



Demystifying State Authorization Policies

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What Institutions Have Done

Common Myths

The Federal Regulation

The State Regulators

Reciprocity

What Should You Be Doing Now?

QUESTIONS



Common Myths Debunked

▶ **MYTH:**

- ▶ “The federal rule was vacated, so I don’t have to worry about state authorization.”

▶ **FACT:**

- ▶ The revocation of the federal rule had no impact on state law. And there are alternative means for ED to trip up institutions that are not complying with state laws.

Common Myths Debunked

▶ **MYTH:**

- ▶ “I don’t have to worry about state authorization until 2014 because the Dept. of Education issued an extension.”

▶ **FACT:**

- ▶ The Dept. of Education extension only applies to federal enforcement of the “on-ground rule” and does not alter state laws.

Common Myths Debunked

▶ **MYTH:**

- ▶ “I do not need to be authorized in a state if the only students I have in that state are on military bases.”

▶ **FACT:**

- ▶ Only a very small handful of states exempt institutions enrolling only students on military bases. Most will require institutions to be authorized if they meet they meet the physical presence test.

Common Myths Debunked

▶ MYTH:

- ▶ “I do not need to be authorized in a state if I only have one or two students enrolled there.”

▶ FACT:

- ▶ Only a couple of states have a *de minimis* test that exempts an institution with a small number of students. Usually, it does not matter if you have 1 or 100 students in the state.

Common Myths Debunked

▶ **MYTH:**

- ▶ “I don’t need to worry about state authorization, because reciprocity is right around the corner.”

▶ **FACT:**

- ▶ Even if reciprocity stays on schedule, large scale adoption by states is years away. And some states (usually the most difficult) will likely never participate. And that means that institutions in those states cannot participate.

Common Myths Debunked

▶ **MYTH:**

- ▶ “No one ever gets in trouble for not getting authorization in a state.”

▶ **FACT:**

- ▶ Penalties are becoming more common. Most often, these consist of cease-and-desist letters, forced teach-outs, enrollment freezes, and fines. Some states even provide for criminal penalties, although these are rarely applied.

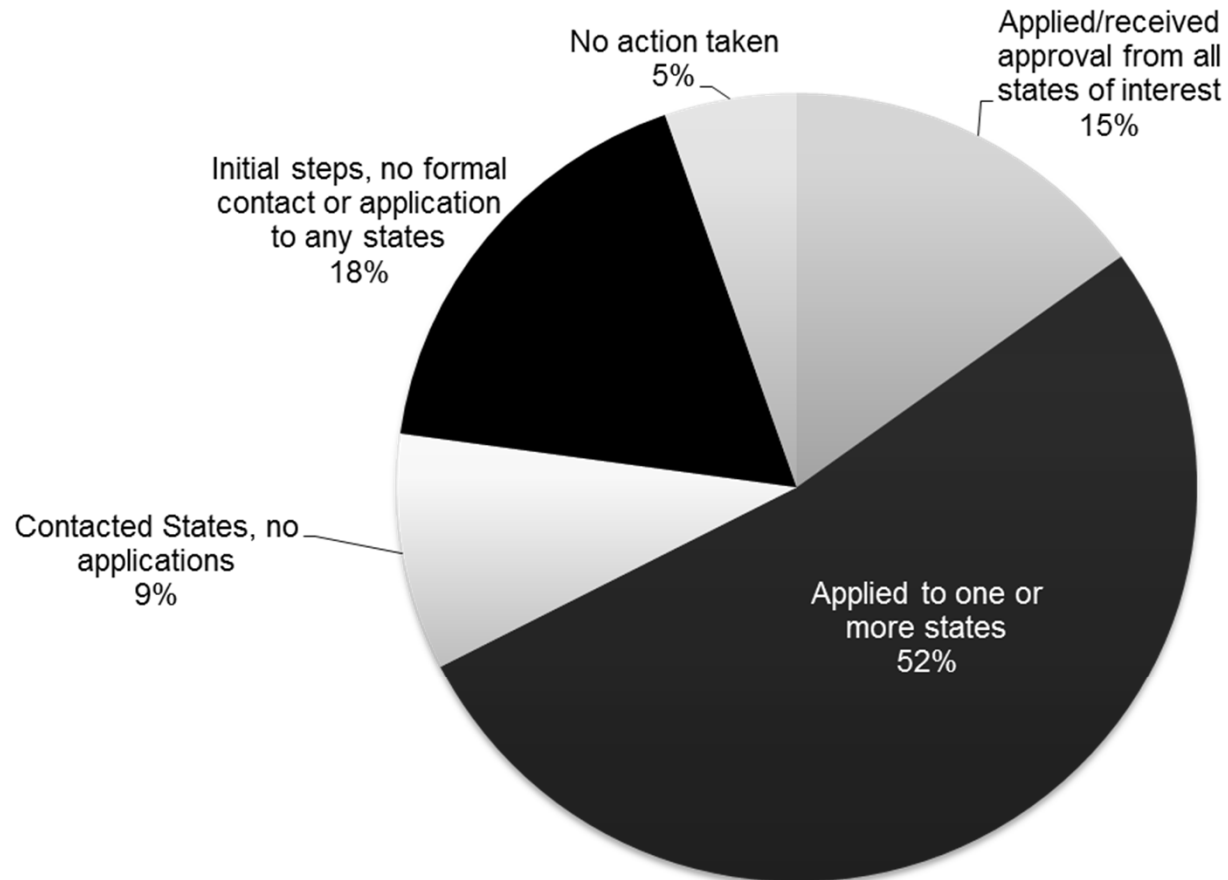
What has your institution done (or not done) on state authorization?

