



wcet

Federal Policy:
Past, Present, Future
The Impact on Digital Learning

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Agenda

Introduction

Rulemaking 2024 Outcomes

Effective Federal Regulations

Republican Higher ED Priorities

Discussion/Questions



WICHE Cooperative for Educational Technologies

<https://wcet.wiche.edu>



STATE AUTHORIZATION NETWORK

<https://wcetSAN.wiche.edu>

Introduction

Who we are

Rulemaking 2024 Outcomes





Rulemaking Issues

Compliance is tied to offering Title IV aid

- Cash Management - **Dropped**
- State Authorization - **Dropped**
- Accreditation - **Dropped**
- TRIO Programs – **Dropped**
- Return to Title IV (R2T4) – **DE Attendance Taking – Dropped**
- Distance Education

NEW FEDERAL RULES



Final Regulations - Program Integrity & Institutional Quality Regulatory Package

Released 1/03/25; Effective 7/1/26; Reporting due 7/1/27

Distance Education

- Distance Education Course Definition
 - A distance education course includes non-instructional in-person activities.
 - Aligns with IPEDS definition.
- Distance Education Enrollment Reporting
 - Report student enrollment in distance education courses.
 - Procedure to be determined by ED.
 - This will be incorporated into the existing enrollment process in NSLDS.
 - First reporting deadline is 7/1/27.



What happened to the Third Party-Servicers (TPS)?

- TPS was originally listed in the Notice of Intent to Establish a Rulemaking for the 2023-2024 rulemaking.
- ED intended to put in regulation rules as referenced in the 2023 Third Party Servicer Guidance and Request for Information addressing the 2011 Bundled Services Exception Guidance for OPMs.
 - Formal rescission of the 2023 Guidance by November 18, 2024.
- Discussions before the election included the possibility of a revision to the 2011 Bundled Services Exception Guidance.
- Ultimately January 16, 2025, [\(GEN-25-01\) Notice of interpretation regarding misrepresentations by third-party service providers engaged by an institution of higher education.](#)

January 16, 2025, Third-Party Servicer Interpretation

- Three types of misrepresentation are highlights
 - Inaccurately identifying an external servicer provider employee as an institutional employee
 - Inaccurately presenting a sales representative/recruiter as an academic advisor or counselor
 - “Describing a program, or any of its components or resources, provided in substantial part by the external service provider as ‘the same as’ a corollary residential or campus-based version of the program provided by the eligible institution.”
- "Programs may not be equivalent if they have meaningful differences in rates of completion, job placement, earnings, or licensure.... For example, eligible institutions should be clear if the degree is awarded by an online division or campus of the institution that does or does not certify completion of the same curriculum taught by the same faculty as the campus-based degree."



Judicial Review of Regulations

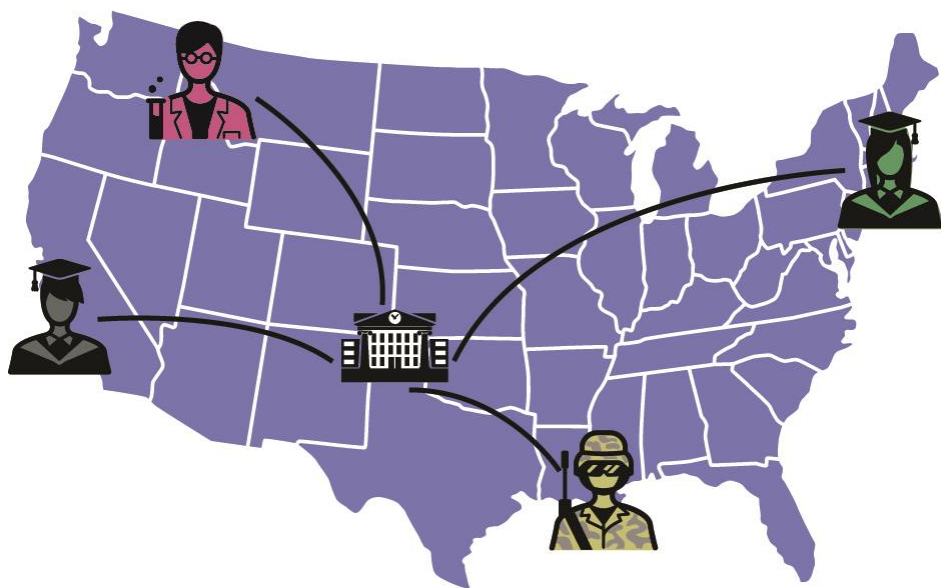
Take away – The rules are the rules until they are no longer the rules!

