Regulating The Other Institutions: The Federal Perspective

David A. Bergeron
Deputy Assistant Secretary for Policy, Planning, and Innovation
Office of Postsecondary Education
U.S. Department of Education
How did we get here?

- **Higher Education Opportunity Act** – August 14, 2008
- **American Recovery and Reinvestment Act** – February 17, 2009
  - $16 billion in new Pell Grant funding & more money for Work-Study
- **Public Hearings** – June 2009
  - Highlighted the need to address program integrity issues in the aid programs
- **Negotiations** – November 2009 – January 2010
  - Tentative agreement on 9 of 14 issues but no consensus on the entire package
- **Health Care and Education Reconciliation Act** – March 30, 2010
  - An additional $40 billion for Pell Grants
  - Federal taxpayer became the sole owner of the student loan financing system
- **Notice of Proposed Rulemaking (NPRM)** – August 2, 2010
  - 1,180 Public Comments received
- **Final Regulation** – October 29, 2010
  - Dear Colleague Letters (March – May 2011)
  - **Effective Date** – July 1, 2011
Federal Student Aid
Available by Type of Aid

In billions of dollars

Fiscal Year


Grants
Loans
Work-Study
The share of students receiving aid has increased but not uniformly across all sectors of higher education.

Source: National Postsecondary Student Aid Survey, 2007-08
Financial aid to students is increasing but, despite significant increases in Pell Grant funding, the increase has primarily been in the form of Federal student loans.

Source: Trends in Student Aid, 2010, College Board
Instructional expenses have been relatively constant although the share of funds spent on instruction at for-profit institutions has been declining.

NOTE: Public institutions not included in 2008-09 due to changing in reporting.
Source: IPEDS Data Center
Any Degree or Certificate within Prior 6 Year Period
By Type of First Institution Attended

Source: Beginning Postsecondary Students
Attainment of Any Degree or Certificate within Prior 6 Years, 2009 by Type of First Institution Attended and by Race and Ethnicity

Source: Beginning Postsecondary Students
Program Integrity
Final Regulations

✓ Holding Programs Accountable for Preparing Students for Gainful Employment:
  • Graduation Rate and Job Placement Disclosures
  • Approval of Additional Programs

✓ Protecting consumers from misleading or overly aggressive recruiting practices, and clarifying state oversight responsibilities:
  • Misrepresentation
  • Incentive Compensation
  • State Authorization
Program Integrity
Final Regulations

✓ Ensuring that only eligible students receive federal funds:
  • High School Diploma
  • College Credits
  • Ability To Benefit (ATB)
  • Satisfactory Academic Progress
  • Verification

✓ Clarifying the courses that are eligible for federal aid, and the amount of aid that is appropriate:
  o Written Arrangement
  o Retaking Coursework
  o Determining When a Student Has Withdrawn
  o Disbursing Federal Student Aid Fund
  o Credit Hour
Regulatory Provisions

- **State Authorization**
  - State physically located in:
    - State has a process to review and appropriately [act on complaints concerning the institution including enforcing applicable State laws](#).
    - **Institution** has been established by appropriate State agency or State entity and is authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate.

- **Other States if offering a distance education program:**
  - Must comply with State law
  - Institutions should have always been in compliance with this requirement – it is a critical part of an institution’s administrative capability that it complies with applicable Federal, state and local laws.
Regulatory Provisions

• **Credit Hour**
  • **Definition:**
    • An amount of work represented in intended *learning outcomes* and verified by *evidence of student achievement* that is an *institutionally established equivalency* that reasonably approximates not less than --
      • One hour of classroom or direct faculty instruction and a minimum of two hours of out of class student work each week for approximately fifteen weeks for one semester; OR
      • An equivalent amount of work for other academic activities as *established by the institution* including laboratory work, internships, practica, studio work, and other academic work
  • **Accrediting agency oversight:**
    • The *accrediting agency*, as part of its review of an institution for initial accreditation or preaccreditation or renewal of accreditation, **must conduct an effective review and evaluation of the reliability and accuracy of the institution's assignment of credit hours**
Dear Colleague Letters

- GEN-11-11: State authorization under the Program Integrity Regulations
- GEN-11-10: Implementation of Regulatory Requirements Related to Gainful Employment Programs
- GEN-11-07: Guidance on Participation in the William D. Ford Federal Direct Loan (Direct Loan) Program
- GEN-11-06: Guidance to Institutions and Accrediting Agencies Regarding a Credit Hour as Defined in the Final Regulations Published on October 29, 2010
- GEN-11-05: Implementation of Program Integrity Regulations
  - State Authorization
  - Incentive Compensation
  - Misrepresentation