- 1) No action taken.
- 2) Initial steps, no formal contacting a state.
- 3) Contacted states, no application.
- 4) Applied to one or more states.
- 5) Applied/received ALL authorizations.

http://wcet.wiche.edu/wcet/docs/state-approval/UPCEA/2013UPCEA-WCET-SloanCStateAuthorizationReport_FULLL.pdf

What has your institution done (or not done) on state authorization?

2013



The Federal Regulation Chapter 34, § 600.9(c)

"If an institution is offering postsecondary education through distance 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..."

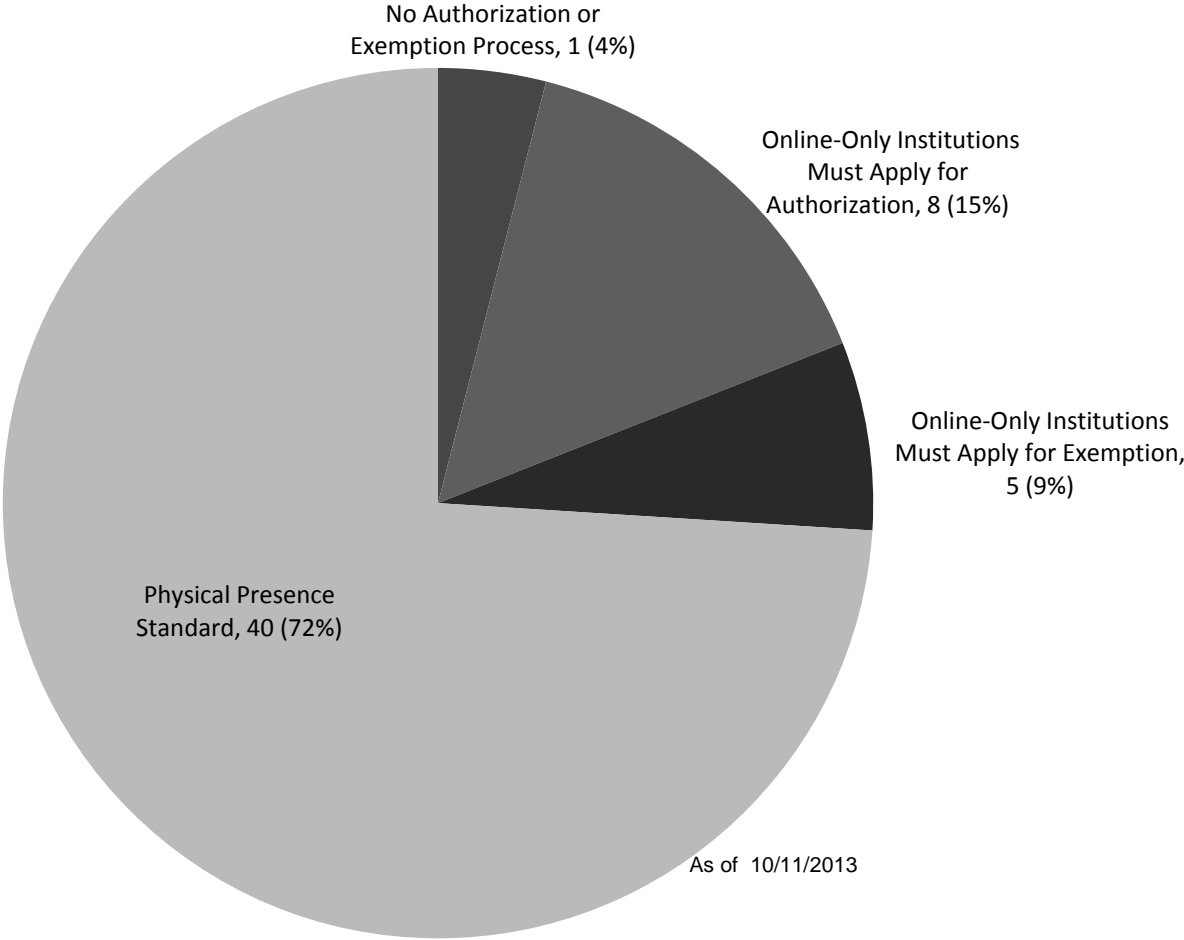
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The Federal Regulation Chapter 34, § 600.9(c)

