

To: Main Committee; Distance Learning and Educational Innovation Subcommittee
From: Jessica Ranucci, New York Legal Assistance Group
Robyn Smith, Legal Aid Foundation of Los Angeles
Date: March 5, 2019
Re: Proposal for the Department to Collect Data on Distance Education

Background:

The Education Department does not currently collect data from institutions regarding which of their Title IV-receiving students are enrolled in programs that are exclusively online, exclusively brick-and-mortar, or hybrid. As a result, the Department cannot answer basic questions, like how the financial aid usage and outcomes of distance education students differ from those of students in hybrid programs or brick-and-mortar programs. The Department could also use this information to better target its program reviews; provide flexibilities from certain reporting requirements; assess compliance with state authorization and other requirements; or support Department research.

We propose a regulation that would require the Department to collect such information. These data would help the Department and Congress to better determine how to implement innovation in education in ways that reduce the risk to students and taxpayers. We offer the proposed text below as one option for the Department.

Proposal:

The redline text that appears in *italics* is proposed by the Department. The additional text we propose is in **bold**.

600.9 State authorization.

(c)(1)(i) If an institution that meets the requirements under paragraph (a)(1) of this section offers postsecondary education through distance education or correspondence courses to students *located* in a State in which the institution is not physically located or in which the institution is otherwise subject to that State's jurisdiction as determined by that State, except as provided in paragraph (c)(1)(ii) of this section, the institution must meet any of that State's requirements for it to be legally offering postsecondary distance education or correspondence courses in that State. The institution must, upon request, document the State's approval to the Secretary; or

(ii) If an institution that meets the requirements under paragraph (a)(1) of this section offers postsecondary education through distance education or correspondence courses in a State that participates in a State authorization reciprocity agreement, and the institution is covered by such agreement, the institution is considered to meet State requirements for it to be legally offering postsecondary distance education or correspondence courses in that State, subject to any limitations in that agreement and to any additional requirements of that State. The institution must, upon request, document its coverage under such an agreement to the Secretary.

(iii) For purposes of this paragraph and for disclosures related to State licensure under 34 CFR 668.43(a)(5)(v), an institution makes a determination regarding the State in which a student is located at the time the student is admitted to an educational program.

(2) The institution must document that there is a State process for review and appropriate action on complaints from students concerning the institution either in the States in which it the students are located, or the State in which the institution's main campus is located.

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