PROGRAM INTEGRITY RULES AND STATE AUTHORIZATION
AN UPDATE

STRONG FOUNDATIONS: LINKING POSTSECONDARY DATA
WITH K-12 AND LABOR DATA

April 30, 2012

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State Higher Education Executive Officers (SHEEO)
Background: Federal Regulations

- **October 29, 2010**
  - USDOE's 'program integrity' regulations issued
  - Higher education institutions must obtain state authorization to offer distance courses where not physically located
  - Institutional and state responsibilities

- **March/April 2011**
  - Dear Colleague letters released; enforcement date July 2014

- **July 12, 2011**
  - US District Court for DC strikes down the distance education portion of the regulations; USDOE appeals ruling

- **Summer / Fall 2012**
  - Appellate Court upholds earlier ruling on procedural grounds; USED “overstepped”
  - SHEEO Survey and Directory of regulatory agencies and practices
Background : Federal Regulations

- **Requirements for States**
  - Approve institutions to "operate" in the state according to their own regulations, if any.
  - Upon request of the USDOE, provide a list of institutions approved to operate in the state by name.
  - Maintain a third-party process to review and address complaints

- **Requirements for Institutions**
  - Comply with any applicable state approval or licensure requirements in each state in which it ‘operates’ and be approved by that state by name.
  - Provide its students and prospective students with contact information for filing complaints.

- **Defining 'Operate' and 'Not Physically Located'**
  - The definition of "operating" or "physical presence" in a state is left to the laws and regulations of each state. The definitions vary greatly from state-to-state.
Background : Federal Regulations and a Mixed Decision

- U.S. Court of Appeals for the District of Columbia Circuit upheld a lower court's decision that struck down a portion of the "state authorization rule," agreeing that colleges had not been given enough time to review it.

- "APSCU is pleased that the court agreed that there were significant flaws with the department's rulemaking process and with the resulting regulations."

- USED " [is] pleased that the court has largely upheld our regulations to protect students and taxpayers. On balance, the decision paints a very positive picture of our work and highlights why these regulations were needed."

- As a practical matter, the challenged regulations remain largely intact, and the Department could take the opportunity to address deficiencies.

- States still likely to move forward under their own authority
Background: Federal Regulations and a Mixed Decision

- USED likely to take one of several options:
  - Throw out repayment percentage requirement, but leave other debt metrics. Separated from the first metric, the other two would probably stand on their own.
  - Rewrite the repayment metric with stronger substantiation.
  - Negotiated Rulemaking
  - Work authorization into next round of HEA.
  - Do nothing. Rewriting will mean negotiations, which may take a significant amount of time. So for the foreseeable future, there may be no further federal action.
SHEEO Survey: Methodology

- Timeline: April 2011 – September 2011
- SHEEO contracted with NCHEMS to develop, administer, and collect responses to a State Authorization Survey

Survey Development
- Reviewed other state authorization surveys
- Created a rubric of questions and agency contacts
- Worked with an advisory board to create the final survey

Survey Administration
- Unit of analysis is agency - NOT state.
- Sent inventory to all agency contacts in July 2011
- Requested verification and completion of data

Response Collection and Creation of Agency Reports
Questions 1-6 (of 12):

1. Agency and contact information
2. Types of educational providers authorized
   - Accreditation Requirements
   - Program Approval Requirements
3. Exemptions
4. Authorization of distance education
5. Physical presence policy – common triggers
6. Application process
SHEEO Survey: Contents, Part 2

- Questions 6-12 (of 12):
  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?
Analysis of Collected Data: U.S. States and DC

- **SCOPE** of authorization agencies
- **ACCREDITATION** requirements for authorization
- Separate **PROGRAM** approval requirements
- Allowable **EXEMPTIONS** to authorization
- Regulation of **DISTANCE EDUCATION** providers
- Common **PHYSICAL PRESENCE** triggers
Conclusions & Next Steps

- There is huge variation in practice regarding how state agencies authorize institutions.
- Wide variety of scope, reach, interest, and authority
- Many states don't have manpower to enforce authorization, and without the threat of federal enforcement, many institutions might wait to get caught rather than seek authorization in advance.
- Quality Assurance is more than Authorization.
- A number of groups are engaged in the work and we need ALL at the table for success.
- State Authorization “Commission” (SHEEO, APLU) development in progress along with reciprocity discussions (Council of State Governments).
- More study and discussion are warranted.
Editorial Comments

- Why do we need the states to be involved in the authorization of higher education institutions?
- What should the states avoid doing?
- What variations in institutional delivery systems should be recognized, and as far as possible, reflected in the approaches to quality assurance and regulation?
- What does the nation need that we don’t have?
- Compendium of state laws and regulatory practices
- Contact list of state regulators
- Complaint process and links list
- Fees structure summary
- Analysis of selected data
STRONG FOUNDATIONS

