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| Standard: | N/A | Legal & Regulatory Compliance Checklist |
| Criterion: | N/A | |
| Approved By: | ACAHM Commission | |
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| Related Policies: | | |
| References: | | |
| Responsible Official: | ACAHM Executive Director | |

LEGAL & REGULATORY COMPLIANCE CHECKLIST

This checklist is intended to assist institutions and site visitors when determining compliance with Standard 2: LEGAL AND REGULATORY REQUIREMENTS and other relevant criteria.

| LEGAL ORGANIZATION |
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| <p>Review a current copy of the Articles of Incorporation</p> <ul style="list-style-type: none"> Record date of Articles reviewed. Do Institution's mission and purpose statements match those published in the Articles reviewed? |
| <p>Review a current copy of By-Laws</p> <ul style="list-style-type: none"> Does the institution conduct business as outlined in the by-laws? Proper Board composition? Meetings held as calendared? Timely and complete minutes? |
| <p>*Non-Profit Institutions only - Review the institution's most recent Form 990.</p> <ul style="list-style-type: none"> Record date of filing. Compare to information contained in the institution's audited financial statement: review auditor letter and any footnotes; was audit qualified or unqualified? |
| LEGAL AUTHORIZATION |
| <p>Review institution's status reports provided by: (1) Secretary of State where the institution is incorporated, (2) state or states' authorizing agency, (3) state office of veterans' affairs (if institution administers Title 38 veterans' educational benefits), and (4) state licensing agency (where applicable – i.e., California Acupuncture Board, etc.).</p> <p>Secretary of State</p> <ul style="list-style-type: none"> Business creation date Business status (active/inactive) <p>State Authorizing Agency</p> <ul style="list-style-type: none"> Confirm authorization to operate. Confirm approved teaching locations and compare to actual operations. Confirm approved degree programs and compare to actual operations – F2F? distance education? Both? Confirm approved "certificate" programs and compare to actual operations - F2F? distance education? Both? Does agency have any open complaints/investigations involving the institution? |

- Does the agency consider the institution as being in “good standing?”

State Veterans’ Affairs Agency (where applicable)

- Confirm institution’s authorization to administer veterans’ educational benefits.
- Does agency have any open complaints/investigations involving the institution?
- Does the agency consider the institution as being in “good standing?”

State Licensing Agency (where applicable)

- Confirm institution’s standing for graduates of its ACAHM-accredited program(s) to be eligible to sit for licensing examinations and/or to become licensed in the state(s).

Does the program/institution currently have any changes pending with ACAHM? Consult with ACAHM’s Director of Accreditation Services.

For institutions where ACAHM is NOT the institutional accreditor, review a copy of the relevant institutional accreditor’s most recent “Action Letter” or equivalent formal status report.

Changes in Accreditation

- Is the institution considering (or in the process of) changing accreditors? Ask if the institution is considering (or in the process of obtaining) a new programmatic accreditor? Institutional accreditor?
- If so, did it notify its USDE Case Management Team (CMT)?
- Was ACAHM notified?

For institutions that enroll non-immigrant international students:

- Request a copy of the institution’s SEVP-certification.
- Who is the institution’s current SEVP Officer?
- Confirm which non-immigrant exchange visitor VISA program or programs the institution issues: F (academic), M (vocational), and/or or J (work-and-study).
- Does the institution offer an English language “improvement” program? If yes, who is the institution’s “institutional” accreditor? Is the English language improvement program accredited by CEA?

APPLICABLE ONLY TO INSTITUTIONS THAT ADMINISTER FEDERAL STUDENT AID:

Program Participation Agreement (PPA)

- Record the date of the executed PPA reviewed.
- Is the institution’s status to administer Title IV federal student aid “qualified”?
 - Provisional Certification status?
 - Heightened cash monitoring?
 - Reimbursement payment method?
 - Letter of Credit requirements?
 - Other?

Eligibility and Certification Approval Report (E-CAR)

- Record the date of the E-CAR reviewed.
- Compare the programs and locations reported on the E-CAR to those published in the institution’s website, catalog, advertisements, flyers, handbooks, etc. and note any discrepancies.

Disclosure for Programs Leading to Licensure or Certification

- Confirm that institution makes readily available to enrolled and prospective students whether programs leading to professional licensure or certification meet educational requirements, including:
 - A list of all states for which each program curriculum meets state educational requirements for professional licensure or certification;
 - A list of all states for which each program curriculum does not meet state educational requirements for professional licensure or certification; and

- A list of all states for which the institution has not made a determination of whether each curriculum meets educational requirements.

