



# South Carolina Commission on Higher Education

Academic Affairs, Postsecondary Institution Licensing

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## OPERATING OR SOLICITING DEFINITION CLARIFICATION (Updated 6/16/2016)

The SC Commission on Higher Education is the administering agency of the Nonpublic Postsecondary Institution License Act. The Commission does not have jurisdiction where institutions enroll SC residents into online courses or programs where the institution does not conduct activities defined as operating or soliciting in South Carolina. SC does not require that an exempt institution apply for an exemption nor does it provide waivers.

For additional information regarding licensure, please refer to the Nonpublic Postsecondary Institution License Act; Chapter 62, SC Commission on Higher Education (CHE) Regulations; and forms, policies, and procedures of the Commission (<http://www.che.sc.gov/InstitutionsEducators/Licensing/LicensingofNon-PublicPostsecondaryInstitutions.aspx>). Contact CHE licensing staff to obtain forms and ask any questions.

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

- (17) “Operating or soliciting” refers to having actual presence<sup>1</sup> within the State of South Carolina and includes for the purposes of application of this Chapter:
- (a) an instructional or administrative site within South Carolina whether owned, leased, rented, or provided without charge;
  - (b) instruction whether theory or clinical<sup>2</sup> [~~within or~~ (strikethrough)] originating from South Carolina utilizing teachers<sup>3</sup>, trainers, counselors, advisors, sponsors, or mentors<sup>4</sup>;
  - (c) an agent, recruiter, in-state liaison personnel, institution, or business that solicits for enrollment or credits or for the award of an educational or occupational credential; and
  - (d) advertising, promotional material, or public solicitation in any form that targets South Carolina residents through distribution or advertising in the state.<sup>5</sup>

1 [The Commission does not require licensure of institutions that enroll residents of South Carolina into online or distance programs unless the institution operates or solicits in South Carolina.] SC is a member of the State Authorization Reciprocity Agreement (SARA) as of 6/9/2016.

2 [The Commission does not require licensing of institutions where a practicum or clinical experience is in South Carolina or where the institution pays the hosting preceptor/mentor; however, the SC Board of Nursing requires approval of programs that lead to initial licensure. [www.llr.sc.gov](http://www.llr.sc.gov).]

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

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

5 [The Commission does not require licensing of institutions that use search engine

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

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

Please note that Federal Regulation 600.9(c) relating to state authorization was vacated by the courts. The U.S. Department of Education is not enforcing state authorization; however, an institution must still meet the regulations of each state from which it enrolls a resident.

### **Institutions that offer on-line programs that are for teacher/administrator certification.**

The South Carolina Department of Education prescribes the parameters for credentials for teacher/administrator certification. The awarding institution must hold regional accreditation and completion of the program must lead to educator certification in the state of origin. Institutions that offer education programs must closely monitor SC residents who apply to enroll in education programs to ensure that students enroll only into programs that comply with the SC DOE requirements. For more information, contact the South Carolina Department of Education, Office of Educator Services at (803) 734-0325 or e-mail [certification@ed.sc.gov](mailto:certification@ed.sc.gov).

### **Institutions that offer initial licensure nursing programs**

A nursing program whose parent institution is located in another state and which conducts clinical experiences preparing students for initial licensure in South Carolina shall obtain South Carolina Board approval prior to conducting clinical experiences in South Carolina. Clinical experiences must be conducted within the scope of practice for the licensed practical nurse or the registered nurse as defined in the South Carolina Nurse Practice Act. Contact the SC Department of Labor, Licensing, and Regulation, Board of Nursing, (803) 896-4550 (<http://www.llr.state.sc.us/pol/nursing/>).

### **Student Complaints**

Under requirements of Federal Regulation 668.43(b), institutions participating in Title IV programs must provide students with contact information for filing complaints with the institution's State approval or licensing entity and any other relevant State official or agency that would appropriately handle a student's complaint. Out-of-state institutions must publish the information even though South Carolina does not otherwise regulate the out-of-state institution's provision of distance education.

The Commission's complaint form can be accessed through its web site:

[http://www.che.sc.gov/CHE\\_Docs/AcademicAffairs/License/Complaint\\_procedures\\_and\\_form.pdf](http://www.che.sc.gov/CHE_Docs/AcademicAffairs/License/Complaint_procedures_and_form.pdf)

CHE Regulation 62-27 gives the Commission the authority to intervene on the behalf of a person filing a complaint against an institution that is exempt from the oversight of the Commission.