

U.S. Department of Education Program Integrity Rules

Presentation to
FIU Communications Committee
On Misrepresentation Prohibitions
January 19, 2012

Presented by: Leyda Benitez
University Compliance Officer

Program Integrity Rules: Requirements of the Regulation

- As a recipient of Title IV financial aid funds, FIU must comply with the U.S. Department of Education Program Integrity Rules
- These Rules are designed to strengthen the integrity of the federal student aid program and ensure that taxpayer funds are used appropriately
- Most regulatory requirements were due for implementation as of July 1, 2011
- A work group of diverse University representatives met through 2011 to discuss the impact of these regulations, assess our compliance readiness, and assist in the implementation of these new requirements

Program Integrity Rules: Members of the Work Group

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Program Integrity Rules: Allocation of Responsibilities Per Subject Matter Area(s)

Item #	Description	Responsible Person
1	State Authorization - Distance Learning	Joseph Riquelme Joyce Elam
2	Incentive Compensation	Tonja Moore & Jaffus Hardrick
3.	Credit Hours Definition	Elizabeth Bejar
4.	Prohibition on Misrepresentation	Terry Witherell
5.	Gainful Employment	Elizabeth Bejar Jeff Gonzalez
6.	Evaluating High School Diploma Validity	Barry Taylor Jeff Gonzalez
7.	Written Agreements Between Institutions	Elizabeth Bejar Office of the General Counsel
8.	Satisfactory Academic Progress	Elizabeth Bejar Francisco Valines
9.	Retaking Coursework	Elizabeth Bejar Francisco Valines
10.	Ability to Benefit 6 Hour Rule	Elizabeth Bejar Francisco Valines
11.	FAFSA Verification	Elizabeth Bejar Francisco Valines
12.	Return of Title IV Funds	Francisco Valines
13.	Timeliness/Method: Books and Supplies	Jeff Gonzalez Francisco Valines
14.	State Complaint Process (Florida Board of Governors)	Leyda Benitez

Today's Goals:

- Discuss the prohibition on misrepresentation and raise your level of awareness to enable you to identify potential issues
- Present to you FIU's Implementation Plan including the new Publication Guidelines developed by External Relations
- Request your feedback on additional steps we should take as an institution to ensure continued compliance with these regulatory requirements

Specifically, we will set out to understand:

- The U.S. DOE's role in enforcing these regulations and potential sanctions for violations
- Definition of “misrepresentation” and “substantial misrepresentation”
- The individuals/entities who are able to make “institutional representations”
- The potential recipients of this information that make the representation actionable
- Types of representations that fall within the regulations

U.S. Department of Education's role in enforcing these regulations

- Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may—
 - (1) Revoke the eligible institution's program participation agreement;
 - (2) Impose limitations on the institution's participation in the title IV, HEA programs;
 - (3) Deny participation applications made on behalf of the institution; and
 - (4) Initiate a proceeding against the eligible institution.(May also impose a civil penalty up to \$27,500 per misrepresentation)

(Authority: 20 U.S.C. 1094)

Misrepresentation/Substantial Misrepresentation: Definitions

- The PIR expand upon the definition of misrepresentation 34 CFR § § 668.71-668.75
- Misrepresentation defined as:
 - Any false, erroneous or misleading statement an eligible institution, one of its representatives, or any ineligible institution, organization, or person with whom the eligible institution has an agreement to provide educational programs, or to provide marketing, advertising, recruiting or admissions services makes directly or indirectly to a student, prospective student, or any member of the public, or to an accrediting agency, to a State agency, or to the Secretary
 - A statement is any communication made in writing, visually, orally, or through other means

Misrepresentation/Substantial Misrepresentation: Definitions (Cont'd)

- Misrepresentation means “Any false, erroneous or misleading statement an eligible institution makes to a student enrolled at the institution, to any prospective student, or to the Secretary.” (Misleading statements must have an element of untruth and/or some intent to deceive to be sanctionable.)
- Misrepresentation includes the dissemination of student endorsement or testimonial given either under duress or as a requirement for the student to participate in program
- Substantial misrepresentation: Any misrepresentation on which person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person’s detriment

Misrepresentation “Actors”

Who may make the misrepresentation?

- Eligible institution (FIU)
- FIU representative
- Ineligible institution, organization or person with whom FIU has agreement to
 - provide educational programs, or
 - provide marketing, advertising, recruiting or admissions services

To Whom?

