



## **WCET Webcast: What are Institutions Doing (or NOT Doing) About State Authorization?**

### **Questions that Were Unanswered During the Webcast**

*Brian Ormand, NMSU*

12:55 PM

#### **What if they have PO Box address in both (multiple) states?**

The mailing address makes no difference. The student's official state of residence (where they vote or where they hold a driver's license) makes no difference. What the institution needs to determine is the state where the student will primarily receive instruction as it is that state's consumer protection laws that will take effect, if needed. We understand that this determination can vary greatly by each student's situation and the local state laws, but institutions are still responsible to determine where the student will be receiving instruction. The institution is expected to have the proper approvals in place before recruiting or enrolling the first student in a state.

*Bob #2*

12:57 PM

#### **Please repeat the sanctions for failing to register.**

If the federal regulation is reinstated, the sanction will be for the institution to repay all the federal financial aid paid to the students over several years. The number of years will be determined by the USDOE. Also, the institution may be subject to additional penalties if they are flagrantly in violation of this and/or other regulations.

The states vary greatly in their penalties. It usually begins with a cease-and-desist order and can be followed by fines. One of the greatest threats that a regulator can use is the press. If the regulatory agency informs the local press in its state, then the institution's market will be undermined. If the regulatory agency informs the press in the state in which the institution is located, that could also cause local issues. This is especially true if you are a public institution.

*Bob #2*

12:58 PM

### **What if the federal post/base is annexed as part of a municipality?**

If the federal post/base is part of a municipality, then my assumption is that it is no longer a federal reservation. If that is the case, then state laws are applicable to any military personnel residing on that post/base. Only posts/bases that are federal reservations are exempt from state regulations.

*Trina*

1:04 PM

### **Any suggestions for developing/maintaining relationships with state regulators/agencies - recognizing the increased amount of time and attention to this process?**

The regulators have found their workloads to have increased exponentially too, but the ones we have dealt with have been friendly, patient, and genuinely interested in helping institutions seek compliance. The regulator's jobs are to communicate their state's laws and ensure institutions are in compliance as a means of protecting the students in their state. Don't forget, the regulators didn't create the regulations, they are just enforcing them. To build relationships with the regulators we suggest the following:

- 1- Understand the state regulations and procedures for seeking compliance.
- 2- Use the resources they have available on their agency websites.
- 3- Contact the regulator with specific questions after you have done your research.
- 4- Be honest and open about how your institution is operating in their state.

Read more about how to seek authorization and build relationships with the regulators in the [WCET blog](#).

*Alba*

1:05 PM

**We are nationally accredited and licensed in our home state. Outside of our home state we offer only distance education and do not target any specific state for advertising, based on our research state approval is based on the definition of "presence". Based on our research we only meet the definition of "presence" in 7 states and are seeking approval in those states. Does that sound reasonable?**

Yes, this does sound reasonable. Many institutions are concerned that they must be registered in every state, when in fact, in many states if the institution doesn't have a physical presence or conduct advertising, they will not need to seek authorization. However, there may be states such as UT and AK that you will need to apply for an exemption if you have any students in those states.

Be sure to check that your understanding of "presence" matches that of each state in which you are enrolling students. "Presence" is not just having a building or renting space in a state.

Some states have additional “triggers” such as: advertising to students in a state (newspapers, radio ads, tv ads, targeted web ads), direct mailings, having an employee in the state (recruiter, adjunct faculty), requiring students to take a proctored test in the state, or having a server in a state may require you to seek approval.

*Brian Ormand, NMSU*

1:06 PM

**What are the chances that an "entity" will emerge that will work on becoming the accepted agent by all/most states that can offer schools legwork service to provide authorization for all or some of the states (50+, 45+, etc.) based on a consolidated fee (maybe agent negotiated lower fees as volume agent)?**

Eduventures and the Dow Lohnes law firm are consulting with institutions on a fee basis to assist them with approval. We don't believe that this is on a consolidated fee basis.

WCET's State Authorization Network has helped to educate systems and institutions on the latest news in seeking approval. Members share information on what they have learned, including that some systems have been able to negotiate lower fees from some states by applying in a coordinated way.

*Shari Ayers*

1:06 PM

**For those who believed they had exemptions based on religious affiliation and focus of the institution, were those institutions regionally and state accredited in their own states?**

We did not ask whether institutions were accredited or not in the survey, so we don't know. Since primarily UPCEA and WCET members responded, they likely were accredited.

Our research has shown that religious institutions are exempted usually only if all they offer is religious studies. If they offer degrees or certificates in non-religious fields (business, history, etc.), then they are no longer exempt.

*Jeff Linek-Georgia Highlands College*

1:12 PM

**Is not this regulation in conflict with ADA? What if a disabled student from another state selects your college because you can accommodate their needs best? Would you be forced to pay the fees and get approval from the student's home state?**

Your institution is required to follow the state laws of that student's home state. If that is the only student that you are serving in a state, you could talk to the regulator about an exemption. There is not guarantee that you will be granted one.

*Danielle at Purchase College*

1:14 PM

**Regarding state compliance, what generally are their deadlines?**

Each agency is different. Most do not have deadlines, however, a few only review applications quarterly. They do expect that you are authorized prior to accepting students, although they are aware that this isn't always the case. The SHEEO/NCHEMS report will be released shortly which will include this information, the report will be available [here](#).