



50+ ways to regulate: Foundations of Out-of-State Activity Compliance

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Who is WCET?



WICHE Cooperative for Educational Technologies

Advancing learner access and success through
postsecondary digital learning for a more equitable world.

WCET Website: <https://wcet.wiche.edu>

WCET Frontiers: <https://wcetfrontiers.org>

Who is SAN?



Empowering members to successfully resolve regulatory challenges to improve student protections in digital learning across state lines.

All California Community Colleges are members of SAN.

Coordinators:

(the following person manages the SAN membership for the California Community Colleges)

- Erin Larson: elarson@cccco.edu

SAN Website: <https://wcetSAN.wiche.edu>

Learning Objectives

- Awareness of institutional compliance with state requirements when serving students, including military students, located in a different state than where the institution is located.
- Awareness of institutional compliance with state requirements when employing faculty and staff working from a different state than where the institution is located.
- Understanding of Federal Regulations tied to state institutional approval and explanation of a state authorization reciprocity agreement.

OUT OF STATE ACTIVITY COMPLIANCE QUIZ BOWL



Types of questions:

- True False + Why
- Short answer



Be the first to raise your hand to answer the question!
Win Prizes!!!

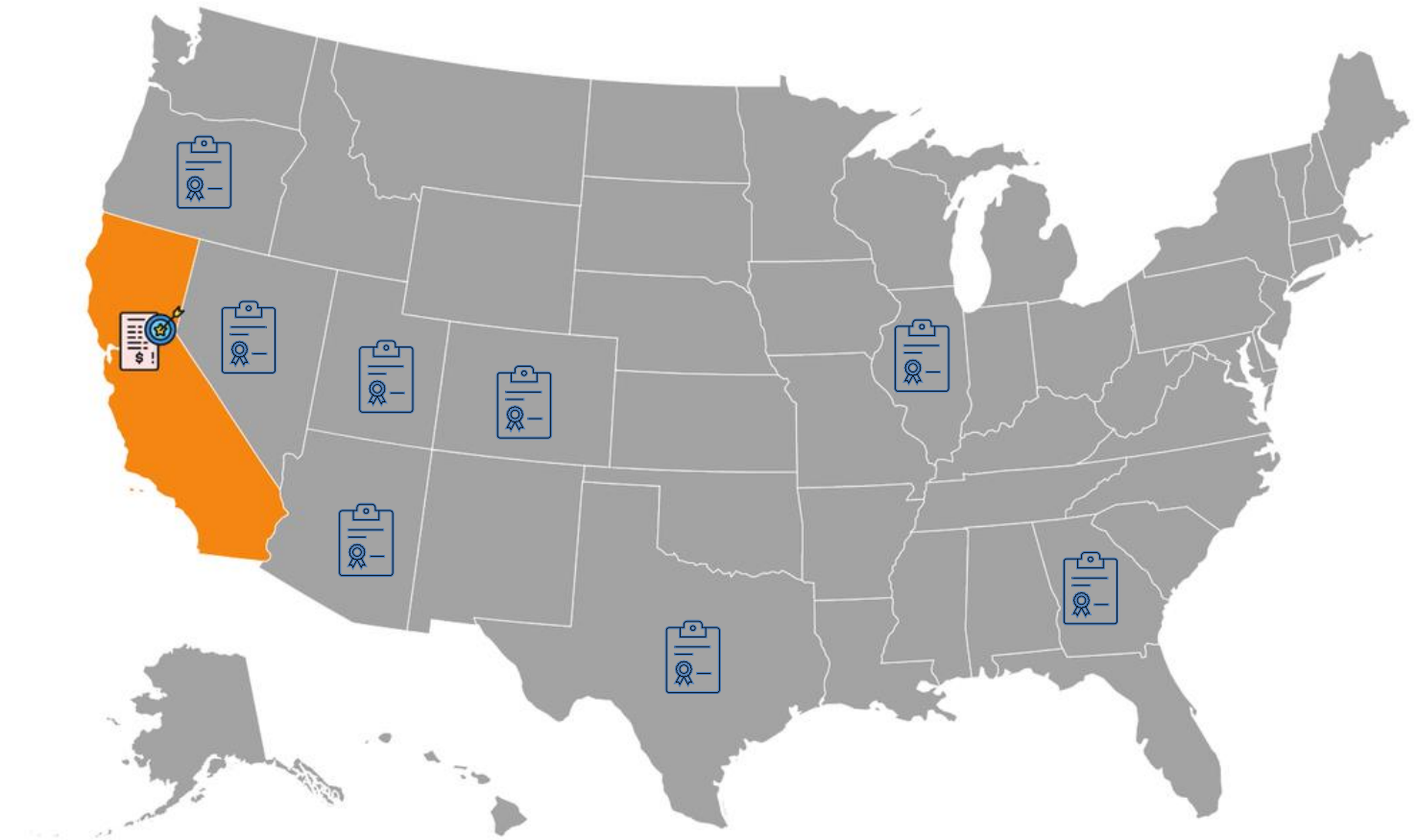
Q. True or False and Why

Institutions must determine where their students are located (including Military students) and what activities of the institution occur outside of the state and determine if that state requires oversight/approval/authorization.

