

Distance Education – State Regulation of Providers



June 10, 2011



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Today's Agenda

- ▶ What is WCET?
- ▶ Federal Regulatory Language
- ▶ Frequently Asked Questions
- ▶ What Should We Do?
- ▶ Discussion...





WICHE Cooperative for Educational Technologies

WCET accelerates the adoption of effective practices and policies, advancing excellence in technology-enhanced teaching and learning in higher education.

<http://wcet.wiche.edu>



Federal Regulatory Language

How Did We Get Here?

Higher Education Opportunities Act of 2008

Date	Action
June 18, 2010	Notice of 'Program Integrity' Proposed Rulemaking
August 2, 2010	Comments Closed – About 1,200 Comments
October 28, 2010	Final Regulations Issued

- ▶ June notice: <http://edocket.access.gpo.gov/2010/pdf/2010-14107.pdf>
- ▶ Oct. Final Regs: <http://edocket.access.gpo.gov/2010/pdf/2010-26531.pdf>

How Did We Get Here?

Clarifications

Date	Action
March 17, 2011	First 'Dear Colleague' Letter
April 20, 2011	Second 'Dear Colleague' Letter
???	More to come??

- ▶ March 17 Letter: <http://ifap.ed.gov/dpcletters/GEN1105.html>
- ▶ April 20 Letter: <http://wcet.wiche.edu/wcet/docs/state-approval/GEN-11-11.pdf>

State Authorization, Chapter 34, § 600.9(c)

“If an institution is offering
postsecondary education
through distance or
correspondence education...”

State Authorization, Chapter 34, § 600.9(c)

“...to students in a State in which it is not physically located or in which it is otherwise subject to State jurisdiction as determined by the State,....”

State Authorization, Chapter 34, § 600.9(c)

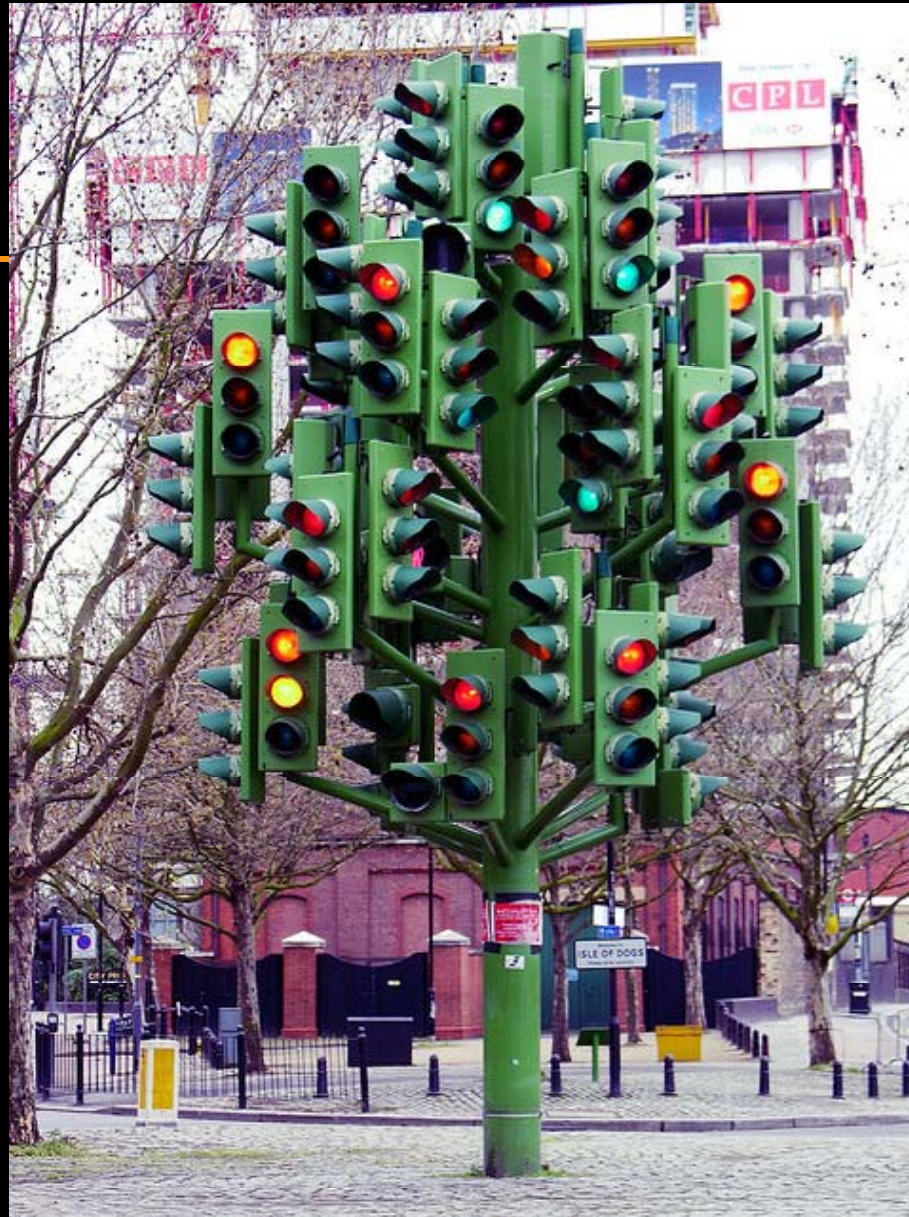
“...the institution must meet any State requirements for it to be legally offering distance or correspondence education in that State.”

