

Distance Education

April 4, 2024

What is the issue?

The Department of Education allows for Title IV financial aid to be disbursed to students enrolled in distance education courses, but it is limited for correspondence courses. The difference (as [defined in 600.2](#)) is the use of technologies and faculty use of “regular and substantive interaction” with students. The Department proposed changes to address concerns they had with the inability of some institutions to comply with current regulations, increase protections against closures for students, develop more data on distance education programs, and update accreditation “substantive review” requirements.

Proposed language

The Department proposed several changes to current distance education regulations:

- **Require attendance-taking for all distance education courses** (see the [sections of 668.22 on page 4](#)). For distance education, merely logging in does not count for attendance. Students need to actively engage in an “[academic engagement](#)” activity, such as taking a test, submitting a paper, or participating in an online discussion about course content. If a student does not have a documented absence or has **not performed an “academic engagement” activity in 14 days**, the institution must “document a student’s withdrawal date.”
- **Disallow asynchronous distance education courses for clock hour programs** (see [section 600.2 on page 1](#)). For institutions using the “clock hour” method of financial aid disbursement, they can no longer use asynchronous courses. Note that this has no impact on institutions that use the credit hour for financial aid purposes.
- **Categorize distance education programs into a “virtual location”** (see [section 600.2 on page 1](#)) for all programs offered 100% at a distance education, notwithstanding requirements for students to complete on-campus or residential periods of 90 days or fewer. Institutions are to create a subset of the “additional locations” to collect information about students in these programs.
- **Redefine the thresholds for “substantive change” reviews for distance education programs** (see [section 602.22 on page 25](#)). The Department is suggesting returning to a version of the old review standard. Additionally, it will replace “substantive change” guidance issued in 2021 and put the new requirement into regulation. The Department proposes that accrediting agencies conduct a “substantive change” review of distance education programs or institutions when they traverse any of the following thresholds:
 - For the first time an institution offers 50% of a program through distance education. OR
 - An institution enrolls at least 50% of students in distance education. (A distance education student is one who enrolls in at least one distance education course.) OR
 - An institution offers at least 50% of its courses through distance education.
- **Defines a distance education course** (see [section 600.2 on page 1](#)) as one in which instruction takes place exclusively at a distance “notwithstanding in-person non-instructional requirements, including orientation, testing, academic support services, or residency experiences.”

Current policy

These proposals range from a substantial change, welcomed update, and undetermined impact:

- For attendance, if a student withdraws without notice, the institution researches the “last date of attendance” when a student performed an “academic engagement” activity.
- Clock hour programs may currently offer asynchronous courses, but are required to have meticulous student-tracking and record-keeping systems to record time on task.

- For “virtual location,” students are currently classified as being associated with the main or branch campus where the program is headquartered.
- Accreditation agencies are currently required to review all programs that are “in whole or in part” offered via distance education.

Potential impact

Distance education has long had a higher bar for financial aid compliance. The “last date of attendance” being tied to academic engagement exceeds on-campus requirements, where simply attending counts. The Department reported finding some institutions either incorrectly identifying the “last date of attendance” or purposefully gaming the date to retain more funds. Attendance taken was proposed to increase the accuracy and to “simplify” the process. Other than personnel from fully-online or attendance-taking institutions, we have found no one who thinks this will simplify anything. Institutions will need to solidify record-taking and assure that faculty are following those processes. Institutions with multiple LMS’s or have programs that do not use the LMS, will need to address those complications. There will also need to be processes developed to document excused absences, document courses with designed longer times between engagement, identify students approaching or hitting the 14-day mark, and to identify if that student has withdrawn or not.

Institutions that disburse financial aid via clock hours will need to transform all of their asynchronous distance education or (likely) hybrid courses into synchronous or in-person courses.

For virtual location, the Department seeks this change for two purposes: 1) if the institution were to close ALL of its distance education programs, then students would benefit from financial aid protections, and 2) to enable collecting more data about distance education programs. Our assumption is that the focus will be on the data collection, which has not been defined. Each institution will need to make adjustments to their SIS and financial aid systems to collect the information for students in the distance education programs. The programs meeting the criteria will need to be identified and the data placed in the new “virtual location” category.

The accreditation change makes more practical sense than the current “in whole or in part” standard that has been in place since 2021. Since so many programs can have one course at a distance as part of the program, it has been a difficult implementation for accreditation agencies. The proposed 50% standards will help assure that institutions are prepared to meet the growth in serving distance students. Please note that, post-COVID, more institutions will begin to pass the 50% student or course thresholds for substantive change reviews.

The “distance education course” definition is welcomed. It reflects the definition currently used by IPEDS data collection, except for the addition of “residency experiences.”

Next steps

Institutions that enroll students in distance education courses and programs using Title IV financial aid should:

- Review current processes to determine what changes might need to be made should the proposed language be finalized as regulations.
- Work with your government relations department to contact your U.S. Senators or Representatives.
- Be prepared to explain the impact on faculty and students that the proposed language would have.

Note: This document was created for members of the [SAN \(State Authorization Network\)](#) and [WCET \(WICHE Cooperative for Educational Technologies\)](#). Regulatory language and references are subject to change. The information should not be considered legal advice. Legal questions should be directed to legal counsel.