“...the institution must meet any State requirements for it to be legally offering distance or correspondence education in that State. An institution must be able to document to the Secretary the State’s approval upon request.”

<http://tinyurl.com/mazquyl>

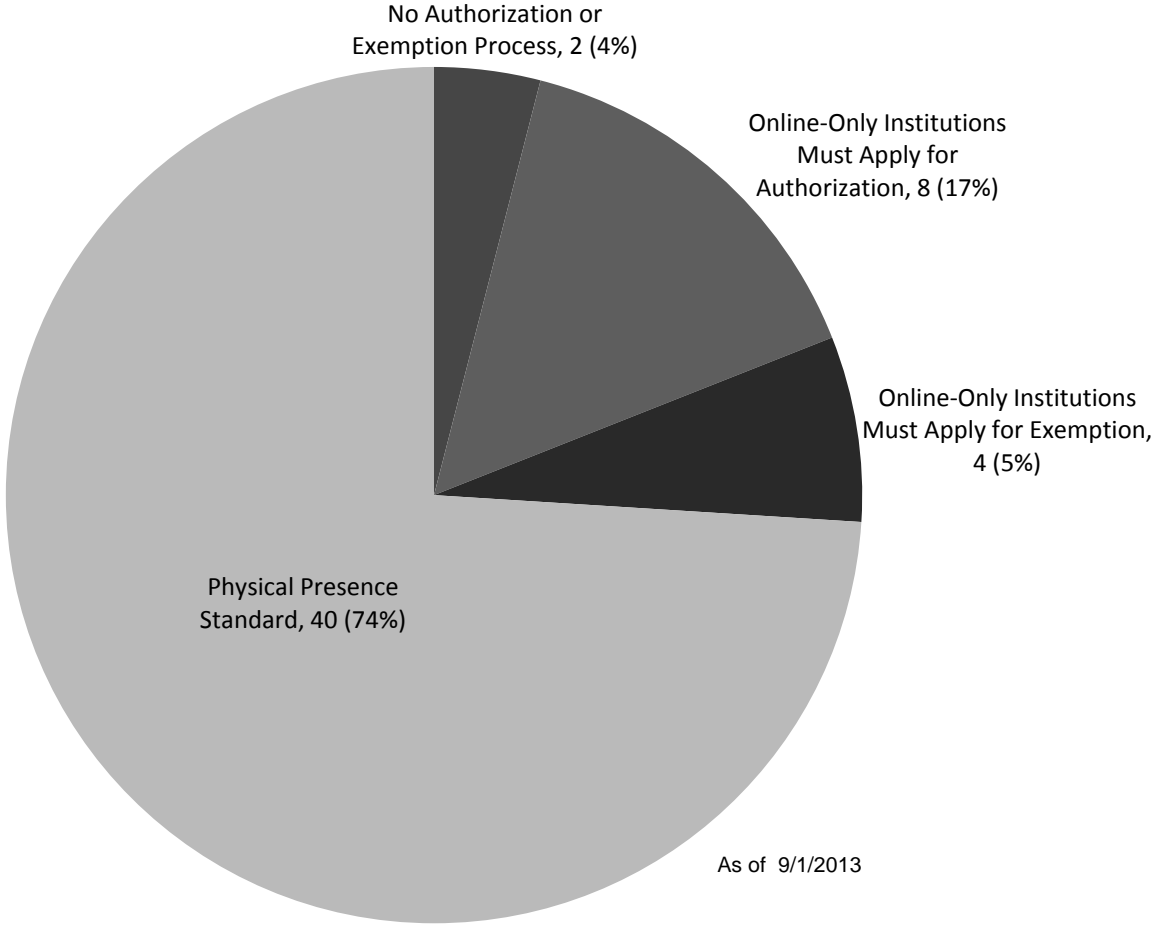
Authorization Standards for Degree-Granting Online Institutions by State