Student Location and Determinations of a Student's Location

- Confirm that institution documents the change of address monitoring process and consistently applies their policies and procedures regarding student location to all students, including students enrolled in on-ground programs.

Constitution Day Law

- Does the institution offer educational programs about the U.S. Constitution each year on September 17 (Constitution Day)? **Confirm by reviewing examples of Constitution Day advertisements/promotions, educational materials, and documented confirmation that the institution observed Constitution Day.**

National Voter Registration Act of 1993 ("NVRA" or "Motor Voter Law")

- Is the institution located in a state that that has enacted automatic motor vehicle/voter registration provisions of the National Voter Registration Act (i.e., Alaska, California, Colorado, Connecticut, District of Columbia, Illinois, Oregon, Rhode Island, Vermont, West Virginia)? If no,
 - Is there evidence that institution make voter registration forms available to its degree and certificate seeking students?

Integrated Postsecondary Education Data System (IPEDS)

- Who is the institution's current IPEDS "key holder"?
- Confirm the following IPEDS surveys were timely filed:

FALL

- Institutional characteristics
- Completions
- 12-month enrollment

WINTER

- Student Financial Aid
- Graduation Rates
- 200% graduation rates
- Admissions
- Outcome measures

SPRING

- Fall Enrollment
- Finance
- Human Resources
- Academic Libraries

Does the institution have a **policy regarding the disclosure of education records concerning registered sex offenders?**

Violence Against Women Reauthorization Act of 2013 (VAWA) and the Campus Sexual Violence Elimination Act (SaVE Act)

- Does the institution collect, manage and disclose statistics, policies, and educational programs related to dating violence, domestic violence, sexual assault and stalking? If so, list examples.

Campus Crime Awareness and Campus Security Act of 1990 (Clery Act)

- Does the institution maintain:
 - An annual security log?
 - A crime log?
- Does the institution have a policy, procedure and/or system for making Timely Warnings?
- Does the institution publish Crime Statistics, including:
 - Campus Disciplinary Actions?
 - Hate Crimes?

How does the institution comply with its 34 CFR Part 85 obligations regarding “government-wide debarment and suspension (non-procurement)?” Example: Does the institution require background checks of, or certification statements by Contractors or third-party servicers to, identify or "flush out" those who were terminated under Section 432 of the HEA for reasons involving acquisition, use, or expenditure of government funds, fraud, or any other material violation of law involving government funds.

Does the institution have a “drug and alcohol abuse prevention program” to prevent the use of illicit drugs and the abuse of alcohol by students and employees? At a minimum, an institution of higher education program must include the annual distribution, in writing, of specified drug and alcohol abuse prevention information to each student and employee and a biennial review of the program by the IHE.

Does the institution have a current Campus Security Policy? Is there evidence that students and staff received appropriate **Campus Security training**?

Campus Fire Safety Right-to-Know Act of 2008

- Does the institution publicly display:
 - Fire safety information and statistics?
 - Emergency Fire Response information?
- Is there documented evidence of regular fire drills?
- Were all fire extinguishers inspected within the prior year? Were all fire extinguishers properly "charged"?
- Date of the institution's most recent fire marshal inspection?
- Fire emergency doors swing in direction of exit travel?
- Is there appropriately located and documented inspected extinguishers/fire alarms?
- Is there a published list of prohibited items and activities (i.e., obstruction of sprinkler heads, power strips without fuse, smoking in common areas, other items and conditions prohibited the relevant state's uniform fire code)?
- Is there a published fire evacuation and assembly plan?
 - If so, when was the most recent documented training to the plan?
 - Does the plan address hearing and visual impairments?
 - People with permanent and temporary mobility disabilities?
 - How to activate a fire alarm?
 - How to report a fire?

REGULATORY AFFAIRS
(includes Academic Affairs, Physical Security and Safety)

Does the institution timely and accurately publish state-specific required consumer information?

Example: California Bureau for Private Postsecondary Education (BPPE) requires publication of a "**School Performance Fact Sheet**" that includes:

- on-time completion rates,
- job placement rates,
- license exam pass rates,
- salary and wage information,
- cost of education,
- federal student loan debt.

