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**Memo to: College Presidents and Superintendents, Accreditation  
Liaison Officers, Chief Instructional Officers**

**From: Barbara Beno, President** *Barbara A Beno*

**Subject: New Federal Regulations Regarding State Authorization**

The U.S. Department of Education issued new regulations regarding State Authorization of distance education programs earlier this year. The federal government is requesting states to play a larger role in assuring the quality of higher education. The new regulations on State Authorization are part of that request. Section 600.9(c) of the new state authorization regulation requires institutions offering distance education programs to: (1) meet any state requirements necessary to be legally offering postsecondary distance education in that state, and (2) upon request, document to the secretary the state's approval.

Many member institutions have asked the ACCJC questions about the requirements outlined in these regulations. The ACCJC, along with other regional accrediting commissions and the American Council on Education (ACE), has made its concerns about these regulations known through letters to the U.S. Department of Education as well as letters to members of Congress. The Department of Education has provided some written clarifications of the regulations. The Council of Regional Accrediting Commissions (C-RAC) had a face to face discussion about the new regulations with Assistant Secretary Eduardo Ochoa in February, and WASC held a conversation with the Assistant Secretary in April. Also in April, ACE sponsored a conference call with Assistant Secretary Ochoa and others from the Department, seeking further dialogue on the regulations. Nevertheless, and despite the Department of Education's attempts to provide clarifications that might fully address concerns, the higher education organizations still have concerns that the regulations as written are problematic and will have unintended negative consequences for some of the students who are enrolled in distance education at legitimate institutions. The new requirement that institutions seek state authorization from each state in which the institution's students reside appears to be very challenging for institutions to meet.

This issue is largely *not* an accreditation issue. The Department of Education, in one of its clarifications, has indicated that accreditors will not be responsible for policing an institution's achievement of state authorization from all relevant states. However, state authorization is ultimately a program integrity issue, and an institution's failure to get appropriate state authorization could be one factor in any accreditor's examination of the quality of distance education.

The ACCJC has been placing information regarding the new federal regulations, and specifically the topic of state authorization, on the President's Desk on the ACCJC website at: <http://www.accjc.org/presidents-desk> . You can find several links to documents of interest here, including letters from ACE (to which ACCJC is a signatory) to the Department of Education seeking clarification of the meaning of the regulations; letters from ACE to members of Congress seeking Congressional intervention; letters from the Department of Education attempting to provide clarification of the regulations; and a link to the State Higher Education Executives Organization website which has just posted a comprehensive list of state agencies that exist and that might provide state authorization to institutions. You can best follow this ongoing national discussion by reading in chronological order. The newest documents are nearest the top. We hope you will find this information useful.

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