States Where Purely Online Degree Institutions Must Be Authorized

- ▶ Alabama
- ▶ Arkansas
- ▶ Iowa
- ▶ Maryland
- ▶ Minnesota
- ▶ Montana
- ▶ Wisconsin
- ▶ Wyoming

Authorization Standards for Non-Degree Online Institutions by State



States Where Purely Online Non-Degree Institutions Must Be Authorized

- ▶ Alabama
- ▶ Iowa
- ▶ Montana
- ▶ Nebraska
- ▶ New Hampshire
- ▶ Texas
- ▶ Wisconsin
- ▶ Wyoming

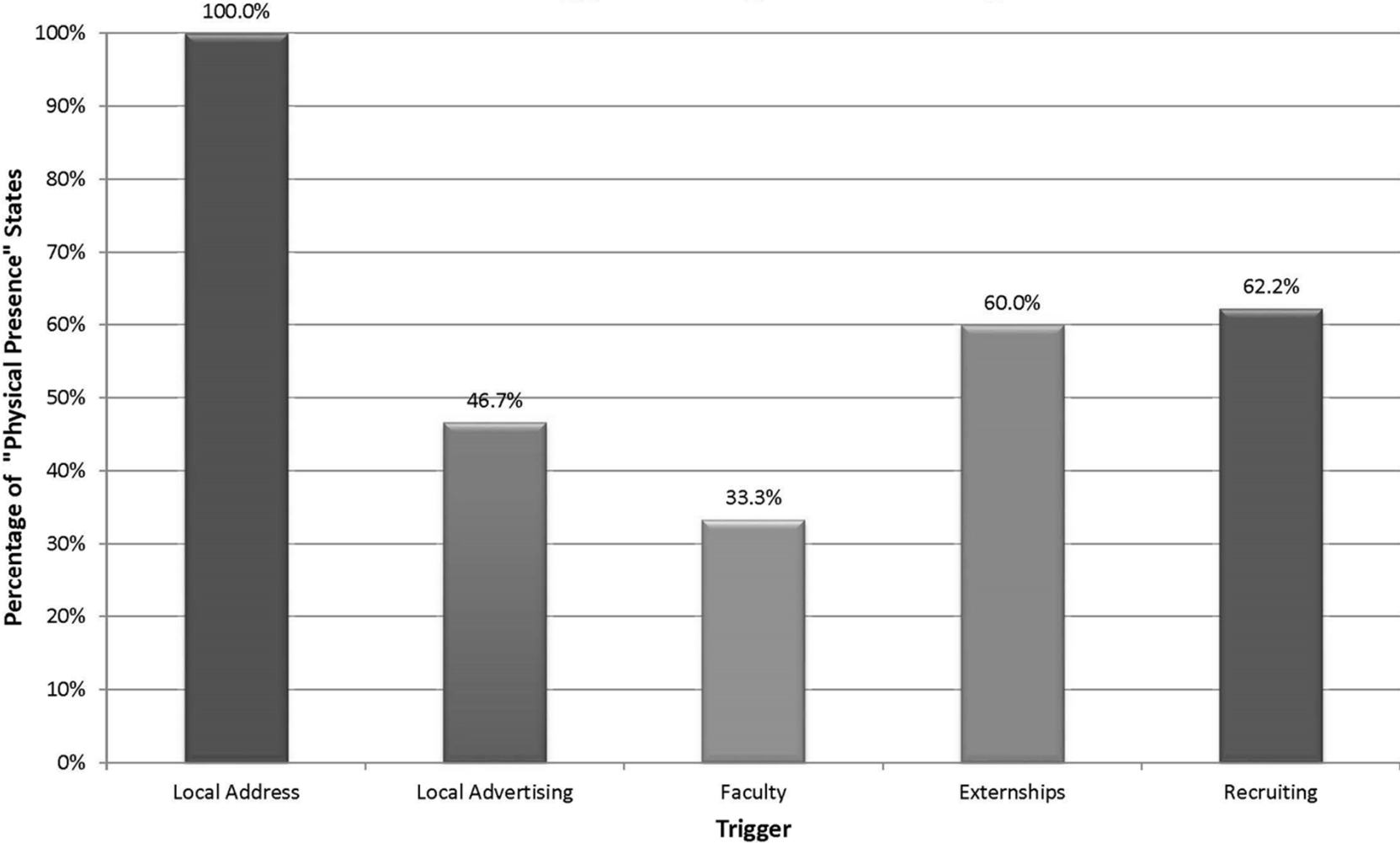
Which States Require Authorization?