Loper Bright Enterprises & Raimondo and Relentless Inc. v. Department of Commerce

- Overturned the [Chevron Doctrine](#) - agency interpretation deference to determine statutory authority if the Federal statute is ambiguous or silent.

Corner Post, Inc. v Board of Governors of the Federal Reserve System

- Directs that the 6-year statute of limitations for a legal challenge against the U.S. begins when the party (the plaintiff) is injured not when the regulation became final.



Effective Federal Regulations



Interstate Distance Education Regulations

- 34 CFR 600.9(c)
- 34 CFR 600.2
- 34 CFR 668.14(b)(32)
- 34 CFR 668.43(a)(5)(v) & (c)

Federal Regulations tie compliance to participation in Title IV HEA programs.

Effective since 7/1/20

- State Authorization
- Professional Licensure Disclosures
- Definition of state authorization reciprocity agreement

Effective 7/1/24

- Program Participation Agreement Certification
 - Satisfy state educational requirements for a professional license.

Federal Regulation for State Authorization

Of Distance Education [\(34 CFR 600.9\(c\)\)](#) effective July 1, 2020

- Tied to Aid– Eligibility to disburse Title IV aid tied to the institution having approvals demonstrated by:
 - Direct approval by the state; or
 - Through a state authorization reciprocity agreement.
- Student Location
 - Defensible Process – Document & to be provided to the Secretary upon request
 - Determine at enrollment; or
 - Formal receipt of information from the student that the location has changed based on processes at the institution.



Federal Regulation for Professional Licensure Disclosures

[Disclosures \(34 CFR 668.43\(a\)\(5\)\(v\) and \(c\)\)](#) effective July 1, 2020 *public disclosures amended 2024



- 1.Regulations address **all modalities**
(includes Face to Face and Online)
- 2.Educational Programs designed or advertised as leading to a license required for employment in the occupation.
- 3.Public notifications – meets, does not meet, (states & territories where institution advertises or serves students).
- 4.Direct/individualized notification for prospective or enrolled students.

New PPA Certification Requirements

Program Participation Agreement (PPA)

[34 CFR 668.14\(b\)\(32\)](#)

Raises the Bar When Offering Programs Leading to a License

For the program to be eligible for Title IV – the institution must satisfy state educational requirements

- Where the institution is located.
- Where the student enrolled in distance education
 - On or after July 1, 2024.
 - Is located at the initial time of enrollment.

OR

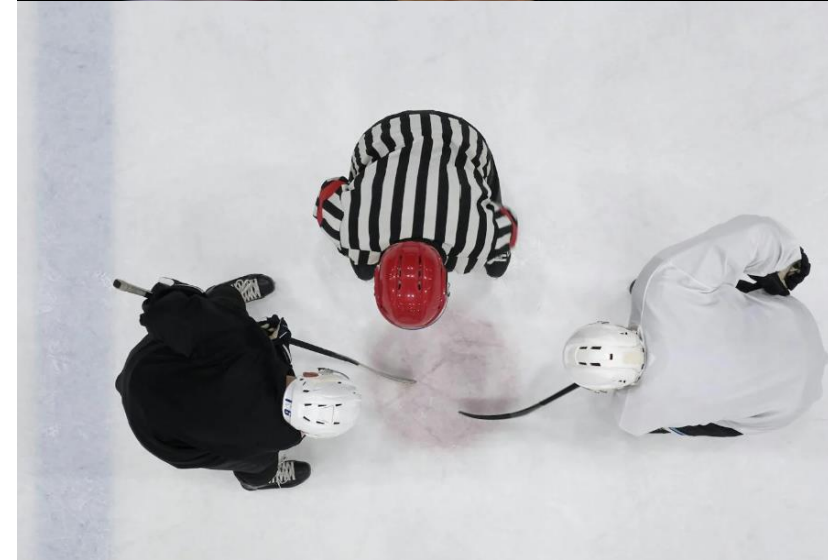
- Where the student attests that they intend to seek employment

