



U.S. Department of Education Update

The New England Board of Higher Education in partnership with
New England Independent College and University Associations
February 9, 2024

Agenda

- What is New in Federal Policy?
 - Update on Federal Gov't Shutdown
 - Final Rules Released October 2023
 - Federal Regulations Effective July 1, 2024
 - Winter 2024 Negotiated Rulemaking
 - How can institutions follow and participate in the process?
- How can the State Authorization Network (SAN) help?
 - Individual and Group Memberships

Special Guest Presenter



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

Federal Government Status

GOVERNMENT SHUTDOWN AVERTED..... again!



U.S. Department of Education activities, including rulemaking, may continue.

Continuing Resolution – Short-Term Funding Extension

New Deadlines:

- March 1 – Transportation, VA, Energy, Agriculture, Housing and Urban Development
- March 8 – 80 % of federal government including Education

USED New Final Regulations

October 10, 2023, [Final Regulations for Financial Value Transparency & Gainful Employment](#); These new regulations will become effective July 1, 2024.

October 31, 2023, [Final Regulations for Financial Responsibility Standards of Administrative Capability; Certification Procedures; Ability to Benefit](#). These new regulations will become effective July 1, 2024.

Certification Procedures – 34 CFR 668.14



- This issue is focused on the agreement (program participation agreement - PPA) between postsecondary institutions and the Department.
- The institution certifies compliance with specific obligations to participate in Title IV HEA Programs.
- Failure to meet the obligations of the PPA is a breach of the institution's fiduciary duty when administering Federal funds.

The Federal Register announcement includes the contact information for the Department staff member for more information addressing this issue. **For certification procedures: Vanessa Gomez. Telephone: (202) 987-0378. Email: Vanessa.Gomez@ed.gov.**

Related to Professional Licenses & Certification – PPA Certification

34 CFR 668.14(b)(32)(ii)

Raises the Bar When Offering Programs Leading to a License

For the program to be eligible for Title IV

(32) In each State in which:

- the institution is located;
- **students** are located at the time of initial enrollment who enrolled in distance education or correspondence courses **or**
- attests that they intend to seek employment,
- For each student who enrolls in a program on or after July 1, 2024.

(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
- needed for the student to practice or find employment in an occupation that the program prepares students to enter.



Related to Compliance with State Closure Laws - PPA Certification

34 CFR 668.14(b)(32)(iii)



For the program to be eligible for Title IV

(32) In each State in which:

- the institution is located;
- students are located at the time of initial enrollment who enrolled in distance education or correspondence courses

(iii) Complies with all State laws related to closure including:

- Record retention
- Teach-out plans or agreements
- Tuition recovery funds or surety bonds.

Does Reciprocity Fulfill the Requirement? Probably Yes!

Resources

- [New Federal Regulations, Part 1: Addressing Programs Leading to a License or Certification](#), WCET *Frontiers*, October 31, 2023
- [New Federal Regulations, Part 2: Addressing Compliance with State Closure Laws and the Impact on Interstate Reciprocity Agreements](#), WCET *Frontiers*, October 31, 2023
- [Deep Dive: Final Rules on Administrative Capability, Certification Procedures, Financial Responsibility, and Ability to Benefit](#), NASFAA, November 1, 2023
- [The U.S. Department of Education's Final Rule on Institutional and Programmatic Accountability – Regulations Summary](#), ACE, October 30, 2023

Resources for Final Regulations for Financial Value Transparency & Gainful Employment



NACUA (National Association of College and University Attorneys)

- Free NACUA Member Briefing on Oct 4, 2023 - [Financial Value Transparency and Gainful Employment Rule](#)
- Archived Webinar from November 30, 2023 for NACUA Members for a fee - [The Financial Value Transparency Wake-Up Call: Navigating a New Compliance and Business Landscape](#)

NASFAA (National Association of Student Financial Aid Administrators)

- [ED Releases Final Rule on Gainful Employment and Financial Value Transparency Framework](#)
- NASFAA Gainful Employment [web center](#)

