

SHEEO State Authorization Inventory

South Dakota

Please note: For purposes of this survey, the terms “authorize” and “authorization” are used generically to include approve, certify, license, regulate, recognize, empower, or similar actions relative to the operation, provision, or availability of postsecondary education in your state.

1. Agency and Contact Information

- a. Agency Name: **South Dakota Board of Regents**
- Description:
No agency or commission has approval and licensing authority of for-profit or proprietary schools located in South Dakota. These schools file articles of incorporation with the Secretary of State. Since July 1, 2001, when a new statute became effective, any organization claiming to confer postsecondary credit or degrees must be accredited by an organization recognized by the U.S. Department of Education or participate in Title IV federal financial aid. A violation of this will result in a civil penalty of \$25,000.
 - Contact Information:
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Director of Policy & Planning
South Dakota Board of Regents
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James F. Shekleton
General Counsel
South Dakota Board of Regents
605-773-3455
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 - Please state who institutions should contact if they have questions about your agency’s authority, policies, or application process?
Same as above.

- b. Links:
 Regulation: <http://legis.state.sd.us/statutes/DisplayStatute.aspx?Statute=13-49-27.1&Type=Statute>
 South Dakota Board of Regents: <http://www.sdbor.edu/>
- c. According to our records, the following agencies also have responsibility for authorization in the state.
 None.
- d. If the division of responsibility among these agencies is not clear, please explain.
 Not applicable.

2. Types of Educational Providers Authorized

- a. Please indicate the types of institutions that your agency authorizes, using the list below. Please answer “yes” or “no” to each item. Feel free to provide a short explanation of any ambiguity, including any necessary clarification of “in-state,” “out of state,” or other terminology.

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	Public, in-state degree granting institutions
<input type="checkbox"/>	<input type="checkbox"/>	Public, out-of-state degree granting institutions
<input type="checkbox"/>	<input type="checkbox"/>	Private, in-state, not-for-profit degree granting institutions
<input type="checkbox"/>	<input type="checkbox"/>	Private, out-of-state, not-for-profit degree granting institutions
<input type="checkbox"/>	<input type="checkbox"/>	Private, in-state, for-profit degree granting institutions
<input type="checkbox"/>	<input type="checkbox"/>	Private, out-of-state, for-profit degree granting institutions
<input type="checkbox"/>	<input type="checkbox"/>	Public, in-state, non-degree granting institutions
<input type="checkbox"/>	<input type="checkbox"/>	Public, out-of-state, non-degree granting institutions
<input type="checkbox"/>	<input type="checkbox"/>	Non degree, not-for profit institutions
<input type="checkbox"/>	<input type="checkbox"/>	Non degree, for-profit institutions
<input type="checkbox"/>	<input type="checkbox"/>	Religious institutions
<input type="checkbox"/>	<input type="checkbox"/>	Tribally-controlled institutions

Clarifying comments:

Not applicable.

- b. Is an institution required to obtain approval from more than one agency to be authorized in your state (excluding purely programmatic approvals)? If so, please explain.

Certain programs may be subject to additional authorization. The South Dakota Board of Nursing authorizes some nursing programs, and the South Dakota Department of Education authorizes some educational programs. Licensing boards for barbers and cosmetologists also supervise educational programs for those trades.

- c. Is accreditation required for an institution to be authorized in your state?
Yes.

- If yes, please explain:
[This is a requirement of SDCL §13-49-27.1
http://legis.state.sd.us/statutes/DisplayStatute.aspx?Statute=13-49-27.1&Type=Statute.](http://legis.state.sd.us/statutes/DisplayStatute.aspx?Statute=13-49-27.1&Type=Statute)
- If yes, what type of accreditation is required? Please, check all that apply as appropriate.

Regional
 National
 Programmatic/specialized

Clarifying comments:

SDCL § 13-49-27.1 requires “accreditation from an accrediting agency recognized by the United States Department of Education pursuant to 20 U.S.C. § 1099b as amended to January 1, 2009, as a regional or national institutional accrediting agency;” provided that, for up to five years, while actively seeking such accreditation, an institution may operate under an affiliation agreement with another institution that already possesses such accreditation.

