



Docket No. ED-2023-OPE-0089

US Department of Education
Office of Postsecondary Education
400 Maryland Ave., SW, 5th Floor
Washington, DC 20202

To Whom it May Concern:

UPCEA (University Professional and Continuing Education Association) is composed of the nation's leaders in delivering quality professional, continuing, and online education to adult and nontraditional learners who now represent the majority of today's postsecondary students. Our members have been designing, developing, and delivering quality online degree and continuing education noncredit, non-degree programs for decades. On behalf of UPCEA, we wish to thank you for the opportunity to comment on the Department's Proposed Rules on Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Administrative Capability, Certification Procedures, and Ability to Benefit (ATB).

UPCEA will also be joining with our colleagues at ACE and other organizations with comments and more details on GE, earnings premium and debts-to-earnings ratio, among other topics. We wish to target our comments here to those which are most relevant to those which are most impactful to the professional, continuing, and online education community we represent. We greatly appreciate the Department's commitment to safeguarding students, the interests of good financial stewardship of taxpayer dollars through Title IV funds, while also seeking to not place unnecessary financial and other burdens on institutions. We wish to highlight some concerns with the proposed rules.

Certification Procedures

We have concerns regarding the draft language in the Certification Procedures section, particularly §668.14(b)(32)(iii). This vague and imprecise language could undermine reciprocity as established in the State Authorization Reciprocity Agreements (SARA). We urge you not to proceed with the draft regulation in this regard. If state authorization affecting distance education reciprocity is to be discussed in an upcoming negotiated rulemaking session, we request that those with state and SARA expertise be invited to assess the potential impacts. This will ensure the involvement of those who understand the significant state implications that could come from these changes. The new SARA Policy Modification Process, which includes discussions on student consumer protections, will be concluded by October 2023. At that time, experts from the SARA

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community, ED, and other stakeholders can convene to determine if additional consumer protections are needed while preserving the benefits of reciprocity. SARA, along with four regional compacts, supports the implementation of uniform policies for student consumer protections and oversight of interstate distance education. Established in 2013, SARA has garnered the participation of 52 states, districts, and territories. It facilitates coordination, communication, and access to quality distance education for millions of students annually.

If the draft regulations are finalized, it could lead to a complex and fragmented landscape of state regulations, creating compliance challenges for institutions and states. The draft language would subject institutions to both SARA Policy requirements and varying state-specific requirements, making compliance significantly burdensome for institutions. Moreover, the potential increase in compliance obligations for states could overwhelm their capacity to oversee institutions properly. This also would negatively impact student access to quality interstate distance education, and potentially disrupt students who are in the middle of their educational journey.

Once again, we urge you not to proceed with the draft regulation and ensure that state and SARA representatives are involved in any future discussions regarding state authorization and distance education reciprocity. This will enable the development of federal requirements with due consideration for expertise and experience.

State Licensing Requirements

Currently, according to 34 CFR 668.43(a)(5)(v), institutions are obligated to inform students whether a program designed for specific professional licensure or certification meets the requirements, does not meet the requirements, or if it is undetermined. This allows students to utilize federal financial aid for their chosen program even if it does not lead to licensure or has not been determined and the student is aware. However, the proposed language limits the use of federal aid for programs aimed at meeting professional licensure requirements by removing the option for institutions to indicate an undetermined status. Additionally, institutions must comply with the state licensure requirements of the student's location at the time of initial enrollment. Complying with diverse state licensure requirements across multiple states poses a significant challenge for institutions. In states where licensure requirements are not readily accessible or undergoing changes, determining program compliance becomes especially difficult. Compliance offices frequently tell us how difficult it is to keep up with existing regulatory changes. It is crucial to address the concern that arises when an institution cannot determine whether a program meets the state licensure requirements after a student has enrolled. Furthermore, clarification is needed regarding the Department's definition of "initially enrolled," as this term can encompass various stages of the admissions process, and especially when referring to those online students, including student veterans.

Thank you for considering our comments. We remain dedicated to collaborative efforts to protect the interests of professional, continuing, and online learners.

Administrative Capability

The proposal requires institutions to offer accessible clinical or externship opportunities to students within 45 days of completing required coursework that are geographically accessible and are required for completion of a program. While the intention may seem reasonable, this provision could potentially limit access to programs that include internship or externship components. Compliance would entail securing these opportunities for students, and failure to do so could result in the institution being deemed administratively incapable, leading to the loss of federal financial aid eligibility as such potentially terminating their ability to complete or enroll in the programs. While we support the Department's goal of assisting students in program completion, it's important to acknowledge the unintended consequences of this proposed change.

Thank you for providing us the opportunity to weigh in and for your consideration of our requests and concerns.

Sincerely,

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UPCEA