



NPRM

34 CFR 668.14(b)(32)

What This Means for Institutions

June 1, 2023

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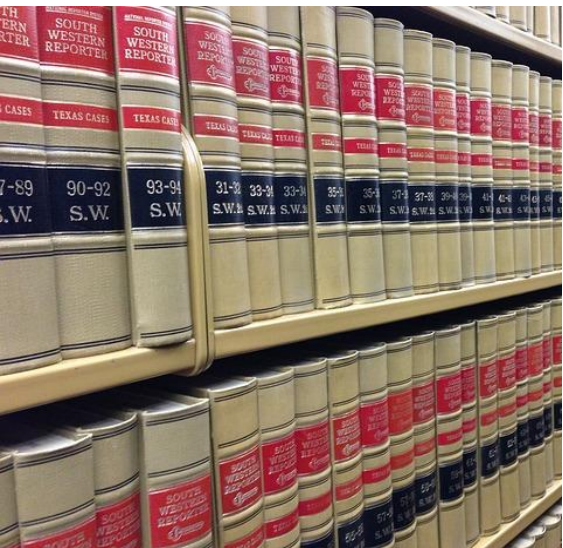
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Agenda

- 01. Proposed Rule Recap**
- 02. Strict Timeline**
- 03. What it will mean for institutions**
- 04. What should institutions do?**
- 05. Resources**

Proposed Rule Recap



Institutions provide affirmation in the Program Participation Agreement (PPA) to participate in Title IV HEA programs. 34 CFR 668.14(b)

(32) In **each State** in which the institution is located or in which **students** enrolled by the institution are **located**, as determined at the time of initial enrollment in accordance with 34 CFR 600.9(c)(2), the institution **must determine** that each program eligible for title IV, HEA program funds

- (i) Is **programmatically accredited** if the State or a Federal **agency requires** such accreditation, including as a condition for employment in the occupation for which the program prepares the student, or is programmatically preaccredited when programmatic pre-accreditation is sufficient according to the State or Federal agency;
- (ii) **Satisfies** the applicable **educational prerequisites** for professional licensure or certification requirements **in the State** so that a student who completes the program and seeks employment in that State qualifies to take any licensure or certification exam that is needed for the student to practice or find employment in an occupation that the program prepares students to enter; and
- (iii) **Complies** with all State consumer protection **laws related to closure, recruitment, and misrepresentations**, including both generally applicable State laws and those specific to educational institutions;

Strict Timeline

Governed by the [Administrative Procedure Act](#) (APA) (5 U.S.C. Chapter 5)

[U.S. Department of Education Rulemaking 2021-2022 Information Here!](#) Watch this SAN webpage for updates, resources, explanation of the rulemaking process. (Our primary issue: [Certification Procedures](#) addressing programs leading to a [professional license and reciprocity](#))

- Public Comment Deadline – June 20, 2023
- Final Regulations must be released by November 1, 2023, to be effective July 1, 2024.

New and Different Rulemaking!

[U.S. Department of Education Rulemaking 2023-2024 Information Here!](#) Watch this new SAN webpage for updates and resources (it appears topics will include: TPS, Accreditation, [State Authorization](#), and Definition of Distance Education).

- Waiting for call for nominations for negotiated rulemaking committee.
- Rulemaking committee to meet fall 2023/winter 2024.
- Must provide proposed rules subject to public comment.
- Must provide final rules by November 1, 2024, in order for new regs from this rulemaking to be effective at the earliest, July 1, 2025.

What it will mean for institutions

For Programs Leading to License or Certification:

- Institutions **must determine** the program **satisfies educational prerequisites** where the student is located at time of enrollment. 34 CFR 668.14(b)(32)(ii)
- Revise public notifications to indicate states where the **institution is aware** program does and does not meet requirements. 34 CFR 668.43(a)(5)(v)

No proposed changes to the individualized/direct notifications. 34 CFR 668.43(c).

However, be aware of new proposed definition of “prospective student” in 668.2. BUT the current regulation for direct notifications specifies “prior to enrollment in the program”.

What it will mean for institutions

To address state specific laws for educational institutions for authorization:

- Comply with SARA Policy to participate in reciprocity for state institutional approval for interstate distance education related activities in other SARA member states.
- Determine location of student at time of initial enrollment (as req'd by 600.9(c)(2))
- Determine and comply with state consumer protection laws related to closure, recruitment and misrepresentation in the states where the students are located at time of initial enrollment.
- Applies to generally applicable state laws and specific to educational institutions.

Participation in a reciprocity agreement does not satisfy the new requirement.

What Should Institutions Do?

1. Review [WCET Frontiers posts](#) and the [Information document](#) provided by the SARA Community.
2. Prepare to submit a public comment to the U.S. Department of Education.
 - Instructions to submit a public comment located in the [WCET Frontiers post Part 2](#).
 - Deadline for public comment submission is June 20, 2023.
3. Write public comment to include impact on students at your institution and ask questions, such as:
 - Ask for clarification of terms such as “closure, recruitment and misrepresentations”.
 - Ask about implications if the student changes location.
 - Ask how the Department intends to reconcile the inconsistencies in proposed language with the current regulations defining a state authorization reciprocity agreement and regarding the regulations requiring individual/direct notification for programs leading to a license.
 - Ask how the Department intends to be aware of, train, and enforce compliance with meeting state prerequisites for licensed professions and state consumer protection laws related to closure, recruitment and misrepresentation. What is considered evidence of compliance?
4. Continue to follow SAN, WCET, and SARA Community Resources. We will continue to gather information to assist institutions to manage compliance.

Resources

- [SAN Home Page – SEE NETWORK CONNECTIONS!](#)
- [ED’s New Proposed Regulations: Part 1, State Authorization Reciprocity;](#)
WCET Frontiers; 5/24/23
- [ED's New Proposed Regulations: Part 2, Changes for Programs leading to Professional Licensure;](#) WCET Frontiers; 5/25/23
- [Information about the U.S. Department of Education Draft Regulations Affecting SARA;](#) NC-SARA Website; 5/30/23
- [U.S. Department of Education Rulemaking 2021-2022 Information Here!](#) (Certification Procedures – Professional licensure and Reciprocity)
- [U.S. Department of Education Rulemaking 2023-2024 Information Here!](#) (New Rulemaking may include State Authorization)
 - [SAN & WCET Public Comment Federal Rulemaking 2023.](#)



Thank you

Contact Us!

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