



South Carolina Commission on Higher Education

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CHE
10/06/11
Agenda Item 8.02.C

September 8, 2011

MEMORANDUM

To: Mr. Ken Wingate, Chair, and Members, Commission on Higher Education
From: Dr. Bettie Rose Horne, Chair, and Members, Committee on Academic Affairs and Licensing

Consideration of Request for Confirmation of Degree-Granting Authority Independent Institutions

Summary

On October 29, 2010, the United States Department of Education (USDE) published in the Federal Register (75 FR 66832) final regulations that make a number of changes for improving integrity in the programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA). The changes have implications for institutions and for postsecondary oversight agencies.

One new regulatory provision of the HEA requires that institutions document legal basis for their existence. An excerpt from the regulation that includes the section on state authorization is shown at the end of this memorandum. According to 600.9(a)(1)(i)(a), the requirement may be met through a charter, statute, constitutional provision, or other action issued by an appropriate State agency or State entity wherein the institution is authorized by name as a postsecondary education institution. 600.9(a)(1) specifies that the authorizing state must have a process to review and act on complaints. CHE Regulation 62-27 says that Commission may intervene on the behalf of a person filing a complaint against an institution that is exempt from the oversight of the Commission.

On behalf of the South Carolina independent institutions listed in the recommendation (which are exempt from the Commission's licensing jurisdiction under the Nonpublic Postsecondary Institution License Act) this request to the Commission on Higher Education is made to document compliance with USDE, Office of Postsecondary Education, Program Integrity Regulations for State Authorization.

Recommendation

The Committee on Academic Affairs and Licensing commends favorably to the Commission confirmation of the postsecondary degree-granting authority of the following in-state, independent institutions:

Institution	Documented Founded Date¹	Organized Founded Date²	Accreditation
Allen University, Columbia	1880	1870	SACS*
Anderson University, Anderson	1911	1911	SACS
Benedict College, Columbia	1894	1870	SACS
Bob Jones University, Greenville	1947	1952	TRACS**
Charleston Southern University, Charleston	1960	1964	SACS
Claflin University, Orangeburg	1869	1869	SACS
Clinton Junior College, Rock Hill	1909	1894	TRACS
Coker College, Hartsville	1908	1908	SACS
Columbia College, Columbia	1854	1854	SACS
Columbia International University, Columbia	1927	1923	SACS
Converse College, Spartanburg	1896	1889	SACS
Erskine College, Due West	1850	1839	SACS
Furman University, Greenville	1850	1826	SACS
Limestone College, Gaffney	1930	1845	SACS
Lutheran Theological Seminary, Columbia	1921	1830	SACS
Morris College, Sumter	1911	1908	SACS
Newberry College, Newberry	1856	1856	SACS
North Greenville University, Tigerville	1951	1892	SACS
Presbyterian College, Clinton	1903	1880	SACS
Southern Wesleyan University, Central	1909	1906	SACS
Spartanburg Methodist College, Spartanburg	1931	1911	SACS
Voorhees College, Denmark	1904	1897	SACS
Wofford College, Spartanburg	1851	1854	SACS

*Southern Association of Colleges and Schools

**Transnational Association of Christian Colleges and Schools

¹ Earliest legal record documenting status from a Clerk of Court filing, an Act of the General Assembly or an incorporation issued by the South Carolina Secretary of State recognizing degree-granting authority.

² Founding organizing year may differ from documented founded date; may have originated under a previous name or purpose.

Other information regarding HEA:

For the information of the Committee members, another issue that has repercussions for public and independent institutions and the CHE staff is HEA provision (600.9(c)). It requires that each institution have documentation of compliance with authorization requirements as determined by each state in which an institution offers education through distance or correspondence to students in a state in which it is not physically located. Originally scheduled for implementation July 1, 2011, USDE has delayed sanctions under this provision until July 1, 2014, so long as the institution is making good faith efforts to identify and obtain necessary state authorizations. As a result of this requirement, the CHE licensing staff has responded to several hundred requests from institutions seeking information about the licensing requirements and jurisdiction of the Commission. Under the Nonpublic Postsecondary Institution License Act, the Commission does not have jurisdiction where an institution enrolls SC residents into online courses or programs where the institution does not conduct activities defined as operating or soliciting in South Carolina. Several states, under their current jurisdiction, require approval of institutions that enroll residents of their states. Several groups are developing initiatives for model licensing regulations and reciprocity.

DEPARTMENT OF EDUCATION

34 CFR Parts 600, 602, 603, 668, 682, 685, 686, 690, and 691

RIN 1840—AD02

[Docket ID ED—2010—OPE—0004]

Program Integrity Issues

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary is improving integrity in the programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA), by amending the regulations for Institutional Eligibility Under the HEA, the Secretary's Recognition of Accrediting Agencies, the Secretary's Recognition Procedures for State Agencies, the Student Assistance General Provisions, the Federal Family Education Loan (FFEL) Program, the William D. Ford Federal Direct Loan Program, the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program in part 686, the Federal Pell Grant Program, and the Academic Competitiveness Grant (AGC) and National Science

Grant) Programs.

§600.9 State authorization.

(a) (1) An institution described under §§600.4, 600.5, and 600.6 is legally authorized by a State if the State has a process to review and appropriately act on complaints concerning the institution including enforcing applicable State laws, and the institution meets the provisions of paragraphs (a)(1)(i), (a)(1)(ii), or (b) of this section.

(i) (A) The institution is established by name as an educational institution by a State through a charter, statute, constitutional provision, or other action issued by an appropriate State agency or State entity and is authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate.

(B) The institution complies with any applicable State approval or licensure requirements, except that the State may exempt the institution from any State approval or licensure requirements based on the institution's accreditation by

one or more accrediting agencies recognized by the Secretary or based upon the institution being in operation for at least 20 years.

(ii) If an institution is established by a State on the basis of an authorization to conduct business in the State or to operate as a nonprofit charitable organization, but not established by name as an educational institution under paragraph (a)(1)(i) of this section, the institution—

(A) By name, must be approved or licensed by the State to offer programs beyond secondary education, including programs leading to a degree or certificate; and

(B) May not be exempt from the State's approval or licensure requirements based on accreditation, years in operation, or other comparable exemption.

(2) The Secretary considers an institution to meet the provisions of paragraph (a)(1) of this section if the institution is authorized by name to offer educational programs beyond secondary education by--

(i) The Federal Government; or

(ii) As defined in 25 U.S.C. 1802(2), an Indian tribe, provided that the institution is located on tribal lands and the tribal government has a process to review and appropriately act on complaints concerning an institution and enforces applicable tribal requirements or laws.

(b) (1) Notwithstanding paragraph (a)(1)(i) and (ii) of this section, an institution is considered to be legally authorized to operate educational programs beyond secondary education if it is exempt from State authorization as a religious institution under the State constitution or by State law.

(2) For purposes of paragraph (b)(1) of this section, a religious institution is an institution that--

(i) Is owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation; and

(ii) Awards only religious degrees or certificates including, but not limited to, a certificate of Talmudic studies, an associate of Biblical studies, a bachelor of religious studies, a master of divinity, or a doctor of divinity.

(c) If an institution is offering postsecondary education through or correspondence education to students in a State in which it is not physically located or in which it is otherwise subject to State jurisdiction as determined by the State, the institution must meet any State requirements for it to be legally offering postsecondary distance or correspondence education in that State. An institution must be able to document to the Secretary the State's approval upon request.