

From: Jessica Morales, Negotiator for Students and Borrowers
To: 2024 Negotiated Rulemaking
Program Integrity and Institutional Quality Committee
Date: January 9, 2024
Re: State Authorizer Risk-Based Reviews

As members of the program integrity triad, state authorizers are expected to oversee institutions to ensure they comply with state laws, protecting consumers of higher education. However, for the three elements of the program integrity triad -- states, accreditors, and the U.S. Department of Education -- to be able to work in concert effectively, states must be aware of, and responsive to, the actions of other regulators.

Already, accrediting agencies are required to consider decisions from states and other accrediting agencies in its accreditation decisions, and to assess probation or adverse actions by other accrediting agencies to determine whether the basis for those actions suggests the institution is out of compliance with the agency's standards (34 CFR 602.28(b) and (d)). Yet no similar provision exists for state authorizers to consider actions by other regulators.

Additionally, these types of reviews focused on institutions with known regulatory problems provide states the opportunity to [better target](#) their ongoing oversight and monitoring of institutions to the highest-risk institutions, ensuring they are more effective in protecting students and taxpayers. By focusing their monitoring efforts on high-risk institutions, states can also address the challenges many face due to limited capacity and staff resources.

The below language reflects the current regulations, with proposed changes in red text. The Department did not propose any changes to this section of the rules.

600.9 State authorization.

(a)

(1) An institution described under §§ 600.4, 600.5, and 600.6 is legally authorized by a State if the State has a process to review and appropriately act on complaints concerning the institution, including enforcing applicable State laws; **to review and appropriately act on actions concerning the institution by another regulator;** and the institution meets the provisions of paragraphs (a)(1)(i), (a)(1)(ii), or (b) of this section.

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(3) The State process to review and appropriately act on regulator actions must ensure that, if the State learns that an institution it approves is the subject of a review, lawsuit, negative action, or adverse action by a State or Federal agency or a recognized institutional accrediting agency, the State immediately initiates review of its approval to determine if the institution is out of compliance with State standards and if any action should be taken.