



LoanNotes

COURTESY OF
AMERICAN EDUCATION
SERVICES

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American Education Services

Compliance Spotlight: Federal Disclosure and Consumer Information - Navigating the Jungle

WHY REGULATE CONSUMER INFORMATION?

In today's world, selecting the right school can be a daunting task. With recent media attention focusing on the cost of higher education and the debt burden that graduates routinely face, prospective students and their families desperately need reliable information if they have any hope of making an informed choice. **Even after enrollment, access to information remains crucial.**

Lawmakers responded to this need by establishing a number of requirements meant to provide consistency and uniformity to the data that is made available to students, regardless of the institution. **With this information, prospective students can effectively compare schools, and understand their rights and responsibilities under the law.**

SO WHAT IS REQUIRED ANYWAY?

The law and the regulations define two distinct types of requirements:

1. **Disclosure requirements** mandate that a school make certain information available to others, such as students, employees or the general public.
2. **Reporting requirements** instruct schools to provide specific information to the U.S. Department of Education (ED) or other agencies.

In fact, both requirements may be necessary to comply with a specific provision. A school may be asked to disclose certain information on their website, while also providing related information in a report to ED.

For a list of current Federal Disclosure and Consumer Information requirements [click here](#).

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Federal Disclosure and Consumer Information - Navigating the Jungle

ESTABLISH YOUR GAME PLAN

In order to tackle these diverse requirements, your school must establish a robust compliance plan. We recommend a three-part effort.

1 Evaluation Phase

Start by clearly defining the provisions that your school must address and identify the available resources that might aid these efforts. Consider if existing publications can be adapted to meet your needs, and, most important of all, explore your web-based resources, including any other electronic communication methods, such as email, that might be available to you.

2 Coordination Phase

Since these requirements originate from the laws governing student aid, many schools automatically entrust compliance solely to the efforts of their financial aid office; however, this can quickly prove overwhelming. **For the best results, your compliance effort must have the assistance of a wide variety of players.** Compliance is the responsibility of the entire organization.

Establish a team approach by coordinating the areas that are primarily responsible for the information that must be disclosed or reported. For example, the campus security division would certainly be the most appropriate group to address the requirements of the Annual Security Report; however, they might also share responsibility for creating the Fire Safety Report alongside student housing.

Once you have created your team, establish a detailed implementation strategy. Start by evaluating each disclosure requirement and assigning specific tasks. **Place your plan in writing to minimize confusion and ensure a timely response, and select the publication resources that are most efficient or cost-effective.** Keep in mind, however, that federal requirements may mandate a specific distribution method.

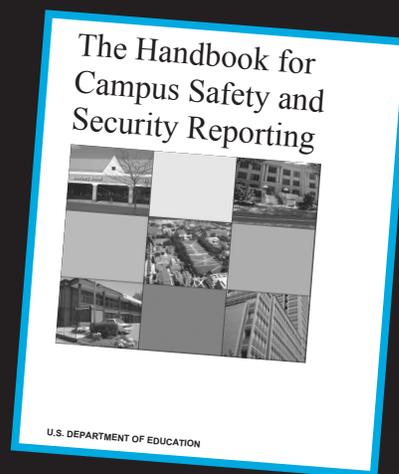
In addition, it is important to remember that this information addresses your fundamental academic and financial policies. Therefore, it is crucial that your legal counsel and executive management team approve the information prior to publication. Carefully formulate each disclosure or report, and seek the necessary approvals before implementation.

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Campus Safety and Security Reporting

The U.S. Department of Education's (ED's) Federal Student Aid Office, in partnership with the Federal Bureau of Investigation, has begun a review of certain campus security reports from 2007. The goal of the review is to monitor compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

For the schools involved in the initial phase, the results of the review indicate a deficiency in crime reporting to ED, including violations for the inaccurate reporting of crime statistics, insufficient information regarding timely warnings, insufficient sexual assault policies, and failure to distribute campus safety reports, including the crime statistics.



Schools are reminded that [The Handbook for Campus Safety and Security Reporting](#) provides detailed information on what must be done to be compliant with the Clery Act and HEOA regulations regarding campus safety and security reporting. Schools that do not come into compliance with the requirements may be subject to fines or penalties by ED, including limitations on their eligibility to award federal financial aid.

In addition, please refer to the article in this edition of Loan Notes titled, "Federal Disclosure and Consumer Information -- Navigating the Jungle", for a discussion of the many consumer information, reporting and disclosure requirements that are required under federal regulations, including those for campus security.

Federal Disclosure and Consumer Information - Navigating the Jungle

3 Monitoring phase

Once your publication efforts are complete, establish a plan to periodically review this information to ensure that it remains up-to-date. Keep abreast of changing technology and keep an eye out for more efficient and cost-effective publication options to meet these requirements.

A NOTE ON PUBLICATION

In today's world, consumers typically turn to the internet when researching and comparing just about everything. This certainly holds true for higher education. For many schools, the publication of consumer information online has wide appeal, as it can prove far more cost-effective and efficient than an old-fashioned hard copy.