- d. Does your agency authorize specific academic programs offered by institutions or only institutions themselves?
- e. Do programs in certain subject areas require the separate approval by another state entity; for example, a professional licensing agency?

Education

Steve Fiechtner
South Dakota Department of Education
605-773-4774
Steve.Fiechtner@state.sd.us
<http://doe.sd.gov/oatq/teacheredprograms.asp>

Nursing

Linda Young, RN; MS, FRE
Nursing Program Specialist and Project Director, SDCNW
605-362-2772
<http://doh.sd.gov/Boards/nursing/staff.aspx>

3. Exemptions

- a. Are certain institutions or programs exempt by law or policy from your state authorization requirements?
 - If yes, please describe which institutions or programs the exemption applies to and how it works? If available, please provide any pertinent web links.
 - If yes, how does the institution or program claim an exemption? For example, is the exemption automatic as long as it meets specified criteria, does the institution or program notify the agency and the exemption is granted, is there an application process, etc.?
- b. If an institution or program is exempt from state authorization, are there any other state requirements that an institution would need to fulfill in order to operate in your state (e.g., providing contact information, list of programs, etc.)?
- c. Does your state constitution or do your state laws provide any exemptions for religious institutions?
 - Are all religious institutions exempt (please describe)?
 - Are religious institutions that award only religious degrees or certificates exempt (please describe)?

These institutions are exempt from the accreditation requirements stated in SDCL § 13-49-27.1.
 - Are certain religious institutions exempt that meet other criteria (please describe)?

4. Authorization of Distance Education

- a. Does your agency require purely (100%) distance education programs, including online or correspondence study programs that enroll residents of your state, to be authorized without regard to physical presence?
- b. If not, does your agency determine whether an institution must be authorized based on a physical presence or “operating” standard?

5. Physical Presence Policy – Common “Triggers”

- a. If your agency uses a physical presence standard, how does your agency define physical presence? If available, please provide a link to that policy or a citation to the relevant regulation giving that standard.
- b. Please specify whether any of the following activities would constitute a physical presence or signify “operating” in your state, assuming that the named activity is the institution’s sole activity in your state. **Please answer “yes” or “no” to each question. In addition you may provide a short explanation of any ambiguity.**
 - Permitting a student to complete an internship, externship, field experience, or clinical practicum organized by the institution?
 - Does this apply only to distance education students or more generally?
 - Permitting a student to complete an internship, externship, field experience, or clinical practicum found by the student acting independently?
 - Does this apply only to distance education students or more generally?
 - Employing full-time faculty in the state to provide instruction via distance education programs to students in the state?
 - What about adjunct faculty?
 - Employing full-time faculty in the state to provide instruction via distance education programs solely to students outside of the state?
 - What about adjunct faculty?
 - Having a contract/agreement between the institution and in-state institutions or in-state entities to provide services for students (i.e. library, gym, computer centers, etc.)?
 - Organized, consistent, on-the-ground recruiting of students in the state by employees or agents of the institution?
 - What if the agent is only recruiting students in the state on an occasional basis (i.e. at job fairs)?
 - Advertising in local media sources that are largely viewed by residents of the state?

- Advertising in national media sources that can be accessed by residents of the state?
 - Having computer servers or other equipment located in the state?
 - Hosting short term, face-to-face, seminars or conferences in the state where students meet in person?
 - Employing mentors, tutors, or preceptors in the state to aid students, who are residents of the state, on an individual basis?
 - Requiring a student to take a proctored exam at a location or with an entity in the state prescribed by the institution?
 - Requiring a student to take a proctored exam with an entity in the state chosen by the student but approved by the institution?
 - Other [please explain]
- c. Of the activities or conditions listed above that alone would not constitute a physical presence, are there any that if combined would create a physical presence?

