institutions or non-degree granting proprietary schools operating within this state that are not under the Board’s jurisdiction. However, complaints received by the Board’s Office of Higher Education (“OHE”) from students attending non-degree granting proprietary schools are handled in the manner set forth in Standard 3.5(c) of the Board’s *Regulations Governing Proprietary Schools in Rhode Island*. Students with complaints involving possible illegal or criminal activity are referred to the local or the Rhode Island State Police, and complaints of discriminatory practices are referred to the Rhode Island Commission for Human Rights.
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

State licensure is not required unless the institution operates or solicits in South Carolina pursuant to Section 59-58-50, South Carolina Code of Laws. The South Carolina Commission on Higher Education (CHE) is responsible for licensure and has annotated the licensing laws with footnotes to explain what constitutes “operate or solicits”. The annotated laws are available at [http://www.che.sc.gov/AcademicAffairs/License/Licensing_Statute.pdf](http://www.che.sc.gov/AcademicAffairs/License/Licensing_Statute.pdf) and the CHE regulations are available at [http://www.che.sc.gov/AcademicAffairs/License/Regulations.pdf](http://www.che.sc.gov/AcademicAffairs/License/Regulations.pdf)

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Operations or solicitation in the state that requires an actual presence.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Section 59-58-20(17) defines “operating or soliciting” as referring to an actual presence within South Carolina that includes (a) an instructional or administrative site whether owned, leased, rented or provided at no charge; (b) instruction whether theory or clinical originating from South Carolina utilizing teachers, trainers, counselors, advisors, sponsors, or mentors; (c) an agent, recruiter, in-state liaison personnel, institution, or business that solicits for enrollment or credits 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. However, the annotated footnotes by the CHE state:

   1. CHE 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. CHE does not require licensing of institutions where the sole activity is a practicum or clinical experience in South Carolina.
   3. CHE 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. CHE does not require licensing of institutions where an in-state proctor administers exams for courses offered by distance learning.
5. CHE 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.

6. CHE does not license programs that train teachers or participants where the programs are primarily personal development, recreational, and non-vocational such as dance, music, art, or yoga.

In addition, the CHE has created a statement to explain what level of activity constitutes operation or solicitation in South Carolina. This explanation is available at http://www.che.sc.gov/AcademicAffairs/License/OperatingOrSolicitingExplanation.pdf. This statement is to be used if USDOE requests documentation of an institution’s exempt status.

b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Contact person is Renea Eshleman, Program Manager, 803-737-2281,
resleman@che.sc.gov

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Section 59-58-30 sets forth the exclusions from the state licensure requirements, most of which are not applicable, although there are a few of interest for: (a) institutions offering noncredit bearing intensive review courses such as those designed to prepare students for CPA tests, LSAT, bar exams, MCAT, and other license preparation tests; (b) out-of-state institutions that collaborate with public South Carolina institutions in offering distance education coursework in South Carolina and where the South Carolina institution offers the degree; (c) institutions offering programs and courses on federal military installations; and (d) degree-granting institutions accredited by an accrediting body recognized by USDOE that conducts occasional or incidental recruiting activities to include activities at high school recruiting fairs or through seasonal recruitment advertising rather than continuing and regular activities that would otherwise establish an actual presence in South Carolina. The link to the licensing statutes is located above.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:
No, a letter or certificate of exemption is not required (see CHE’s operating and soliciting explanation statement).

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

If your institution falls within the definition of “operating or soliciting,” licensure is required by the CHE. The licensure procedures for degree-granting institutions are on the CHE’s website at http://www.che.sc.gov/AcademicAffairs-License/Procedures_for_DegreeGranting_Institutions.pdf. An institution must first submit a letter of interest/intent to the CHE providing information on the proposed degree program and an explanation of the scope of activities contemplated (recruiting SC residents into online or on-ground programs; establishing a branch campus; or establishing a new institution). The letter of interest/intent is distributed to all public and private institutions operating in SC for a 60-day comment period. An institution must submit an application within the 60-day comment period for consideration by CHE staff. The application is not online but one can be obtained from Ms. Eshleman at www.che.sc.gov/AcademicAffairs-License/LIC_REQST.HTM. The licensure criteria is set forth in CHE Regulation 62-6 and requires the institution to demonstrate, among other things: that the quality, content, and length of the course or program is designed to achieve the stated objective of the course or program; that the institution has adequate space, equipment, instructional materials and qualified faculty; sufficient learning resources to support the course or program; adequate record-keeping procedures; financial soundness; publishes catalog and admission requirements; and does not engage in false or misleading advertising.

Institutions are required to provide a surety bond to ensure a refund of student tuition and fees in the program in the event of closure. The bond amount is based on a sliding scale of the annual gross tuition income from the licensed programs for the prior year. The minimum bond is $10,000 for -0- to $100,000 of annual gross tuition.

CHE Regulation 62-23 contains the fee schedule which, like the bond, is calculated based upon one-half of 1/ % of expected gross tuition (for initial licensure) and then one-half of 1% of the prior year’s gross tuition income (for annual renewal).
8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes. The complaint process is available at http://www.che.sc.gov/AcademicAffairs/License/Complaint_procedures_and_form.pdf

Complaints can be mailed to the Nonpublic Institution Licensing, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201 or emailed to Ms. Eshleman at her contact email above.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Although the South Carolina Department of Consumer Affairs handles consumer complaints, the information on its website indicates it refers complaints to the agency with direct jurisdiction, which in this case would be the South Carolina CHE.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No.
SOUTH DAKOTA

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

South Dakota has no system of licensure for institutions seeking to offer postsecondary degree programs or credit-bearing courses.

