State Authorization: Looking Back and Moving Forward
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Agenda

- Current status of state authorization
- Review the SHEEO/NCHEMS inventory and the data collected
- Discuss the “Rs” of state authorization (regulators, rules/regulations, risk analysis, and reputation)
- Discuss the feedback from institutions regarding state authorization requirements

Background to the Inventory – Federal Regulations

- October 29, 2010 - the U.S. Department of Education issued a broad package of regulations, including state authorization & visibility of the complaint process.
- March/April 2011 - Dear Colleague Letters.
- July 12, 2011 - The United States District Court for the District of Columbia struck down the distance education portion of the USDOE's 'state authorization' regulations. The U.S. Department of Education appealed the ruling.
- Early 2012 – The appeal will be heard with an expected ruling by summer 2012.
**Background to the Inventory**

- Other surveys:
  > WCET Starter List
  > Dow Lohnes
  > President’s Forum
  > Eduventures
  > State Efforts (Florida & Massachusetts)
- State Higher Education Executive Officers (SHEEO)

**Methodology**

- SHEEO (State Higher Education Executive Officers) involvement with NCHEMS.
  > April – September 2011
- Reviewed other state authorization surveys and created a rubric of questions and agency contacts.
  > Unit of analysis is agency NOT state.
- Worked with an advisory board to create the final inventory.
- Sent inventory July 2011 for verification and completion.
- Created agency write-ups.

**Survey Participation**

- 77 state agencies (including 9 U.S. Territories)
- 64 completed
- As of December 2011 – 13 missing
  > 9 state agencies
  > 4 U.S. territories
- All completed surveys/contact information available on the SHEEO website – including contact information for the missing agencies thanks to Dow Lohnes!
Survey Participation - Missing

- Commonwealth of Northern Mariana Islands
- Federated States of Micronesia
- Guam
- Republic of the Marshall Islands

Limitations

- Inventory was long (9 pages).
- State agencies were overwhelmed.
- Timing… July 2011. Middle of summer and the Federal Regulations (state authorization) had just been vacated. It is important to note that it is, and has always been, state law.
- SHEEO agency was the only or one of several agencies involved in only 70% of states.

Project Results

- Contact list of state regulators
- Compendium of state laws and regulatory practices
- Complaint process and links list
- Fees structure summary
- Report and analysis of data
### Contact List of State Regulators

- Agencies identified in all 50 states and 9 U.S. territories
- 77 total agencies
- 17 states have more than one agency. Of those, two states have 3 (OK and AL)

### States with More than One Agency

![States with More than One Agency map]

### Compendium of State Laws and Regulatory Practices

- 12 questions – drilled down:
  1. Agency and contact information
  2. Types of educational providers authorized
  3. Exemptions
  4. Authorization of distance education
  5. Physical presence policy – common triggers
  6. Application process
Compendium of State Laws and Regulatory Practices (Cont.)

- 12 questions (continued):
  7. Fees associated with authorization
  8. Interstate reciprocity
  9. Consumer protection and student complaints
  10. Enforcement
  11. Legislative or regulatory changes
  12. Anything else about the authorization process in your state that we should know about?

Complaint Process and Links List

- 54 state agencies do have a process for handling complaints about postsecondary institutions or programs.
- 12 state agencies stated that this complaint process extends to institutions not authorized by the agency that may enroll residents of the state.
- If your agency has no formal process for handling complaints related to postsecondary institutions, what state agency would handle a complaint?

Fees Structure Summary

- All state agencies listed their fee structure or provided a web link.
- 4 state agencies do not charge a fee for authorization.
- The fee for authorization varies from $0 to $10,000+.
- 8 agencies require a fee for a waiver/exemption.
- There can be other fees involved:
  - Site Visit
  - Surety Bond
  - Tuition Recovery Fund
Fees Structure – No Fee for Authorization

Fees Structure – Fee for Waiver/Exemption

Analysis of Data

- 38 state agencies required accreditation as part of the authorization process (degree).
- As of September 2011 – there were 12 state agencies require authorization without regard to physical presence.
- As of April 2012 – there are 8 state agencies require authorization without regard to physical presence.
Analysis of Data, Cont.

- 4 state agencies require an exemption for a purely online program (even with NO physical presence)
- 8 state agencies DO NOT allow exemptions/waivers for the authorization process. Those that do allow exemptions/waivers:
  - Religious
  - Non-degree
There is huge variation in practice regarding how state agencies authorize institutions.

What about programs such as nursing, education, and cosmetology?

More study and discussion of this situation and its impacts are warranted.

National standards – unlikely if not impossible?
Conclusions & Next Steps (Cont.)

- Can we move to a more level playing field?
  - Reciprocity (SHEEO, SREB, WICHE/WCET, President’s Forum, Council of State Governments, Distance Education Commission)?
  - NASASPS (The National Association of State Administrators and Supervisors of Private Schools)?
  - Accreditation?

Final Thoughts

- Why should we care about state authorization?
  - Because it is the law (State)
  - Protecting tax payers
  - Protecting students

- What does all this mean for students?
For more information

Thank you!

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For more information about state authorization, please visit the SHEEO web site: www.sheeo.org/stateauth/stateauth-home.htm
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The “R”s of State Authorization

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The “R”s of State Authorization

• Regulators
• Regulations/Rules
• Responses
• Risk Analysis
• Reputation