

GOVERNMENT AND REGULATORY AFFAIRS

BLAST

State Authorizations for Distance Learning: Program Integrity and Improvement Regulations

August 2017

STATUTE/REGULATION SOURCE

United States Department of Education
“Program Integrity and Improvement”; Final Regulations; 34 CFR Parts 600 and 668

BRIEF DESCRIPTION

In 2010, the U.S. Department of Education (USED) linked the eligibility of distance education programs for Title IV student aid to state licensure.

This rule required colleges and universities offering on-line courses in any state for any number of students to be authorized to do so by those states. Although compliance was set for 2014, intent to comply was set for July 1, 2011. The outcry from colleges and universities because of unknown state fees and the internal cost of a bureaucracy to monitor and assure state-by-state compliance was enough to delay passage.

However, Pandora’s Box had been opened. Some states already had authorization requirements and associated fees, while other states now had a new revenue stream identified for them by Congress.

In December, 2016, USED released renewed federal regulations for “State Authorization of Postsecondary Distance Education, including Foreign Locations” effective July 1, 2018 for colleges and universities that participate in federal financial aid programs. This new date could be delayed again by Congress, this time as a result of the Trump administration targeting the regulation for repeal.

Until such that time as the regulation may be repealed, the new rules also require distance learning courses offered in foreign countries to be authorized by the appropriate foreign government agency, the courses approved by the institution’s accrediting agency, and similar to the previous rules, distance education courses have to be authorized by the state where the main campus is located.

POTENTIAL/ACTUAL IMPACT

Institutions offering distance education courses inside and outside the United States will incur the cost to comply with each state’s and foreign country’s authorization requirements.

EXAMPLE

If the regulation is not repealed, colleges and universities offering distance education courses and receive Title IV Student Aid funds must be authorized by every state and foreign country in which it offers distance education courses.

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ACTION

The following is an edited summary of the major provisions of the regulation as it appeared in the CFR¹:

- Require an institution offering distance education courses to be authorized by each State in which the institution enrolls students
- Require an institution to document the State process for resolving complaints from students enrolled in programs offered through distance education e authorized by an appropriate government agency of the country where the additional location or branch campus is located and, if at least half of an educational program can be completed at the location or branch campus, be approved by the institution's accrediting agency and be reported to the State where the institution's main campus is located.
- Require that institution disclosures to enrolled and prospective students regarding its programs offered solely through distance education courses.

It is critical to make the federal and state laws and fees affordable and manageable for colleges and universities so that students will continue to have access to distance education. With this goal in mind, the Western Interstate Commission for Higher Education (WICHE) has taken the lead in creating the National Council for State Authorization Reciprocity Agreements (NC-SARA).

As stated on the WICHE website, "Through reciprocity, an institution authorized under SARA criteria in its home state would be considered authorized in all other SARA states. As of January 1, 2017, forty-seven states and the District of Columbia have been accepted into SARA."

SOURCES AND REFERENCES

For more information on this topic, visit

- WICHE
<http://www.wiche.edu/sara>
- National Council for State Authorization Reciprocity Agreements
<http://nc-sara.org/>
- NACUBO: ED Finalizes State Authorization for Distance Education Rules; January 5, 2017:
http://www.nacubo.org/Business_and_Policy_Areas/Student_Financial_Services/Student_Financial_Services_News/ED_Finalizes_State_Authorization_for_Distance_Education_Rules.html
- Department of Education, Program Integrity and Improvement; Final Regulations: CFR: <https://www.gpo.gov/fdsys/pkg/FR-2016-12-19/pdf/2016-29444.pdf>
- Federal regulations for State Authorization of Postsecondary Distance Education, Foreign Locations, and effective date: July 1, 2018: <https://www.gpo.gov/fdsys/pkg/FR-2016-12-19/pdf/2016-29444.pdf>

¹Note: Distance education courses include online and correspondence courses. This document is not legal advice.

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