Occupational Safety and Health Act

- Does the institution have a Hazard Communication Plan?
- Is there documented "Plan" training?
- Request and review copies of any OSHA citations issued to the institution.
- Review and, for each, note whether in compliance:
 - training around blood borne pathogens,
 - universal precautions,
 - clean needle technique,
 - hazard communication,
 - machinery, electrical, hand-held equipment,
 - materials handling and storage,
 - appropriate gas storage (if applicable),
 - medical and first aid procedures,
 - emergency exit maps,
 - appropriate waste disposal protocol,
 - facility access control,
 - personal protective equipment,
 - appropriate labeling of hazardous material,
 - full-time lighted exit signs/emergency lighting,
 - warning of change in floor level by coloring differential, and
 - proper ventilation and ventilation hoods/exhausts.

Does the institution maintain a log of reported needle sticks? A log of employee/student injuries? Are there any safety-related trends?

Were there any workers' compensation claims against the institution since the last ACAHM comprehensive site visit?

Specifically ask the institution whether it has received **any regulatory citations since the last ACAHM visit**. If so, request and review the citation(s).

Does the institution/program conduct research?

If YES, using *Chart 1* found at <https://www.hhs.gov/ohrp/regulations-and-policy/decision-charts/index.html#c1> , determine if the institution conducts *human subjects research*.

1. If the institution conducts human subjects research, does it have an *Institutional Review Board (IRB)*?
2. If the institution does not have an IRB, does it have a written agreement with an external IRB for evaluation and monitoring of student research?
3. If yes, review a copy of the agreement.

FINANCE
(includes Treasury, SFS and Veterans' Affairs)

Review the institution's most recent Audited Financial Report

- When was the last time the institution changed auditors/accounting firms conducting its audited financial reports?
- Was the CPA's letter qualified or unqualified?
 - Did the CPA express any concerns or recommendations? If so, what were they?

For institutions that administer Title IV federal student aid (FSA), does the institution obtain separate Federal Student Aid compliance audits?

- If yes, review the institution's most recent financial aid compliance audit.
- Was the financial aid compliance audit conducted by the same accounting firm as the institution's audited financial reports?
 - Were any concerns about FSA administration noted by the auditor/firm?
- Did the institution receive any reports from the U.S. Department of Education's "School Participation Division (SPD)" concerning its review of the institution's audited financial statements in the current and previous five (5) years? If so, review the report and its outcome/findings. Did the Department place conditions on the institution's Title IV federal student aid administration? Examples of conditions include:
 - Provisional Certification status
 - Heightened cash monitoring
 - Reimbursement payment method
 - Letter of Credit requirements
- Review a copy of the institution's most current *Cohort Default Rate Report*. This report can also be obtained on the web at <https://www2.ed.gov/offices/OSFAP/defaultmanagement/cdr.html#table>.
Does the default rate exceed the USDE's threshold? If yes, has the institution implemented a default prevention and management plan? Examples of default management tools include:
 - Entrance counseling
 - Financial literacy for borrowers
 - Identification of, and counseling for, students at risk
 - Dedicated default and prevention staff
 - Exit counseling
 - Timely and accurate enrollment reporting
 - Requesting and reviewing of NSLDS (Date Entered Repayment or DER Report), Delinquency assistance
- Did the institution experience a U. S. Department of Education "Program Review" since the last ACAHM comprehensive site visit? If yes, request and review a copy of the Department's review.
- Does the institution publish and enforce a financial aid "Code of Conduct" with respect to loans made, insured, or guaranteed under title IV of the Higher Education Act?

Does the institution collect its own debts, use a third party to collect debts, or both?

- If a 3rd party debt collector is used, is there an executed contract? if so, does it require compliance with the **Fair Debt Collections Practices Act** and any relevant state's debt collection requirements?
- If debts are collected "in-house" by the institution, are there policies and training around how debts must be collected?

HUMAN RESOURCES

Does the institution employ non-US employees? If so, review institutional documentation for compliance with foreign labor rules:

- I-129 petition to hire foreign workers for temporary services or labor or to receive training,

- H-2A Temporary Foreign Worker Program,
- Form H-2B temporary non-immigrant visa program,
- Form I-140 Employer Petition to hire someone who lives outside the US for permanent work,
- H-1B visa classification permits foreign national with a specialty occupation to work in the US for a temporary period.

Does the institution have a "Whistleblower Policy"?

- Does the policy allow anonymous reporting?
- Does it protect against retaliation?

Does the institution have a document retention and destruction policy?

Review **Employee Handbook** for completeness. Does the handbook or institutional policies address the following?

