

February 7, 2018

Frank Brogan
Acting Assistant Secretary of Postsecondary Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Dr. Brogan,

Thank you for the opportunity to meet with you and your team at the U.S. Department of Education. I appreciate your interest and willingness to listen to a discussion about critical issues on accreditation and distance education. To follow up on our discussion on state authorization, my colleagues and I respectfully would like to bring to your attention concerns in the higher education distance education community regarding the USDE's rules on state authorization of distance education set to go into effect July 1, 2018 (34 CFR -- Sections 600 and 668). Those of us who represent major postsecondary distance education organizations receive many questions about implementing the rules. The institutions we represent clearly desire to comply with the rules, but are struggling with how to prepare to do so.

Compliance with the new rules will be a costly and burdensome effort for most colleges and universities that offer distance education. These institutions need a clear understanding of USDE's expectations. Specifically, the rules require institutions to provide (for each state where students are enrolled in distance education programs) public and individualized disclosures of state authorization status for every state, complaint resolution processes for every state, and details on state licensure eligibility for every discipline that requires a license to enter a profession (e.g., teaching, counseling, dietician, nursing). The rules also require institutions to comply with refund policy requirements for each state where students are enrolled, regardless of membership in the State Authorization Reciprocity Agreements. Clarification is needed on the USDE's desired format for the disclosures. Another area of concern is that issue is that the regulation defines "residence" in a way that conflicts with state laws and common practice.

The U. S. House of Representatives' draft of the PROSPER Act would remove those rules and forbid issuing future regulations on the topic. But even if the removal of state authorization is included in future HEA reauthorization legislation, reauthorization is highly unlikely to occur before July 1, 2018, when the rules go into effect. The U.S. Department of Education could (1) delay the rules and submit the issues to additional negotiated rulemaking or (2) issue clarification via a dear colleague letter on USDE's expectations for compliance. A third option would require Congress to take action to delay or suspend implementation. Otherwise, the rules will go into effect, as written, with the potential for broad misunderstandings.

Institutions that know the most about these issues are the most concerned. WCET's State Authorization Network includes 700 institutions. (WCET is an acronym for the WICHE Cooperative for Educational Technologies.) Institutional participation in the State Authorization Reciprocity Agreement (SARA) now includes about 1,750 institutions from the current 48 SARA member states (plus the District of Columbia and the U.S. Virgin Islands). DEAC (the Distance Education Accrediting Commission) accredited institutions are a part of the WCET and SARA communities. Our institutions want to comply with the regulatory environment, but many questions remain.

Thank you for your consideration. If there is any way we can provide assistance or further details, we would be pleased to do so.

Sincerely,



Russell Poulin
Director, Policy & Analysis
The WICHE Cooperative for Educational Technologies



Marshall Hill
Executive Director
National Council for State Authorization Reciprocity



Leah Matthews
Executive Director
Distance Education Accrediting Commission