

Frequently Asked Questions (FAQs)

Note: clarification on many issues is still being sought. Please use this document as a reference, but conduct due diligence to ascertain the appropriate implementation for your institution. Direct questions/comments to Dr. Rissa Potter, Executive Director, Council of Public University Presidents & Chancellors, rpotter@cpupc.org . This page will change as updates become available (last edit: [August 5, 2011](#)).

GENERAL

With accreditation processes in place, why is state approval needed?

According to the U.S. Department of Education, the accreditation process assures quality of the institution while the state approval integrity process provides for consumer protection.

What is “physical presence”?

This definition is left to state law and varies greatly from state-to-state. A state may include such things as clinical rotations, internships, and students taking online courses. Other activities are “trigger activities” that may require your institution to apply, such as advertising in the local media, direct advertising to students in the state, proctored tests in the state, and/or hiring an adjunct faculty person or other employee (such as a recruiter) in that state.

What is “gainful employment”?

You may refer to Federal Information for Financial Aid Professionals (IFAP) at <http://www.ifap.ed.gov/ifap/> (see “Gainful Employment” on the right).

Can a system office facilitate this process for the institutions within a system?

Yes and no. Some states are encouraging system offices to make application on behalf of the institutions within their system so the state office can work with one entity. There is some encouragement that this may lead to fewer applications and reduced cost. However, each institution must be mentioned by name in the application process as the regulation requires that each institution, not a system, be approved by the state.

What is the penalty if a university is found to be out-of-compliance?

Penalties for not obtaining state authorization for distance education will be levied by the states. These vary from a flat fee to reimbursing tuition and fees to students in the applicable state. Penalties for not having contact information for complaints can be imposed by the Department of Education.

What is the deadline for compliance?

July 1, 2011 was the deadline for the complaint contact information. Some states require that universities seek approval prior to registering students, with annual updates.

When will the U.S. DOE audit this state approval process?

The Department will probably audit this new regulation when they are conducting financial aid program review on your campus. The Department could also request evidence for compliance if a complaint reaches the Department.

We have agreements with universities in other states for various academic activities. Will these agreements meet the requirement?

No, these agreements are between institutions. You must have approval from the state in which these activities take place.

There are some states where we are considering not to enroll their students. How should we proceed?

Institutions should consult their legal counsel regarding decisions not to comply with state requirements. This is not likely to be a problem with states where there are no students enrolled, as there is no reason for compliance. However, as institutions weigh compliance requirements with the number of students enrolled in each state, the potential is very real to decide not to accept students into a program or to discontinue internships/clinicals in a certain state. Be sure to notify the appropriate people on campus should the institution decide not to seek compliance with a given state.

What do we do if we have enrolled students residing in a state that the university chooses not to seek approval?

The university can begin a “teach out” process to allow the enrolled students to complete their course/degree without stopping out. The university should notify the appropriate agency in that state of the “teach out” process. Additionally, the university should notify the student of their commitment to assist the student in completing their degree program (which likely will require continuous enrollment) and share the teach-out plan with the student.

What is the status of reciprocity agreements?

Several national and regional entities are working to formalize reciprocity agreements, but they are not ready at this point.

What do other states need to do with regard to compliance in Texas?

The Texas Higher Education Coordinating Board is working with the Texas Workforce Commission in identifying compliance procedures. Rules are scheduled to be presented at the October 2011 Board meeting.

COMPLIANCE/GOOD FAITH

This information is no longer relevant, as it was removed by the recent court ruling.

STUDENT POPULATIONS

Are there any exemptions?

There are no exemptions in the federal regulation. Any exemption would have to be in the individual state law.

How often is a student census conducted?

The student census is conducted annually based on enrollment and financial aid awards for the fall semester. Considerations regarding enrollment from additional states are not made until the next fall enrollment date.

What about students who are serving in the U.S. Military?

If a person is living on a federal military base and taking classes, then this is federal land and no state approval is needed. It appears at this time that if the student is living off-base and taking courses, then state approval is needed.

What about Tribal communities?

The answer is similar to the military. If the classes, internships, or clinicals are on Tribal reservations, then this is not state property and no state approval is needed. If however, the classes, clinics or internships are with the Tribal nation but not physically on the reservation, then state approval is needed.

How do I notify students in other states about submitting complaints to their state coordinating board?

An institution is not required to notify students individually. You may post the information on your website and refer students who are taking online courses or participating in clinicals or internships in other states where this information is located. One resource regarding complaints is provided by WCET, at <http://wcetblog.wordpress.com/2011/07/19/federal-student-complaint-regulation-%E2%80%93-clarifying-misconceptions/>

A list of state contacts was updated by SHEEO on July 12; this is posted at <http://www.sheeo.org/stateauth/Links%20to%20Complaint%20Process.pdf>

Please note our understanding that each institution must individually list these contacts on their website. Your website cannot link to a list of state complaint contacts (for instance, you cannot link to the SHEEO link above).

If students are seeking a degree from a Texas institution and live on campus during the year, but take one or two online courses during the summer when they are at their home residence, which is in another state, do we have to seek permission for them in their home state?

Two states have weighed in on this issue so far: Minnesota and Arkansas. George Roeddler, Manager of Institutional Registration and Licensing for Minnesota, said that he would consider this to be a student in residence at the out-of-state institution. If a student came home to Minnesota for the summer, he would not expect an out-of-state institution to seek approval just for that student. Moreover, George said he thought other states would agree with him on this topic. Arkansas has the same understanding.

Having said this, it comes back to this answer: "it depends on the state." Many states are not typically interested in just a course, but some are. WCET and SHEEO are working to compile information on other states about this issue.

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