

Practice Update

COVID-19: Federal Guidance for Higher Education Institutions

March 24, 2020

As higher education institutions continue to grapple with the COVID-19 pandemic, and its yet to be fully determined resulting repercussions, they are simultaneously seeking guidance from the federal government on how to best navigate the pandemic. As referenced in a recent [Akerman publication](#), more than 30 U.S. Senators issued a [joint letter](#) to Department of Education Secretary Betsy DeVos, asking for clearer guidance on a host of issues, including federal financial aid and student borrowing (which, in turn, assists in subsidizing the aforementioned). Nonetheless, in the absence of clearer guidance from the federal government, the Department of Education has published a [page](#) on its website containing guidance for higher education institutions from a multitude of governmental agencies. Below is an abbreviated outline of these sources, and additional guidance sourced from other agency websites, for higher education administrators to quickly reference for specific issues:

Student Financial Aid and Institutional Funding

- **Federal Student Aid** (U.S. Dept. of Education)
 - [“Coronavirus Information for Students, Borrowers, and Students”](#) (March 20, 2020)
 - **Guidance Provided:**

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- FAQ regarding student financial aid for federal financial aid borrowers, including currently enrolled college students;
- Waiving of interest on federal loans; and
- Administrative forbearance from paying federal loans.
- **Office of Post-Secondary Education (U.S. Dept. of Education)**
 - Guidance for interruptions of study related to Coronavirus (COVID-19)” and “COVID-19 FAQ” attached thereto (March 5, 2020, and updated March 20, 2020).
 - **Guidance Provided:**
 - Title IV compliance during impacted campus operations, including, but not limited to:
 - Distance education via online technologies, including offering of distance education to foreign schools;
 - Federal Work Study (FWS);
 - Reduction of an academic year;
 - Financial aid administrator’s (FAA) use of “professional judgment” when making adjustments to cost of attendance or expected family contributions;
 - Institutional Satisfactory Academic Progress (SAP) appeal process for students;
 - Title IV funding for students who did not begin attendance at the institution;
 - Student enrollment status change; and
 - Returning of Title IV funds.

- Additionally provides an attachment containing answers to questions posed from the public regarding Title IV funding, which will be continuously updated as questions come in.

Institutional Accreditation

- **Office of Post-Secondary Education** (U.S. Dept. of Education)
 - Information for Accrediting Agencies Regarding Temporary Flexibilities Provided to Coronavirus Impacted Institutions or Accrediting Agencies (March 17, 2020)
 - **Guidance Provided:**
 - Guidance to accrediting bodies regarding flexibility in its accrediting process, including:
 - Virtual site visits and policies regarding such;
 - Accreditation term extensions; and
 - Retroactive accreditation.

FERPA and Student Privacy

- **Student Privacy Policy Office** (U.S. Dept. of Education)
 - FERPA and the Coronavirus Disease 2019 (COVID-19) (March, 2020)
 - **Guidance Provided:**
 - FERPA and protection of education records and personally identifiable information (PII) contained therein.

Civil Rights

- **Office for Civil Rights (U.S. Dept. of Education)**
 - Fact Sheet: Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students” (March 16, 2020)
 - **Guidance Provided**
 - Section 504, Title II, and Title VI, including guidance on:
 - Bullying and harassment;
 - Denial of access on the basis of race, color, or national origin; and
 - Students with disabilities.

Foreign and Exchange Students

- **Immigration and Customs Enforcement (ICE)** (U.S. Dept. of Homeland Security)
 - Coronavirus Disease 2019 (COVID-19) and Potential Procedural Adaptations for F and M Nonimmigrant Students” (March 9, 2020)
 - **Guidance Provided:**
 - Notification requirements for Student and Exchange Visitor Program (SEVP) approved institutions.

Disease Exposure and Control

- **Centers for Disease Control and Prevention (CDC)** (U.S. Dept. of Health and Human Services)
 - Interim Guidance for Administrators of US Institutions of Higher Education: Plan, Prepare, and Respond to Coronavirus Disease 2019 (COVID-19)]” (March 2, 2020, amended March 18, 2020)
 - **Guidance Provided:**

- Proper steps to take when there is a confirmed case of COVID-19 at an institution.
- Further COVID-19 guidance categorized into three categories:
 - 1) when there is no community transmission (preparedness phase),
 - 2) when there is minimal to moderate community transmission, and
 - 3) when there is substantial community transmission.
- “Guidance for Institutes of Higher Education – Plan, prepare, and respond to coronavirus disease 2019”
- **Guidance Provided:**
 - Bullet point list of guidance for: (1) steps to take at all times, and (2) steps to take during an outbreak in your area.
 - Links to following sources for higher education institutions:
 - Cleaning and Disinfection Recommendations;
 - Guidance for Student Travel;
 - FAQs for Administrators;
 - Interim Guidance for Administrators (above source).

Akerman’s Higher Education and Collegiate Athletics Practice will stay abreast of any additional guidance issued, and will update this page accordingly with such guidance. In the interim, Akerman is here to answer and address any questions or concerns around the guidance issued thus far.

This information is intended to inform firm clients and friends about legal developments, including

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