

Making Sense of Professional Licensure Compliance

February 9, 2024



What we will cover

- Understanding professional licensure requirements
- Examples
- How to prepare for July 1
- How we can HELP



This information is provided by Higher Education Licensure Pros LLC based on our experience working with licensure issues in higher education. The information provided does not, and is not intended to, constitute legal advice; instead, all information, content, and materials provided are for informational purposes only. Risks to the university/college and students should be considered and evaluated with legal counsel prior to creating policies and communicating licensure information to prospective students/students.



Moving target

Red font throughout this presentation is information obtained from the ED contact for these regulations.

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Note that ED is working on developing a Q&A page, expected release date unknown

The regulations and supporting commentary from ED are not clear, even contradicting in some sections. With this being a new regulation, hopefully more information and guidance will be available over time. As a result, we are providing our best analysis and interpretation based on what we know today, which could change as more information or guidance becomes available.



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Understanding professional licensure requirements



<p>PPA Certification <i>New</i></p>	<p><i>Starting July 1, 2024</i></p> <p>Must attest that programs meet all educational requirements</p> <ul style="list-style-type: none"> - where institutions are located and - where prospective students are located at initial enrollment (or attest to seek licensure/employment after graduating). 	<p><i>Starting July 1, 2024</i></p> <p>Cannot enroll prospective students in “does not meet” or “not determined” states/territories.</p>
<p>Public Disclosures <i>Change from 2020 regs</i></p>	<p>Must list states/territories where institution has determined that program “meets” or “does not meet” educational requirements.</p>	<p><i>Starting July 1, 2024</i></p> <p>“Not determined” is no longer required to be disclosed.</p>
<p>Individual Direct Disclosures <i>Same as 2020 regs</i></p>	<p>Provide to prospective students prior to initial enrollment if “does not meet” or “not determined” location.</p> <p>Provide to current students within 14 calendar days if location changes to “does not meet”.</p>	<p>All prospective/current students still required to receive.</p>



SUMMARY

KEY TERMS

Licensure: Any state/territory issued credential that is required for employment in that profession or occupation. Other common terms include certification, certificate, endorsement, registration, and authorization. **Does not include private organization issued credentials that may be required or preferred by some employers.**

Distance Education: [May 2023 Dear Colleague letter](#) applies

“a student is ‘enrolled in distance education’ if the student enrolls in at least one course offered through distance education.” Further clarified as enrolled in at least one course offered through distance education during first term of enrollment.

Initial Enrollment: [34 CFR § 668.2](#) *Enrolled:* The status of a student who—(1) Has completed the registration requirements (except for the payment of tuition and fees) at the institution that he or she is attending.

Also "prior to an enrollment agreement or financial commitment" from the 2019 disclosure regulations preamble.



New: PPA Certification Responsibility



The [Program Participation Agreement \(PPA\)](#) sets the terms and conditions for all institutions that participate in Title IV financial aid programs.

- Required for initial certification to participate in Title IV and for recertification.
 - Note, institutions can be certified for up to 6 years.
- Institutions must explicitly agree to do (and not do) certain things as part of the PPA.
- ED has added a new section to PPA, that relates to accreditation, licensure/certification, and consumer protection.



New: PPA Certification Responsibility

Starting July 1, 2024, each institution must certify that any program that prepares students for licensure meets educational requirements

- Where the institution is located, AND
- Where distance education students are located (or where distance education students attest to plan to be employed after completing the program)



New: PPA Certification Responsibility

Distance Education?

Multiple definitions used by ED and others (accreditors, etc.)

[34 CFR § 600.2](#) focuses on regular and substantive interaction.

[May 2023 Dear Colleague letter](#) applies:

“a student is ‘enrolled in distance education’ if the student enrolls in at least one course offered through distance education.”

Further clarified – if enrolling in **one or more online/distance education courses during the first semester/term of the licensure program**, then the student is “enrolled in distance education.”



New: PPA Certification Responsibility

Student location should be determined at the *time of initial enrollment*.

Covers new program entrants on or after July 1, 2024, the first day of class does not apply.

From [34 CFR 600.9\(c\)\(2\)\(i\)](#) (same as current disclosure requirement)

How to determine student location is not prescribed.

Each institution must have a student location policy and related processes, apply those consistently across the institution, and make available to ED if requested.