Answer: True!

Institutions must be compliant with the laws and regulations of the State where the institution's activities occur. "LOCATION" is the key word.

Note that only a few states provide an exemption for military students – that is a state issue.



Question #2

Q. Can you name at least two types of oversight or approval that may be required by another state for activities that occur in that state?

Intersections of State Authority

➤ Professional licensing

Respective by state/profession

Standards + enforcement of practice

➤ State registration

Department of Labor/Taxation, Secretary of State/Treasury

Operations; employment; taxation

➤ Institutional approval *(authorization, license, certification)*

Department of Education/Higher Education

Degree-granting authority; consumer protection



Q. True or False and Why

In every state in the United States except California, reciprocity through SARA covers all interstate activity oversight responsibilities of the institution.

Answer: FALSE!!!!

[SARA Manual](#)

Key Elements:

- Reciprocity for state institutional approval is available through the State Authorization Reciprocity Agreements (SARA) in STATES that volunteered to be members in the agreement.
- SARA establishes national standards for interstate offering of distance-education courses and programs plus standards for a few other activities including, experiential learning.
- The creation of the entity, NC-SARA (* the agreement is SARA), is to facilitate collaboration with the regional compacts (MHEC, NHEBE, SREB, WICHE) to implement SARA.
- Institutions PARTICIPATE in SARA in states that are members of SARA by applying and renewing annually to their home state.

*SARA participation does not cover any institution responsibilities for other state laws and regulations or to other state agencies in another state beyond the requirements for institutional approval for the higher education agency. (ex. State Professional Boards, Dept. of Taxation, State Secretary of State, or Dept. of Labor)

Q. What is the Federal Regulation deadline for institutions to be compliant with State requirements to be legally offering postsecondary distance education in the states where the students are located?

Answer: 34 CFR 600.9(c) became effective July 1, 2020.

Tied to Aid– Eligibility to disburse aid tied to the institution having approvals demonstrated by:

- Direct approval by the state; or
- Through a state authorization reciprocity agreement.

Student Location

- Defensible Process – Document & to be provided to the Secretary upon request
- Determine at time of enrollment; or
- Formal receipt of information from the student that the location has changed based on processes at the institution.



*COVID flexibilities offered by the Department of Education that are in place until “end of the national emergency” permit the institution to consider the location of the student to be at the time of the move to remote learning. This does not affect States who wish to enforce their own requirements.

Q. What type(s) of notifications must institutions, that participate in Title IV HEA programs, provide the public, prospective, and enrolled students regarding educational programs that lead to a state professional license or certification?

Answer: Public/make available and direct notifications.

34 CFR 668.43(a)(5)(v) & 34 CFR 668.43(c)

Compliance is tied to participation in Title IV Federal Financial Aid

1. Regulations address all modalities (includes Face to Face and Online)
2. Important to understand the type of Educational Program subject to notifications.
3. Important to know the information to be provided for public notifications.
4. Important to know what and when information is to be provided for direct/individualized notification.



Looking into the Future

Department of Education Federal Negotiated Rulemaking Committee Institutional and Programmatic Eligibility

January 18-21; February 14-18; March 14-18, 2022

- Ability to Benefit - **Consensus**
- Administrative Capability
- Gainful Employment
- Financial Responsibility
- Changes in Ownership
- Certification Procedures
- 90/10 Rule - **Consensus**



What we are watching

Certification Procedures: 34 CFR 668.14(b)(32)

Proposed language during rulemaking affecting licensed programs and reciprocity:



(32) In each State in which the institution is located or in which students enrolled by the institution are located, as determined at the time of initial enrollment in accordance with the requirements in 34 CFR 600.9(c)(2), the institution must ensure that each program eligible for title IV, HEA program funds—

(i) Is programmatically accredited, if such accreditation is required by the State or a Federal agency, except that programmatic pre-accreditation is sufficient if acceptable according to the State or Federal agency;

(ii) Satisfies the applicable educational prerequisites for professional licensure or certification requirements in the State so that a student who completes the program and seeks employment in that State 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; and

(iii) Complies with all State consumer protection laws, including both generally applicable State laws and those specific to educational institutions, except where State requirements for obtaining authorization are inapplicable pursuant to a State authorization reciprocity agreement.

Questions



Presenter Contact Information



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