



October 11, 2022

James Kvaal
Under Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Under Secretary Kvaal,

We write as representatives of our higher education membership organizations to request guidance on questions concerning the regulatory requirements in the Distance Education and Innovation regulations (referred hereafter as “regulations”). Our specific emphasis is on the “regular and substantive interaction” updates (released last year) to the definition of “distance education.” We are wondering how it will be applied and its application to other regulatory requirements.

One year ago, the WICHE Cooperative for Educational Technologies (WCET) and the WCET State Authorization Network (SAN) [submitted the a request for guidance relating to the definition of distance education](#). This year the Online Learning Consortium (OLC), Quality Matters, and the University Professional and Continuing Education Association (UPCEA) join us in re-submitting the letter and the call for additional guidance.

In the past year, we have observed that institutions, organizations, and agencies have developed divergent interpretations of the Department’s definitions. Based on Departmental staff commentary and webcasts, those interpretations may differ from how the Department would implement and apply those definitions.

For one example, we have seen varying interpretations of how and under what circumstances student-to-student interactions may or may not constitute substantive interactions. Historically, student-to-student interaction has not figured into the Department’s notion of interaction, but we have witnessed institutional faculty development materials that include those activities as meeting the requirements.

As another example, the term direct instruction, a term mentioned in the definition of substantive interaction, has been interpreted by some institutions and accrediting agencies to encompass both synchronous and asynchronous instruction. Our observations are that the term “direct instruction” could reasonably be understood differently based on the audience and technical training of those doing such interpretation. However, in the Department’s April 2021 webcast on the regulations, the Department indicated that direct instruction is intended to be a situation in a synchronous environment where both the instructor and student are present at the same time and are both engaged. However, in the same webinar, the Department stated that would be a “version” of direct instruction, implying there may be other acceptable practices that would constitute direct instruction.



Collectively, our membership organizations represent the leading colleges and universities offering distance education throughout the United States and beyond. Our members seek to be in compliance and wish to understand fully what is required to correctly implement processes to meet regulations in order to participate in Title IV funding.

We thank the Department for its attention to the questions outlined in our previous letter and for appreciating how institutions want to comply with the regulatory environment, but many questions remain. If there is any way we can provide assistance or further details, we would be pleased to do so.

Sincerely,

Russ Poulin, Executive Director, WCET & Vice President for Technology-Enhanced Education, WICHE

Cheryl Dowd, Director, State Authorization Network (SAN)

Jennifer Mathes, Chief Executive Officer, Online Learning Consortium

Deb Adair, Executive Director, Quality Matters

Bob Hansen, Chief Executive Officer, UPCEA



About WCET (the WICHE Cooperative for Educational Technologies)

WCET – the WICHE Cooperative for Educational Technologies, is the leader in the practice, policy, & advocacy of digital learning in higher education. WCET is a member-driven nonprofit which brings together colleges, universities, higher education organizations, and companies to collectively improve the quality and reach of digital learning programs. Learn more at <https://wcet.wiche.edu/>.

WCET was founded by the Western Interstate Commission for Higher Education (WICHE) to meet a growing need to integrate distance learning and educational technology into the academic services of higher education institutions in the western region. WICHE is one of four regional U.S. interstate compacts, with a diverse portfolio of programs and priorities that help students pursue higher education affordably and conveniently, accelerate region-wide sharing of ideas and resources, provide expert research and policy guidance, and prepare universities, colleges, and communities for social, economic, and technological change. Learn more at wiche.edu.

About WCET State Authorization Network (SAN)

In spring 2011, WCET (WICHE Cooperative for Educational Technologies) created the State Authorization Network (SAN) to serve institutions and organizations nationwide by providing training, support, and opportunities to collaborate to navigate regulatory compliance for out-of-state activities of post-secondary institutions. Currently, SAN maintains more than 125 memberships that include more than 800 institutions nationwide.

About Online Learning Consortium (OLC)

The Online Learning Consortium (OLC) is a collaborative community of higher education leaders and innovators, dedicated to advancing quality digital teaching and learning experiences designed to reach and engage the modern learner – anyone, anywhere, anytime. OLC inspires innovation and quality through an extensive set of resources, including best-practice publications, quality benchmarking, leading-edge instruction, community-driven conferences, practitioner-based and empirical research, and expert guidance. The growing OLC community includes faculty members, administrators, trainers, instructional designers, and other learning professionals, as well as educational institutions, professional societies, and corporate enterprises.

About Quality Matters

Quality Matters is the global organization leading quality assurance in online and innovative digital teaching and learning environments. In order to truly achieve our mission of defining and maintaining quality assurance in online learning, we rely on our larger community of QM Coordinators, workshop facilitators, peer and master reviewers, program reviewers, conference presenters, and all the other individuals and groups who are champions for QM and help everyone deliver on the promise of online learning.

About University Professional and Continuing Education Association (UPCEA)

UPCEA is the leading association for professional, continuing, and online education. For more than 100 years, UPCEA has served most of the leading public and private colleges and universities in North America. Founded in 1915, the association serves its members with innovative conferences and specialty seminars, research and benchmarking information, professional networking opportunities and timely publications. Based in Washington, D.C., UPCEA also builds greater awareness of the vital link between contemporary learners and public policy issues.