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December 2023 State Authorization Updates & Information [1]

December 20, 2023 by erika.swain@cu.edu [2]

Happy December and End of the Semester!

I don't know how many people on this list are on the WCET-MIX listserv, but there's been some great (and frustrating) information coming in from the Department of Education regarding the most recent round of regulations released at the end of October. Cheryl Dowd, the Sr. Director for SAN, relayed parts of her conversation with Vanessa Gomez from the ED.

As you may remember from my emails or conversations on your campus or with colleagues at other institutions, there were some areas where the language wasn't entirely clear (shocker) regarding professional licensure programs, the timing of disclosures, and how the program's modality may or may not factor into this (hint: it doesn't, but we'll get to that).

One issue that came up in October was the confusing/conflicting language in 668.43(c)(1) [3] regarding direct disclosures for prospective students.

Specifically, one of the burning questions has been: what is required of us when a prospective student applies to a face-to-face program at the main/home campus? Is the institution required to make a direct disclosure to a prospective student if the curriculum does not meet or has not been determined to meet the state educational requirements in the student's home state, given that the student will be in the institution's state at the "initial time of enrollment"? For example, if a prospective student from Nebraska wants to come to Boulder for the on-campus teacher education program, is Boulder required to notify them that the program does not meet Nebraska's licensure requirements?

The ED's response was… well, something. (I'll use the states in my example above.)

According to the regulations, the institution assesses at the time of initial enrollment. In the example provided, the state of initial enrollment would be Colorado. Since the program is fully face-to-face (with no courses offered through distance education), this scenario would not apply.

Ms. Gomez explained that the ED is focused on a specific point in time: the *initial time of enrollment*. Essentially, this means that the institution does not owe a face-to-face prospective student a direct notification about their home state's requirements, as long as the student will be physically located in the institution's state at the initial time of enrollment and is not enrolled in a distance education course from a different state at that time.

So technically, after July 1, 2024, we are not required to notify students who will be coming to Colorado to enroll in a face-to-face professional licensure program. If you remember my

emails from October/November, I personally find this approach disingenuous. Boulder has opted to continue notifying prospective students applying to face-to-face programs that lead to professional licensure if our program does not meet the licensure requirements of the state where the student is located prior to enrollment. Why? Because this is the ED, and it's rarely that simple. Ms. Gomez's response included a caveat related to course modality within the program.

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Let's say, in this example, that the Nebraska student plans to attend Boulder for the teacher licensure program but takes an online class that begins before they arrive in Colorado. What happens here? Because Boulder's program does not meet Nebraska's licensure requirements, this scenario would mean:

1. The student would need to receive notification that the program does not meet Nebraska's licensure requirements,
2. The student would need to acknowledge this notification and indicate they understand and still wish to take the course, and they do not intend to seek licensure in Nebraska; and
3. If the student does not acknowledge this, we cannot admit them to the program.

For now, don't worry about the acknowledgment/intention part—I'm working with folks in admissions, financial aid, and the Registrar's Office to discuss possible processes, including document management that would be able to work on each campus. I'll be joining the CU Registrar's meeting on January 12 to discuss recent federal changes and request a definitive "initial enrollment" definition we can all use. More on these topics in 2024.

Now, let's address that looming question: "But it's only one course... the program isn't online...is it?"

Yup, it is. According to Ms. Gomez (and a DCL from 5/23 [4]), a program can only be considered strictly face-to-face if it includes no distance education components—meaning no courses offered through distance or correspondence education.

But what if the program is hybrid or hyflex? The ED does not recognize "hybrid" or "hyflex" as modalities; they only recognize on-ground/face-to-face, correspondence, and distance education. Anything else is an institution-created term for marketing purposes. If a program is designed for both in-person and distance education, it is treated as a distance education program under this and other federal regulations.

Ms. Gomez provided additional information on the new requirements in 668.14(b)(32) and how they only apply to the student's state at initial enrollment, although this could contradict disclosure requirements in 668.43(c), so I won't repeat it here. Remember: *to serve the student (i.e., provide education in the student's state), you MUST meet the state's requirements.*

Things to Consider:

- **LOCATION MATTERS.** Refine and document your process for determining a student's location. This should be a campus decision involving the registrar, financial aid (since 668.14 pertains to them), and admissions.

- **MODALITY MATTERS.** Who determines the course modality? Are faculty aware they can't change the modality mid-semester? For face-to-face licensure programs, what percentage of students take an online course in their first semester? What about later in the program?

To reiterate: for a prospective student located outside the institution's state who intends to participate face-to-face, the institution must notify the student prior to enrollment if the program does not meet or has not determined to meet licensure requirements in the student's home state. (34 CFR 668.43(c)(1))

Additional Insights from Ms. Gomez's Response:

- Regarding 34 CFR 668.43(c)(1), **disclosures are not limited to distance education students**. If an educational program is designed to meet specific licensure or certification requirements necessary for employment, the institution must provide a list of all states where the program does and does not meet such requirements. This requirement applies regardless of whether the program is taught via distance education.
- If an institution determines the program's curriculum does not meet or has not determined to meet licensure requirements in the student's state, the institution must notify the student prior to enrollment per 34 CFR 668.14(b)(32). Although this typically applies to distance education, it is not exclusive.
- If students are located in different states at initial enrollment, they should receive information on whether or not the program meets their home state's licensure/certification requirements. The ED expects institutions to inform students if they are located in states where the program does not meet such requirements, regardless of whether the students later relocate to the institution's state.

If you made it to the end—HAPPY HOLIDAYS AND HAVE A WONDERFUL NEW YEAR! I'll be out of the office until January 8, 2024, but please don't hesitate to reach out if you have questions!

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