State Authorization, Chapter 34, § 600.9(c)

“An institution must be able to document to the Secretary the State’s approval upon request.”

Students Filing Complaints

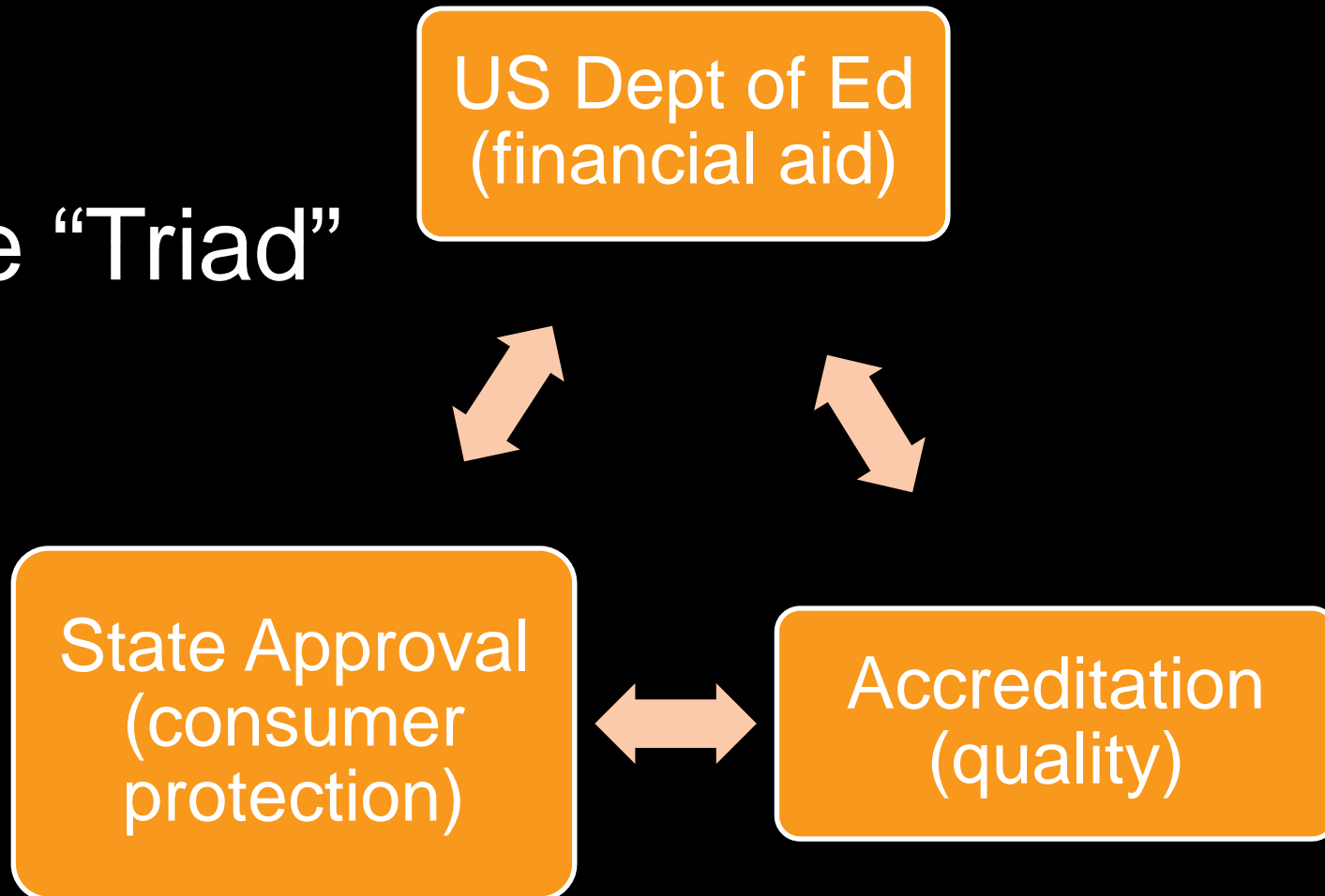
- ▶ An institution must provide its students or prospective students with contact information for filing complaints with—
 - ▶ Its accreditor; and
 - ▶ Its State approval or licensing entity...that would appropriately handle a student's complaint.
- ▶ List of state complaint information:
<http://wcet.wiche.edu/advance/state-approval-complaint>



