

Proposal to Collect Distance Education Status by Title IV Student [Session Two]

FROM: Jillian Klein (Proprietary Institutions of Higher Education, Primary)
Robyn Smith (Legal Assistance Organizations, Primary)
Sophie Laing (Legal Assistance Organizations, Alternate)
Erika Linden (Private Nonprofit Institutions of Higher Education, Primary)
Scott Dolan (Private Nonprofit Institutions of Higher Education, Alternate)
Jo Alice Blondin (Public Two-Year Institutions of Higher Education, Primary)
Michael Cioce (Public Two-Year Institutions of Higher Education, Alternate)
Alyssa Dobson (Public Four-Year Institutions of Higher Education, Alternate)
Dom Chase (Business Officers from Institutions of Higher Education, Alternate)

DATE: February 5, 2024

Below please find a proposal regarding the collection of distance-education status at the Title IV student level. During the prior session, several of us proposed to incorporate a suggestion into the state authorization regulations for distance education that would require institutions to report for each student whether they are enrolled exclusively online, exclusively not online, or as hybrid students. However, we believe that another location for the proposal will make more sense and provide additional information to enable the Department's oversight efforts.

Specifically, we propose establishing a similar proposed requirement in the definition of an eligible program regulations at 34 CFR 668.8(m). That section of the regulations discusses whether a program is offered through telecommunications (i.e., online), and establishes that a program offered through telecommunications must have been evaluated and accredited for distance education in order to be eligible for title IV, HEA aid. As the Department noted last year in guidance to the field, "before an institution offers any distance education programs that can be eligible for Title IV, the institution must be evaluated and accredited for its effective delivery of distance education programs by a recognized institutional accrediting agency that has distance education within its scope of recognition."¹ After that initial approval, the institution may offer distance education without further accreditor approval "unless and until an institution, during an award year, offers at least 50 percent of a program through distance education, enrolls at least 50 percent of its students through distance education, or offers at least 50 percent of its courses through distance education ("50 percent threshold")."

The Department goes on to note that, "[f]or purposes of these calculations, a student is "enrolled in distance education" if the student enrolls in at least one course offered through distance education."

¹ DCL GEN-23-09, "Accreditation and Eligibility Requirements for Distance Education," May 18, 2023, available at: <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2023-05-18/accreditation-and-eligibility-requirements-distance-education>.

However, as evidenced by the need for this guidance that was issued as the Department exited the pandemic waivers, the Department does not have adequate data to effectively oversee these requirements, because it does not currently know which students are enrolled in at least one online course; nor is it able to tell when at least 50 percent of its students are enrolled in distance education. With our proposed language, the Department could more effectively assist institutions participating in the federal aid programs in ensuring they comply with these requirements and avoiding any loss of eligibility or other sanction.

§ 668.8 Eligible program.

(m)(1) An otherwise eligible program that is offered in whole or in part through telecommunications is eligible for title IV, HEA program purposes if the program is offered by an institution, other than a foreign institution, that has been evaluated and is accredited for its effective delivery of distance education programs by an accrediting agency or association that—

(1i) Is recognized by the Secretary under subpart 2 of part H of the HEA; and

(2ii) Has accreditation of distance education within the scope of its recognition.

(2) For all Title IV-receiving students, the institution must report whether each student is enrolled exclusively online, exclusively in-person, or in both online and in-person instruction, in accordance with the Department's reporting requirements.