

# ARE YOU READY?

## New Licensure Regulations Significantly Impact Student Enrollment, Curriculum Development, and Staff/Faculty Workloads

*December 7, 2023*



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# Midwestern Higher Education Compact



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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**

- Almost 15 years specializing in licensure
- Research, analysis and curriculum
- Compliance processes and systems
- Board communication and advocacy
- Student and graduate support

# What we will cover

- U.S. Department of Education's final regulations
- Examples
- How to prepare for 7/1/2024
- 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.



# What we will cover

The regulations and supporting commentary from ED are not crystal clear, even contradicting in some sections. With this being a recently released regulation, hopefully more information and guidance will be available 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.

**Red font** throughout this presentation is information obtained from the ED contact for these regulations.

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ED is working on developing a Q&A page



**Final Regulations –  
released 10/31/23,  
effective 7/1/2024**



# KEY TERMS

**Licensure:** Any state/territory issued credential that is required for employment in that profession or occupation. Other common terms include certification, certificate, endorsement, and authorization. Does not include private organization issued credentials that may be required or preferred by some employers.

**Distance Education:** [May 2023 Dear Colleague letter](#) applies

“a student is ‘enrolled in distance education’ if the student enrolls in at least one course offered through distance education.” Further clarified as during first term of enrollment.

**Initial Enrollment:** [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 "prior to an enrollment agreement or financial commitment" from the 2019 disclosure regulations preamble.

<b>PPA Certification</b> <i>–Starting July 1, 2024</i>	Must attest that programs meet all educational requirements - where institutions are located and - where prospective students are located at initial enrollment (or attest to seek licensure/employment after graduating).	Cannot enroll students from “does not meet” or “not determined” states/territories.
<b>Public Disclosures</b>	Must list states/territories where program “meets” or “does not meet” educational requirements.	“Not determined” is no longer required to be disclosed. <i>–Starting July 1, 2024</i>
<b>Individual Direct Disclosures</b>	Provide to prospective students prior to initial enrollment if “does not meet” or “not determined” location.  Provide to current students within 14 calendar days if location changes to “does not meet”.	All prospective/current students still required to receive.



## SUMMARY



# New: PPA Certification Responsibility - Language

## 34 CFR § 668.14(b)

*(32) In each State in which: the institution is located; students enrolled by the institution in distance education or correspondence courses are located, as determined at the time of initial enrollment in accordance with 34 CFR 600.9(c)(2); or for the purposes of paragraphs (b)(32)(i) and (ii) of this section, each student who enrolls in a program on or after July 1, 2024, and attests that they intend to seek employment, the institution must determine that each program eligible for title IV, HEA program funds—*

*(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 that is needed for the student to practice or find employment in an occupation that the program prepares students to enter;*



# 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 has added a new section to PPA, that relates to accreditation, licensure/certification, and consumer protection.



# New: PPA Certification Responsibility

**Starting July 1, 2024**, each institution must certify that any program that prepares students for licensure (*certification, endorsement or any other term for State-issued credential required for employment*) meets educational requirements

- Where the institution is located, AND
- Where distance education students are located (or where distance education students attest to plan to be employed after completing the program)



# New: PPA Certification Responsibility

## Distance Education?

Multiple definitions used by ED and others (accreditors, etc.)

[34 CFR § 600.2](#) focuses on regular and substantive interaction.

[May 2023 Dear Colleague letter](#) applies:

“a student is ‘enrolled in distance education’ if the student enrolls in at least one course offered through distance education.”

Further clarified – if enrolling in **one or more online/distance education courses during the first semester/term of the program**, then the student is “enrolled in distance education.”



# New: PPA Certification Responsibility

**Student location** should be determined at the ***time of initial enrollment***.

Covers new program entrants on or after July 1, 2024, the first day of class does not apply.

From [34 CFR 600.9\(c\)\(2\)\(i\)](#) (same as current disclosure requirement)

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 available to ED if requested.



# New: PPA Certification Responsibility

Included in ED's comments\* released with final regulation –

- **Any prospective student who will be attending a licensure program face-to-face, on-campus can be considered to be located on-campus. But if the student will be enrolled in one or more online/distance education courses during first term, then this does not apply.**
- **Institutions only need to certify for the time of initial enrollment of a student.**
  - If student later moves to a “does not meet” location, that student could stay enrolled and eligible for Title IV. The program would remain Title IV eligible.
  - If a state/territory changes requirements so that a program no longer “meets”, institutions do not have to disenroll current students located in that state/territory.
    - The institution would have to stop new enrollments or very quickly change their program to meet the new licensure requirements.



*\*Commentary provided with final regulations, also called the preamble, is not legally binding.*

# New: PPA Certification Responsibility

Also included in ED's comments\* released with final regulation –

- **Institutions may be able to rely on licensure compacts or reciprocity agreements when determining a program meets educational requirements.**
  - Specific example is for provisional teacher licenses issued to graduates of teacher preparation programs from another state that only need a single course or trainings.
  - Must qualify program graduate immediately after graduation, in other words no work experience can be required.
  - It is incumbent upon the institution to make such a determination, with the institution held accountable, and potentially liable, for doing so erroneously.



# New: PPA Certification Responsibility

Also included in ED's comments\* released with final regulation –

- **Distance education students who are located in a “does not meet” location can still enroll if they are provided with information about licensure and attest that they will seek licensure and employment in a designated “meets” state/territory.**
  - A check box or short automated form will not cut it, but if institutions are willing to create a robust process for education and attestation, they will not have to lose these enrollments.
  - The intent of this exception is to provide for specific situations where a student residing in one State has concrete plans to move to another. That State must be named in the attestation.
  - A hardcopy written attestation from the student would fulfill this requirement, as well as an email where the school can reasonably authenticate that such a communication 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.