The South Dakota Board of Regents plays no role in supervising private institutions or out-of-state institutions that deliver postsecondary degree programs or credit-bearing courses in South Dakota. The sole legal authority of the South Dakota Board of Regents relates to control of postsecondary institutions funded by the state and to the administration of a small merit-based scholarship program established by the state. See, SDCL §§ 13-49-1 and 13-55-30.

Prior to 1996, South Dakota licensed postsecondary institutions operating within the state. Since 2001, the state has relied upon a simple prohibition backed by criminal enforcement.

No institution may provide postsecondary credits or degrees “in South Dakota, or while organized under the laws of South Dakota,” unless it is:

- Accredited by an accrediting agency recognized by the U.S. Department of Education,
- Approved to offer its students federal financial aid, or
- Actively pursuing accreditation from a U.S. Department of Education-recognized accrediting agency and offering work pursuant to an affiliation agreement with a duly accredited institution which takes responsibility for issuing credits or degrees, maintaining transcripts and, where appropriate, administering federal financial aid programs. SDCL § 13-49-27.1

As is the case with other prohibitions backed by criminal sanctions, enforcement authority resides with state’s attorneys and the Attorney General.

Given the structure and operation of South Dakota law, the Board of Regents is not empowered to provide specific assurance of compliance with South Dakota law.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

N/A
a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

   Paul Gough  
   Director of Policy & Planning  
   South Dakota Board of Regents  
   605-773-3455  
   paulg@ris.sdbor.edu

   Jim Shekleton  
   General Counsel  
   South Dakota Board of Regents  
   605-773-3455  
   jim.shekleton@sdbor.edu

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

   N/A

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

   N/A

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

   N/A

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

   N/A
8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

(No answer provided)

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

No complaint process specific to postsecondary institutions is available at present. The Attorney General of the State of South Dakota and the Division of Consumer Protection have the authority to investigate deceptive or misleading business/trade practices and take legal action on behalf of the State of South Dakota. See: http://atg.sd.gov/Consumers/HandlingComplaints/ConsumerComplaintForm.aspx

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

According to Jim Shekleton, the state is anticipating modifications to the state authorization requirements for out-of-state public institutions, and the creation of a process to receive or handle complaints against postsecondary institutions. While no draft documents exist at present, it is anticipated that the matters will be taken up during the next legislative session of early 2012.
TENNESSEE

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes. The Tennessee Higher Education Commission (THEC) must authorize all postsecondary educational providers that directly solicit, advertise, recruit, enroll or operate in the state, which includes out of state distance learning providers. Applicable laws are the Postsecondary Institutional Authorization Act of 1975, T.C.A. § 49-7-2001 et seq.

http://www.tn.gov/thec/Divisions/LRA/PostsecondaryAuth/pdf/2008%20Laws%20Title%2049,%20Chapter%207,%20Part%2020.pdf and Postsecondary Rules Chapter 1540-01-02

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence, as defined by Rule 1540-01-02-.04(1), triggers the state authorization requirement.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Physical presence includes having an instructional site within the state; offering instruction within or originating from Tennessee designed to impart knowledge with response utilizing teacher, trainers, counselors or computer resources, or any form of electronic telecommunications; dissemination of educational credit from with the state; having an agent, recruiter, institution, or business that solicits for enrollment, credits, or the award of an educational credential within the state; or using advertising, promotional material or public solicitation in any form that targets Tennessee residents or uses local advertising markets in the state that are used for institutions required to hold a certificate of authorization (national ads do not trigger this).

The THEC has interpreted the definition of physical presence to include running advertisements that appear on the webpage of a local newspaper; facilitating or entering into an arrangement with any business, organization, or similar entity located in Tennessee for the purpose of providing an internship, externship, practicum, clinical, student teaching, or similar opportunity; or having an instructor lead a distance course education from within the state.
Mere enrollment of a Tennessee student does not constitute physical presence if the recruitment did not involve the actions listed above.

b. If something less than physical presence, please explain:

Physical presence is required.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

The THEC is responsible for approving applications for institutions seeking authorization. Applications are first submitted to the Division of Postsecondary School Authorization, a division of the THEC. If the application is complete, the application is referred to the Committee on Postsecondary Educational Institutions, which reviews the application and makes a recommendation as to whether the THEC should approve the application and places the matter on the agenda for the next meeting of the THEC. Tennessee Higher Education Commission. Contact person is Nicholas Cook, Assistant Director of Regulatory Affairs, 615-253-8874, Nicholas.cook@tn.gov

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

T.C.A. §49-7-2004(6) exempts post-secondary institutions from the need for authorization if they meet certain criteria, including being domiciled within Tennessee for at least ten years.

Rules 1540-01-02-.05 and .08 also provide exemptions for self-improvement programs, religious institutions, test preparation providers, and other specific types of programs and educational services.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Yes. Requests for exemption should be submitted in writing directly to Nicholas Cook with a citation of the exemption being invoked and the reasons why exemption should be granted.
6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

According to Nicholas Cook, this has never occurred but he would be open to facilitating the request if one were made.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

All institutions, including out-of-state public institutions, must submit an Initial Authorization Application. The Initial Authorization Application may be obtained by calling the Division of Postsecondary School Authorization at 615-741-5293 or sending an e-mail to Teresa.Warren@tn.gov. The initial application fee is $3,000, plus $500 for each proposed program, plus $1,000-4,000 per degree program level (from associates to doctoral).