- ▶ Other states do not require authorization, but exclusively online programs must obtain an exemption:
 - ▶ Alaska
 - ▶ Illinois
 - ▶ North Dakota
 - ▶ Oregon
 - ▶ Utah
- ▶ Most states (approximately $\frac{3}{4}$) still require some level of “physical presence” to trigger licensure

Determining Physical Presence – The Most Common “Triggers”

- ▶ Local Address/Site
- ▶ Local Advertising
- ▶ Faculty
- ▶ Externships
- ▶ Recruiting Activities (usually on ground)

Physical Presence Triggers - Degree-Granting Institutions



As of 1/17/2013

Get authorization where necessary

- ▶ No cease and desist letters
- ▶ No surprises when a student graduates and then can't get licensed in a state because of lack of authorization
- ▶ Understand the world of professional licensure

Florida

State Agency	Commission for Independent Education					
Jurisdiction	Degree-granting Institutions			Non-degree Institutions		
	Public	Private non-profit	Proprietary	Public	Private non-profit	Proprietary
	Yes	Yes	Yes	Yes	Yes	Yes
Authorization for an Exclusively Online Program	No					
Physical Presence Triggers	Local Address	Local Advertising	Faculty	Externships	Recruiting	
	Yes	Yes	No*	Yes*	Yes*	
Formal Requirements	<p>Institutions must obtain approval from the CIE if they operate in the state. "An institution operates in Florida if it: (a) maintains for any purpose related to offering a degree, diploma, or credit a physical location in Florida, a mailing address in the state, a telephone or facsimile number in the state, or a mail forwarding service or telephone answering or relay service in the state or advertising any such presence; or (b) by any means or device, facilitates in Florida any part of a scheme to offer a degree, diploma, or credit, or any activity connected with the administration, promotion, recruitment, placement, instruction, fee collection or receipt, or any other function of a purported independent postsecondary educational institution." <i>Fla. Stat. Ann. § 1005.02(14)</i></p>					
Staff Guidance	<p>If faculty meet face-to-face with students in the state, authorization is required. Programs with only externship activities or limited recruiting may not need to obtain approval. Reviews for such programs are on a case-by-case basis. Sporadic recruiting in the state does not require authorization.</p>					
Agency Contact	<p>Address any questions to Samuel Ferguson, Executive Director; but, send the question to Susan Hood at 850-245-3206, susan.hood@fldoe.org</p>					
Web Access	<p>For regulations: http://www.fldoe.org/cie/rulesandlaw.asp For forms: http://www.fldoe.org/cie/nsa_app1.asp</p>					
Approval Processing Time	6 months					
Approval Process Overview	<p>Register as a corporation with the Secretary of State. Submit complete application and any additional information CIE staff requests.</p>					
Initial Fees	<p>Varies based on institutional characteristics. See http://www.fldoe.org/cie/pdf/chapter6E_rules.pdf</p>					