The State of State Postsecondary Data Systems

2012 Update on Postsecondary Data Sharing with K-12 and Labor
Background and scope

• Focus of update is on data sharing activities
• 58 respondents from 44 states and the District of Columbia
• Includes 10 states with more than one state postsecondary agency/entity
Main Finding

End result:
State postsecondary entities are better positioned to follow students from cradle to career.
A closer look at statewide coordinated, multi-sector P-20 warehouses

**State P-20 data warehouse or federated data model in 2009**
FL, IN, KS, MA, PA, TX, WA, WY

**State P-20 data warehouse or federated data model since 2009**
AR, CO, DC, KY, MN, MS, ND, RI, SC, TN, VA

**State P-20 data warehouse or federated data model in progress**
AZ, CA, CT, GA, HI, IL, LA, ME, MD, MO, MT, NV, NJ, NM, NY, NC, OH, OR, UT, WI
### Postsecondary data sharing with other state agencies/entities

<table>
<thead>
<tr>
<th>State Postsecondary Agencies/Entities Engaged in Data Sharing with Other State Agencies/Entities</th>
<th># of States</th>
<th># of SURs</th>
</tr>
</thead>
<tbody>
<tr>
<td>One or more agencies/entities within state</td>
<td><strong>45</strong></td>
<td><strong>56</strong></td>
</tr>
<tr>
<td>State education agency (K-12)</td>
<td><strong>41</strong></td>
<td><strong>46</strong></td>
</tr>
<tr>
<td>State labor/workforce agency</td>
<td><strong>37</strong></td>
<td><strong>44</strong></td>
</tr>
<tr>
<td>State financial aid agency</td>
<td>16</td>
<td>19</td>
</tr>
<tr>
<td>Other agency/entity</td>
<td>13</td>
<td>15</td>
</tr>
<tr>
<td>Coordinating/governing board of higher education</td>
<td>13</td>
<td>15</td>
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<tr>
<td>Pre-K/early childhood agency</td>
<td>8</td>
<td>8</td>
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<tr>
<td>Human services agency</td>
<td>8</td>
<td>9</td>
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<tr>
<td>Foster care agency</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>Motor vehicle division/department</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Health agency</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Juvenile detention</td>
<td>3</td>
<td>3</td>
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<tr>
<td>Corrections</td>
<td>3</td>
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<tr>
<td>Child protective services agency</td>
<td>2</td>
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K-12/labor sharing nationally

2009...that was then

34 states

2012...this is now

40 states

red = K-12 only
blue = labor only
purple = both
Data sharing is good…but what about access to K-12 elements?

2009...that was then

23 states

2012...this is now

34 states!

red = access  pink = share but no access  hot pink = access IP
Not to mention access to labor elements?

2009...that was then

23 states

2012...this is now

33 states!

blue = access   light blue = share but no access   aqua = access IP
And who has access to both?

2009...that was then

14 states

2012...this is now

28 states!

**purple** = access to both  
**lilac** = access to both IP
### Access to what, really?

<table>
<thead>
<tr>
<th>K-12</th>
<th>Labor</th>
</tr>
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<tbody>
<tr>
<td>district/school code</td>
<td>wages earned</td>
</tr>
<tr>
<td>h s graduation date</td>
<td>quarter code</td>
</tr>
<tr>
<td>h s attended</td>
<td>NAICS code</td>
</tr>
<tr>
<td>h s GPA</td>
<td>NAICS title</td>
</tr>
<tr>
<td>free-reduced lunch</td>
<td>hours worked</td>
</tr>
<tr>
<td>student resident</td>
<td>employment year</td>
</tr>
<tr>
<td>county-district code</td>
<td>employer county</td>
</tr>
<tr>
<td>date enrolled in h s</td>
<td>employer ID</td>
</tr>
<tr>
<td>disability status</td>
<td>wage type code</td>
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<tr>
<td>course type</td>
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<tr>
<td>language spoken at home</td>
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<tr>
<td>course title</td>
<td></td>
</tr>
<tr>
<td>course grade</td>
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<tr>
<td>date rec’d 1st UI check</td>
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<tr>
<td>Other agencies providing</td>
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<tr>
<td>svcs during UI period</td>
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<td>date applied for UI</td>
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</tr>
<tr>
<td># of employees</td>
<td></td>
</tr>
<tr>
<td>other labor element(s)</td>
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</tr>
</tbody>
</table>

*Source: SHEEO (State Higher Education Executive Officers Association)*
More Information on State Postsecondary Data Systems and *Strong Foundations* reports

http://www.sheeo.org/sspds/default.htm

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