You Are What You Do: Policy Changes for Faculty Moving from Face-to-Face to Online

OLC Accelerate
November 13, 2020
COVID-19 Regulatory Considerations for Digital Coursework
CONFUSING FEDERAL REGULATORY CALENDAR

COVID-19 Targeted Waivers

March 5
Regulations

July 1, 2020
State authorization & Accreditation

July 1, 2021
Regular & substantive interaction

End of pandemic?
Regardless of whether institutions re-open for face-to-face instruction, navigating this regulatory landscape and educating faculty and staff on the importance of these regulations as a means of ensuring quality will be critical. Understanding and ensuring that institutions follow the associated regulations improves pedagogy, protects the institution from loss of financial aid eligibility and/or accreditation, and bolsters educational quality.
National and programmatic accreditation
Regular and substantive interaction
State authorization and professional licensure
Satisfactory academic progress
Student authentication
Copyright and fair use
Accessibility
Correspondence Education v. Distance Education
(1) A course provided by an institution under which the institution provides instructional materials, by mail or electronic transmission, including examinations on the materials, to students who are separated from the instructors. Interaction between instructors and students in a correspondence course is limited, is not regular and substantive, and is primarily initiated by the student.

(2) If a course is part correspondence and part residential training, the Secretary considers the course to be a correspondence course.

(3) A correspondence course is not distance education.
(1) Education that uses one or more of the technologies listed in paragraphs (2)(i) through (iv) of this definition to deliver instruction to students who are separated from the instructor or instructors and to support regular and substantive interaction between the students and the instructor or instructors, either synchronously or asynchronously.
(2) The technologies that may be used to offer distance education include—

(i) The internet;

(ii) One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;

(iii) Audio conference; or

(iv) Other media used in a course in conjunction with any of the technologies listed in paragraphs (2)(i) through (iii) of this definition.
(3) For purposes of this definition, an instructor is an individual responsible for delivering course content and who meets the qualifications for instruction established by an institution's accrediting agency.
For purposes of this definition, substantive interaction is engaging students in teaching, learning, and assessment, consistent with the content under discussion, and also includes at least two of the following—

(i) Providing direct instruction;

(ii) Assessing or providing feedback on a student's coursework;

(iii) Providing information or responding to questions about the content of a course or competency;

(iv) Facilitating a group discussion regarding the content of a course or competency; or

(v) Other instructional activities approved by the institution's or program's accrediting agency.
(5) An institution ensures regular interaction between a student and an instructor or instructors by, prior to the student's completion of a course or competency—

(i) Providing the opportunity for substantive interactions with the student on a predictable and scheduled basis commensurate with the length of time and the amount of content in the course or competency; and

(ii) Monitoring the student's academic engagement and success and ensuring that an instructor is responsible for promptly and proactively engaging in substantive interaction with the student when needed on the basis of such monitoring, or upon request by the student.
State Authorization and Professional Licensure
Institutions must be compliant with the laws and regulations of the State where the institution's activities occur.

*Note that participation in reciprocity through the State Authorization Reciprocity Agreements (SARA) may be an option for institutions to obtain state institutional compliance in other SARA member states for activities subject to SARA Policy. See the SARA manual for more information at https://nc-sara.org/resourcesguides.
STATE AUTHORIZATION & FEDERAL COMPLIANCE, 34 CFR §600.9(c)

Eligibility to disburse aid tied to the institution having approvals demonstrated by:
- Direct approval by the state; or
- Through a state authorization reciprocity agreement.

Student Location
- Defensible process, document and provide to Secretary of Education upon request
- Determine at the time of enrollment; or
- Formal receipt of information from the student that the location has changed based on processes at the institution.
PROFESSIONAL LICENSURE NOTIFICATIONS

34 CFR § 668.43(a)(5)(v) and 34 CFR § 668.43(c)

Four key elements for federal compliance for professional licensure notifications

1. Notifications for educational programs delivered in all modalities *(Includes face-to-face programs and distance education.)*

2. Type of educational program is defined in the regulation *(Designed for specific professional license required for employment or advertised as sufficient in a state.)*

3. Public notifications- meeting educational requirements in all states *(Lists of states positively, negatively, or no determination of the curriculum meeting educational requirements.)*

4. Direct notifications- individualized to students and their location *(To prospective students if does not meet or no determination. To enrolled student if does not meet.)*
Student Identity Verification
The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program.
The agency meets this requirement if the agency demonstrates that it—

(g) Requires institutions to have processes in place through which the institution establishes that a student who registers in any course offered via distance education or correspondence is the same student who academically engages in the course or program; and

34 CFR §602.17(g) and (h)
Student identity verification
(h) Makes clear in writing that institutions must use processes that protect student privacy and notify students of any projected additional student charges associated with the verification of student identity at the time of registration or enrollment.

34 CFR §602.17(g) and (h) Student identity verification
BUT ALL OF THIS COULD CHANGE
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