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# Public Disclosures - Language

## 34 CFR § 668.43(a)(5)(v)

*(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;*



# Public Disclosures

ED's comments\* appear to indicate that face-to-face, campus-based programs are no longer required to provide public disclosures for all 59 U.S. states and territories, if the institution considers all of these students to be located on campus per student location policy.

Schools should not be advertising or enrolling students from States where they don't know if they meet licensure/certification requirements.

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- **A list of states/territories where the program “meets” or “does not meet” requirements.**
  - “No determination made” category is no longer included.



# Individual Direct Disclosures - Language

## 34 CFR § 668.43(c)

*(c)(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 institution in accordance with § 668.14(b)(32).*

*(2) If the institution makes a determination under paragraph (a)(5)(v) 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.*



# Individual Direct Disclosures

**Prospective students** ([34 CFR § 668.43\(c\)](#))

Regulation language and ED's comments\* indicate:

- **Required for prospective students located in a “does not meet” or “has not made a determination” state/territory.**
  - As with the current disclosure requirements, these must be sent prior to initial enrollment in the program.

Note that any prospective student receiving this disclosure would need to go through the attestation process and attest to seeking licensure/employment in a “meets” state in order to enroll.

**This would probably mostly apply where distance education was involved but not exclusively.**

*\*Commentary provided with final regulations, also called the preamble, is not legally binding.*



# Individual Direct Disclosures

## Current students ([34 CFR § 668.43\(c\)](#))

Regulation language and ED's comments\* indicate:

- **Required for students if the program becomes “does not meet” in the state/territory where the student is currently located or if the student moves to a “does not meet” location.**
  - Must be sent within 14 days of making such determination—no change from the current regulation.

Note these students would not lose access to Title IV funds and can continue being enrolled in the program.

This would probably mostly apply where distance education was involved **but not exclusively**.

*\*Commentary provided with final regulations, also called the preamble, is not legally binding.*



# Examples



# Examples

## Kansas institution

- Bachelor of Science in Nursing that leads to a Registered Nurse license.
- Face-to-face/on-campus program. No online courses available.
- Clinicals are completed in Kansas.

PPA Certification: Could treat any prospective student as located in Kansas. Can certify “meets”.

Public Disclosures: Must indicate “meets” for Kansas. No other states/territories required to be disclosed, unless “advertising”.

Direct Disclosures: Could treat any prospective student as located in Kansas. Because it is “meets”, no prospective student direct disclosures required.



# Examples

## Minnesota institution

- Master of Science in Clinical Mental Health Counseling that leads to Professional Counselor license.
- Online program with face-to-face clinical component.
- Clinicals can be completed wherever student is located. (SARA participating)

PPA Certification: Must “meet” requirements in Minnesota and any state where prospective students are located. Must limit enrollments for all “does not meet” states/territories.

Public Disclosures: Must indicate “meets” or “does not meet” for Minnesota and any state/territory where prospective students are located. This is likely all 59 states/territories, because of “advertising”.

Direct Disclosures: Any prospective student located in “does not meet” (or “not determined”) must receive. Those prospective students would need to complete attestation process and documentation in order to enroll.





# Examples

## Illinois institution

- Master of Arts in Teaching, Special Education that leads to Illinois Professional Educator License
- Online and hybrid options.
- Student teaching must be completed in Illinois.

PPA Certification: Must “meet” requirements in Illinois and any state where hybrid prospective students are located (if they are taking one or more online courses first term). Must limit enrollments for all “does not meet” states/territories.

Public Disclosures: Must indicate “meets” or “does not meet” for Illinois and any state/territory where hybrid prospective students are located. May be regional, because of “advertising” and requirement for student teaching in Illinois.

Direct Disclosures: Any prospective hybrid student located in “does not meet” (or “not determined”) must receive. Those prospective students would need to complete attestation process and documentation in order to enroll.



# Examples

## Ohio institution

- Bachelor of Science in Accounting (120 semester credits)
- Advertised as helping meet Certified Public Accountant license requirements.
- Two versions: Face-to-face/on-campus and online.
- No clinicals or supervised experiences.

**If this is advertised as a licensure program, would need to restrict enrollments for all states/territories for both versions of the program, including Ohio.**

Possibly change marketing/advertising to treat as pre-licensure type program. If so, then no PPA certification or disclosures required.



# How to Prepare for 7/1/2024



# How to Prepare - Policy and Process Considerations

- **Confirm list of licensure-related programs**
  - Remember designed or advertised
- **Identify where current students and prospective students in admission process are located.**
  - This will help prioritize states/territories for “meets” determinations
- **Complete research and curriculum comparisons for all programs where current and prospective students are located.**
  - Necessary to make “meets” determination
  - Time consuming work that will require expertise, including program leadership/faculty to complete



# How to Prepare - Policy and Process Considerations

- **Update or confirm student location policy and process students use to update their location.**
  - Consider specifying how face-to-face, on-campus prospective students will be handled.
- **Create or update a calendar** with dates for when each program comparison will be completed and disclosures updated on annual (or regular) basis.
- **Create centralized folder/drives** to house all of the curriculum comparisons, communications with licensure boards, spreadsheets and other documentation used to support determinations, lists of “meets” and “does not meet” states/territories, disclosure versions/templates, and all other licensure-related compliance documentation.
  - Need to be able to produce attestation from individual student for ED if requested.



# How to Prepare - Location Policy



Location determinations are key for 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?



# 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, required 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, direct disclosure and attestation documentation etc.





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*Costs vary, depending on number of factors including frequency, license type, timeframe, and number of institutions.*

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# Questions?

Questions about new federal regulations can be directed to:

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# Other Licensure-Related 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.***

- 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.