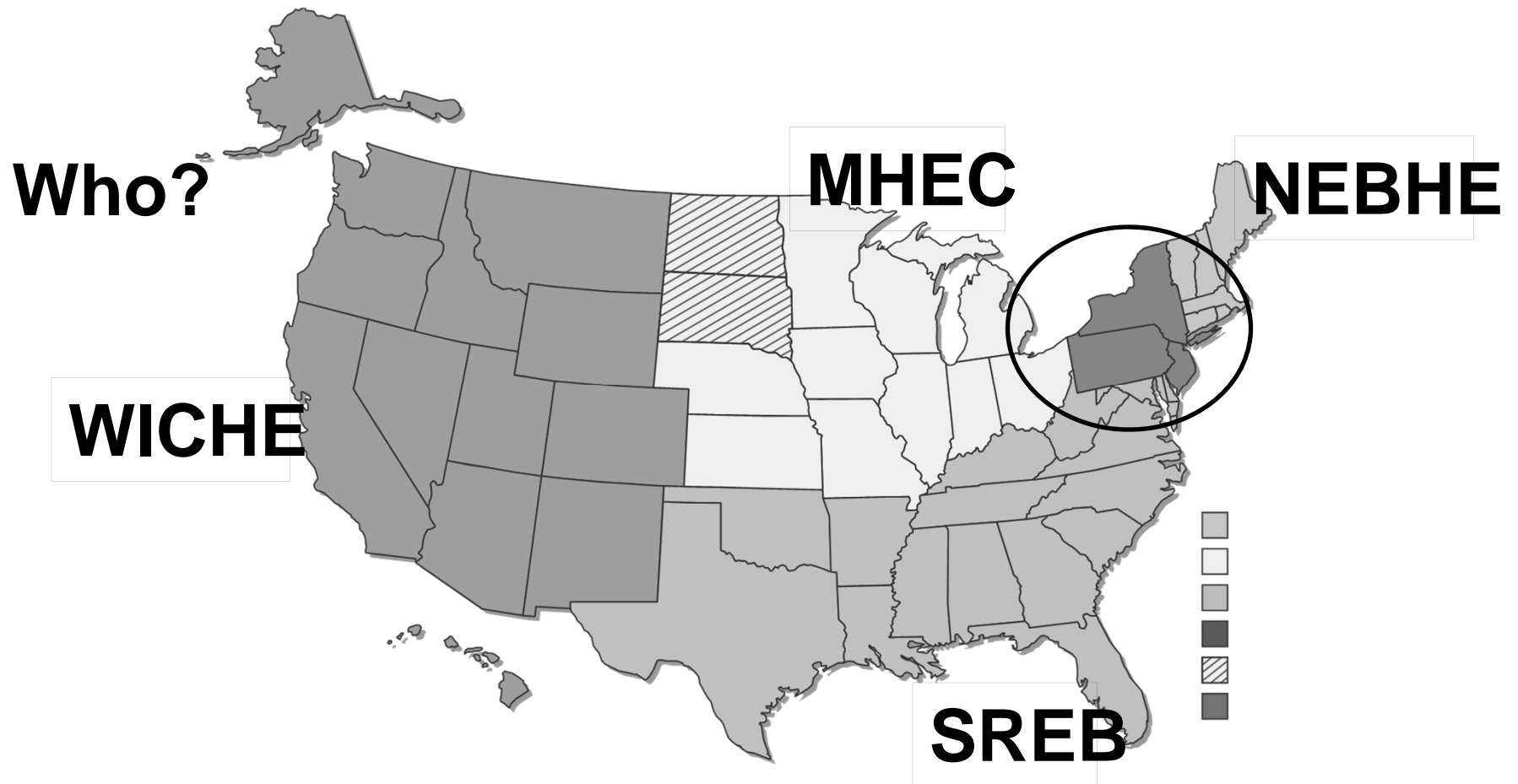
State Agency	Commission for Independent Education
Renewal Fees	See http://www.fldoe.org/cie/pdf/chapter6E_rules.pdf
Authorization Period	1 year
Student Complaint Contact Information	Florida Commission for Independent Education 325 W. Gaines Street, Suite 1414, Tallahassee, FL 32399-0400 http://www.fldoe.org/cie/complaint.asp
Legislative & Regulatory Developments	None

