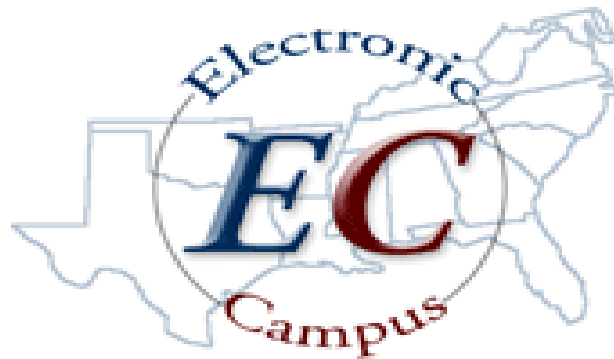


SREB

**An Update on State
Authorization and SREB's Plans
Moving Forward for the
'Free Trade Zone' Agreement**

February 29, 2012

Southern
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Education
Board



History of 'Free Trade Zone'

- Prior to the launch of the *Electronic Campus* in January, 1998, representatives from SHEEO agencies in SREB states (15 at the time) agreed to a voluntary plan
- Created to allow online courses and subsequently programs from non-profit institutions chartered in SREB states to operate in other SREB states if:
 - Institution and SHEEO agency signed off on (agreed to) Principles of Good Practice
 - Key program information was reported to SREB for the *Electronic Campus (EC)*

SREB Role and Interest

- Launched the *Electronic Campus* in 1998 to
 - Expand access via ‘marketplace’
 - Share courses, programs and services
 - Effect policy
- Initial discussions focused on state approval
 - Major impediment to growth
 - Needed a different model
 - Reciprocal ‘free trade zone’ approach agreed upon by the ‘founding mothers and fathers’ (representatives from your states)

History of 'Free Trade Zone'

- Approach was designed and agreed to following a survey of SREB states that indicated a process was needed to permit the expansion of online programming
- SREB committed to the approach, opted not to charge for it (so was and remains a General Fund program supported by state appropriation)
- There had been, until last year, two issues in 13 years where institutions were 'stopped' and asked to seek approval
- This has worked the way it was established and intended by *EC* state reps

History of 'Free Trade Zone'

- System has been in place and OPERATIONAL since then
- Institutions must get approval (sign off) by their home SHEEO agency (likely *EC* State Coordinators) before SREB will accept the listing.
- Only reason SREB requires this sign-off
- This arrangement created what we have called the 'Free Trade Zone'
 - It has been reviewed at most, if not all, *EC* state coordinators meetings
- Non-issue until Federal Regs issue surfaced last year

Questions about the Arrangement

- Several state representatives have raised questions about the arrangement, have indicated they do not recognize it or have dismissed it and informed out-of-state institutions from other SREB states that they must seek approval.
- SREB will now seek to determine which states wish to participate and which do not
- This has been and will remain a voluntary process...if states don't want it, they are free to indicate they no longer recognize the *Electronic Campus*.

Plan Moving Forward

- *Electronic Campus* State Coordinators will receive a communication next week asking this question (SHEEO heads will be copied)
- Even if you currently do not require institutions delivering online programming into your state (absent some other trigger such as physical presence or advertising), states will need to declare their participation in the 'Free Trade Zone'
- Your decision, one way or the other, will be effective July 1, 2012

Those Opting In

- SREB will continue to request that you sign off on all courses and programs from your home institutions prior to listing in the *EC*
- Courses and programs listed in the *EC* will then be recognized in the reciprocal agreement with other states that also continue to recognize the home state sign-off
- Essentially the process that we have used for the past 14 years will remain in effect.

Those Opting Out

- Prior to July 1, SREB will inform all institutions from your state that currently participation in the *EC* that the state is no longer a participant in the reciprocal arrangement and that they will need to seek approval in any state non-participating SREB state that requires approval for online programming
- Institutions can still list courses and programs in the *EC* but we will no longer seek the home state sign-off for those courses and programs

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This is YOUR Call

- SREB has historically recognized and respected the decisions of our states in programs and activities
- Not all states participate in the Academic Common Market, Regional Contract Program, or GO Alliance to name three
- So whatever the decision, it will be respected. If a state opts not to participate, they need not give a reason nor will this impact any other SREB activity you may be involved with.
- States make the call...

The Federal Mess...

- New federal requirements issued in late October, 2010 to be effective July 1, 2011 (600.9)
- Institutions serving students outside their home state must meet all state requirements
 - No consideration for “physical presence”
 - Can’t be exempted from state approval by accreditation
 - Failure to have evidence of approval will make institution ineligible for Title IV funding

Why Federal Action...

Impetus for Federal action, in part...

- Movement of sub-standard institutions and diploma mills from state to state in search of least oversight
- Concerned that ‘States have not provided adequate oversight, and thus we believe Federal funds and students are at risk.’

Where Things Stand...

- State authorization component of regs was vacated by the Court July 13, 2011 **on procedural grounds**
- Essentially barred Department from enforcing new requirement (Title IV aspect)
- Repealed requirement to make state authorization information available ‘upon request’
- Other provisions of 600.9 remain in effect including complaint procedures and misrepresentation rule
- **DID NOT CHANGE ANY STATE LAW**

Where Things Stand...

- DOE has filed an appeal (September 8, 2011)
 - Final briefs submitted January, 2012
 - Oral arguments were held February 21, 2012
 - Final ruling expected second half of 2012
- Most observers believe that whether the appeal is won or not, the intent of the Department is to have these regulations in place at some point
- Will re-publish, follow procedures and provide appropriate commentary, then
- Issue new guidelines (that will look a lot like the ones we have previously seen)

Ongoing National Efforts

Three major efforts underway :

- President's Forum/Council of State Governments (most significant and potentially impactful of the projects)
- National Commission (APLU is lead)
- Congressional E-Learning Caucus

Presidents' Forum/CSG

- Enhance the current regulatory environment with an interstate reciprocal agreement (new) making the regulatory process more efficient and encouraging expanded access for students.
- Key Steps
 1. Define agreeable and beneficial multistate requirements and processes.
 2. Develop a new statutory model providing states authority to participate in reciprocal compacts.
 3. Create an efficient financial support mechanism for regulatory services and consumer protection.

Presidents' Forum/CSG

- SREB has viewed this option, the development of a national reciprocal model, as a natural next step beyond the 'Free Trade Zone'
- But...
 - Clear that this will not be an immediate solution (or a solution at all although there is optimism it will happen)
 - It will change dramatically current state authorization approaches
 - Will likely require legislative action in states
 - Won't happen for 2-3 years if at all

APLU

National Commission on Distance Ed Regulations

- Organize a national commission to...
“develop a sound and reasonable regulatory structure for distance learning in the country”
- Designed to address
 - Confusing and burdensome regulatory process in 50 states that would
 - Slow the growth of distance education
 - Restrict innovation
 - Increase costs unnecessarily
- Broad national representation
- Has yet to meet!

Congressional E-Learning Caucus

Co-Chairs: Representative Kristi Noem (R-SD) and Representative Jared Polis (D-CO)

- A new policy initiative within Congress to help Congress and staff better understand online learning and educational technologies as they create policy
- Created with help from DC-based law firm Dow Lohnes Government Strategies
- K-12 and higher education focus
- Still being formed...major impact likely to be 'educating' Congress about e-learning