Although laws and regulations are often quite specific about how information must be disclosed, schools still possess much latitude in how this information is presented. Unfortunately, consumers are often frustrated by the wide variety of approaches that are used when organizing and presenting this information.

The National Postsecondary Education Cooperative (NPEC) has put forward five simple suggestions that schools might consider when publishing their information online.

1. **Focus on both compliance and effective communication.** Consumers have little understanding, nor interest, in the requirements pertaining to federal disclosures. However, schools often organize their information with an eye toward showcasing successful compliance and often use obscure regulatory terms. The way you organize your information can ensure your compliance with applicable regulations, while simultaneously providing consumers with a clear understanding of what is being disclosed.
2. **Establish a single web page that contains hyperlinks to your disclosure information.** Schools are encouraged to develop a single portal page on their website to ensure easy access for consumers.
3. **Adopt a "3-click" approach.** Ensure that the information is placed on your website so that it may be located using a minimal amount of searching. The NPEC suggests positioning the information so that it can be reached by clicking through no more than three web pages.
4. **Consider consumer-friendly language whenever possible, and explain institutional or technical jargon.** The NPEC recommends the use of pop-up or hover-over boxes that provide explanatory information for difficult to understand terms or concepts. When a hard copy is the only possible publication method, similar strategies should be considered.
5. **Utilize a common set of content titles.** The NPEC suggests that schools provide labels reflecting content, rather than the source of the information. A common set of content titles for schools to utilize is available within their publication, **National Postsecondary Education Cooperative: Information Required to be Disclosed under the Higher Education Act of 1965: Suggestions for Dissemination. (2009)**

RESOURCES:

- Higher Education Act of 1965 as amended
- Higher Education Opportunity Act of 2008
 - » Dear Colleague Letter (DCL) GEN 08-12 provides a summary of the HEOA
- [Volume 2 of the Federal Student Aid Handbook](#)
- Code of Federal Regulations
- [Handbook for Campus Safety and Security Reporting](#)
- [National Postsecondary Education Cooperative: Information Required to Be Disclosed Under the Higher Education Act of 1965: Suggestions for Dissemination \(2009\)](#)



Gainful Employment Information

ED ANNOUNCES IFAP PAGE DEDICATED TO GAINFUL EMPLOYMENT

On May 12, 2011, the Department of Education (ED) released an electronic announcement, "[Gainful Employment Electronic Announcement #1 - Posting of Electronic Announcements Related to Gainful Employment Programs](#)," to announce that it has established a page on its Information for Financial Aid Professionals (IFAP) website to house all information relating to gainful employment. This page serves as a reference tool for Title IV participating schools wanting to stay up-to-date on this important topic. [Click here](#) to read this electronic announcement and other information relating to the gainful employment requirements, including regulations, Dear Colleague Letters, other electronic announcements, and a list of frequently asked questions and answers. The page will be updated on a regular basis as ED releases new information regarding gainful employment to the higher education community.

Be sure to check the page periodically for updates on important gainful employment information!

CORRECTION TO DEAR COLLEAGUE LETTER GEN-11-10 REGARDING TEACHER CERTIFICATION PROGRAMS

On May 20, 2011, ED released an electronic announcement, "Gainful Employment Electronic Announcement #3 Correction of Dear Colleague Letter GEN-11-10 regarding Teacher Certification Programs." The Dear Colleague Letter (DCL) was originally published on April 20, 2011, and included the incorrect statement below regarding teacher certification programs. **Pages 2 and 3 of the DCL specify which programs are considered to be gainful employment programs.**

Paragraph from the DCL dated April 20, 2011	Corrected paragraph
"Teacher certification programs, including both programs that result in a certificate awarded by the institution and those where the institution itself does not provide a certificate but which consist of a collection of course work necessary for the student to receive a State professional teaching credential or certification."	The entire paragraph is replaced with the following: "Teacher certification programs that result in a certificate awarded by the institution."

Based on the correction above, if the institution itself does not provide a certificate for the teacher certification programs, but the program consists of the courses necessary for the student to receive a State professional teaching credential or certification, then the program is NOT considered to be a gainful employment program and NOT subject to the gainful employment program disclosure and reporting requirements.



This electronic announcement has been posted to the IFAP page dedicated to gainful employment information. Please [click here](#) to read this electronic announcement in its entirety, or to view any of the other information relating to gainful employment.

NSLDS GAINFUL EMPLOYMENT USER GUIDE NOW AVAILABLE

On May 23, 2011, ED released "Gainful Employment Electronic Announcement #4- NSLDS Gainful Employment User Guide" to announce the availability of the [NSLDS Gainful Employment User Guide](#). The guide will assist schools in using the NSLDS system to submit gainful employment information to ED.

As discussed in Dear Colleague Letter (DCL) [GEN-11-10](#), final regulations published in the Federal Register on October 29, 2010, require schools that are participating in the student financial assistance programs to report, by October 1, 2011, and once a year thereafter, specific information to ED regarding students enrolled in Title IV-eligible educational programs that lead to gainful employment in a recognized occupation.