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes. The complaint process covers all types of complaints, whether by institutions, faculty members, students, or the public. A link to the complaint form, with information regarding where it should be sent, can be found at http://www.tn.gov/thec/Divisions/LRA/PostsecondaryAuth/psa.html, under Consumer Services, Proprietary Complaint Form. The Division of Postsecondary Schools Authorization handles complaints.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

No. The above process applies to all complaints.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

Per Nicholas Cook, no modifications are contemplated or expected.
TEXAS

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Texas Workforce Commission:
Yes, current policy requires all Career Schools (which includes public postsecondary institutions) to have an exemption or a Certificate of Approval. However, pending legislation may eliminate this requirement for out-of-state public postsecondary institutions offering only online courses. The TWC advises institutions to check back July 1, 2011 for news regarding this pending legislation before acting.

Higher Education Coordinating Board:
Yes, the Board’s current policy requires a Certificate of Authority if the institution has a physical presence in Texas. However, pending legislation may affect this policy (see letter from Dr. Davis below).

Applicable statutes, rules or regulations:
Texas Education Code §132.051 and §132.052 and §§61.401 - 61.405
http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.132.htm
http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.61.htm#H

Career Schools and Colleges rules §807.11
http://www.twc.state.tx.us/twccinfo/rules/ch807.pdf

Texas Administrative Code Chapter 7 -Degree Granting Colleges & Universities other than TX Public Institutions
http://www.thecb.state.tx.us/index.cfm?objectid=5AE5574E-DB27-F411-02936207FF354653

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

A physical location or agent operating in Texas, or any online courses or programs offered to Texas residents that include any face-to-face contact such as clinicals,
internships, externships, or practica. *Pending legislation is expected to include a
definition for ‘physical presence’.

b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each
(include name, telephone number and email address)? If more than one agency is
involved, briefly describe their role in the state authorization process:

Texas Workforce Commission: Any training, including distance education, offered to a
Texas resident must be either licensed or exempted by this agency. In addition, degree
programs must be approved by the Texas Higher Education Coordinating Board.

Texas Higher Education Coordinating Board: The Board authorizes all private and
public (non-Texas) postsecondary institutions offering or seeking to offer credits and
degree programs in the state.

Agency Contacts:
Michael De Long          Van Davis
Program Specialist       Deputy Assistant Commissioner
Texas Workforce Commission Texas Higher Education Coordinating Board
512-936-3104            512-427-6223
michael.delong@twc.state.tx.us  van.davis@thecb.state.tx.us

4. Please identify any exemptions from the state authorization requirements and cite
to applicable statutes, rules or regulations and provide a link:

Texas Workforce Commission: Exemption is available for a school or educational
institution supported by taxation from either a local or state source. *Pending legislation
is expected to affect this policy.

Texas Higher Education Coordination Board: The current perspective is that accredited
institutions offering completely online programs (meaning no face-to-face contact such
as clinical, internships, externships or practica; no physical location; no agent) are
exempt and no action is necessary. *However, see letter from Dr. Davis in next question
regarding pending legislation.

Applicable statutes, rules or regulations:

Texas Education Code § 132.002 or §132.003 and §61.303
http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.132.htm
http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.61.htm#H
5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Texas Workforce Commission: Tax Supported Schools, §132.002(a)(1), if more than 50% of the school funds are tax dollars from either a state or a local source. Schools must submit to TWC evidence that taxation supports the school operations. There is no charge for the exemption. It generally takes only a few days to review a request. See General Exemptions Form PS-017 found at: http://www.twc.state.tx.us/svcs/propschools/propforms.html

*Pending Legislation may affect this policy.

Texas Higher Education Coordination Board: Letter from Dr. Davis-
“Texas is still in the process of finalizing its policy regarding out of state distance education programs. At this time there is legislation pending in the Texas Senate that could impact our rules and policies. We anticipate having such rules and policies finalized in November. At this time we are asking institutions to provide us with a formal letter of inquiry that includes the following information: name of the institution, type of institution (i.e., public, private, proprietary), accreditor, specific programs that might be delivered to Texas students (if known), whether or not there is a physical location or agent operating in Texas, and whether or not any online courses or programs offered to Texas residents includes any face-to-face contact such as clinicals, internships, externships, or practica. You may pdf the inquiry and send it to me directly as an email. We will keep the inquiry on file and respond when a policy is finalized in the fall.”

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

Yes, in some instances. The Texas Higher Education Coordinating Board is open to receiving a single inquiry letter or email from the state governing board for out-of-state public institutions that do not meet any of the conditions mentioned in his letter above such as a physical location or agent operating in Texas or any face-to-face contact. The letter would need to list each institution, its accreditor, type of institution, a website link to the programs offered (if known) and contact information. The Board would then
send the response, once available, to the governing board. However, institutions that do have a physical location or agent operating in Texas or face-to-face contact would need to send individual letters.

The Texas Workforce Commission is waiting on the outcome of the pending legislation before addressing this inquiry.

7. **If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:**

Texas Higher Education Coordinating Board: Accredited institutions that do have a physical presence will need a certificate of authority. See letter from Dr. Davis above.

8. **Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:**

The Texas Higher Education Coordinating Board’s complaint process is currently being developed and is not yet complete.

9. **Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:**

No.

10. **Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:**

(No answer provided.)
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Response provided by Ms. Winegar, agent of the Utah Division of Consumer Protection:
“According to the Utah Postsecondary Proprietary School Act, §13-34-105(1)(e), a school or institution accredited by a regional or national accrediting agency recognized by the United States Department of Education is exempt from registration with the Division. However, the Utah legislature recently passed SB 210 in response to 34 CFR 600.9. The law became effective on May 10, 2011. This will be a filing for an accredited institution to obtain and renew a certificate of exemption. Please visit the Division’s website at http://consumerprotection.utah.gov/consumerinfo/schools.html for applications.

