

# 2019 State Authorization Federal Regulations

On November 1, 2019, the U.S. Department of Education (ED) published [Final Rules in the Federal Register](#) related to the recently completed negotiated rulemaking that addressed accreditation, state authorization, and other topics. While the final rules will officially go into effect July 1, 2020, ED has authorized optional early implementation for final rules related to state authorization, definitions, and disclosures for institutions.

Included in this chart are regulations that have been updated under new rules including an updated definition for reciprocity agreements, determinations of student’s location and related required institutional policies, complaint procedures, disclosures about institutional transfer credit policies, as well as required disclosures about Third-Party Educational Services, and a program’s ability to meet licensure requirements.

### Regulations eligible for early implementation include:

- 34 CFR 600.2 – Definitions
- 34 CFR 600.9 – State Authorization
- 34 CFR 668.43 – Institutional Information (includes Professional Licensure Disclosures)
- 34 CFR 668.50 – Removal of distance education disclosures substituting a severability section

Regulation	Subject	New/Updated Rule	Notes
Definitions § 600.2	State Authorization Reciprocity Agreement	The regulations now define a state authorization reciprocity agreement as: An agreement between two or more states that authorizes an institution located and legally authorized in a state covered by the agreement to provide postsecondary education through distance education or correspondence courses to students located in other states covered by the agreement and cannot prohibit any member State of the agreement from enforcing its own general-purpose state laws and regulations outside of the state authorization of distance education.	Under the 2019 final rules, a reciprocity agreement cannot prohibit any member state covered under an agreement from enforcing “its own general-purpose State laws and regulations outside of the state authorization of distance education.” The definition in the final rules also changed the definition to cover students located in other states covered by the agreement, rather than being based on the concept of the student’s state of legal residence.
State Authorization § 600.9(c)(1)(i)	Student Location and Determinations of a Student’s Location	Institution must determine in which state a student is located while enrolled in a distance education or correspondence course, and make such determinations consistently and apply them to all students.	Student locations will no longer correspond with the student’s state of residence, but instead with the student’s physical location. Institutions providing distance or correspondence education to students located outside of the state where the institution is physically located must meet the student’s state’s requirements for it to be legally offering distance or correspondence education in that state.

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State Authorization § 600.9(c)(1)(ii)	Alternative Coverage	If an institution 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 that agreement, the institution is considered to meet state requirements for it to be legally offering postsecondary distance education or correspondence courses in that state. The institution is subject to any limitations in that agreement and any additional requirements of that state.	Institutions must be able to document their coverage under this agreement upon request.
State Authorization § 600.9(c)(2)	Institutional Documentation of Existence of State Complaint Process	Institutions are no longer required to document that a state process for complaints exists for their distance and correspondence students who are located in states other than the state in which the institution is located.	Institutions that do not opt for early implementation are bound to comply with the 2016 rules, which require that institutions document that a state complaint process exists. While California has created a complaint process since the 2016 rules became effective, ED has indicated that it is inadequate, and noted that early implementation of the 2019 rule resolves the California complaint process issue. California could also make changes to its complaint process to meet ED's standards.
State Authorization § 600.9(c)(2)(ii)	Institutional Policy for Determining a Student's Location	Institution must, upon request, provide the Secretary with written documentation of its determination of a student's location, including the basis for such determination.	How the institution decides this information is up to the institution, but they must have a policy created.
State Authorization § 600.9(c)(2)(iii)	Institutional Policy for Determining a Student's Location	Institutions must make determination of the state in which a student is located both at the time of the student's initial enrollment in an educational program and upon formal receipt of information from the student that their location has changed	Previously, institutions made determinations of student's state of residence vs. location, and specific timeframes for those determinations were not laid out in Title IV regulation.

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Institutional Information § 668.43(a)(5)(v)	General Disclosure of Whether Program Meets Licensure or Certification Requirements	Institutions are required to make public whether a program will fulfill educational requirements for a specific professional licensure or certification required for employment in an occupation if the program is designed to or advertised as meeting such requirements. Institutions will be required to make public, for each state, whether the program did or did not meet such requirements, or whether the institution had not made such a determination.	These requirements apply to all programs offered via all modalities (distance education and not) that are designed to meet the educational requirements for a specific professional license or certification that is required for employment in an occupation, or is advertised as meeting such requirements.
Institutional Information § 668.43(a)(11)	Transfer Credit Policy	Revises the information about an institution's transfer of credit policies to require the disclosure of any types of institutions from which the institution will not accept transfer credits. Institutions will also be required to disclose any written criteria used to evaluate and award credit for prior learning experience.	
Institutional Information § 668.43(a)(12)	General Disclosure of Third-Party Educational Services	Requires institutions to provide disclosures in the program description regarding written arrangements under which an entity other than the institution itself provides all or part of a program.	While these disclosures exist in current regulations, the 2019 rule specifies that the disclosure be made specifically in the program description.
Institutional Information § 668.43(a)(13-20)	Additional General Disclosures	The final regulations add disclosure requirements that are in statute but not reflected fully in the regulations as well as new disclosure requirements. These disclosures will include: the percentage of the institution's enrolled students disaggregated by gender, race, ethnicity, and those who are Pell Grant recipients; placement in employment of, and types of employment obtained by, graduates of the institution's degree or certificate programs (only when required by the institution's accrediting agency or state); the types of graduate and professional education in which graduates of the institution's four-year degree programs enrolled; the fire safety report prepared by the institution; the retention rate of certificate- or degree-	

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Institutional Information § 668.43(a)(13-20) (continued)	Additional General Disclosures (continued)	seeking, first-time, full-time, undergraduate students; institutional policies regarding vaccinations; in instances where the institution's accreditor imposes a requirement to maintain a teach out plan, notice of that fact and the reasons the requirement was imposed; and in instances where state or federal enforcement action or prosecution is brought against the institution that could result in accrediting agency adverse action against the institution, revocation of state authorization, or Title IV eligibility limitation, suspension, or termination, notice of that fact.	
Institutional Information § 668.43(c)	Licensure Requirement Direct Disclosures	The final regulations will require direct disclosure to individual students in circumstances where an offered program has been determined not to meet or where the institution has not made a determination as to whether the program meets the education requirements for licensure in a state where a prospective student was located, as well as to students currently enrolled in a program that ceased to meet such requirements.	For students currently enrolled, institutions would have 14 calendar days to directly disclose that they had made a determination that a program did not meet state licensure or certification requirements for the state in which the student is located. For prospective students, the disclosure must be made prior to the student's enrollment in the program. The disclosures must be made directly to the student in writing, which may include through email or other electronic communication.
Institutional Disclosure for Distance or Correspondence Programs § 668.50	Professional Licensure	The final regulations will remove and replace this language with a severability provision. The final regulations have moved some of the disclosure requirements from this section to § 668.43. Other requirements have been deemed duplicative, so they were removed from § 668.50 and remain in § 668.43, which applies to all institutions and programs.	Disclosures that previously only applied to distance education students are now replaced with a requirement that applies to all programs that lead to licensure or certification (or should lead to licensure or certification), regardless of the delivery modality of those programs.  Notably removed from the 2016 rule (and not moved elsewhere in the 2019 rule) is the requirement for institutions to publicly disclose the educational prerequisites for professional licensure or certification for the occupation for which the program prepares students to enter for each state in which the program's enrolled students reside (formerly 668.50(b)(7)).