Thompson Coburn (Law Firm with a Strong Higher Ed Division)

- [ED's New Financial Value Transparency and Gainful Employment Rule](#); Webinars held Nov 7
- [Projecting Debt to Earnings Rates Under ED's New Financial Value Transparency & GE Rule](#); Webinar Nov 14.
- Free Desk Guide: [ED's Final Financial Value Transparency and Gainful Employment Rule](#)

USED New Rulemaking

[Negotiated Rulemaking for Higher Education 2023-24.](#)

Student Loan Debt Relief (loan forgiveness) - Rulemaking Fall 2023

July 6, 2023 - [Intent to establish a negotiated rulemaking committee.](#)

Issue: student loan forgiveness. *Modification, waiver, or compromise of Federal student loans.*

December 12, 2023 [Final Summary of Rulemaking Committee Decisions \(PDF\)](#) ; [Agreed Upon Language \(Consensus\) for some issues \(PDF\)](#)

Notice of Proposed Rulemaking Expected May 2024 as reported in the [Unified Agenda](#)

Institutional Quality and Accountability - Rulemaking Winter 2024

March 24, 2023 - [Intent to establish a negotiated rulemaking committee.](#)

Issues:

- **State authorization/Reciprocity.** addressing complaints, governance, authorization exemptions.
- **Distance Education,** related definitions as it pertains to clock hour programs and reporting for students who enroll primarily online.
- **Return to Title IV (R2T4)** – Attendance for Distance Education courses.

Negotiations are to end on March 7, 2024.

Notice of Proposed Rulemaking (proposed rules) expected October 2024 as reported in the [Unified Agenda](#).

State Authorization

Reciprocity



State Authorization: Reciprocity

Proposed Language

- ♦ Complaint processes...many changes:
 - ♦ Allow some complaints, even if student has not exhausted institutional complaint process.
 - ♦ Report on complaint “type”.
 - ♦ Possibly, allow complaints to be made to more than one state.

Implications

- ♦ Most of proposals are close to what SARA now does.
- ♦ Reporting on type of complaint and allowing some complaints past institutional processes are good changes.
- ♦ WCET concerned if reciprocity agreements cannot manage what states handle complaints.

State Authorization: Reciprocity

Proposed Language

- ♦ *Reciprocity boards limited to state employees in regulatory jobs.*
- ♦ Negotiators propose that institutions must follow education-specific regulations in a state, even if in reciprocity.
 - ♦ Examples: Bonding, tuition recovery funds, data submissions, and more.

Implications

- ♦ *Regional compacts and other expertise removed from boards.*
- ♦ WCET concerned about future of reciprocity agreements.
- ♦ Education-specific laws:
 - ♦ Improve protections in a few states.
 - ♦ Eliminate most benefits of reciprocity.
 - ♦ Impact state regulators greatly.

Distance Education

Virtual Location &
Asynchronous Clock Hours



Distance Education: Virtual Location & Asynchronous Clock Hours

Proposed Language

- ♦ New definition of “virtual location” to be a “location through which the institution offers 100 percent of an educational program through distance education or correspondence courses, not withstanding requirements for students to complete on-campus or residential periods of 90 days or less.”
- ♦ *Only synchronous distance education clock hours would be eligible for Title IV financial aid.*
NOTE: Does not apply to credit hour institutions.

Implications

- ♦ Department of Education would begin collecting data on distance education programs offered at “virtual locations.” It is unclear how, beyond helping with teach-out programs if a virtual location closed, this information would be used.
- ♦ *Asynchronous distance education clock hour courses would no longer be eligible for Title IV financial aid.*

Return to Title IV

Attendance for Distance Ed Courses



Return to Title IV: Attendance

Proposed Language

- ♦ All distance education courses would be required to take attendance.
- ♦ Students would be dropped after non-attendance of 14 consecutive days.

