

Reminder: New Department of Education rules regarding Professional Licensure Programs are in effect July 1, 2020

June 29, 2020

As we've previously [reported in detail](#), on November 1, 2019, the U.S. Department of Education (ED) published final rules concerning state authorization of distance education programs and other topics. Notably, the new rules substantially revised the complex consumer disclosure requirements concerning whether or not a Title IV–eligible program satisfies the educational requirements for licensure in a particular state. Unless an institution has elected to adopt the rules early, the new regulations are set to become effective on July 1, 2020.

The disclosure requirements related to professional licensure programs continue to present compliance challenges for many institutions. The rules apply to all programs that are designed to meet educational requirements for a professional license or certification that is required for employment in an occupation in a state, or are advertised as such. The 2019 rules expand the disclosure requirement to apply to all institutions regardless of whether the relevant programs are offered via distance education, on-the-ground, or some combination of the two. Institutions must have a written policy to determine student locations for purposes of these disclosures.

Under the new rules:

- Institutions must make a pre-enrollment general disclosure of three lists of states: (1) all states in which the program meets the educational requirements for professional licensure; (2) all states in which the program does not meet the educational requirements for professional licensure; and (3) all states for which the institution has not made such a determination.
- Institutions must also make individualized disclosures to prospective and enrolled students if: (1) a program does not meet the educational requirements for professional licensure in the state in which the student is located; or (2) the institution has not made such a determination regarding the state in which the student is located. As noted above, an institution must now have a process to track where the student is located and, if applicable, must notify students if the requirements applicable to that student have changed because of a change in the student's location.

While ED's "three buckets" approach affords an institution more latitude in its disclosures than under the previous Obama-era rules, institutions should be mindful that ED's requirements are

in addition to any other obligations concerning consumer disclosures that may be imposed by accreditors, NC-SARA (the state authorization reciprocity compact), or state law. Erroneous or inadequate disclosures may constitute misrepresentation under applicable state or federal law. Institutions should therefore use special care in crafting and implementing disclosures that accurately and truthfully provide the required information concerning programs that may lead to professional licensure in a particular state.

We are available to answer any questions you may have.

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