June 4, 2013

To Public Colleges and University Regulatory Liaisons, Campus Presidents and Directors:

RE: New Mexico State Authorization Requirements for Public Out-Of-State Institutions

The New Mexico Higher Education Department (NMHED) continues to receive numerous inquiries pertaining to the federal Program Integrity Rule (PIR) and how it relates to 34 CFR § 600.9 and state authorization provisions. NMHED has analyzed the PIR implications at the state level and provides the following context and guidelines for your institution.

Although New Mexico statutory authority requires program approval of public out-of-state institutions, (NMSA 1978, §21-25-1 - §21-25-5) no approval is required if the school offers only distance education or on-line learning in New Mexico. Regulation of distance education or on-line learning has not yet been adopted by the United States Department of Education (USDOE). New Mexico is exploring options for regulation of distance education or on-line learning, but it is unlikely state regulations will be adopted in 2014.

If you have any questions about this letter, please contact the Private and Proprietary School Division Director and General Counsel, David Mathews at david.mathews@state.nm.us or Diane Vigil-Hayes, School Administrator and Compliance Officer at diane.vigil@state.nm.us.

Sincerely,

Dr. José Z. Garcia
Secretary of Higher Education Department

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