The guide includes an overview of the gainful employment requirements, a description of the Student Aid Internet Gateway (SAIG) batch reporting process that will be used, and the three record layouts for gainful employment reporting, including a fixed width format, a comma separated values format and a XML format.

ED encourages schools to monitor the IFAP website for upcoming messages later this year regarding an enhancement to the NSLDS Professional Access website which will allow for an online reporting option.

Electronically Signed Promissory Notes

According to federal regulations, lenders and servicers must provide a valid original promissory note, or a true and exact copy of the promissory note, with every claim submitted to the guarantor for payment.

AES/PHEAA considers an electronically signed promissory note to be valid if the electronic signature string (combination of numbers, letters and/or characters) is displayed in the borrower signature line. AES/PHEAA does not consider a promissory note with a typed signature or other typed statement or phrase in the signature line to be a valid promissory note unless AES/PHEAA receives supporting documentation (electronic signature authentication information) to validate the borrower's electronic signature and tie the signature back to the borrower. **Generally, a valid authentication document includes the following information:**



Therefore, claims submitted to AES/PHEAA with an electronically signed promissory note must include an acceptable electronic signature string, as described above, in the borrower signature line. **If the electronic signature string is not in the acceptable format as referenced above, the lender/service must provide the electronic signature authentication information to validate the borrower's electronic signature before we can process the claim for payment.**

May Dear Colleague Letters



TRAINING RECORDING- PROFESSIONAL JUDGMENT, SESSION TWO

On May 16, 2011, the Department of Education (ED) released [DCL: ANN-11-12](#), "Training Recording-Professional Judgment, Session Two," to provide financial aid personnel with detailed information on how to exercise documented professional judgment in the administration of Federal Student Aid Programs. The recorded training session covers the following:

- Reviews the statutory basis and rationale for professional judgment and the scope of authority to use professional judgment;
- Includes case studies that discuss different types of professional judgment; and
- Encourages participants to make a determination in accordance with their school's professional judgment policy.

No registration is required for this training session; although, participants who have not completed the Session One recorded training are encouraged to do so before beginning Session Two. Please refer to [DCL: ANN-10-17](#) for more information on Session One.



Pennsylvania State Authorization Information

The U.S. Department of Education (ED) published Dear Colleague Letters (DCLs) GEN-11-05 and GEN-11-11 to explain the requirements of the new Program Integrity Regulations pertaining to State authorization. The DCLs specify that, under the State authorization regulations, a student who is enrolled in an educational program (including distance education programs) cannot use Title IV, HEA program funds for that program if the institution the student is attending does not have State authorization in the state in which the student is located while receiving instruction.

ED stated in DCL GEN-11-11 that it will not initiate action against a school before July 1, 2014, for failure to comply with these regulations, provided the institution is making good faith efforts to identify and obtain necessary State authorizations before that date. The following examples of good faith efforts were included in DCL GEN-11-11:

- Documentation that an institution is developing a distance education management process for tracking students' place of residence when engaged in distance education
- Documentation that an institution has contacted a State directly to discuss programs the institution is providing to students in that State to determine whether authorization is needed
- An application to a State, even if it is not yet approved
- Documentation from a State that an application is pending

To assist schools in their efforts to obtain State authorization, AES is providing contact information for officials at the **Pennsylvania Department of Education** who will be able to answer your questions and assist you in meeting the requirements for State authorization requirements in Pennsylvania.

If you are a...	Then contact...
Degree-granting institution	<p>Dr. Al Happ, Division Chief Bureau of Postsecondary Education Division of Higher Education Pennsylvania Department of Education 333 Market Street Harrisburg PA 17126-0333 Phone: 717.772.3623 Fax: 717.772.3622</p>
Non-degree granting institution	<p>Patricia Landis, Division Chief Bureau of Postsecondary Education Division of Occupational Training Schools Pennsylvania Department of Education 333 Market Street Harrisburg PA 17126-0333 Phone: 717.783.8228 Fax: 717.772.3622</p>

American Education Services (AES) was created to guarantee and service a variety of Federal Family Education Loan Program (FFELP) and private student loan products for lending partners throughout the nation. AES is a national leader in providing quality customer service to millions of student loan borrowers through its highly-trained and experienced customer service representatives. For more information, visit aesSuccess.org.

The Pennsylvania Higher Education Assistance Agency (PHEAA) conducts its student loan servicing activities nationally as AES and FedLoan Servicing.



American Education Services

CONTACT

**BUSINESS DEVELOPMENT
& OPERATION/LOAN GUARANTY**
 Mon - Fri, 7:30 am to 9:00 pm ET

**STUDENT/PARENT
GRANT & LOAN INQUIRIES**
 800.692.7392
granthelp@aesSuccess.org
studentloans@aesSuccess.org

SCHOOL/LENDER INQUIRIES
 800.443.0646
loanhelp@aesSuccess.org

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