



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

Issue Paper 3: Distance Education
Session 1: January 8-11, 2024

Issue: Virtual Locations and Asynchronous Learning in Distance Education

Statutory cites: §§ 103(7) and 484(l) of the Higher Education Act of 1965, as amended (HEA)

Regulatory cites: 34 CFR 600.2

Summary of issues:

The HEA and the Department’s regulations provide that institutions of higher education may offer programs through distance education. Currently, the Department has very limited data on students enrolled in distance education, which limits the Department’s ability to answer important questions about student pathways and outcomes through in-person, distance, and hybrid education. For example, an institution may have a program that is offered on campus and a related program of the same Classification of Instructional Programs (CIP) code that is provided online. However, the Department is unable to distinguish between the two programs, such as in College Scorecard program-level data, including debt, earnings, and completion.

Additionally, under the current regulations, the definition of “clock-hour” includes asynchronous learning. Specifically, the current regulations provide that asynchronous learning may be offered if it involves “academic engagement in which the student interacts with technology that can monitor and document the amount of time that the student participates in the activity.” However, this level of engagement is difficult to monitor because it requires technical expertise and the Department has limited information on which clock-hour programs are offered via distance education, including whether a program is offered through synchronous or asynchronous instruction. Further, the Department has become aware of instances in which clock-hour programs offered through distance education have not complied with this requirement and students have not received the required training.

Proposal:

Under § 600.2, Definitions:

We propose amending the regulations related to distance education in two ways:

- 1. Creating a virtual location for institutions that includes all students who are being instructed primarily through distance education.** This would enable the Department to get better data and compare the outcomes of students who are enrolled in similar programs that are delivered using different modalities. This would also allow the Department to protect students in the event schools end either their online or on-campus operations, providing the Department the ability to provide closed school discharges in those situations.
- 2. Removing the allowance for clock-hour programs provided via distance education to be offered through asynchronous learning.** This will strengthen the Department's ability to monitor clock-hour programs offered via distance education, including the Department's ability to protect students from, and keep taxpayer funds from going to, programs failing to provide the required training.

Under § 668.3, Academic year:

- 1. Specify in the definition of "a week of instructional time" that asynchronous coursework via distance education is limited to credit-hour programs.**

Proposed Regulations Redline:

§ 600.2 Definitions.

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Additional location:

(1) A physical facility that is geographically separate from the main campus of the institution and within the same ownership structure of the institution, at which the institution offers at least 50 percent of an educational program. An additional location participates in the title IV, HEA programs only through the certification of the main campus.

(2) A Federal, State, or local penitentiary, prison, jail, reformatory, work farm, juvenile justice facility, or other similar correctional institution is considered to be an additional location even if a student receives instruction primarily through distance education or correspondence courses at that location.

(3) A virtual location through which the institution offers 100 percent of an educational program through distance education or correspondence courses, notwithstanding requirements for students to complete on-campus or residential periods of 90 days or less.

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Clock hour:

- (1) A period of time consisting of—
- (i) A 50- to 60-minute class, lecture, or recitation in a 60-minute period;
 - (ii) A 50- to 60-minute faculty-supervised laboratory, shop training, or internship in a 60-minute period;
 - (iii) Sixty minutes of preparation in a correspondence course; or
 - (iv) In distance education, 50 to 60 minutes in a 60-minute period of attendance in—
 - ~~(A) A a synchronous or asynchronous class, lecture, or recitation where there is opportunity for direct interaction between the instructor and students; or~~
 - ~~(B) An asynchronous learning activity involving academic engagement in which the student interacts with technology that can monitor and document the amount of time that the student participates in the activity.~~
- (2) A clock hour in a distance education program does not meet the requirements of this definition if it does not meet all accrediting agency and State requirements or if it exceeds an agency's or State's restrictions on the number of clock hours in a program that may be offered through distance education.
- (3) An institution must be capable of monitoring a student's attendance in 50 out of 60 minutes for each clock hour under this definition.

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§ 668.3 Academic year.

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(b) *Definitions.* For purposes of paragraph (a) of this section—

- (1) A week is a consecutive seven-day period;
- (2) A week of instructional time is any week in which—
 - (i) At least one day of regularly scheduled instruction or examinations occurs, or, after the last scheduled day of classes for a term or payment period, at least one day of study for final examinations occurs; or
 - (ii)
 - (A) In a credit-hour program offered using asynchronous coursework through distance education or correspondence courses, the institution makes available the instructional materials, other resources, and instructor support necessary for academic engagement and completion of course objectives; and
 - (B) In a credit-hour program offered using asynchronous coursework through distance education, the institution expects enrolled students to perform educational activities demonstrating academic engagement during the week; and

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