

What are Colleges Doing (or Not Doing) about State Authorization?

A Survey Conducted by the
University Professional & Continuing Education Association
and
WICHE Cooperative for Educational Technologies
EXECUTIVE SUMMARY

The 'state authorization' issue was brought to the forefront last October when the U.S. Department of Education issued a regulation that an institution must be able to document that it meets "any State requirements for it to be legally offering distance or correspondence education in that State." Many institutions discovered that they had not sought the proper approvals in states in which they enroll students. Subsequently, the federal requirement has been set aside by a court case, but could return if the Department wins an appeal or addresses the technicality that caused the regulation to be vacated. State laws preceded the federal regulation and, even without federal oversight, states expect institutions to follow their laws.

Collegiate personnel, policymakers, and the press were all wondering what steps institutions had taken toward compliance. In July, UPCEA and WCET partnered to conduct a survey to research that question. Responses were received from 215 institutions serving students in other states. Key findings from the survey include:



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Extensive Institutional Reach. Institutions average serving students in 34 states. Forty-six percent of institutions plan to seek approval in all U.S. states, territories and protectorates.

Many Have Not Applied. Most institutions (97%) have taken some steps to address state authorization, but **69% of institutions have yet to apply for approval in any state.**

Many Misunderstand Regulations. Of those who have yet to apply, 19% believe that the regulation will be repealed. While this is true at the federal level, state regulations are still in place. Ten percent of the responding institutions believe that they are exempt, which seems higher than possible based on our knowledge of the regulations.

Many Lack Funds to Address. Of those who have yet to apply, many are hampered by budget restrictions, such as lack of staff (29%), and believe that the cost is too high (15%).

The Costs are Significant. For the institutions that have estimated the costs to comply in the first year, the average estimate for state fees and other application costs is \$143,884. The median estimate is \$78,793. This does not include the staff time to research the regulations, complete the applications, and manage the compliance process.

Institutions are Planning to Pull Out of States. Fifty-nine percent of the colleges expect that they will no longer accept students from some states. The states that were identified most frequently were Massachusetts (29), Minnesota (16), and Arkansas (15). The 29 responses for Massachusetts represent a third of those who responded to this question.

Significant Revenue is at Stake. On average, the revenue generated by out-of-state students represents 18% of the revenue for the institution’s distance education operations. The “trimmed mean” income at stake was \$2,898,595 (note: we had to remove one very large outlier) with a median of \$475,769. The amount and percentage of total revenue that is at stake varies greatly by type of institution.

Thousands of Students Affected. 111 institutions provided estimates of how many students they might not be able to serve because of state regulations. On average, the institutions stated that the number of students that they might not be able to serve is 173, with a low of 0 and a high of 4,000. The institutions responding to this question estimated that they ***will not be able to serve a total of about 19,000 students.***

Smaller Colleges May Suffer. With fewer students in a state, the cost-per-student may have a bigger impact on smaller colleges.

Call for Action. Open-ended comments can be summarized: continued ***confusion*** about the nuances of regulations from state-to-state; frustration with ***difficult processes*** that seem duplicative of accreditation, unnecessary, and expensive; feeling that there is ***little value added*** with the regulations hindering the ability to serve students; and a call for ***consistency*** among regulations or reciprocity among states.

Conclusions

Colleges are struggling to comply. They are facing the increased costs incurred in the application process and in staffing the compliance efforts at a time when many are facing budget cuts.

As with any consumer product, ***states have a legitimate consumer protection role*** in protecting their citizens. Some states have no requirements for distance education providers. Some states have cumbersome, expensive, and outdated regulations that need to be updated for the digital age.

Colleges seem to be headed in one of two directions: 1) ***ignoring the state regulations*** and accepting the risks, or 2) ***complying in most states and withdrawing from some.*** Neither scenario is acceptable to a higher education community that is trying to maintain its integrity while meeting federal goals to increase the number of graduates in the U.S.

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