

State Authorization Update

- New federal requirements going into effect 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

DCL's and 'Clarifications...'

- Two Dear Colleague Letters (DCL) issued to expand and clarify regulations (Tab 2)
 - March 17, April 11, and April 20, 2011
- Key elements
 - A 'delay' until July 1, 2014 (but not really)
 - No federal De Minimis Test
 - Institutional complaint procedures must be provided (whether regulated by a state or not)
 - Institution must demonstrate no state approval required
 - 'Good faith' efforts further defined

‘Good Faith Efforts...’

- Evidence of good faith efforts by institutions could include any one or more of the following items:
 - Documentation that an institution is developing a distance education management process for tracking students' place of residence when engaged in distance education.
 - Documentation that an institution has contacted a State directly to discuss programs the institution is providing to students in that State to determine whether authorization is needed.
 - An application to a State, even if it is not yet approved.
 - Documentation from a State that an application is pending.

Where Things Stand...

- Extended the enforcement date to July 1, 2014
- DOE will compile and issue a comprehensive directory of state authorization requirements (likely connected to SHEEO effort)
- No postponements and institutional (and state) action is still mandated
- Clarified that institutions contacting states to initiate the process is considered 'good faith'
 - Institutions may then be required to pursue formal approval based upon a state's response

Ongoing National Efforts

- Continued efforts to repeal/rescind/amend regs
- Three major efforts underway
 - President's Forum
 - Create a common template or model compact on interstate reciprocity
 - Initiative by the Higher Education Secretariat and APLU
 - work with DOE to develop a long-term, practical solution
 - SHEEO
 - Directory of state regulators and compendium of state regulations

SREB's Stance and Actions

- Worked with WCET and others to create a “Starter List...”
- Contacted all Electronic Campus State and Institutional Coordinators following first DCL
 - Recommended institutions to act quickly
 - Suggested institutions ask several questions of states/document overtures and responses
- Indicated we would continue to monitor activities around the new regs
- Convened states to discuss SREB's ‘Free Trade Zone’ efforts

Reciprocity...Allowable Under New Federal Regulations? YES

“We agree with the commenters that further clarification is needed regarding legal authorization across State lines in relation to reciprocity between States and to distance education and correspondence study. **In making these clarifications, we are in no way preempting any State laws, regulations, or other requirements established by any State regarding reciprocal agreements, distance education, or correspondence study.**”

We continue to believe that we do not need to regulate or specifically authorize reciprocal agreements. If both States provide authorizations for institutions that comply with § 600.9 and they have an agreement to recognize each other’s authorization, we would consider the institution legally authorized in both States as long as the institution provided appropriate documentation of authorization from the home State and of the reciprocal agreement. In addition, the institution must provide the complaint contact information under 34 CFR 668.43(b) for both States.”

Can Reciprocal Agreements Work? SREB's Experience

- Since inception of SREB's *Electronic Campus* (EC) in 1997, 16 states have agreed to "Free Trade Zone"
 - Courses and programs approved by the home SHEEO agency **listed in the EC** have been exempt from approval in other SREB states
 - States agreed to "Principles of Good Practice" and to recognize certification of home states
 - Limited to regionally accredited institutions
 - Applicable only to listings in the EC
 - Necessary for institutional participation

Benefits of the Free Trade Zone

- Benefits today may be even greater than the reasons for a reciprocal arrangement in 1997
 - Expansive growth of online across the region and expectations it will continue to grow
 - Time and expense to your institutions needing approval in 15 states
 - Time and expense to your agencies to review/approve hundreds of institutions
- New federal requirements
- Reaching/serving more students
- It has worked...and can work again for the region in this new environment

Back to the Future... Reconvening SREB States

- How our states and SREB should proceed in response to the new federal regulations
- The ‘opportunity’ the new regulations offer for reciprocal agreements
- Reconfirming, renewing, and repurposing our ‘free trade zone’ approach, a regional reciprocal agreement
 - How to proceed
 - The need to create a more formal agreement
- How this ‘fits’ with emerging national efforts

Establishing “Free Trade Zone II”

- Re-affirmed Free Trade Zone across SREB
 - Define changes necessary because of 600.9
 - Address new issues/concerns
- Clear desire/interest to continue arrangement
 - Continue to utilize Electronic Campus
 - Add second ‘tier’ of approval
 - Build on Principles of Good Practice and recognition of the sign-off of home state and SREB
 - It must be reciprocal—cannot be one way
 - Regulatory changes/legislative changes—will vary by state, but will secure formal sign-off on participation