



U.S. Department of Education and Professional Licensure Updates for NEBHE Region Institutions

The following licensure-related questions were asked during the 2/9/2024 webinar presented by [WCET-State Authorization Network](#) and [Higher Education Licensure Pros](#). Questions are answered in the order received.

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.

With this being a recently released regulation, hopefully more information and guidance will be available from the Department of Education (ED) 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.

Questions can be directed to ED staff member Vanessa Gomez: Telephone: (202) 987-0378, Email: Vanessa.Gomez@ed.gov. Text in **red font** in this document is direct quote that Higher Education Licensure Pros received via email from Ms. Gomez.

Q. Do you have any examples of student attestation letters for the new licensure program rule taking effect July 1? Or perhaps recommendations for structure/format?

- A. Not at this time. We are working with institutions to develop samples. We will make these examples available to members of [The Bookmark](#) in the future.

It will need to include a statement that clearly identifies one specific “meets” state or territory where the prospective student intends to seek licensure and employment after completing the program. The written attestation can be hardcopy or email if the school can reasonably authenticate that the email 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.

Q. Do we have any information on how changes may affect international distance ed students?

- A. These regulations apply to Title IV eligible programs in the state/territory where the institution is located and U.S. state/territory where “distance education” students are located. If international students are located outside of a U.S. state/territory, then it wouldn’t seem to have any impact. Note that other countries may have their own licensure disclosure type regulations or requirements, or additional requirements to enroll students located in their country.

Q. Meets or does not meet apply to distance ed programs or on-campus programs as well.

- A. These professional/occupational-related requirements apply equally to all types of programs. Institutions must be able to certify that their programs meet educational requirements for licensure where the institution is located and where “distance education” students are located at the time of initial enrollment into the licensure program.

Vanessa Gomez, the ED staff contact for this issue has indicated that any student taking any course through distance education during the first term of enrollment in the licensure program counts as “distance education” – including general education courses. If a prospective student will be taking one or more online classes during the first term of enrollment, institutions need to be able to certify that the licensure program meets educational requirements in the state/territory where the prospective student is located at the time of initial enrollment into the licensure program.

Q. Could we still enroll students in a "does not meet" or "not determined" state if they are not Title IV recipients?

- A. You can, if the prospective student completes a written attestation that indicates they will seek licensure and employment in a “meets” state/territory after completing the program. These regulations are connected to the program’s Title IV eligibility, not individual students.

Q. What if the student is located in an area where they live in one state but are seeking certification in another state? For example, they live in NJ but teach in NY and are seeking certification for NY and taking courses in a NY school. Would the school have to meet the requirements for NJ also, even if the student isn’t seeking NJ certification?

- A. Where this particular prospective student is located will be determined by your institution’s student location policy.
The new PPA Certification requirement is that the institution must certify that the program meets educational requirements where the institution is located and where the “distance education” students are located at the time of initial enrollment into the licensure program.

Vanessa Gomez, the ED staff contact for this issue has indicated that any student taking any course through distance education during the first term of enrollment in the licensure program counts as “distance education” – including general education courses. If a prospective student will be taking one or more online classes during the first term of enrollment, institutions need to be able to certify that the licensure program meets educational requirements in the state/territory where the

prospective student is located at the time of initial enrollment into the licensure program.

If your institution's student location policy treats this prospective student who lives in NJ as being located in NJ at the time of initial enrollment, then you would have to meet NJ requirements in order to enroll. However, if the program does not meet NJ's requirements, the prospective student can still enroll if they complete a written attestation that indicates they intend to seek certification/licensure and employment in NY after completing your program.

Q. Is a hybrid program - part online and part in person instruction considered distance education?

- A. Vanessa Gomez, the ED staff contact for this issue has indicated that any student taking any course through distance education during the first term of enrollment in the licensure program counts as "distance education" – including general education courses.

Q. What if the online course in the program is in a subsequent semester (not the first semester). Would this still apply?

- A. The second term and beyond does not seem to be a factor. Vanessa Gomez, the ED staff contact for this issue has indicated that any student taking any course through distance education during the first term of enrollment in the licensure program counts as "distance education" – including general education courses. If a prospective student will be taking one or more online classes during the first term of enrollment, institutions need to be able to certify that the licensure program meets educational requirements in the state/territory where the prospective student is located at the time of initial enrollment into the licensure program.

Q. How are hybrid or courses with a blend of on campus and distance education perceived? Are they considered online?

- A. Vanessa Gomez, the ED staff contact for this issue has indicated that any student taking any course through distance education during the

first term of enrollment in the licensure program counts as “distance education” – including general education courses.