You may review SB 210 at http://le.utah.gov/~2011/htmdoc/sbillhtm/sb0210s01.htm to determine its applicability to your institution. Please review section 13-34-107.5 and 107.6. The Division cannot provide advisory opinions or legal advice about whether or not a particular accredited school should apply for this exemption certificate. The decision depends in part on the school's status under 34 C.F.R. 600.9, and on whether the school determines the exemption certificate will help maintain federal benefits.”

Applicable statutes, rules or regulations:

Utah Postsecondary Proprietary School Act §§101-114

Utah Administrative Code R152-34
http://www.rules.utah.gov/publicat/code/r152/r152-34.htm

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Something less.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

   b. If something less than physical presence, please explain:
Any institution which offers post-secondary education in consideration of the payment of tuition or fees for the attainment of educational, professional or vocational objectives, other than those schools that are exempted from the Utah Postsecondary Proprietary School Act.

3. **What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:**

Utah Division of Consumer Protection
Marla Winegar
Administrator
801-530-6601
mwinegar@utah.gov

4. **Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:**

All out-of-state public institutions that are accredited by a regional or national accrediting agency that is recognized by the U.S. Department of Education are exempt. To be in compliance with 34CFR 600.9 an accredited institution must apply for a certificate of exemption.

Applicable statutes, rules or regulations:

Utah Postsecondary Proprietary School Act 13-34-107.5

Utah Administrative Code R152-34-5
[http://www.rules.utah.gov/publicat/code/r152/r152-34.htm](http://www.rules.utah.gov/publicat/code/r152/r152-34.htm)

5. **For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:**

An accredited institution wishing to be acknowledged as exempt must complete the registration process to be issued a Certificate of Exemption. **There are 2 exemption forms for accredited institutions:**
1- Request for Exemption Form:

2 - Accredited Institution Application for Exemption Certificate:
Application Fees:
For Accredited Schools: Registration fee: A flat fee of $1,500 Or A sliding scale which is calculated by 1% of the gross tuition income of the registered program(s) during the previous year, but not less than $1,500 or more than $2,500.

NOTE: Registration is effective for a two year period with an annual review. Renewal of this registration is due 30 days prior to its expiration. Fees are due annually through a Review Application (not yet available online).

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

All out-of-state public institutions that are accredited by a regional or national accrediting agency that is recognized by the U.S. Department of Education are exempt.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes. Utah Division of Consumer Protection
Complaint process link: http://consumerprotection.utah.gov/complaints/index.html

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

No.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

(No answer provided.)
VERMONT

1. **Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:**

   Yes, out-of-state public postsecondary institutions wishing to establish a physical presence in Vermont need to be licensed and approved by the Vermont State Board of Education.

   Applicable statutes, rules or regulations:

   Vermont Statutes (effective July 1, 2011) §§176-177

   State Board of Education Manual of Rules and Practices 2242 and 2243

2. **What triggers the state authorization requirement (physical presence in the state or something less)?**

   Physical presence.

   a. **If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)**

   Physical presence is defined as any of the following within Vermont: classrooms, in-person seminars, administrative offices, delivery of direct services to students, or any physical gathering of students required as part of a course of study. Physical presence does not include an in-state practicum, internship, mentorship or teaching experience. Vermont has adopted a practice and policy stating that advertising alone does not constitute a physical presence, and we do not intend to pursue review and approval of online schools marketing to Vermonters. (If a situation exists that is not addressed by this definition, email Cassandra Ryan for clarification.)

   b. **If something less than physical presence, please explain:**

3. **What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:**

   Vermont State Board of Education
Agency Contacts:
Cathy Hilgendorf        Cassandra Ryan
Postsecondary Approval Coordinator   State of Vermont
Vermont State Board of Education   Department of Education
802-828-5402 or 5139     802-828-3144
cathy.hilgendorf@state.vt.us  Cassandra.Ryan@state.vt.us

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Institutions offering only distance education with no physical presence in Vermont are exempt.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Each institution needs to send an email to the agency contact asking for a statement about distance education so that the Board has the institution’s request on record and can respond with an official letter addressing the institution’s specific circumstances. The email should include the name of the institution along with address, telephone number, contact person information and a statement of the institution’s physical presence status according to Vermont’s definition listed above.

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

The Vermont State Board of Education is open to receiving an inquiry for multiple institutions so long as it comprises all of the requested information (the name of each institution along with the address, telephone number, contact person information and a statement of each institution’s physical presence status according to Vermont’s definition listed above).

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

An out-of-state public institution that does have a physical presence must register its name with the secretary of state pursuant to Title 11, Title 11A, or Title 11B; apply for and receive a certificate of approval or a certificate of degree-granting authority or both pursuant to §176(e) of Title 16 prior to offering credit-bearing courses or programs, admitting the first student, or conferring or offering to confer a degree to a student
enrolled in its Vermont school; and register with the department of education. The complete process is found in the Vermont statutes in §176a and the Manual of Rules and Practices in 2242 and 2243 (see links below).

Approval fees are described in §177. The fees include $4,000 for an application for approval to offer credit-bearing courses; $5,000 for an application for degree-granting authority if the school is approved to offer credit-bearing courses; $1,000 for initial registration with the department; and $500 annually to renew the registration.

