



## BOARD OF REGENTS

306 EAST CAPITOL AVENUE, SUITE 200  
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[www.sdbor.edu](http://www.sdbor.edu)

OFFICE OF THE EXECUTIVE DIRECTOR

February 15, 2011

Re: Approval to offer courses, whether online or in person, in South Dakota

To whom it may concern:

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. 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 <http://legis.state.sd.us/statutes/DisplayStatute.aspx?Statute=13-49-27.1&Type=Statute> and 13-55-30 <http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=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 (a) accredited by an accrediting agency recognized by the U.S. Education Department, (b) approved to offer its students federal financial aid, or (c) actively pursuing accreditation from a U.S. Education Department 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 <http://legis.state.sd.us/statutes/DisplayStatute.aspx?Statute=13-49-27.1&Type=Statute>. As is the case with other prohibitions backed by criminal sanctions, enforcement authority resides with state 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.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack R. Warner".

Jack R. Warner  
Executive Director and CEO

## May, Kathy

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**From:** Gabriel, Jodi <Jodi.Gabriel@sdbor.edu>  
**Sent:** Monday, October 17, 2011 4:05 PM  
**To:** May, Kathy  
**Subject:** FW: Out of state distance education regulations - South Dakota  
**Attachments:** JW\_licensure-SD.pdf

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**From:** Shekleton, Jim  
**Sent:** Monday, October 17, 2011 2:53 PM  
**To:** Gabriel, Jodi  
**Cc:** Gough, Paul; RIS Web Information Mailbox  
**Subject:** FW: Out of state distance education regulations - South Dakota

Jodi,

Please issue the standard response.

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**From:** May, Kathy [mailto:KMay@tcsg.edu]  
**Sent:** Monday, October 17, 2011 2:51 PM  
**To:** RIS Web Information Mailbox; Gough, Paul; Shekleton, Jim  
**Subject:** Out of state distance education regulations - South Dakota

Dear Mr. Paul Gough and/or Mr. James F. Shekleton

I am sure you are aware that in October 2010, the U.S. Department of Education released regulations requiring out of state institutions offering distance education to students within another state to determine if authorization is needed by each state in which the institution is offering distance education.

In my role as Academic Affairs Coordinator (Georgia Virtual Technical Connection) for the Technical College System of Georgia, I am asking what the public 25 Technical Colleges within the State of Georgia need to do to obtain approval to teach distance education courses in the state of South Dakota?

As background, the Technical College System of Georgia (TCSG) consists of **25 public technical colleges** offering technical certificates of credit to two year degrees. Each technical college has a president and all technical college presidents' report to the TCSG Commissioner. The Commissioner reports to the Governor of Georgia and to the Technical College System of Georgia State Board. The State Board of the Technical College System of Georgia is responsible for establishing standards, regulations and policies for the operation of the Technical College System of Georgia. The 25 public technical colleges within the Technical College System of Georgia are supported by taxation from local and state funds from the state of Georgia.

All 25 technical colleges within the state of Georgia are accredited by accrediting agencies recognized by the United States Department of Education. The 25 public technical colleges in Georgia are accredited by either one or two or by both of the accrediting bodies listed below:

- 1) the regional accrediting body the **Commission on Colleges of the Southern Association of Colleges and Schools**
- 2) the national accrediting body the **Council on Occupational Education.**

Please provide me with direction as to the steps necessary to obtain the needed authorization from the state of South Dakota or directions on the process to be exempt from authorization as courses/programs are distance education delivery. Please include all associated costs.

I am very interested in the possibility of TCSG obtaining permission/exemption from your state on behalf of all of our 25 technical colleges as opposed to each technical college seeking individual approval/exemption.

Your guidance and help is appreciated.

Please see the following links establishing our board and the Technical College System of Georgia:

[§ 20-4-10. State Board of the Technical College System of Georgia established; members; officers](#)

[§ 20-4-14. Technical College System of Georgia established; powers and duties](#)

*Kathy T. May*

**Coordinator of Academic Services  
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