Q. Does it matter if it's first term freshman or first term transfer?

- A. Enrollment in defined in the code (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 ED provided commentary in the 2019 final regulation release that indicates initial enrollment is "prior to an enrollment agreement or financial commitment". Further, according to ED staff contact Vanessa Gomez, “we understand that the first semester enrolled in the institution may differ from the first semester enrolled in a licensure program. For the requirements in 34 CFR 668.14(b)(32), we would consider the first semester to be the first semester in which the student is enrolled in a licensure program and takes at least one class that is required for that program.”

Q. As a social work program we are required by our licensing and accrediting body CSWE, to meet the same requirements as all schools nationally. Which then meet the requirements for SW licensure in all states. Our students are in person for all required courses in MA. They do 1920 hours in their home states of practicum requirements in which our school has entered into an affiliation agreement. The 960 hours are connected to credits. Does this make us a distance education program that needs to meet requirements?

- A. While specialized accreditors, such as Council for Social Work Education (CSWE), play an important role in professional and occupational licensure, it is not true that all states/territories accept a program that holds specialized accreditation as meeting all educational requirements for licensure.

For example, for Master of Social Work programs that are designed or advertised as leading to a clinical social work license, there are many states that require specific coursework or credits (such as psychopathology or couples/families/groups) to have been completed as part of the MSW program. In order to be able to indicate a MSW program “meets” the educational requirements, the specific

courses/credits in the institution's program would need to be compared to these unique state/territory requirements.

Q. What kind of documentation/proof will USDE require from an institution to show a program meets/does not meet another state's licensure requirements?

- A. ED has not provided information on any particular documentation or evidence needed to demonstrate a program meets/does not meet another state's licensure requirements.

Institutions should produce and retain documentation that includes each state's/territory's requirements for licensure, comparisons of the institution's programs to those specific requirements, and any other information about program curriculum that was used to make the "meets"/"does not meet" determination.

In some (likely rare) instances, state/territory licensing boards or agencies may provide written guidance to an out-of-state institution about how their programs meet educational requirements. If an institution is able to secure this documentation, it should also be retained.

Q. If a face to face student in a lic. program does move states but is now considered on campus - do we need to send a disclosure and attestation agreement

- A. Direct disclosures need to be sent to current students within 14 calendar days of a change to "does not meet". In this scenario, if the current student moves to a location that is considered "meets", such as the state/territory where the campus is located, then no direct disclosure would be required. Similarly, if a current student moves to a "meets" location, no written attestation is required.

Q. If we clearly state on our website that a state certification only meets certification in the current state, do we still need to send a disclosure and attestation agreement?

- A. Institutions must be able to certify that their programs meet educational requirements for licensure where the institution is located and where

“distance education” students are located at the time of initial enrollment into the licensure program.

Vanessa Gomez, the ED staff contact for this issue has indicated that any student taking any course through distance education during the first term of enrollment in the licensure program counts as “distance education” – including general education courses. If a prospective student will be taking one or more online classes during the first term of enrollment, institutions need to be able to certify that the licensure program meets educational requirements in the state/territory where the prospective student is located at the time of initial enrollment into the licensure program.

The commentary released with final regulations and additional communication from ED staff seem to indicate that an institution can create a student location policy that treats prospective students as located on campus at the time of initial enrollment, if they will not be taking any distance education courses during the first term of enrollment in the licensure program.

Q. I've lost track if these regulations are only for distance education professional licensure programs or all professional licensure programs.

- A. These professional/occupational-related requirements apply equally to all types of programs. Institutions must be able to certify that their programs meet educational requirements for licensure where the institution is located and where “distance education” students are located at the time of initial enrollment into the licensure program.

Vanessa Gomez, the ED staff contact for this issue has indicated that any student taking any course through distance education during the first term of enrollment in the licensure program counts as “distance education” – including general education courses. If a prospective student will be taking one or more online classes during the first term of enrollment, institutions need to be able to certify that the licensure program meets educational requirements in the state/territory where the prospective student is located at the time of initial enrollment into the licensure program.

Q. Are the public disclosures required for all licensure programs regardless of modality or only for distance learning programs

- A. These professional/occupational-related requirements, including public disclosures, apply equally to all types of programs.

Under new [34 CFR § 668.43\(a\)\(5\)\(v\)](#):

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

Q. We're on a state border. If a student comes face to face, but lives across the border in a DNM state, how do we handle this?

- A. Your student location policy will determine how this situation is handled. Under these regulations, 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 the policy available to ED if requested.

The commentary released with final regulations and additional communication from ED staff seem to indicate that an institution can create a student location policy that treats prospective students as located on campus at the time of initial enrollment, if they will attend classes face-to-face, on-campus (and not be taking any distance education courses) during the first term of enrollment in the licensure program. In other words, you could create a student location policy that treats the commuter student as located on your campus.