Applicable statutes, rules or regulations:

Vermont Statutes (effective July 1, 2011) §§176 - 177

State Board of Education Manual of Rules and Practices 2242 and 2243

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes. Vermont State Board of education
Complaint process link:

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

No.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

(No answer provided.)
VIRGINIA

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Excerpt from the State Council of Higher Education for Virginia memorandum:
“If an out-of-state institution does not plan to operate a facility in Virginia and/or the mechanism by which instruction is initiated (server) is not located within Virginia, the school does not meet Virginia’s criterion of physical presence. Any school not meeting this criterion is ineligible for certification to operate in Virginia.

This ineligibility would not prevent or prohibit an out-of-state institution from offering postsecondary instruction via distance learning to residents of the Commonwealth of Virginia. Those students, however, would not benefit from protections available to students attending institutions that are certified by SCHEV. These protections are listed on the SCHEV website: http://www.schev.edu/highered/pope/Students.asp. SCHEV is unable to speculate as to what effect, if any, its physical presence requirement may have on the Title IV eligibility of Virginia residents enrolled in distance learning programs offered by out-of-state institutions that are ineligible for certification. The U.S. Department has indicated that it plans to publish a Dear Colleague Letter that will address this issue, among others.”
Full Memo: http://www.schev.edu/higherEd/POPE/PhysicalPresenceMemo.pdf

Applicable statutes, rules or regulations:
http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+TOC2300000002100001000000

Virginia Administrative Code: 8 VAC 40-31
http://www.schev.edu/AdminFaculty/iApproval/final%20regs%208-24-06.pdf

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Physical presence.

a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

If an out-of-state institution does not plan to operate a facility in Virginia and/or the mechanism by which instruction is initiated (server) is not located within Virginia, the school does not meet Virginia’s criterion of physical presence.
b. If something less than physical presence, please explain:

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

Private & Out-of-State Postsecondary Education, State Council of Higher Education for Virginia

Linda H. Woodley
Director, Private & Out-of-State Postsecondary Education
State Council of Higher Education for Virginia
804-371-2938
lindawoodley@schev.edu

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

If an out-of-state institution does not plan to operate a facility in Virginia and/or the mechanism by which instruction is initiated (server) is not located within Virginia, the school does not meet Virginia’s criterion of physical presence. Any school not meeting this criterion is ineligible for certification to operate in Virginia.

For institutions that do have or plan to have a physical presence, other possible exemptions can be found in the Virginia Administrative Code 40-31-40 – 40-31-70 and in the Code of Virginia 23-276.2 (see links below).

Applicable statutes, rules or regulations:
Code of Virginia 23-276.2
http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+23-276.2
8 VAC 40-31-120 (no physical presence) and 40-31-40 – 40-31-70 (other exemptions)
http://www.schev.edu/AdminFaculty/iApproval/final%20regs%208-24-06.pdf

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

No registration or exemption process is required for an out-of-state public institution that does not plan to operate a facility in Virginia and/or the mechanism by which instruction is initiated (server) is not located within Virginia.
For institutions that do have a physical presence, other possible exemptions can be found in the Virginia Administrative Code 40-31-40 – 40-31-70 and in the Code of Virginia 23-276.2 (see links above).

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

For an institution that does have a physical presence, the steps for obtaining certification can be found at: [http://www.schev.edu/highered/pope/NewSchool.asp](http://www.schev.edu/highered/pope/NewSchool.asp)

The application fee for all new institutions of higher education (that have a physical presence) is $6,000. Renewal fees, ranging from $500-$2,500, are based on the institution’s gross tuition collected. See 8 VAC 40-31-260.

Applicable statutes, rules or regulations:

Code of Virginia § 23-276.5

8 VAC 40-31-180 and 40-31-260
[http://www.schev.edu/AdminFaculty/iApproval/final%20regs%208-24-06.pdf](http://www.schev.edu/AdminFaculty/iApproval/final%20regs%208-24-06.pdf)

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes. However, the Council takes the position that its complaint procedure is for SCHEV certified institutions only. Complaints for non-certified institutions will be referred to the institution’s home state.

State Council of Higher Education for Virginia
Complaint process link:
[http://www.schev.edu/forms/StudentComplaintInformation.pdf](http://www.schev.edu/forms/StudentComplaintInformation.pdf)
9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

No.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

(No response provided.)
WASHINGTON

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes, in some cases, out of state public postsecondary institutions are required to obtain authorization to offer distance learning courses. The determination is made by the Washington Higher Education Coordinating Board (HECB) which has authority over college and universities that offer associate, bachelors, graduate courses, in addition to credit courses that are offered in the state. The link to the regulations and more information is:
http://www.hecb.wa.gov/autheval/daa/daaindex.asp

Institutions offering distance instruction may be required to seek authorization if they are determined to operate in the state. Operation in the state is defined in the Degree-granting Institutions Act Regulation, WAC 250-61-050.

(21) "To operate" means but is not limited to the following:

a. Offering courses for academic credit at any Washington location or via distance learning from a Washington location.

b. Granting or offering to grant degrees in Washington for credit obtained within or outside the state.

c. Maintaining or advertising a Washington location, mailing address, telecommunications number or internet server for any purpose or any other function of a degree-granting institution, other than contact with the institution's former students for any legitimate purpose related to their having attended.

d. Advertising, promoting, publicizing, soliciting, or recruiting for the institution or its offerings that is targeted specifically at Washington citizens, excluding multi-institutional college fairs.

The full text of the Degree Granting Institutions Act:

2. What triggers the state authorization requirement (physical presence in the state or something less)?

a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

Physical presence may trigger the authorization requirement where the course or program is offered “at or from a physical location in the state.”
b. If something less than physical presence, please explain:

An institution may be determined to be operating in the state and hence subject to the authorization requirement, even in the absence of physical institutional presence, if it recruits or advertises to state residents, has a server for their distance learning programs within the state, or maintains any type of physical presence in the state (such as a business address or office).

