

Fed rule could have ‘major chilling effect’ on online instruction

A federal rule first discussed last fall could force colleges to pass added costs to students or shut down their online education programs in some states



By Dennis Carter, Assistant Editor

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A proposed federal rule could cripple many online education programs.

Colleges that offer online instruction nationwide would have to get approval from every state in which they operate, or those online courses could be shut down, after the Education Department (ED) proposed a controversial rule that has drawn the ire of educators and distance-education organizations.

The regulation, known as the state-authorization rule, is scheduled to take effect July 1.

It would force colleges and universities that receive federal aid to prove they are certified to operate in every state in which they have online students—a mandate, educators said, that comes at a high cost and could cripple many burgeoning online education programs.

“The main concern is that colleges are put in a spot where they have to pay ... hundreds of thousands” in legal fees to abide by the new federal rule, said Russell Poulin, deputy director of WICHE Cooperative for Educational Technologies, an organization that advocates for online instruction.

Instead of paying those fees and meeting legal requirements to operate in many states, Poulin said, many institutions simply would no longer offer online education programs in those states. That would force students to find other ways to finish their education, likely delaying their path toward a degree.

For those schools that pay for state-by-state certification, higher-education officials said the costs associated with compliance would lead to skyrocketing tuition increases.

“This will have a major chilling effect on one of the fastest growing areas of education in the country,” said Janet Poley, president of the American Distance Education Consortium (ADEC). “And it is completely counter on the administration’s intent to have many more people graduate from college.”

A U.S. House of Representatives subcommittee is scheduled to discuss the state-authorization rule during a March 11 hearing.

ADEC and WCET were among 60 organizations to sign a March 2 letter addressed to Education

Secretary Arne Duncan saying colleges and universities were “gravely concerned” about federal efforts that would force schools to seek certification in all 50 states.

The letter, released by the American Council on Education (ACE), asked Duncan to rescind the state-authorization rule.

“This rule essentially places the federal government in the role of enforcing state statutes—a role inappropriate for it to assume,” the letter said. “States can and do enforce their own distance education laws, and the prior absence of a federal regulation on this topic has in no way hindered their efforts.”

ED officials plan to release a response to the state-authorization letter “soon,” said Jane Glickman, a department spokeswoman.

Organizations argued in the letter that the state-authorization rule would mostly impact “rural states that have small and dispersed populations and where distance education opportunities are arguably most vital.”

A “leading public flagship university” not mentioned by name in the letter to Duncan “decided to stop enrolling students from other states after the rule was first published.”

The letter continued: “Only after careful reconsideration has it reversed its original decision.”

Campus officials in charge of online education programs said that even if institutions were willing to spend the money necessary to meet the state-authorization rule, ED hasn’t given colleges enough time to make those adjustments.

The rule was first proposed in October, leaving schools about nine months to comply with the federal regulation.

“It will be impossible for most colleges and universities to comply by the deadline,” said Raymond Schroeder, director of the University of Illinois at Springfield’s Center for Online Learning, Research, and Services. “As a result, students will be hurt. One has to wonder what will happen to those students who are halfway through a program, or in their last summer term when their university is forced to pull out in July.”

Schroeder added that state governments could see schools’ efforts to comply with the new rule as a potential “revenue source” and “charge fees beyond what universities can possibly afford.”

Poulin said that even educational technology advocates who closely follow federal policy were surprised that ED didn’t allow more public input on the rule before it was proposed.

“It caught us a bit off guard. We weren’t able to say that we had some major problems with the way the rule was written,” he said, adding that he didn’t believe ED officials were trying to sneak the state-authorization rule into law. “I believe they had the best intentions in mind.”

Eight colleges and universities recently detailed the procedures and costs necessary for schools to comply with the state-authorization rule.

Wyoming University (WU), for example, sometimes does not have enough in-state students to make a distance education course “financially viable.” Many of those courses would be eliminated if the university couldn’t enroll out-of-state students to fill available seats in the virtual classroom.

“We can’t offer many classes that lose money—thus the need in some programs for out-of-state enrollments,” WU said in a report published by WCET.

Having to abide by the state-authorization rule, the university said, would endanger some of its most “unique” online education programs, such as its master’s in speech-language pathology, land surveying program, and certificate for teachers of American Indian children.

Officials at Huntington Junior College in West Virginia pointed to Massachusetts as a state where students might not have access to the college’s distance education classes after the new federal rule takes effect.

Massachusetts charges \$10,000 for an application fee required to gain certification, another \$2,000 for each program an institution offers, and a \$4,000 annual fee, according to the WCET report.

An analysis conducted by Minnesota State College and Universities showed that it would cost about \$5.5 million for 32 Minnesota campuses to seek approval in 49 states.

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