Implications

- ♦ This would complicate the current practice for Return to Title IV.
- ♦ Currently, institutions only need to determine the last date of attendance for those students who quit attending class and that is done by determining when a student last engaged in an academic activity.

Institutional Quality and Accountability

How to Follow Rulemaking

To follow the process:

- Read our updates in *WCET Frontiers*. (1/18/24; [Major Changes to Distance Education Proposed](#))
- Check the SAN Website page for the [U.S. Department of Education Rulemaking 2023-2024 Information](#) that compiles Department progress and analysis documents.
- Review the Department's website: [Negotiated Rulemaking for Higher Education 2023-24](#) where the recordings, transcripts, and Issue Papers are posted.

Institutional Quality and Accountability

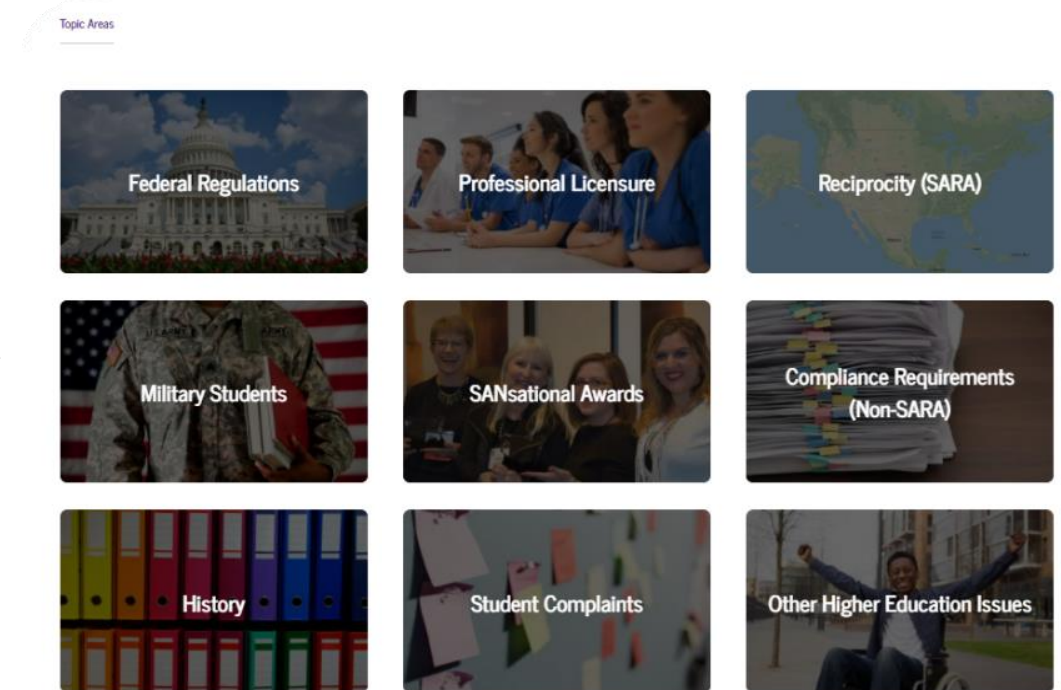
How to Participate in Rulemaking

To participate in the process:

- Register to stream the committee meetings in February and March. (event registration link will be provided on the Department's website shortly before the March 4-7 meeting week).
- Provide public testimony – 3-minute statement opportunities are offered during the last 30 minutes of each committee meeting. The timeslots fill quickly. Email negreghearing@ed.gov with your name and name of organization to reserve a spot.
- Communicate with your senior leadership and government relations offices at your institution.
- On accreditation topics, consider reaching out to your accreditor to seek information on the potential impact.
- Communicate with your state legislators and/or Congressional Representatives or Senators depending on the issue area.

Who is SAN?