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

The Higher Education Coordinating Board (HECB) is responsible to accept the applications of institutions and for the review process. This link includes a step by step process for applying for state authorization.
http://www.hecb.wa.gov/autheval/daa/applicationprocess.asp

For those who are seeking an initial determination as to whether their distance education program may require authorization in Washington, send a completed Questionnaire to HECB at (360) 704-6203. The questionnaire is on their website http://www.hecb.wa.gov/autheval/daa/documents/Questionnaire.pdf

It is encouraged that institutions seeking a determination as to the applicability of the regulation complete and send a questionnaire before applying.

For more information, institutions may contact the Board at this email address and phone number below.
Email: Degree Authorization Staff
Phone: 360.753.7869

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

State law requires that all degree-granting institutions operating in Washington obtain authorization from the HECB or be determined by the Board to be exempt. There are no enumerated exemptions, and the determination is made on a case by case basis pursuant to the statute and the factors as outlined above and in the statute.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:
No certificate of exemption is required. The Board will determine whether an institution must seek authorization upon submission of the questionnaire and during the preliminary steps of the application where that is required.

6. **Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:**

It does not appear that a blanket exemption can be requested.

7. **If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:**

The process is outlined at this link http://www.hecb.wa.gov/autheval/daa/applicationprocess.asp; however, it is encouraged that a determination of applicability be requested first. The fee for an initial application is $2,000, and biennial renewal is $1,000. http://apps.leg.wa.gov/wac/default.aspx?cite=250-61-170

8. **Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:**

The complaint process is outlined on the Board’s website at the link below. Information as to how and where to file is included. Complaints are submitted to mailto:dainfo@hecb.wa.gov http://www.hecb.wa.gov/autheval/daa/ConsumerInformation.asp

9. **Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:**

It is possible to bring a complaint regarding a school to the State Office of the Attorney General where the complaint pertains to a business operating in Washington, the link below, however, the appropriate venue for filing a complaint regarding the practices of an institution of higher education is with the Higher Education Coordinating Board. https://fortress.wa.gov/atg/formhandler/ago/ComplaintForm.aspx

10. **Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:**
The above reflects the most up to date information available, and it is unclear if modifications are anticipated.
WEST VIRGINIA

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes, per §133-20-6.1 of West Virginia Higher Education Policy Commission's (WVHEPC) Legislative Rule, Title 133, Series 20, entitled "Authorization of Degree Granting Institutions" (effective date March 29, 2011), no entity may advertise, solicit, recruit, enroll, or operate a post-secondary education institution until it is authorized for operation in the State of West Virginia by the Higher Education Policy Commission. Further, §133-20-7.3 provides that any higher education institution having its principal place of operation outside West Virginia which holds regional or other appropriate accreditation and which desires to offer courses and/or degree programs within West Virginia must be authorized by the Commission.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

§133-20-6.11 states that authorization is limited to those institutions that deliver instruction in West Virginia and have a physical presence in West Virginia.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

§133-20-3.11 defines physical presence as "an institution, wherever domiciled or having its principal place of business, employs in West Virginia any person or persons for the purpose of administering, coordinating, teaching, training, tutoring, counseling, advising, recruiting, or any other activity on behalf of the sponsoring organization. Such activity would include advertising, promotional material, or public solicitation in any form that targets West Virginia residents through distribution or advertising in the State. In addition, the institution has physical presence in West Virginia if it delivers, or plans to deliver, instruction in West Virginia, and receives assistance from any other organization within the state in delivering the instruction, such as, but not limited to, a cable television company or a television broadcast station that carries instruction sponsored by the institution."

Further, §133-20-3.13 defines "Private college or university" as "an institution which is doing business or maintaining a place of business in the State of West Virginia which offers courses of instruction or study wherein credits may be earned toward a degree in a field of endeavor. A publicly-supported college or university in another state will be treated as a 'private college or university' and will be authorized to offer courses of instruction toward a
degree, degree credits, or degrees if it qualifies under the criteria for such institutions. An institution that employs an agent or representative in West Virginia and delivers instruction by any means within the State shall be regarded as a private college or university and shall be authorized on the same basis as any other such institution" (emphasis added).

b. If something less than physical presence, please explain:

See above.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

West Virginia Higher Education Policy Commission. Dr. Mark Stotler, Assistant Director of Academic Affairs, 304-558-0262, STOTLER@hepc.wvnet.edu.

4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

§133-20-4 exempts any existing institutions of higher education approved to operate in West Virginia prior to March 29, 2011; correspondence, business, occupational and trade schools which offer nothing higher than a specialized associate degree, typically do not pursue regional accreditation, and are regulated under West Virginia Code provisions on correspondence, business, occupational and trade schools; out-of-state institutions offering courses through brokering or other collaborative arrangements with a West Virginia public institution of higher education and which support programmatic offerings of the state institution; out-of-state institutions offering a short course or seminar in which the instruction for the segment takes no more than twenty classroom hours; out-of-state institutions offering courses of programs on a military installation solely for military personnel or civilians employed on such installation; and non-degree granting institutions whose programs are designed primarily for job entry or upgrading of skills and are described in clock (contact) hours (these programs typically prepare individuals for employment and do not require courses beyond those specific to the job or its field with program length sufficient to effect outcomes). https://www.wvhepc.org/resources/133-20.pdf.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Not necessarily, but per §133-20-4.2, each institution of higher education which claims to be exempt must file with the Commission such information as may be required by
the Commission to determine whether the institution is exempt. The written request for an exemption must be received by the Commission at least thirty (30) days prior to the proposed initiation date of a course of instruction. If the Commission determines that any institution is not exempt from the provisions of this rule, it shall notify the institution in writing with the reasons for the determination.