- A student
- A prospective student
- Any member of the public
- An accrediting agency
- A State agency
- The Secretary

Misrepresentation Types

- Misrepresentation types are those related to:
 - Nature of educational program
 - Nature of financial charges
 - Employability of graduates

Nature of Educational Program-Any false, erroneous or misleading statement regarding:

- Type, source, nature and extent of its institutional, programmatic, or specialized accreditation
- Whether a student may transfer course credits and conditions to accept such credits
- Whether successful completion of a course of study qualifies a student
 - For acceptance to a labor union or similar organization
 - Governmental licensure exam or nongovernmental certification required as precondition of employment
- Requirements for successfully completing course of study including grounds for terminating enrollment

Nature of Educational Program-Any false, erroneous or misleading statement regarding:

- Whether the courses are recommended or have been the subject of unsolicited testimonials or endorsements
- Its size, location, facilities, or equipment
- Availability, frequency, and appropriateness of courses and programs to employment objectives
- Nature, age, and availability of training devices and equipment
- Number, availability, and qualifications, including training and experience, of its faculty and other personnel

Nature of Educational Program-Any false, erroneous or misleading statement regarding:

- Availability of part-time employment or other forms of financial assistance
- Nature and availability of any tutorial or specialized instruction, guidance and counseling, or other supplementary assistance it will provide its students before, during or after the completion of a course
- Nature or extent of any prerequisites established for enrollment in any course

Nature of Educational Program-Any false, erroneous or misleading statement regarding:

- Subject matter, content of course of study, or any other fact related to the degree or other credential awarded, or to be awarded, to the student upon completion of course of study
- Whether the academic, professional, or occupational degree that will be conferred has been authorized by the appropriate State educational agency (note that affirmative disclosure may be required in advertising or promotional materials when the degree has not been authorized)
- Matters to be disclosed under 34 CFR § § 668.42 and 668.43

Nature of Financial Charges-Any false, erroneous or misleading statement regarding:

- Offers of scholarships
- Whether a particular charge is the customary charge
- Availability or nature of financial assistance offered, including a student's responsibility to repay any loans, regardless of whether the student is successful in completing the program or obtaining employment
- Student's right to reject any particular type of financial aid or assistance, or whether the student must apply for a particular type of financial aid, such as financing offered by the institution

Employability of Graduates-Any false, erroneous or misleading statement regarding:

- Institution's relationship with any organization, employment agency, or other agency providing authorized training leading directly to employment
- Institution's plans to maintain a placement service for graduates or otherwise assist its graduates in obtaining employment
- Institution's knowledge about the current or likely future conditions, compensation, or employment opportunities in the industry or occupation
- Government job market statistics in relation to the potential placement of its graduates

Employability of Graduates-Any false, erroneous or misleading statement regarding:

- Whether employment is being offered by the institution or that a talent hunt or contest is being conducted, including, but not limited to, through the use of phrases such as “Men/women wanted to train for....,” “Help Wanted,” “Employment,” or “Business Opportunities”
- Other requirements generally needed to be employed, such as commercial driving licenses, license to carry firearms, and failing to disclose factors that would prevent an applicant from qualifying for such requirements, such as an existing prior criminal record or preexisting medical conditions

Recent Cases & Enforcement Actions

- August 2011: U.S. and four states, including Florida sue the Education Management Corporation (EMC) seeking \$11 Billion Dollars
- Lawsuit alleges EMC illegally paid recruiters based on the number of students signed up and fraudulently induced the Education Department to make the company eligible for more than \$11 Billion in federal grants and loans since 2003

Recent Cases & Enforcement Actions (Cont'd)

- In Florida: The Florida Attorney General's Office settled with Florida Metropolitan University, a for profit school accused of misrepresenting transfer value of credits to former students
- Under the \$99,900 agreement, FMU (which changed its name to Everest University on 11/5/07) says it will maintain a "transfer center" and work out transfer agreements with other colleges and universities (Source: National Association for College Admission Counseling, *Higher Education Act Fraud Alert*, Updated April 28, 2010)

Recent Cases & Enforcement Actions (Cont'd)

- March 13, 2012: The Colorado Attorney General's Office (AGO) reached a \$4.5 million settlement with Westwood College for allegedly using aggressive recruitment tactics and misleading prospective students about costs, transfer credits, and job placement. The school also had to submit to 3 years of monitoring by the Colorado AGO.
- July, 2012: A federal lawsuit was filed against Virginia College accusing the "For-Profit College" of bias against female and minority students. The suit asserts that the school misled the students about the value of their degrees and targeted females and minorities in their advertising.

FIU's Implementation Plan on the Misrepresentation Prohibition Regulations

- University, through its Admissions Office, adheres to Statement of Principles of Good Practice (National Association of College Admissions)
 - Reinforced on an annual basis to Admissions personnel
- External Relations developed University Publications Guidelines which were presented to senior leadership and are now being presented to you
- Admissions Office works closely with External Relations in the preparation of student recruitment and admissions marketing materials
- Ensure thorough review of all promotional materials/advertising (whether website, brochures, TV or radio ads, etc.)
- Educate, Educate, Educate on these new and expanded requirements

CONCLUSION

- Thank you for your diligent efforts to ensure the accuracy of any communication regarding FIU: its educational programs, financial charges and employability of graduates
- We hereby seek your input regarding additional implementation steps we should take as an institution
- We look forward to addressing your questions, comments or concerns