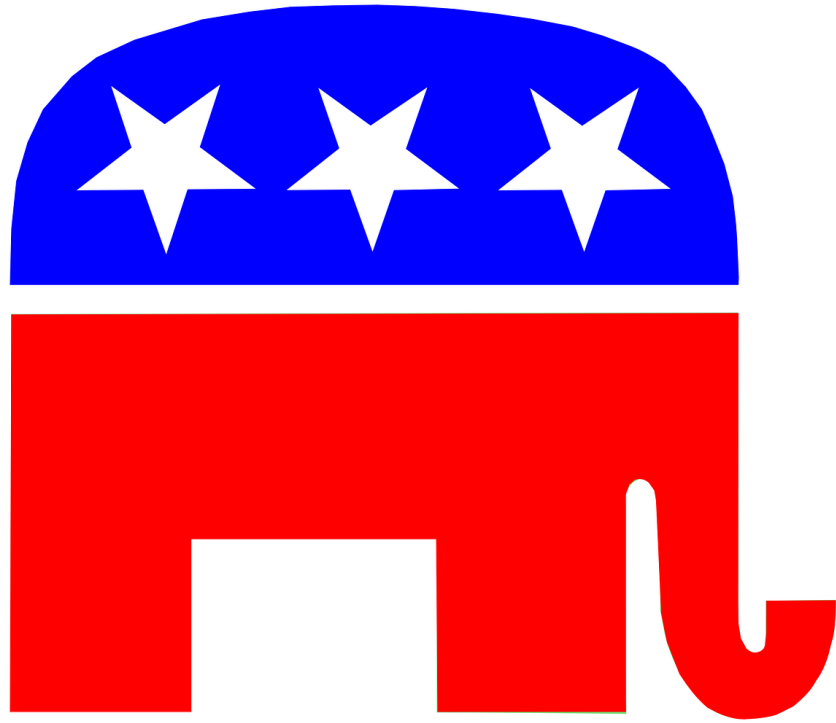
Additional Effective Federal Distance Education/Digital Technology Regulations Remaining in Place:

- Regular and substantive interaction [34 CFR 600.2](#)
- Misrepresentation [34 CFR 668.71](#); [34 CFR 668.72](#)
- Student Identification Verification [34 CFR 602.17](#)
- Teach-Out Plans and Agreements [34 CFR 602.24 \(c\)](#)

PLUS!

- DoJ Accessibility requirements for 2026/2027
 - [28 CFR part 35](#)
 - [Meeting the Looming Web Accessibility Regulations: The Time to Start Was Yesterday](#); WCET Frontiers; 11/7/24





Republican Priorities for Higher Education

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Diversity, Equity & Inclusion

- Executive Order 14151, “Ending Racial & Wasteful Government DEI Programs & Preferencing”
- February 14, 2025, Dear Colleague Letter (Students for Fair Admission v. Harvard)

Funding Cuts Affecting Higher Education

- Limit ED’s regulatory authority (based on economic impact)
- Reform Gainful Employment
- NIH indirect cost cuts
- Institute of Education Sciences cuts
- Departmental staffing cuts

Workforce Education

- Move to skills requirements for public jobs instead of degrees
- Degrees should tie to jobs
- Support short-term Pell Grants

Secretary, Department of Education, Nominee Linda McMahon



- CEO World Wrestling Entertainment.
- Administrator of the Small Business Administration.
- Chair of the Board, America First Policy Institute.
- Co-Chair Trump Transition Team.

Impact of Executive Orders on Digital Learning

- Executive Order 14151, “Ending Racial & Wasteful Government DEI Programs & Preferencing”
- Executive Order 14168, “Defending Women from Gender Ideology & Restoring Biological Truth to the Federal Government”
- Executive Order 14192, “Unleashing Prosperity Through Deregulation”
- Executive Order 14210, “Implementing the President’s ‘Department of Government Efficiency’ Workforce Optimization Initiative”

Presenters



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Resources

SAN Website:

- SAN Getting Started with Compliance Management Gateway: <https://wcetsan.wiche.edu/resources/getting-started>
- SAN Federal Regulations Landing Page: <https://wcetsan.wiche.edu/resources/federal-regulations>
- SAN Professional Licensure Landing Page: <https://wcetsan.wiche.edu/resources/professional-licensure>

WCET Frontiers (Articles):

- [December Federal Rulemaking Activity – New Final Regulations & Withdrawn Provisions](#) WCET Frontiers; 1/7/25
- [Recent Supreme Court Decisions: Chevron, Loper Bright, and Corner Post... What Are These and How Do They Affect Distance Education?](#) WCET Frontiers; 7/18/24



Thank you

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