

Expanding Professional Licensure Responsibilities: What ED's Proposed Changes Mean to Your Institution

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This presentation is being recorded.



Resources available on the MHEC website post-event.



Submit questions in the Q&A.



Please complete our survey.

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Introductions



Nan Kalke, PhD

- Specialized accreditation
- Program and curriculum content alignment to external standards
- Ensure program operations meet quality assurance standards
- Licensure research



Kris Maul, JD

- Over a decade specializing in licensure
- Research, analysis and curriculum
- Compliance processes and systems
- Board communication and advocacy
- Student and graduate support

What I will cover

- Department of Education's proposed regulations and relation to current requirements
- Potential impacts to institutions
- Opportunities to influence
- How to prepare for potential changes
- Your questions



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.



Department of Education's Proposed Regulations



Proposed 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 is proposing adding a new section to PPA, that relates to accreditation, licensure/certification, and consumer protection.



Proposed New PPA Certification Responsibility - Language

34 CFR § 668.14(b) - Proposed New Section

(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 34 CFR 600.9(c)(2), **the institution must determine that each program** eligible for title IV, HEA program funds—

(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



Proposed New PPA Certification Responsibility - Notes

- **Removed “ensure”** from negotiated rulemaking language replaced with **“must determine”** program **“satisfies”**.
 - Oxford English Dictionary definitions
 - Determine: “firmly decide,” or “ascertain or establish exactly, typically as a result of research or calculation.”
 - Satisfy: “adequately meet or comply with (a condition, obligation, or demand),” or “fulfill (a desire or need).”
 - Evidence needed?



Proposed New PPA Certification Responsibility - Notes

- All institutions, all modalities of programs, **based on location of institution and prospective student location at enrollment**
 - Student location policy still left up to each institution to determine.
 - New language around location: prior to the student's enrollment in the program (current individual disclosure language) vs. determined at the time of initial enrollment (proposed language).
 - Both new and existing language points to [34 CFR 600.9\(c\)\(2\)](#)
- Connection to exams is interesting, but **intent seems to be any academic/program requirements for licensure.**



Proposed Changes to Disclosures - Language

34 CFR 668.43(a)(5) - Proposed Change

(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 is aware that the program does and does not meet such requirements**



Proposed Changes to Disclosures - Notes

Public Disclosures



- **Likely still all U.S. states/territories (59) but could be less**
 - What does “the institution is aware” actually mean?
 - Connection to proposed new PPA certification requirement may factor into interpretation
 - Comment made by ED negotiator during negotiated rule-making
- **Change: “Not determined” or “No determination made” is no longer an option!**



Proposed Changes to Disclosures - Notes

Individual Direct Disclosures

Not addressed in ED proposal/no changes

- Student location is key
 - Language difference: prior to the student's enrollment in the program (current individual disclosure language) vs. determined at the time of initial enrollment (proposed language).
 - Both new and existing language points to [34 CFR 600.9\(c\)\(2\)](#)
- Before Enrollment if “not determined” or “does not meet”
 - **DISCONNECT** – But can’t enroll if “does not meet” and “not determined” under new PPA certification requirement.
- 14 calendar days from change to “does not meet”



Potential Impacts to Institutions



Potential Impacts and Opportunities

Limit student's choice of programs and expansion of distance learning

Because the proposed new PPA certification requirement limits an institution's ability to enroll students using Title IV to only those states/territories where the institution knows that the program satisfies educational requirements for licensure or certification:

- Institutions will limit enrollments to students from certain locations—for both campus-based and distance programs.
- Some institutions will cancel plans for distance/online program expansion.

Unknown Title IV eligibility impacts to current students if state/territory becomes “does not meet”.



Potential Impacts and Opportunities

Increased faculty/staff

- More resources and time will need to be invested in licensure research and program comparisons.
 - Additional faculty/staff needed, or contract with external support.

More risks for institutions

- Certifying through the PPA that educational prerequisites are met.
 - Most licensing boards/agencies do not currently have process for reviewing or approving out-of-state programs.
- Institution must make a “meets” or “does not meet” determination.
 - “Not determined” is no longer an option.

Potential collaborations between: institutions, specialized accreditors, state higher education offices, and professional/occupational licensing authorities.



Opportunities to Influence



Timeline

Negotiated Rulemaking Process

1. Public Notice
2. Select Negotiators
3. Department proposes regulations
4. Conduct first meeting of Negotiators
5. Negotiate between and during meetings
6. The Goal: Consensus
7. Negotiators vote at final meeting
8. Office of Management and Budget review for economic impact
9. Publish proposed regulations
May 19, 2023
10. **Public comment period closed June 20, 2023 (almost 4000 total, about 10% address licensure)**
11. **ED reviews and considers all public comments. Possible additional OMB review.**
12. Publish final regulations
If by November 1, 2023,
July 1, 2024 effective date.



Opportunities to Influence

- Public comments that were submitted are available through [regulations.gov](https://www.regulations.gov).
- Potential meetings with elected officials, ED staff, other potential influencers
 - Institution/System Government Affairs staff
 - NAICUSE
 - Other associations
- Media attention
 - [Inside Higher Ed article](#)



How to Prepare



How to Prepare - Process Considerations

- **Confirm list of licensure-related programs** (remember designed or advertised).
- **Create or update a calendar** with dates for when each program comparison will be completed and disclosures updated on website on annual (or regular) basis.
 - Consider when your institution will go through PPA re-certification and accreditation/academic reviews.
- **Develop Research Plan and Research** the educational requirements (prerequisites) for each state/territory—start with those locations where you have current students enrolled, move to most likely for prospective students, then remainder.
- **Create centralized folder/drive** to house all of your faculty/subject matter experts comparisons, communications with licensure boards, spreadsheets and other documentation used to support their determinations, lists of “meets” and “does not meet” states/territories, disclosure versions/templates, and all other licensure-related compliance documentation.



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 research, 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, etc.



How to Prepare - Location Policy



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

Consider:

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



HELP's Work with Institutions

The Bookmark

Online database of educational requirements for licensure for all U.S. states/territories (59) for over 50 license types.

Three different membership levels, based on number of users, starting at \$6,000/year.

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.



Questions



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Other Proposed 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.***

Examples of other proposed changes are:

- 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.