Frequently Asked Questions

Why?

The "Triad"



What does “offering” in a state mean?

Offering
Operating
Physical Presence

Definition is left to
each state’s laws
and regulations.



What does “offering” in a state mean?

“Physical presence” is often used, but may include “triggers,” such as:

- ▶ Advertising in local media.
- ▶ Direct advertising to students.
- ▶ Requiring a student to take a proctored test in the state.
- ▶ Hiring an adjunct faculty person (or any employee) in the state.
- ▶ Having a server in the state.

What does “offering” in a state mean?

“State Approval Regulations for Distance Education: A Starter’s List”

State Higher Education Executive Officers has posted some lists and is creating a survey.

What does “offering” in a state mean?

- ▶ **Red** – Nearly every institution will need to apply (MA, MN, RI, OR, AR)
- ▶ **Green** – Few institutions will need to apply (AK, CO, HI, ID, IN, LA, NH, SD)
- ▶ **Orange** – It depends (37 states + DC)

What is the deadline?

Originally: July 1, 2011

- ▶ No extensions

July 2011

	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2
5	6	7	8	9	

What is the deadline?

Originally: ~~July 1, 2011~~

1st 'Dear Colleague' Letter: July 1, 2012

- ▶ Must make 'good faith' effort

What is the deadline?

Originally: ~~July 1, 2011~~

~~1st 'Dear Colleague' Letter: July 1, 2012~~

2nd 'Dear Colleague' Letter: July 1, 2014

▶ More 'good faith' examples

How will compliance be handled?

April 20 'Dear Colleague' Letter

- ▶ “Department will not initiate any action to establish repayment liabilities or limit student eligibility for distance education activities undertaken before July 1, 2014...”

How will compliance be handled?

April 20 'Dear Colleague' Letter

- ▶ “Department will not initiate any action to establish repayment liabilities or limit student eligibility for distance education activities undertaken before July 1, 2014...”
- ▶ “...so long as the institution is making good faith efforts to identify and obtain necessary State authorizations before that

How will compliance be handled?

- ▶ For federal regulation...
 - ▶ Institutions will be expected to provide proof of compliance upon request.
 - ▶ Financial aid funds in states where not in compliance, are at risk.

How will compliance be handled?

An important word about
state regulations.

What Should We Do?

Actions to Take...

Reciprocity

Compliance

Advocacy

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Discussion

<http://wcet.wiche.edu>

<http://wcet.wiche.edu/advance/state-approval>

<http://wcetblog.wordpress.com>