- **Title VI of the Civil Rights Act of 1964** - prevents discrimination based on race, color, or national origin in programs or activities which receive federal financial assistance
- **Title IX of the Education Amendments of 1972** - bars discrimination based on sex
- **Section 504 of the Rehabilitation Act of 1973** - bars discrimination based on physical handicap
- **The Age Discrimination Act of 1975 and the implementing regulations** - bars age discrimination
- **Affordable Care Act**
- **Consolidated Omnibus Reconciliation Act (COBRA)**
- **Federal Unemployment Tax Act (FUTA)**
- **Employee Retirement Income Security Act (ERISA)**
- **Fair Labor Standards Act (FLSA)**
- **Genetic Information Nondiscrimination Act of 2008**
- **Family Medical Leave Act (FMLA) of 1993**
- **Drug-Free Workplace Act of 1988** - publication of a drug free workplace statement, establishing an on-going drug-free awareness program to inform employees: dangers of drug abuse in workplace; institution's policy on maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- **Ongoing Drug and Alcohol Abuse Prevention Program** - complies with the *Drug-Free Institutions and Communities Act Amendments of 1989* (and Section 1213 of the Higher Education Act).
- **Copyright Act** - implemented written plans to effectively combat the unauthorized distribution of copyrighted materials by users of the institution's network, including the use of one or more technology-based deterrents; mechanisms for educating and informing the community about appropriate versus inappropriate use of copyrighted material; procedures for handling unauthorized distribution of copyrighted material, including disciplinary procedures; and evidence of effective procedures for periodically reviewing the effectiveness of plans to combat the unauthorized distribution of copyrighted materials by users of the institution's network using relevant assessment criteria. Periodically review legal alternatives for downloading or otherwise acquiring copyrighted material and making available to students the results of the review through website or other means.

PRIVACY & INFORMATION SECURITY

Does the institution have a FERPA policy? Is there documentation confirming faculty and staff FERPA training?

Safeguarding Customer Information, as required by the Gramm-Leach-Bliley (GLB) Act

Does the institution have standards intended to ensure the security and confidentiality of customer records and information? Colleges and universities are deemed in compliance with the privacy provisions of the GLB Act if they are in compliance with the Family Educational Rights and Privacy Act (FERPA). **However**, higher education institutions are still subject to the provisions of the GLB Act related to the administrative, technical, and physical safeguarding of customer information. To determine compliance with GLB, assess the following:

- (1) **Who is the institution's designated Customer Information Security Officer?**
- (2) Institutional units that are significantly engaged in financial activities that involve the collection or utilization of customer financial information must identify themselves to the Institution's Customer Information Security Officer. **(Does the institution administer federal student aid? Process credit cards? Is there evidence the institution has documented all its financial processes that use customer records? Does the documentation describe the nature and extent of their utilization of customer information?)**
- (3) **Has the institution assessed its current customer information practices, identify vulnerabilities, and taken appropriate measures to secure customer information?**

If the institution uses commercial advertisements to promote its educational services, does it comply with its state's anti-spam regulations and the federal *Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act*? Examples of compliance tools:

- Use of explicit "opt-in" permission
- Convenient "opt-out" links
- Screening customer lists to remove "opt-outs"

Does the institution use telemarketing? If so, does it have policies and training around state and national "Do Not Call" laws and the use of Do Not Call Registries? Examples:

- sets restrictions on the time of day and night that unsolicited calls can be made to consumers,
- require nature of the call to be disclosed at the start of any unsolicited call,
- prior permission required to receive pre-recorded and robocalls, etc.

Does the institution have, train to, and enforce ***Health Insurance Portability and Accountability Act (HIPAA)/Health Information Technology Economic and Clinical Health (HiTech) Policy*** compliance? If the institution claims exemption, request they provide written justification for its claimed exemption.

Revision History

| Date Revised | Summary of Revisions | Approved By |
|---------------------|---|--------------------------|
| 180811 | added information regarding human subjects research | Full Commission |
| 200924 | added requirements for student location determination and disclosures for programs leading to licensure per USDE 1 July 2020 changes; removed gainful employment reporting requirements rescinded by USDE 1 July 2020 | ACAOM Executive Director |
| 220504 | removed reference to Military Selective Service Act consistent with GEN-21-04 | ACAHM Executive Director |
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Programs and institutions are responsible for understanding and following ACAHM's current policies and procedures found at <http://ACAHM.org/policies/> and are encouraged to timely contact ACAHM with any questions or need for further clarification. The Commission is not bound by a rigid sequence of actions nor precluded from taking actions at any time as warranted by evolving circumstances; any dates or timelines provided for planning or illustrative purposes may change.