6. Application Process

- a. Please provide a short description of the application process to obtain state authorization. If available, please provide web links to the specific references to all applicable state laws, regulations, manuals, forms, or other pertinent documents.
- b. Generally, how long does it take to approve applications (assuming that the agency has received all required information from the institution)? Please provide a typical range if appropriate.
- c. What is the authorization duration?
- d. What does an institution need to do to maintain authorization?
- e. What kinds of information or data must an institution report to your agency as a condition for continued authorization? How frequently is this reported or updated? Is this information published or shared publicly?
- f. Can an institution lose its authorized status? If so, how?
Failure to maintain accreditation status could render an institution ineligible to operate in South Dakota.

- g. Can a multi-institutional system or college corporation apply to your agency for authorization on behalf of all of its component institutions? If so, please describe the process.
- h. Would multi-institution public systems be treated the same as multi-location for-profit institutions?
- i. What distinctive features in your authorization process would be useful for applicants to know (e.g., certain times during the year that you process applications for authorization, sharing of applications or information about proposed programs with institutions or other stakeholders in your state for comment)?
- j. Is your agency currently planning to amend its application process by the end of 2011?
 - o If yes, please provide a brief description of the anticipated change.
 - o If yes, when does the agency expect the change to be fully implemented?

7. Fees Associated with Authorization

- a. Is there an application fee to initiate the authorization process? If so, what is the fee or fee schedule? Please provide a web link if available.
- b. Are there any other costs associated with the state authorization process (e.g. site visits, hiring a reviewer, surety bond, tuition recovery fund, agent licensing, etc.)?
- c. What are the costs, if any, to renew authorization?
- d. What costs are associated with receiving a waiver or exemption to authorization?

8. Interstate Reciprocity

- a. Do your state regulations explicitly allow or prohibit interstate reciprocal agreements about authorization? If so, please describe.
- b. What is the process, if any, to obtain a reciprocal agreement with your state?
- c. Are there any reciprocal agreements currently in place or under consideration? If so, please list those agreements.
- d. If interstate reciprocal agreements are not addressed in your regulations, would your agency consider establishing such agreements? Please elaborate.

9. Consumer Protection and Student Complaints

- a. Does your agency have a process for handling complaints about postsecondary institutions or programs?
 - If yes, please describe the process or provide a web link to the material that describes the complaint process.
 - If yes, does this complaint process extend to institutions not authorized by the agency that may enroll residents of the state (such as explicitly distance education programs with no physical presence or exempt institutions)?
 - If available, please provide a web link to the complaint form.
 - Who is the contact person for receiving complaints? Please include name, title, address, phone, and email if available.
 - If your agency has no formal process for handling complaints related to postsecondary institutions, what state agency would handle a complaint?
Not applicable: Caveat: The South Dakota Attorney General accepts consumer complaints of various sorts.

<http://atg.sd.gov/Consumers/HandlingComplaints/ConsumerComplaintForm.aspx>

10. Enforcement

- a. If your agency finds that an institution or program is operating in your state without authorization, what is the resulting warning or enforcement action?
Referral to the Attorney General if enforcement of SDCL § 13-49-27.1 is an issue.
- b. Can an institution or program appeal a warning or enforcement action? If yes, please describe the process or provide web links to the regulations/policies.
Enforcement would be pursuant to a criminal complaint and subject to trial and appeal as provided in SDCL title 16 and 23A.

11. Legislative or Regulatory Changes

- a. Is your agency or state legislature planning to amend its regulations or alter its physical presence policy by the end of 2011?
Yes.

- If yes, please provide a brief description of the anticipated change.
Not applicable.
- If yes, when does the agency expect the change to be fully implemented?
July 1, 2012.
- b. Is your agency or state legislature making changes in your state regulations or statutes so that institutions with locations in your state would be considered legally authorized in accordance with the federal institutional eligibility regulations?
 - If yes, please provide a brief description of the anticipated change.
 - If yes, when does the agency expect the change to be fully implemented?
- c. Is your agency or state legislature making any other changes in your state regulations or statutes with regard to state authorization?
 - If yes, please provide a brief description of the anticipated change.
 - If yes, when does the agency expect the change to be fully implemented?

12. Is there anything else about the authorization process in your state that we and others ought to know about?