



STATE HIGHER EDUCATION EXECUTIVE OFFICERS

3035 Center Green Drive, Suite 100 • Boulder, CO 80301-2205 • 303-541-1600 • Fax: 303-541-1639 • email: sheeo@sheeo.org • www.sheeo.org

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Contacts: Paul Lingenfelter, President SHEEO (303.541.1605) paul@sheeo.org
Charles Lenth, Vice President SHEEO (303.541.1601) clenth@sheeo.org
Peter Ewell, Vice President NCHEMS (303.497.0371) peter@nciems.org

SHEEO to Create Comprehensive, Authoritative Directory of State Laws and Regulations Authorizing Institutions of Higher Education to Provide Instruction

Boulder, Colorado – The U.S. Department of Education has announced rules to be effective July 1, 2011 requiring all institutions of higher education participating in Title IV programs to be able to document compliance with state laws in all states where they offer distance or correspondence education. The Department has indicated that compliance with existing state laws has always been a condition of Title IV eligibility, and the announced regulation simply calls attention to the need for institutions to assure they have legal authority to operate in all the states where they are providing instruction.

This federal action makes clear the inefficiency and ineffectiveness of existing state quality assurance laws when applied to distance education. In addition, each state has its own laws and practices governing the authorization of postsecondary instruction, which tend to emphasize consumer protection and minimal standards for institutions to begin operations before qualifying to apply for accreditation. Most state laws were written in an era when almost all postsecondary institutions provided instruction within the boundaries of a single state. Many of the institutions that have recently expanded distance education programs have not been fully aware of laws in other than their home state, and many states have only gradually become aware of the growth and scale of distance learning.

In view of the diversity of state laws and procedures, institutions offering distance instruction in multiple states are naturally concerned with the burden and cost of obtaining approval from each state in which they deliver instruction. And state agencies, responsible for enforcing existing state laws, are now faced with extremely high increases in the number of inquiries about state requirements and applications for state approval.

The growth and significance of distance education clearly calls for new approaches to state quality assurance. Students will benefit from the options provided by institutions offering distance education in many states, and state laws and regulatory practices should be designed to assure compliance with basic standards of quality assurance without dampening innovation through undue burdens on institutions. These improvements in state policy could take the form of 1) common frameworks for institutional approval and consumer protection; 2) reciprocity agreements through which a given state recognizes the actions of other states and/or accreditors; or 3) a combination of both.

The harmonization of state quality assurance procedures will take some time, and many have urged the Department of Education to delay the implementation of rule. Whether or not that occurs, both states and institutions would benefit from a complete, authoritative compendium of state regulatory practices and a comprehensive directory of state agencies responsible for authorizing institutions to provide postsecondary education. Such a publically available information resource is needed to provide a foundation for building efficient, effective state quality assurance, and it should be provided as quickly as possible.

Over the past few months, several associations, law firms, and individual institutions have been surveying state regulators and state websites to provide information on their laws and procedures. While these initiatives have helpfully added to the information in the public domain, they have not yielded a single comprehensive and publically available resource that covers both degree credit and non-degree credit instruction and the laws pertaining to professional and vocational education in particular fields. They have also resulted in considerable duplication of effort.

To address this need, SHEEO, the national association of state higher education executive officers, will develop a directory of agencies and individuals responsible for implementing state quality assurance laws as well as a compendium of state laws and regulations. The directory will be developed in close cooperation with NCHEMS, the National Center for Higher Education Management Systems, whose Vice President Peter Ewell has led previous surveys of state regulatory practices for postsecondary instruction and the cooperative relationships of states with accrediting associations. In addition, SHEEO will draw on the expertise of university attorneys in preparing the compendium to assure that it meets institutional needs.

The project will begin immediately. SHEEO plans to post the results of the survey on its website according the following schedule:

- A comprehensive directory of all state regulatory agencies (within 30 days)
- A compendium of general state rules and practices affecting distance education with clear guidance on jurisdiction (within 60 days)
- A compendium of specific state rules and practices at a high level of detail including any differences in the treatment of degree, non-degree, levels of instruction, various professional fields, etc. (within 120 days)

SHEEO will not delay posting results if survey returns are incomplete, but will post available information according to these deadlines, providing the best available information to the field while providing opportunities for augmenting and correcting the data. SHEEO will verify the information in the compendium through direct contact with state authorities and will establish procedures to update it indefinitely as states change their laws and practices.

In addition to providing this informational resource to the field, SHEEO will collaborate with national and regional higher education associations, accreditors, and representatives of state governments (legislators, attorneys general, and governors) to foster reciprocal agreements among states and the development of model state laws and practices to achieve effective regulatory protocols with the smallest possible burden and cost.