New: PPA Certification Responsibility

Included in ED's comments* released with final regulation –

- **Any prospective student who will be attending a licensure program face-to-face, on-campus can be considered to be located on-campus. But if the student will be enrolled in one or more online/distance education courses during first term, then this does not apply.**
- **Institutions only need to certify for the time of initial enrollment of a student.**
 - If student later moves to a “does not meet” location, that student could stay enrolled and eligible for Title IV. The program would remain Title IV eligible.
 - If a state/territory changes requirements so that a program no longer “meets”, institutions do not have to disenroll current students located in that state/territory.
 - The institution would have to stop new enrollments or very quickly change their program to meet the new licensure requirements.

**Commentary provided with final regulations, also called the preamble, is not legally binding.*



New: PPA Certification Responsibility

Also included in ED's comments* released with final regulation –

- **Distance education students who are located in a “does not meet” location can still enroll if they are provided with information about licensure and attest that they will seek licensure and employment in a designated “meets” state/territory.**
 - A check box or short automated form will not cut it, but if institutions are willing to create a robust process for education and attestation, they will not have to lose these enrollments.
 - **The intent of this exception is to provide for specific situations where a student residing in one State has concrete plans to move to another. That State must be named in the attestation.**
 - **A hardcopy written attestation from the student would fulfill this requirement, as well as an email where the school can reasonably authenticate that such a communication was sent from the student's email address. As with any documentation maintained in an electronic format, it would be necessary for the institution to be able to reproduce the contents of the email upon request from an auditor or Department compliance official.**

**Commentary provided with final regulations, also called the preamble, is not legally binding.*



Public Disclosures

ED's comments* appear to indicate that face-to-face, campus-based programs are no longer required to provide public disclosures for all 59 U.S. states and territories, if the institution considers all of these students to be located on campus per student location policy.

Schools should not be advertising or enrolling students from States where they don't know if they meet licensure/certification requirements.

Institutions should clearly distinguish those States where the program does not meet requirements when advertising in several States.

**Commentary provided with final regulations, also called the preamble, is not legally binding.*



- **A list of states/territories where the program “meets” or “does not meet” requirements.**
 - “No determination made” category is no longer included.



Individual Direct Disclosures

Prospective students ([34 CFR § 668.43\(c\)](#))

Regulation language and ED's comments* indicate:

- **Required for prospective students located in a “does not meet” or “has not made a determination” state/territory.**
 - As with the current disclosure requirements, these must be sent prior to initial enrollment in the program.

Note that any prospective student receiving this disclosure would need to go through the attestation process and attest to seeking licensure/employment in a “meets” state in order to enroll.

This would probably mostly apply where distance education was involved but not exclusively.

**Commentary provided with final regulations, also called the preamble, is not legally binding.*



Individual Direct Disclosures

Current students ([34 CFR § 668.43\(c\)](#))

Regulation language and ED's comments* indicate:

- **Required for students if the program becomes “does not meet” in the state/territory where the student is currently located or if the student moves to a “does not meet” location.**
 - Must be sent within 14 days of making such determination—no change from the current regulation.

Note these students would not lose access to Title IV funds and can continue being enrolled in the program.

This would probably mostly apply where distance education was involved **but not exclusively**.

**Commentary provided with final regulations, also called the preamble, is not legally binding.*



LICENSURE COMPLIANCE: SNAPSHOT SUMMARY



Federal Department of Education regulations and State Authorization Reciprocity Agreement (SARA) policy require institutions to understand if their programs meet educational requirements for professional or occupational licensure and communicate that understanding to specific audiences at specific times.

Department of Veterans Affairs rules require additional disclosures.

This compliance snapshot outlines these requirements at a high level and may be a useful tool when working with institutional partners.

STEP 1: UNDERSTAND

Determine which programs are licensure

- Designed or advertised
- All modalities

Research educational requirements in all U.S. jurisdictions

- Find board/agency website
- Review Statutes/regulations/rules, application forms, any FAQs and other info
- Use reputable third-parties to confirm/clarify (ASWB, NASDTEC, etc)
- Some licensing boards/agencies may be willing and able to answer specific questions
- You may discover program approval is required by a state board/agency, especially if clinical experiences are offered in their state/territory

STEP 2: CERTIFY

Program Participation Agreement (PPA)

- Institution must certify that each licensure-related program "meets" educational requirements for licensure in state/territory where institution is located and where distance education students are located, in order to enroll.
- Distance Education is defined by ED as taking one or more courses through distance education (online or otherwise) during the first term of enrollment.

Compare your program to state/territory requirements.

- For some license types, you will need to complete an in-depth curriculum comparison to courses-possibly to the assignment level and field experience/internships
- Although rare, some licensing boards will evaluate your out-of-state program, for a small fee. Take advantage of these opportunities

Conclude if "meets" or "does not meet".

