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Title 34 – Education

Subtitle B – Regulations of the Offices of the Department of Education

Chapter VI – Office of Postsecondary Education, Department of Education

Part 600 – Institutional Eligibility Under the Higher Education Act of 1965, as Amended

Subpart A – General

Source: 59 FR 22336, Apr. 29, 1994, unless otherwise noted.

Authority: 20 U.S.C. 1001, 1002, 1003, 1088, 1091, 1094, 1099b, and 1099c, unless otherwise noted.

Source: 53 FR 11210, Apr. 5, 1988, unless otherwise noted.

§ 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) An institution is considered to be legally authorized to operate educational programs beyond secondary education if it is exempt as a religious institution from State authorization under the State constitution or by State law.
- (c)
 - (1)
 - (i) If an institution that meets the requirements under paragraph (a)(1) or (b) of this section offers postsecondary education through distance education or correspondence courses to students located in a State in which the institution is not physically located or in which the institution is otherwise subject to that State's jurisdiction as determined by that State, except as provided in paragraph (c)(1)(ii) of this section, the institution must meet any of that State's requirements for it to be legally offering postsecondary distance education or correspondence courses in that State. The institution must, upon request, document the State's approval to the Secretary; or
 - (ii) If an institution that meets the requirements under paragraph (a)(1) or (b) of this section offers postsecondary education through distance education or correspondence courses in a State that participates in a State authorization reciprocity agreement, and the institution is covered by such agreement, the institution is considered to meet State requirements for it to be legally offering postsecondary distance education or correspondence courses in that State, subject to any limitations in that agreement and to any additional requirements of that State not relating to State authorization of distance education. The institution must, upon request, document its coverage under such an agreement to the Secretary.
 - (2)
 - (i) For purposes of this section, an institution must make a determination, in accordance with the institution's policies or procedures, regarding the State in which a student is located, which must be applied consistently to all students.
 - (ii) The institution must, upon request, provide the Secretary with written documentation of its determination of a student's location, including the basis for such determination.
 - (iii) An institution must make a determination regarding the State in which a student is located at the time of the student's initial enrollment in an educational program and, if applicable, upon formal receipt of information from the student, in accordance with the institution's procedures, that the student's location has changed to another State.
- (d) An additional location or branch campus of an institution that meets the requirements under paragraph (a)(1) of this section and that is located in a foreign country, *i.e.*, not in a State, must comply with §§ 600.8, 600.10, 600.20, and 600.32, and the following requirements:
 - (1) For any additional location at which 50 percent or more of an educational program (as defined in § 600.2) is offered, or will be offered, or at a branch campus—
 - (i) The additional location or branch campus must be legally authorized by an appropriate government authority to operate in the country where the additional location or branch campus is physically located, unless the additional location or branch campus is physically located on a U.S. military base, facility, or area that the foreign country has granted the U.S. military to use and the institution can demonstrate that it is exempt from obtaining such authorization from the foreign country;

- (ii) The institution must provide to the Secretary, upon request, documentation of such legal authorization to operate in the foreign country, demonstrating that the foreign governmental authority is aware that the additional location or branch campus provides postsecondary education and that the government authority does not object to those activities;
 - (iii) The additional location or branch campus must be approved by the institution's recognized accrediting agency in accordance with § 602.22(a)(2)(ix) and (c).
 - (iv) The additional location or branch campus must meet any additional requirements for legal authorization in that foreign country as the foreign country may establish;
 - (v) The institution must report to the State in which the main campus of the institution is located at least annually, or more frequently if required by the State, the establishment or operation of each foreign additional location or branch campus; and
 - (vi) The institution must comply with any limitations the State places on the establishment or operation of the foreign additional location or branch campus.
- (2) An additional location at which less than 50 percent of an educational program (as defined in § 600.2) is offered or will be offered must meet the requirements for legal authorization in that foreign country as the foreign country may establish.
- (3) In accordance with the requirements of 34 CFR 668.41, the institution must disclose to enrolled and prospective students at foreign additional locations and foreign branch campuses the information regarding the student complaint process described in 34 CFR 668.43(b), of the State in which the main campus of the institution is located.
- (4) If the State in which the main campus of the institution is located limits the authorization of the institution to exclude the foreign additional location or branch campus, the foreign additional location or branch campus is not considered to be legally authorized by the State.

(Authority: 20 U.S.C. 1001 and 1002)

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