If your policy does not treat this student as located on campus, you would need to secure a written attestation from the prospective student that indicates they will seek licensure and employment in a "meets" state/territory in order to be able to enroll.

Q. If a program has a low residency format, and therefore online learning students must physically come to campus during the first semester, how does this impact the regulations?

- A. The first term of enrollment in the licensure program seems to be key. Vanessa Gomez, the ED staff contact for this issue has indicated that any student taking any course through distance education during the first term of enrollment in the licensure program counts as “distance education” – including general education courses. If a prospective student will be taking one or more online classes during the first term of enrollment, institutions need to be able to certify that the licensure program meets educational requirements in the state/territory where the prospective student is located at the time of initial enrollment into the licensure program.

Q. We definitely need HELP. The Bookmark looks like a great resource.

- A. Thank you for the feedback! We would be happy to share more about The Bookmark and how we work with institutions. You can find more information on our website:
<https://www.higheredlicensurepros.com/the-bookmark>

Q. If only one state offers a government issued license for a profession, but the institution chooses not to accept students from that particular state, would the professional licensure regulations still apply to the institution?

- A. Under the July 1, 2024 regulations, institutions must be able to certify that their programs meet educational requirements for licensure where the institution is located and where “distance education” students are located at the time of initial enrollment into the licensure program.

If there is no state/territory issued license where the institution is located, or where prospective students are located, then there wouldn't be any licensure requirements to meet.

Institutions should take caution though. If one state/territory is issuing a license, it is likely that others will follow suit. Institutions should regularly review requirements in other states/territories.

Note that ED has indicated institutions should not be advertising programs in states unless the program “meets” licensure requirements.

While enrollments may be restricted, institutions should also note where programs are being advertised.

Q. In NY, hybrid courses that include a required in person class meeting schedule are considered to be in person courses.

- A. There are certainly other definitions of distance education used by States, accreditors, and even the U.S. Department of Education.

Vanessa Gomez, the ED staff contact for this issue has indicated that any student taking any course through distance education during the first term of enrollment in the licensure program counts as “distance education” – including general education courses. If a prospective student will be taking one or more online classes during the first term of enrollment, institutions need to be able to certify that the licensure program meets educational requirements in the state/territory where the prospective student is located at the time of initial enrollment into the licensure program.

Q. This was in a WCET release, and it seems to specify only distance education programs are subject to the regulations. is that correct?

<https://wcet.wiche.edu/frontiers/2023/10/31/new-federal-regulations-part-1-addressing-programs-leading-to-a-license-or-certification/>

- A. Vanessa Gomez, the ED staff contact for this issue has indicated that any student taking any course through distance education during the first term of enrollment in the licensure program counts as “distance education” – including general education courses. If a prospective student will be taking one or more online classes during the first term of enrollment, institutions need to be able to certify that the licensure program meets educational requirements in the state/territory where the prospective student is located at the time of initial enrollment into the licensure program.

Additionally, ED staff have indicated that these regulations (both PPA certification and disclosures) apply equally to all modalities of programs.

Q. If a program meets requirements within a state, except for one additional state-specific requirement (like a course, training, exam, or additional practicum hours), does it qualify as a "meets" state? If not, how can we enroll students from that state, if they are willing to take the additional state-specific requirement?

- A. This scenario may fall under the example that ED provided in their commentary released with the regulations. If the graduate of your program would be eligible for some sort of provisional/temporary license to work as a teacher while they complete the specific state history course, you could indicate "meets".

Comments: Many commenters pondered how the Department reconciled the limitation on institutions and students from meeting State educational prerequisites for Teacher Preparation Programs that often include only a course or two in the program addressing State specific history or culture even though, there is a pathway to licensure through State reciprocal agreements and the new Teacher Education Compact for license mobility. Discussion: The Department's concern is that a student who completes a program be able to meet the educational requirements for licensure or certification in their State. We are persuaded by commenters that the way to meet this requirement can take a few forms. While the most straightforward would be to simply get licensed in the State they are living in, there are options for some occupations like teaching to obtain a license in their home State through reciprocity. In such situations the student obtains a license in a different State, but there is an agreement that allows them to use that license elsewhere. We believe that such situations would address the Department's policy concern, provided that the student obtain a license that through reciprocity allows them to work in the State covered by the requirements in § 668.14(b)(32)(ii). This could include both a full license as well as a provisional one. Because these are all forms of licensure we do not think a regulatory change to capture this concept is necessary. From [page 398 of ED's unofficial regulations release](#).