



1101 17th Street NW, Suite 808
Washington, DC 20036
202.234.5100 | deac.org

August 24, 2016

SUBMITTED ELECTRONICALLY VIA FEDERAL RULEMAKING PORTAL: www.regulations.gov under e-Docket ID number ED-2016-OPE-0050

Sophia McArdle
U.S. Department of Education
400 Maryland Ave, SW., Room 6W256
Washington, DC 20202

Dear Dr. McArdle:

The Distance Education Accrediting Commission (DEAC) appreciates the opportunity to submit comments to the United States Department of Education (USDE) regarding the Notice of Proposed Rulemaking that would 1) implement changes to the State authorization sections of the Institutional Eligibility regulations and 2) add a new section on required institutional disclosures for distance education and correspondence courses. DEAC and its accredited institutions are committed to delivering quality teaching and learning to distance education students and to complying fully with state authorization requirements. DEAC's comments are focused on matters pertaining directly to distance education. As such, DEAC does not offer comments on non-US locations or branch campuses of domestic institutions located outside of the US.

§600.2 Definitions

DEAC appreciates USDE's acknowledgement of the important work that the National Council for State Authorization Reciprocity Agreements (NC-SARA) has done to establish reciprocity as a means for institutions to demonstrate compliance with the laws of states that are party to such agreements. As of the date of this submission (August 24, 2016), forty-one states and 1,000 institutions have joined SARA. DEAC supports implementing a definition for state authorization reciprocity agreement as "an agreement between two or more States that authorizes an institution located and legally authorized in a State covered by the agreement to provide postsecondary education through distance education or correspondence courses to students in other States covered by the agreement." However, clarification is needed for the second part of the definition which states, "...and does not prohibit a participating State from enforcing its own consumer protection laws." Under NC-SARA's policies, member states agree to a set of common regulatory provisions that are related solely to the delivery of interstate distance education and assure that individual states have the ability to enforce their own generally stated fraud, misrepresentation, and/or abuse protections. Clarification is needed that explains the range of "consumer protection laws" that would apply when a state authorization reciprocity agreement is in effect for a state. We suggest that the consumer protection laws referenced in the definition should be clarified to include laws that would apply to all entities

that operate a business in the state, not just institutions of higher education.

§600.9 State Authorization

DEAC supports the implementation of the regulations proposed for §600.9 (c). We agree that an institution offering distance and correspondence education in other states should follow the existing laws for each state in which it enrolls students. Furthermore, DEAC appreciates and supports the USDE's acknowledgement that state authorization agreements are an appropriate mechanism for establishing authorization compliance with states that are members of SARA.

§668.50 Institutional disclosures for distance or correspondence programs

DEAC supports the requirement that institutions offering distance education programs or correspondence courses should disclose authorization status in the home state and authorization granted through participation in reciprocity via SARA. The seven general disclosures and three individualized disclosures strengthen protections for students and foster clear and consistent expectations for how institutions should provide information to enrolled and prospective students. There are some practical considerations in implementing the disclosures as discussed in more detail below.

§668.50 (b)(3) This section calls for institutions to implement “a description of the process for submitting consumer complaints in each State in which the program's enrolled students reside, including contact information for receipt of consumer complaints at the appropriate State authorities.” This provision is complex to implement because not all states have clearly disclosed procedures or contact information for submitting consumer complaints. Extensive variation in disclosure format across an expansive number of institutions offering distance education could cause confusion to students. Distance education institutions are presently required to disclose 1) complaint resolution procedures internal to the institution, 2) procedures for filing a complaint with home state officials, 3) procedures for filing complaints with accrediting agencies, and 4) complaint resolution policies and procedures under SARA provisions (if a member of SARA). In addition to the aforementioned, a more effective and efficient approach could involve requiring each institution to provide a link to a registry of states with contact information and complaint procedures that is maintained on the USDE's website.

§668.50 (b)(4) and (5) These sections call for institutions to disclose any “adverse actions” a state entity or an accrediting agency has initiated related to postsecondary education programs offered solely through distance education or correspondence courses. Clarification of the meaning of “adverse action” is needed. Accreditation agencies typically refer to “adverse action” as a revocation of accreditation status. Accreditation agencies and states utilize multiple terms for varying degrees of sanction such as warning, show cause or probation. We suggest that USDE clarify which sanctions are adverse within the meaning of the regulation, either in the preamble that accompanies the final rule or in a subsequent Dear Colleague letter. The Department should ensure that the definition of adverse action is consistent with definitions that exist in other regulations also applicable to post-secondary institutions.

§668.50 (b)(6) DEAC fully supports the disclosure of refund policies with which the institution is required to comply by any state in which enrolled students reside for the return of unearned tuition and fees.

§668.50 (b)(7) DEAC fully supports the disclosure of “applicable educational prerequisites for professional licensure or certification for the occupation for which the program prepares students to enter in (A) each state in which the program’s enrolled students reside; and (B) any other State for which the institution has made a determination for prerequisites.” Please note, however, that institutional efforts to obtain affirmation from every state agency that identifies prerequisites is frequently fraught with the challenge of obtaining responsive, consistent and accurate information. DEAC respectfully requests that USDE allow adequate time for institutions and state agencies to work together before implementing this final rule. Cooperation by the state licensing agencies in providing information on whether a program meets state requirements is paramount to effective implementation of this provision.

§668.50 (c) DEAC fully supports the individualized disclosures with the understanding that USDE will clarify the term “adverse action” as mentioned for **§668.50 (b)(4) and (5)** above.

Please do not hesitate to contact DEAC if we can be of further assistance or if our comments prompt any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Leah K. Matthews". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Leah K. Matthews
Executive Director