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

Yes, possibly, if the governing board has authority to act on behalf each of its member institutions. Attached is a form that is first provided to an applicant by Dr. Mark Stotler, Assistant Director of Academic Affairs for the West Virginia Higher Education Policy Commission. Per telephone conversation with Dr. Stotler, the form largely determines "physical presence" and whether authorization is required. He mentioned that he has previously approved numerous institutions based upon the request of a governing board. In that case, the governing board had proven authority to act on behalf of its members.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

For any higher education institution having its principal place of operation outside West Virginia, and which holds regional or other appropriate accreditation, and which desires to offer courses and/or degree programs within West Virginia, the institution must submit an application for approval to the Commission for each course or degree program to be offered at the site. Also, before an institution of higher education can be authorized, a surety bond in the amount of $100,000 must be provided and renewed annually.

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

Yes, per §133-20-14. However, admittedly, per telephone conversation with Dr. Mark Stotler, Assistant Director of Academic Affairs, West Virginia Higher Education Policy Commission (304-558-0262, STOTLER@hepc.wvnet.edu) they don’t have a good system for addressing student complaints at this point.

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No. Most recent legislation became effective on March 29, 2011.
1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

No. Per Wisconsin Educational Approval Board ("EAB") Regulation 11.03, only private, postsecondary schools must be authorized to deliver distance learning programs. "Distance learning program" means that a school uses distance learning to deliver more than 50 percent of a program. "Distance learning" means instruction provided by means other than face-to-face student to teacher interaction; including video, computer-based, and correspondence instruction.

Further, Wisconsin Statute 38.50(e)(2) applies to private schools, and specifically exempts "schools that are supported mainly by taxes." The EAB website states that "[b]ecause the exemption is not restricted to public institutions governed by the State of Wisconsin, the EAB has consistently interpreted it to mean any public college/university supported by state funding is exempt."

http://eab.state.wi.us/resources/onlinerequirements.asp
http://eab.state.wi.us/board/eab011.pdf

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Form of funding (e.g. whether a school is supported mainly by taxes). The EAB website states that "[b]ecause the exemption is not restricted to public institutions governed by the State of Wisconsin, the EAB has consistently interpreted it to mean any public college/university supported by state funding is exempt."

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

   N/A

   b. If something less than physical presence, please explain:

   N/A

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:
4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Per Wisconsin Educational Approval Board ("EAB") Regulation 11.03, only private, postsecondary schools must be authorized to deliver distance learning programs. "Distance learning program" means that a school uses distance learning to deliver more than 50 percent of a program. "Distance learning" means instruction provided by means other than face-to-face student to teacher interaction; including video, computer-based, and correspondence instruction.

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http://eab.state.wi.us/resources/onlinerequirements.asp
http://eab.state.wi.us/board/eab011.pdf

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

No formal certificate or document is required. If a public institution, even out-of-state, the institution should send a formal request for exemption to the EAB (preferably on institution letterhead or governing board/system letterhead), which will prompt a written response from the EAB. If clearly a public institution, a response granting the exemption is likely to be promptly given to the institution. Per telephone communication with EAB personnel, the process is very informal, "almost too informal."

Further, per the EAB website, "[i]f you believe your institution needs approval based on the preceding information because it currently enrolls (or plans to enroll) Wisconsin residents in an online program, please contact the EAB and ask to speak with a school administration consultant to discuss the approval process, as well as the specific distance learning requirements and accommodations contained in EAB 11."

http://eab.state.wi.us/resources/onlinerequirements.asp
6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

Yes, using the same process as set forth in the preceding response.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

N/A

8. Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)? If yes, please identify the responsible agency or agencies and provide contact information:

The EAB website states that it has the authority to investigate a student complaint, negotiate a settlement, or dismiss a complaint if it is found to be inappropriate. Complaints must be filed within one year after the student's last recorded date of attendance. Upon receiving a student complaint, EAB investigates it. If preliminary findings indicate a violation by a school, the EAB shall attempt, through mediation, to resolve the complaint. If no agreement is reached, the EAB may dismiss the complaint or conduct a hearing.

http://eab.state.wi.us/resources/complaint.asp

9. Does your state have other processes available for addressing student consumer complaints against postsecondary institutions? If yes, please identify the responsible agency and provide contact information:

Possibly through the Attorney General's office, although per communication with EAB personnel, only extreme cases would go to the AG's office.

10. Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:

No.
WYOMING

1. Is authorization required for out-of-state public postsecondary institutions to offer distance learning courses to state residents? If yes, please identify any applicable statutes, rules or regulations and provide a link:

Yes. The Wyoming Department of Education requires that all “private, degree granting post-secondary” institutions that are offering educational services or employment in the State of Wyoming be registered prior to so doing. Per Samantha Mills of the Wyoming Department of Education, a “private” school, as used in these statutes and rules, is defined to mean any school that is not a Wyoming public institution. The process is governed by Wyoming Statutes, 21-2-401 et. seq., and Wyoming Department of Education Rules and Regulations Chapter 30. See http://edu.wyoming.gov/Programs/schools/private_school_licensing.aspx.

2. What triggers the state authorization requirement (physical presence in the state or something less)?

Both.

   a. If physical presence, what constitutes physical presence (test sites, faculty, preceptors, etc.)

