

Commission on Regulation of Postsecondary Distance Education
Key Takeaways and Core Issues
August, 2012

Introduction

At the conclusion of the Commission's June 12, 2012 meeting, a number of key takeaways were identified. Although these points reflect some areas of prospective consensus among Commissioners, they also raise areas in need of further examination. These takeaways have been generated below to provide a framework to inform future deliberations—to provoke thought and reflection, and to advance efforts to arrive at consensus recommendations by early 2013. A number of related questions have also been developed in an effort to inform the Commission's deliberations at its September 12 meeting. Feedback on these questions is sought in advance of that meeting.

Key Takeaways and Core Issues

- 1. The scope of the Commission's work should be limited to those education opportunities provided for credit by postsecondary institutions across state lines through online education services.**
- 2. The Commission should strive to provide politically feasible and practical recommendations affecting any/all relevant actors (e.g., federal government, state legislators and regulators, accreditation agencies).**
- 3. The Commission recommendations should acknowledge the unique facets of distance education but should not overemphasize differences between distance education and traditional postsecondary education.**
 - *What are the unique facets of distance education that should be highlighted in the recommendations/deliberations? Said differently, what makes distance education unique from other forms of education that needs to be acknowledged and preserved?*
 - *What are the differences between distance education and traditional education that tend to be over-emphasized in current dialogues and in policy?*
- 4. The challenges of compliance with multiple state regulations (e.g. high cost, states that are not adequately staffed to handle requests, time to achieve compliance, etc.) threaten the ability of many distance education institutions to provide educational opportunities to students nationwide and may result in a decrease in access/opportunity for many students, with a corresponding adverse effect on degree completion.**
- 5. Innovation has been the key to the success and growth of distance education. Reforms in the regulatory scheme must allow for—and indeed, help spark— continued innovation in higher education in order to ensure nationwide and statewide degree attainment goals can be achieved.**

- *Where do we find innovation in delivery, regulation, quality and quality assurance in distance education, and what lessons relevant to Commission deliberations can be derived from these innovations?*

6. State-by-state reform is not ideal or realistic and full-scale nationwide reform will be difficult. Success may therefore come from significant movement among leading states.

- *Which states are leaders on regulatory reform, and what lessons relevant to Commission deliberations can be derived from their experience?*

7. "Physical presence" is one of the major hurdles and points of confusion for institutions as they try to determine whether they seek state authorization. It is, therefore, one area that requires additional attention by the Commission, particularly around the merits of a common definition of "physical presence."

- *What are the core elements of "physical presence" that should be present in order to trigger authorization requirements by a state?*
- *What are the most consequential points of confusion in current definitions of "physical presence"? For example, do institutions report inconsistency among state agencies or unclear legislative language as the source of their confusion?*
- *What other hurdles or inconsistencies account for the current burdens associated with state authorization?*

8. The interests driving a focus on consumer protection, as well as institutional quality, are significant and must be clearly articulated as a foundation for any effort to bring coherence and consistency to state regulations.

- *What are the core interests served by state legislation/regulations that address—or that should address—consumer protection? Are these interests fully aligned with—and necessary for—an effort to establish coherence to the regulatory environment, nationwide?*
- *What are the core interests served by state legislation/regulations that address—or that should address—broader measures of institutional quality? Are these interests fully aligned with—and necessary for—an effort to establish coherence to the regulatory environment, nationwide?*
- *In the context of these two issues:*
 - *What state barriers are interfering with legitimate actors and how can they be addressed?*
 - *What are the exact problems and concerns associated with "bad actors" that must be addressed?*

9. The roles of the federal government, states, and accreditation agencies in the current regulatory scheme must be clarified, including with a focus on avenues for best assuring institutional quality. For example, accreditation agencies, with deep knowledge of institutional practice, could play an increased role in the regulatory "triad" while the federal government could focus its role to one of enforcement of Title IV rules. Whether that prospect is viable, particularly given resource limits of accrediting bodies, is another question.

- *What strategies should be considered for achieving quality in distance education other than state regulation?*
- *What are the current capacity limitations of accrediting agencies that limit their ability to take on an increased role in the regulatory triad?*
- *Are there any examples of accrediting agencies taking on this type of expanded role in another context?*
- *How do accrediting processes and state regulatory processes intersect? Examples?*
- *To what extent and through what means might institution self-reporting/regulation be a potential solution to include in the Commission's recommendations?*

10. Governance

- *What entity (or combination of entities) should adopt and monitor the governance of standards of consumer protection and quality? What would a proposed governance scheme have to look like in order to address basic protections?*
- *What are the primary concerns with the existing governance structure for distance education – for the student and for the institution?*
- *What enforcement mechanisms should be established to ensure compliance?*