- The [State Authorization Network](#) (SAN) empowers members to successfully resolve regulatory challenges to improve student protections in digital learning across state lines.
- We provide expert analysis, resources, and training to prepare for emerging issues, collaborate on compliance strategies, develop solutions, and evaluate their efficacy.
- We directly addressed the rulemaking process by offering analysis to members throughout each step of the rulemaking process, as well as providing public comment and testimony on the issues.



wcetsan.wiche.edu

What We Do?: Provide Valuable Resources

<https://wcetsan.wiche.edu>

- **SAN Advisory Group**

- An 8-member panel of SAN members who make recommendations on programmatic issues of interest to the membership

- **Special Interest Teams (SIT)**

- Small issue workgroups – 7 people
- Meet virtually as needed to discuss and research identified topics/issues of concern

- **Talking Points/White Papers**

- **Webinars, Events, Podcasts**

- **Research**

- The Evolution of Compliance for State Authorization of Distance Education

- **SAN Open Forum**

- 2nd Tuesday of each month via Zoom

- **SAN Monthly Coordinator Call**

- 4th Tuesday of each month

- **eNewsletter**

- Published the first week of each month

- **Federal Regulations**

- Key Federal Regulations Related to State Authorization
- U.S. Department of Education Rulemaking Information

- **Military Students**

- **Professional Licensure**

Key Resources

<https://wcetsan.wiche.edu>

- **Getting Started Page**

- Foundational Principles & Key Rules Interstate Compliance
- Research Tips
- Professional Licensure Requirements

- **SAN Essentials**

- Foundational Principles
- Key State Authorization Rules
- State Authorization & Military Students

- **SAN Tables**

- State Institutional Approval Quick Chart
- Student Complaint Information by State and Agency
- Canada Approval Quick Chart
- Mexico Approval Quick Chart
- Employment Law Related State Agencies

- **SAN Next Level**

- Data Privacy / Digital Accessibility
- Labor & Employment Compliance
- Research Tips

- **SAN Papers**

- Beginner's Checklist Professional Licensure Requirements
- Military-Affiliated Students: Managing International Compliance When Duty Calls
- Out-of-State Complaint Options Professional Licensure Compacts: Myth vs. Fact

- **SAN-U**

- Member Integration Course
- State Authorization Basics
- SAN Navigation
- Distance Education Compliance – Various Topics

- **International Resources**

- Canadian Higher Education Guide
- Mexican Higher Education Guide

Membership Opportunities

Type of Membership	SAN Annual Fee with WCET Membership (Held separately through WCET from at least one institution or entity within the SAN individual or group membership)	SAN Annual Fee with No WCET Membership (Held separately through WCET from at least one institution or entity within the SAN individual or group membership)
Organizations, State Agencies or Portal Entities (office only) 1 coordinator	\$3,000	\$3,500
1 Institution 2 coordinators	\$4,000	\$5,000
2-15 Institutions 2 coordinators	\$6,000	\$7,000
16-30 Institutions 3 coordinators	\$8,000	\$9,000
31+ institutions will be addressed on case-by-case basis.	Please communicate with the SAN Senior Director.	

Meet the SAN Team



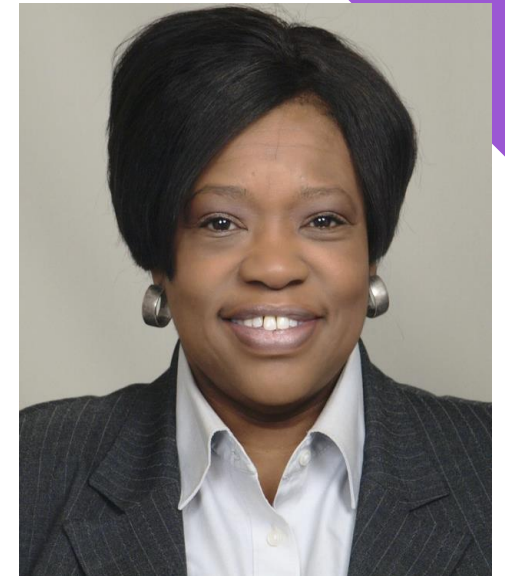
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Thank you

Contact Us!

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