An adjunct professor residing in Wyoming qualifies as a physical presence. If an out-of-state institution uses an agent to recruit in Wyoming, that also qualifies as doing business in Wyoming such that registration is required.

   b. If something less than physical presence, please explain:

If an out-of-state institution solicits or offers distance learning courses to Wyoming residents, with or without an agent, it must register with the Wyoming Department of Education. This includes student initiated enrollments by residents of Wyoming.

3. What agency or agencies are responsible and who is the contact person for each (include name, telephone number and email address)? If more than one agency is involved, briefly describe their role in the state authorization process:

The Wyoming Department of Education is responsible for the registration process: http://edu.wyoming.gov/Programs/schools/private_school_licensing.aspx
Contact: Samantha Mills
Education Program Consultant
Wyoming Department of Education
Phone: 307-777-5712
E-mail: smills@educ.state.wy.us
4. Please identify any exemptions from the state authorization requirements and cite to applicable statutes, rules or regulations and provide a link:

Wyoming exempts certain parochial, church or religious schools that do not offer distance education. Exemptions from registration requirements also exist for a home-based educational program as defined by Wyo. Stat. § 21-4-101(a)(v); Aircraft flight training schools approved and authorized by the federal aviation agency of the United States of America; or a non-degree granting school teaching techniques of outdoor recreation, leadership, ecology or conservation domiciled in the State of Wyoming. See W.S. 21-2-406 and WDOE Rules and Regulations Chapter 30 section 13.

5. For institutions subject to an exemption, does the state require the institution to obtain a certificate of exemption or similar document and, if so, what is the process and what documentation is required:

Exempted institutions do not have to register, but must obtain and file a form document with the Wyoming Department of Education.

6. Can state governing boards for out-of-state public institutions apply for an exemption for all institutions operating under their authority? If yes, what is the process and what documentation is required:

No. Institutions must register individually.

7. If out-of-state public institutions are not exempt from the state authorization requirements, please explain the process for obtaining authorization. Please also include a link to any application form and list any required fee:

Out of state public institutions must seek registration with the Wyoming Department of Education. See http://edu.wyoming.gov/Programs/schools/private_school_licensing.aspx. According to Samantha Mills, the process is very straight-forward for accredited institutions and involves a one-page registration form, $100 fee, proof of accreditation, and an agent fee if applicable. “Agents” are defined to be “any person representing a private degree granting post-secondary education institution, who solicits business or students in any public school within the State. This includes those individuals employed to solicit resident students by schools or institutions located outside the State which are similar to schools or institutions specified under Wyo. Stat. § 21-2-402.” WDOE Rules and Reg. Chapter 30, section 5(b). Agents also must register.

A copy of the registration form for accredited post-secondary institutions is set out below in this questionnaire.
The process for registration for non-accredited institutions is more complicated and includes a bond as security. The process for non-accredited post-secondary institutions also is found in Chapter 30 of the Wyoming Department of Education Rules and Regulations.

8. **Does your state have a complaint process as described in 34 C.F.R. § 600.9(a)(1)?** If yes, please identify the responsible agency or agencies and provide contact information:

Per Samantha Mills, Wyoming does not have a formal complaint process. On an informal basis, Ms. Mills will receive and forward student complaints to the involved institution and ask that the institution respond to the complaint and copy the Wyoming DOE. Under Chapter 30 of the Wyoming Department of Education Rules and Regulations, the State may revoke an institution’s registration if it violates any rule, regulation or Federal or State statute.

9. **Does your state have other processes available for addressing student consumer complaints against postsecondary institutions?** If yes, please identify the responsible agency and provide contact information:

Consumers also may complain to the Consumer Protection Unit of the Wyoming Attorney General’s office at [http://attorneygeneral.state.wy.us/consumer.htm](http://attorneygeneral.state.wy.us/consumer.htm).

10. **Does your state anticipate making any modifications to either the state authorization requirements for out-of-state public institutions, or the process to receive or handle complaints and, if so, what modifications are being contemplated and when would you expect the modification(s) to be completed:**

Wyoming Department of Education contact Samantha Mills has not heard of any proposed modifications.
WYOMING DEPARTMENT OF EDUCATION
CHAPTER 30
APPLICATION FOR REGISTRATION FOR
ACCREDITED POSTSECONDARY DEGREE GRANTING INSTITUTIONS

Registration for the period of July 1, through June 30,_______
Application is hereby made for a private school registration pursuant to Wyoming Statutes 21-2-401 thru 21-2-407 and in accordance with the Chapter 30 Rules and Regulations of the Wyoming Department of Education.

1. A $100 fee must accompany this application, plus $100 fee per agent (if applicable)
2. Proof of accreditation from an agency recognized by the United States Department of Education (USDE) shall be attached to this application. Name of accrediting Association______________________________________
3. Accrediting association is recognized by the USDE _______Yes _______No

Date of Application: ________________________ Initial _____ Renewal _____
Name of Institution:
Physical Location of Institution: ____________________________________________
Mailing Address of Institution: _______________________________________________
Institution’s Phone Number: __________________________ Fax Number: ______________
E-mail____________________________ Web Site___________________________________
Address of Instructional Site in Wyoming: _______ (Check if same as above) __________

Local Director: ____________________________________ Phone:

Method of Operation: ____ Residence ____ Distance Learning ____ Combination
Is the Institution a branch of another institution? (Y/N) _____
If yes:
The applicant institution is a branch of: ______________________________________
Address of parent institution (street, city, state, zip) ____________________________

The above information is true and correct to the best of my knowledge and belief.
Signed by: ___________________________________________________
Title: _____________________________________Date:_______________________________