- Current federal regulation allows for "not determined." NOT ALLOWED AFTER JULY 1
- Under SARA policy, can use "no determination made" after "all reasonable efforts" to determine if meets

Create a process to review research and update comparisons on a regular basis.

- Annual aligns with other Title IV requirements

Effective Date

- For any prospective student enrolling in a licensure program on July 1, 2024 or after.
- Does not apply retroactively, current students in the program can be located in "does not meet" state/territory.

Written Attestation

- Can be used to enroll students located in "does not meet" or not determined state/territory

STEP 3: COMMUNICATE

Public Disclosures

Create specific webpage for public disclosures

- "Meets", "Does not meet" or "no determination made"
 - **No Determination going away July 1**
- SARA policy - must include contact information for board/agency if "no determination made"

Veterans Affairs requires "any conditions or additional requirements, including training, experience, or examinations required to obtain the license, certification, or approval for which the program of education is designed to provide preparation."

Individual Direct Disclosures

Create processes for prospective and current students

- Typically through email
- Prior to enrollment (completed registration requirements except for payment of tuition and fees) - if "does not meet" or "no determination made"
- Within 14 calendar days for current student - if changes to "does not meet"
- Best practice - send to all prospective students, even if "meets". Collect acknowledgment of receipt through application or enrollment agreement.
- Try to insert into existing communication processes (i.e. prior to enrollment, with an address change, etc)

POLICY AND PROCESS CONSIDERATIONS

Location

Each institution establishes own policy

- Certifying and Direct Disclosures based on prospective student/student location
- How/when do students notify you of change in location? I.e. relocation
- How/when do you confirm location of students?

Initial Enrollment

- When does that occur? May be different at each institution
- Critical for Certifying and Direct Disclosures
- Must be *prior to enrollment agreement or financial commitment*

Attestation

Prospective students who are located in a "does not meet" location can still enroll if they are provided with information about licensure and attest that they will seek licensure and employment in a designated "meets" state/territory

- A check box or short automated form will not cut it
- Prospective student must identify one specific "meets" state in written (hardcopy or email) statement
- Unfortunately, this will not help military-affiliated or other prospective students who do not know the specific state/territory they will seek licensure and employment



Note: This information should not be considered legal advice. Legal questions should be directed to your counsel.

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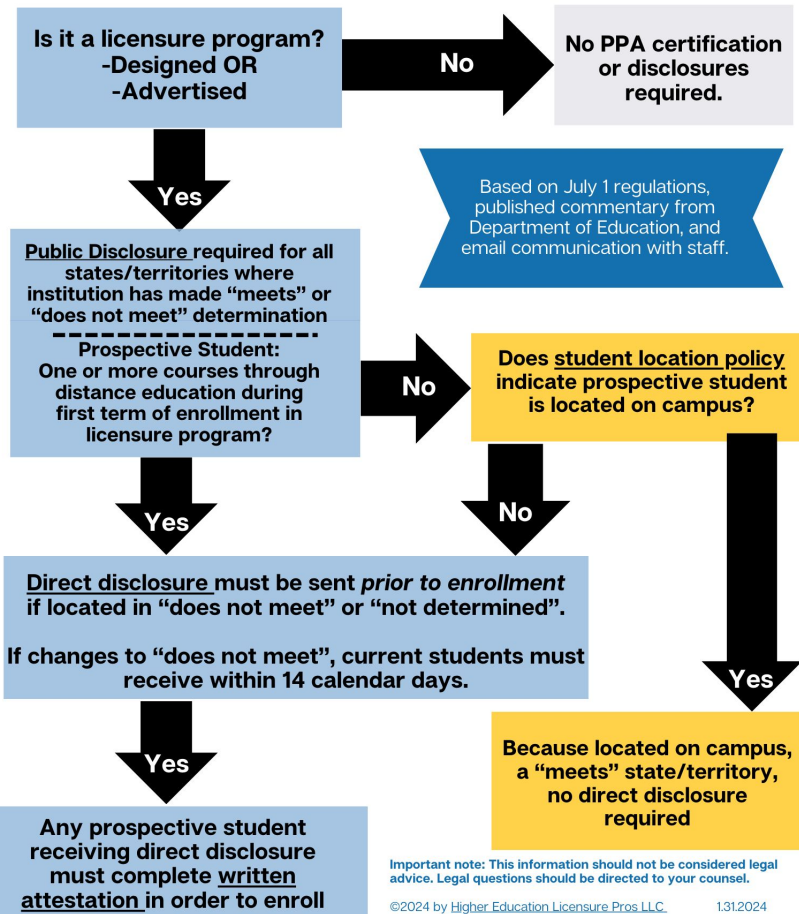
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Examples