Nebraska

State Agency	Board of Nursing	
Contact	Sheila Exstrom. Nursing Education Consultant 402-471-4917, Sheila.exstrom@nebraska.gov	
Web Access	Agency: http://dhhs.ne.gov/publichealth/Pages/crl_nursing_nursingindex.aspx Regulations: http://dhhs.ne.gov/Pages/reg_t172.aspx	
Programmatic Approval Required?	Required for institution to offer online Post-RN programs?	Required for institution to offer clinical experiences?
	No	No, but faculty must be licensed in NE or licensed in a Compact state.
Program Approval Process	Institutions offering online post-licensure nursing programs do not need to be approved in the state.	
Program Requirements for Advanced Licensure	<p>Students are eligible to become licensed as Advanced Practice Registered Nurses (APRN) in Nebraska. Applicants must be currently registered nurses in Nebraska, must have completed a master's or doctoral degree, and must have passed an approved credentialing examination. If applicants do not have 2000 hours of supervised practice as an APRN and cannot demonstrate 45 hours of coursework in pharmacotherapeutics, advanced health assessment, and pathophysiology or psychopathology, they must apply for "jointly approved protocols" with a collaborating physician. When these requirements are complete, APRNs will be eligible for full practice. A list of approved certifying examinations is in the regulations.</p> <p>Specializations: Certified Nurse Practitioner, Clinical Nurse Specialist, Certified Nurse-Midwife, Certified Registered Nurse Anesthetist</p>	
Staff Guidance	Nebraska is a member of the Nurse Licensure Compact, which allows registered nurses in member states to practice in Nebraska and faculty members from those states to oversee clinical experiences.	

State Agency	Board of Nursing
Institutional Authorization	No, unless the institution has a physical presence beyond enrolling students into an online program with a clinical component.
Legislative and Regulatory Updates	None

State Authorization Reciprocity Agreement (SARA)



State Authorization Reciprocity Agreement (SARA)

Which Institutions may join?:

- ▶ Institutions located in participating states
- ▶ Regionally or nationally accredited institutions
- ▶ Degree-granting institutions

State Authorization Reciprocity Agreement (SARA)

Institution Can:

- ▶ Advertise
- ▶ Offer distance courses / programs.
- ▶ Have faculty/employees in a state.
- ▶ Conduct proctored exams in a state.
- ▶ Serve military on bases/posts.
- ▶ Offer (non-licensure) field experiences.

State Authorization Reciprocity Agreement (SARA)

Institution Can NOT:

- ▶ Conduct field experiences in licensure programs without proper approvals.
- ▶ Establish a physical location.
- ▶ Establish administrative offices.

What should our institution do now?

- ▶ Don't Wait for State Reciprocity!
- ▶ Create an institutional plan to move forward with state authorization
 - ▶ Minimize the "Silo Effect"
 - ▶ Discuss Best Practices with other institutions
 - ▶ Join organizations to help with information sharing
 - ▶ WCET State Authorization Network (SAN)
 - ▶ National Association of State Administrators and Supervisors of Private Schools (NASASPS)

Dealing with State Agencies

- ▶ Do your homework before contacting any agency:
 - ▶ Read rules
 - ▶ Read any guidance the agency may have already published on its website
 - ▶ Consider the programs that will be offered
 - ▶ Consider the physical presence triggers that you may have, if any
- ▶ Most state regulators are reasonable people
- ▶ Email is the method preferred by most state regulators

- ▶ Once you have made initial contact:
 - Consider the length of time required for your application and approval process in determining when and where to apply
 - Check back with states you haven't heard from with a friendly follow-up email
 - Try a phone call as a follow-up
 - Single point of contact is best

Contact Information



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