

SOUTH DAKOTA BOARD OF REGENTS

Academic and Student Affairs

AGENDA ITEM: 6 – K

DATE: December 6-8, 2016

SUBJECT: Federal Regulatory Compliance Issues

Over the past few months, the U.S. Department of Education has continued to advance new and refined federal compliance requirements impacting both Distance and Teacher Education programs. For the four sets of regulations referenced below, AAC representatives discussed system level strategies during their [November 2016](#) meeting for ensured compliance with these new regulations once formally introduced prior to the departure of the current administration.

First, the U.S. DOE released new regulations the week of October 10 indicating that each state must establish a rating system for Teacher Education programs with direct impact on student eligibility for Federal TEACH Grants. Language specifies that teacher education candidate impact on student performance must be included in the rating system, and the SD DOE was required to identify a state level lead responsible for bringing the state into compliance. The SD DOE has indicated a willingness to allow system representation as they begin to undertake this work in the coming months. Review of the 600 pages of the proposed [Regulations](#) resulted in the following brief summary from the National Governors Association:

- States must develop teacher preparation reporting and accountability systems that are outcomes-based.
- States must incorporate K-12 outcomes associated with individual teacher preparation programs — including:
 - K-12 employment outcomes (i.e. candidate placement and retention);
 - K-12 student learning outcomes on the state’s Every Student Succeeds Act (ESSA) accountability system (i.e. how the students of teacher preparation program graduates perform on tests); and
 - Customer satisfaction outcomes (i.e. survey results from program graduates and school employers).
- States must issue annual ratings for each teacher preparation program in operation.
- Teacher preparation programs with low performance in this rating system will lose access to federal TEACH grants for students attending these programs (up to \$4,000 per student)

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- States must pilot teacher preparation accountability systems in the 2017-2018 school year, but the first year a program could lose access to TEACH grants would be 2021-2022.
- Approximately 30,000 students receive TEACH grants each year, compared with more than 400,000 enrolled in traditional and alternative certification programs.

Second, during the [August 2016](#) AAC meeting the council discussed new regulations for both distance and face-to-face programs requiring licensure that specify institutions must provide students with the necessary licensure requirements for the student's home state. Institutional representatives who attended WCET the week of October 17, noted that DOE representatives were likely to release the rules in the coming weeks with little change to the original set that were released in August. EUC has been discussing this issue during the past few meetings, and Ronald Brownie from NSU has been serving on a national subcommittee of distance/continuing education coordinators working to develop strategies that may allow institutions to be in compliance. Attachment I provides a sample webpage with information for students to comply with the new requirements.

Third, the U.S. DOE has continued to draw attention to [Distance Education Rules](#) that requires institutions to ensure student authentication for online learners. The Regental system has been engaged in a pilot with Respondus Monitor during the past two years, which was further extended during the 2016-17 academic year. The Monitor product does serve as more than a mechanism that validates students are entering the appropriate passwords/PINs to determine their authentication. The tool is designed to build upon the Respondus Lock Down Browser to record students while they take the exam. There is also an option for students to take a picture of their university-/government-issued IDs before they take the exam. Additionally, following the pilot if the system decides to continue with Monitor, it has the ability to compare this with their on-file student ID as further integration becomes available in order to connect with the campus ID systems. As viable solutions were being reviewed, there were a number that went beyond the functionality associated with Monitor (including biographic/credit information consistent with background checks) at additional cost to the institutions. There was difficulty in getting the first Monitor off the ground when it was free. TAC/BAC required firm numbers, and even though the first year cost of Monitor was \$4,000, the pilot would determine cost based on actual usage, so an exact cost for year two was not possible without a more aggressive pilot. Based on current usage a system contract is expected to be below \$10,000. This is rather inexpensive when evaluating other vendors in the market which may approach \$60,000 a year for just one institution. The current direction is to continue with the Monitor pilot until our contract ends. At that point we will be able to survey instructors and students, as well as get an estimate of second-year costs.

Finally, the Americans with Disabilities Act (ADA) was a significant topic of discussion at the WCET conference, followed by the release of the following statement by EDUCAUSE during the week of October 25 regarding Department of Justice's advance notice of proposed rulemaking:

<http://er.educause.edu/blogs/2016/10/educause-comments-ada-web-regulations-supplemental-advance-notice>

It appears that the proposed rule-making will specify that university websites (including the LMS, SIS, etc.) be accessible by design, not demand (our current practice). This will include providing captions for everything consistent with [Web Content Accessibility Guidelines](#) (WCAG) 2.0. EDUCAUSE is proposing a five-year window for compliance with the proposed rule-making, but it will be a rather significant undertaking, especially given the increasing popularity of media in our courses. As just an example, the system may want to reopen its review of the video management solutions (e.g. Kaltura/ShareStream/etc.) in order to have a common platform to make video and audio accessible. It will also require a substantial emphasis during our training and QA processes, to ensure that instructors actively take ownership of making their content accessible.

Blue – State is a member of the [National Council for State Authorization Reciprocity Agreements](#) (NC-SARA). As an institutional member of [NC-SARA](#), Northern is authorized to deliver online programs in other NC-SARA member states.

Green – Northern has received specific authorization from applicable State Agency or NSU is exempt from seeking specific authorization.

California – Exempt per California 94858, confirmed 09282016

Connecticut – Online registration completed 09282016

Massachusetts -

New York – Out of State institutions with not physical location in New York State are not subject to New York State Education Department regulation.

New Jersey

Pennsylvania – Online registration completed 09282016

Wisconsin -

Puerto Rico

America Samoa

Red – Northern does not have authorization or has chosen not to seek authorization to offer online degree programs in the specified states or US Territories:

Kentucky

Florida

Maryland

US Virgin Islands

Federated States of Micronesia

Republic of the Marshall Islands

Republic of Palau

Commonwealth of the Northern Mariana Islands

Guam

§668.50(b)(2) Complaint Processes

Northern provides an opportunity for enrolled students and the public in general to submit Non-Academic complaints. The policy, process, and procedures for submitting complaints is outlined in the [Non-Academic Complaint policy](#). Individual complaints can be submitted electronically using the [Non-Academic Complaint form](#).

The policy and procedures for complaints/grievances related to Academics are outlined in the [NSU Student Handbook](#).

§668.50(b)(3) State Complaint Processes and Contacts

Individual may also submit complaints to the South Dakota Board of Regents the NC-SARA portal agency at 306 East Capitol Ave, Suite 200, Pierre, SD 57501; phone 605-773-3455; email info@sdbor.edu or the appropriate state agency for the individual resident state. The interactive map above provides specific contact information for each state. The contact information for each state is subject to change.

§668.50(b)(4) & §668.50(b)(5) Adverse Actions

As of September 30, 2016, Northern State University distance education programs have not previous, current, or pending adverse actions taken by state or accrediting agencies.

§668.50(b)(6) Refund Policies

Northern State University follows the refund policy published by the South Dakota Board of Regents

§668.50(b)(7) Professional Licensure/Certification (PLC) education requirements

Individualized Disclosures

§668.50(c) NSU DE Programs that do not meet other State PLC requirements

§668.50(c)(1)(i) Adverse Actions – 30 day notification

§668.50(c)(1)(ii) NSU DE Program no longer meets other State PLC requirements