- B.S. Exercise Science
- B.S. Education, Elementary Education
- M.S. Clinical Mental Health Counseling

LICENSURE COMPLIANCE: DISCLOSURE FLOWCHART



How to prepare for July 1



How to Prepare - Policy and Process Considerations

- **Confirm list of licensure-related programs**
 - Remember designed or advertised
- **Identify where current students and prospective students in admission process are located.**
 - This will help prioritize states/territories for “meets” determinations
- **Complete research and curriculum comparisons for all programs where current and prospective students are located.**
 - Necessary to make “meets” or “does not meet” determination
 - Time consuming work that will require expertise, including program leadership/faculty to complete



How to Prepare - Policy and Process Considerations

- **Update or confirm student location policy and process students use to update their location.**
 - Consider specifying how face-to-face, on-campus prospective students will be handled.
- **Create or update a calendar** with dates for when each program comparison will be completed and disclosures updated on annual (or regular) basis.
- **Create centralized folder/drives** to house all of the curriculum comparisons, communications with licensure boards, spreadsheets and other documentation used to support determinations, lists of “meets” and “does not meet” states/territories, disclosure versions/templates, and all other licensure-related compliance documentation.
 - Need to be able to produce attestation from individual student for ED if requested.



How to Prepare - Student Location Policy



Location determinations are key for new PPA certification requirement and disclosures.

Consider:

- When does initial enrollment occur at your institution?
- How about financial commitment by the student?
- Is the policy applied consistently across all students?
 - Considerations for graduate vs. undergraduate, undeclared majors, prospective students
- Does the policy address location changes for current students?



How to Prepare - People to Include

- **Connect with Financial Aid folks** who complete the PPA certification/recertification to make sure they understand new requirement and internal processes for determining each program satisfies.
- **Get support from Academic Leaders** – faculty/subject matter experts need to know the heightened importance of licensure, required program comparison work and be granted the bandwidth to complete it.
- **Involve faculty/subject matter experts in establishing process** for updating research/curriculum comparisons on annual (or other regular) basis. May fit in with accreditation or other academic reviews.
- **IT Department** - changes to system to limit applications for certain locations, creating flags for certain states/territories for certain programs, direct disclosure and attestation documentation etc.



How we can HELP





Standard and Enterprise levels include access to exclusive webinars, templates, and other resources

One-of-a-kind online database of educational and additional requirements for licensure for all U.S. states/territories for more than 70 license types.

[Three different membership levels](#) based on number of users

Basic (single institution)

2 users - \$6,000/year

Standard (single institution)

5 users - \$13,000/year

Enterprise (large single institution or associations/consortiums)

Starts at 10 users - \$2,500 per user seat



The Bookmark

The Bookmark is created by HELP through:

- Review and analysis of state statute, regulation, rule, and policy
- Assessment of information on board/agency website and license application materials
- Comparison to relevant third-party sources of information (i.e. national associations)
- Communication with state board or agency to clarify requirements (when needed)

The Bookmark includes information for all components of educational requirements for licensure, including:

- degree type
- specialized accreditation
- total credits
- specific courses
- exams
- any additional educational requirements

Provides institutions the exact information necessary to compare programs and make a “meets” or “does not meet” determination.



The Bookmark

<https://www.higheredlicensurepros.com/thebookmark>



Additional Services

- Webinars and Work Sessions
- Detailed Curriculum Comparisons
- Custom Research Projects

Costs vary, depending on number of factors including frequency, license type, timeframe, and number of institutions.

www.higheredlicensurepros.com



Appendix



Other Licensure-Related Changes

- Licensure Exam Passage Rates

*34 CFR 668.13 Certification procedures. (e) **Supplementary performance measures.** In determining **whether to certify, or condition the participation of**, an institution under §§ 668.13 and 668.14, the Secretary may consider the following, among other information at the program or institutional level: (v) **Licensure pass rate. If a program is designed to meet educational requirements for a specific professional license or certification that is required for employment in an occupation, and the institution is required by an accrediting agency or State to report passage rates for the licensure exam for the program, such passage rates.***

- Gainful Employment, with a new clock hour limitation and data reporting for the metropolitan statistical area.
- Clinical Internship/Externship, new 45 day placement window that puts responsibility on institutions for securing sites.



Current Federal Regulations - Public Disclosures

[34 CFR 668.43\(a\)\(5\)\(v\)](#) - Institutional Information (public notifications for programs leading to professional licensure or certification for all modalities)

(v) If an educational program is designed to meet educational requirements for a specific professional license or certification that is required for employment in an occupation, or is advertised as meeting such requirements, information regarding whether completion of that program would be sufficient to meet licensure requirements in a State for that occupation, including -

(A) A list of all States for which the institution has determined that its curriculum meets the State educational requirements for licensure or certification;

(B) A list of all States for which the institution has determined that its curriculum does not meet the State educational requirements for licensure or certification; and

(C) A list of all States for which the institution has not made a determination that its curriculum meets the State educational requirements for licensure or certification;



Current Federal Regulations - Individual Disclosures

[34 CFR 668.43\(c\)](#) - Institutional Information (individualized notifications for programs leading to professional licensure or certification for all modalities)

(1) If the institution has made a determination under [paragraph \(a\)\(5\)\(v\)](#) of this section that the program's curriculum does not meet the State educational requirements for licensure or certification in the State in which a prospective student is located, or if the institution has not made a determination regarding whether the program's curriculum meets the State educational requirements for licensure or certification, the institution must provide notice to that effect to the student prior to the student's enrollment in the program.

(2) If the institution makes a determination under [paragraph \(a\)\(5\)\(v\)\(B\)](#) of this section that a program's curriculum does not meet the State educational requirements for licensure or certification in a State in which a student who is currently enrolled in such program is located, the institution must provide notice to that effect to the student within 14 calendar days of making such determination.

(3)(i) Disclosures under [paragraphs \(c\)\(1\)](#) and [\(2\)](#) of this section must be made directly to the student in writing, which may include through email or other electronic communication.

(ii) (A) For purposes of this [paragraph \(c\)](#), an institution must make a determination regarding the State in which a student is located in accordance with the institution's policies or procedures, which must be applied consistently to all students.

(B) The institution must, upon request, provide the Secretary with written documentation of its determination of a student's location under [paragraph \(c\)\(3\)\(ii\)\(A\)](#) of this section, including the basis for such determination.

(C) An institution must make a determination regarding the State in which a student is located at the time of the student's initial enrollment in an educational program and, if applicable, upon formal receipt of information from the student, in accordance with the institution's procedures under [paragraph \(c\)\(3\)\(ii\)\(A\)](#) of this section, that the student's location has changed to another State.



Current Federal Regulations - Location Policy

34 CFR 600.9(c)(2)

- (i) For purposes of this section, an institution must make a determination, in accordance with the institution's policies or procedures, regarding the State in which a student is located, which must be applied consistently to all students.
- (ii) The institution must, upon request, provide the Secretary with written documentation of its determination of a student's location, including the basis for such determination.
- (iii) An institution must make a determination regarding the State in which a student is located at the time of the student's initial enrollment in an educational program and, if applicable, upon formal receipt of information from the student, in accordance with the institution's procedures, that the student's location has changed to another State.



New: PPA Certification Responsibility - July 1

34 CFR § 668.14(b)

(32) In each State in which: the institution is located; students enrolled by the institution in distance education or correspondence courses are located, as determined at the time of initial enrollment in accordance with 34 CFR 600.9(c)(2); or for the purposes of paragraphs (b)(32)(i) and (ii) of this section, each student who enrolls in a program on or after July 1, 2024, and attests that they intend to seek employment, the institution must determine that each program eligible for title IV, HEA program funds—

(ii) Satisfies the applicable educational requirements for professional licensure or certification requirements in the State so that a student who enrolls in the program, and seeks employment in that State after completing the program, qualifies to take any licensure or certification exam that is needed for the student to practice or find employment in an occupation that the program prepares students to enter;



34 CFR § 668.43(a)(5)(v)

(v) If an educational program is designed to meet educational requirements for a specific professional license or certification that is required for employment in an occupation, or is advertised as meeting such requirements, a list of all States where the institution has determined, including as part of the institution's obligation under § 668.14(b)(32), that the program does and does not meet such requirements;



Individual Direct Disclosures - July 1

34 CFR § 668.43(c)

(c)(1) If the institution has made a determination under paragraph (a)(5)(v) of this section that the program's curriculum does not meet the State educational requirements for licensure or certification in the State in which a prospective student is located, or if the institution has not made a determination regarding whether the program's curriculum meets the State educational requirements for licensure or certification, the institution must provide notice to that effect to the student prior to the student's enrollment in the institution in accordance with § 668.14(b)(32).

(2) If the institution makes a determination under paragraph (a)(5)(v) of this section that a program's curriculum does not meet the State educational requirements for licensure or certification in a State in which a student who is currently enrolled in such program is located, the institution must provide notice to that effect to the student within 14 calendar days of making such determination.

