

Evolution of an Audit Compliance Plan

Regulating Private and Out-of-State Postsecondary Education in the Commonwealth of Virginia

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NASASPS Conference
Arlington, VA
April 23, 2012

This presentation is a history of the audit compliance plan currently used in regulating Private and Out-of-State Postsecondary institutions operating in the Commonwealth of Virginia.



Purpose of this Presentation

- To share:
 - Our experiences in creating, implementing and modifying our compliance plan
 - Difficulties and challenges we met
 - Changes and modifications we made to the process and why
 - The future of our audit compliance plan
 - Lessons learned and insight gained over the five years we've worked together

Introducing SCHEV

The State Council of Higher Education for Virginia (SCHEV) is the Commonwealth's coordinating body for higher education.

SCHEV was established by the Governor and General Assembly in 1956.

SCHEV's mission, which is outlined in the *Code of Virginia*, is "to promote the development of an educationally and economically sound, vigorous, progressive, and coordinated system of higher education" in Virginia.

Private and Out-of-State Postsecondary Education (POPE)

What is POPE?

The Private and Out-of-State Postsecondary Education (POPE) unit of the Academic Affairs division of the State Council of Higher Education for Virginia is responsible for the certification of private and out-of-state postsecondary educational institutions operating in Virginia.

POPE Mission

To provide the citizens of the Commonwealth of Virginia access to reliable and valuable alternative higher educational opportunities and vocational training options by ensuring legal operations, ethical practices and quality education in the private postsecondary sector.

POPE Administration

- Dr. Joseph DeFilippo, Director of Academic Affairs and Planning
- Ms. Linda H. Woodley, Director of Private and Out-of-State Postsecondary Education

POPE Configuration

- In addition to the Director:
 - Compliance Manager
 - Two Compliance Investigators
 - Two Certification Specialists
 - Fiscal Specialist
 - Administrative Assistant

POPE History

- Prior to 2004, SCHEV regulated degree granting institutions; the Virginia Board of Education regulated privately owned, for-profit career training schools.
- During the 2003/04 session, the General Assembly passed legislation to eliminate the division of regulatory responsibility between SCHEV and the Virginia Board of Education.
- The legislation granted SCHEV regulatory authority for all private postsecondary institutions, including those schools that offer non-degree credit, certificate and diploma programs

Institutions regulated by POPE

- 338 (includes multiple branches/sites of institutions)
 - 223 Degree granting / 115 vocational
 - 162 Out-of-state, 176 in state
 - 125 Non-profit, 213 for profit
 - Located throughout Commonwealth (Virginia Beach, Big Stone Gap, Bristol, Arlington)
 - Vast majority located in Northern Virginia

Data as of February 2012

What We Don't Regulate

- Religious institutions (as long as they do not offer secular degrees- BA, BS, etc)
- Online institutions with no physical presence in Virginia
- Institutions regulated under other governmental agencies (Board of Nursing, Board of Cosmetology, etc.)
- Institutions that offer courses solely on a contractual basis for which no individual is charged tuition
- Instructional programs intended solely for recreation, enjoyment, personal interest, or as a hobby, or courses or programs that prepare individuals to teach such pursuits (2010 general assembly - "Vocational" definition-Yoga schools)

POPE Institutions

- Large variety of programs of study
 - Computer/IT training (Microsoft, Oracle, Sun, etc)
 - Nursing, allied health
 - Bartending
 - Massage therapy
 - Dental assisting
 - Dog grooming
 - Culinary arts
 - Horseshoeing
- Program length
 - From less than a week to four years

POPE Compliance Section in Early2007

- Final regulations less than a year old- August 2006
- Dedicated Compliance staff- 1 part timer with other duties (handling student complaints)
- Audit process not tested on grand scale
 - MOST institutions had never been audited at all
 - Schools were visited when "problems" occurred (number of student complaints, adverse action by accrediting agency/USDOE, financial instability, etc)
 - In theory, not actuality, new schools were to be audited within two years of opening
 - No compliance plan in place

Linda Woodley's Vision



- Hire a Compliance Manager to conduct random audits in addition to those triggered by specific reasons
- POPE's first Compliance Manager comes on board April 2007

Initial Goals

- Take to the road, ladies
 - Visit as many schools of different types as possible given the staff available to conduct audits (1.5 assigned; additional as needed)
- Put the audit process to the test



Early Assessment

Almost immediately we discovered problems with the audit process.



Challenge #1

Many institutions did not grasp the implication of the self certification process.

What is Self-Certification?

- In the interest of expediting the certification/re-certification process, SCHEV requires schools to self certify.
- The chief executive officer/president of the institution submits a *notarized* attestation statement declaring the institution's adherence to the regulations.

Declarations

- The school representative attests he/she understands:
 - standards and requirements for operating a postsecondary school
 - Council may revoke or suspend institution's certification if it fails to meet or to maintain compliance with certification criteria
 - Institution subject to an administrative fee of \$1,000 for each item of non-compliance found as a result of an audit.
 - Violations of the administrative code shall be punishable as a Class 1 misdemeanor

Examples of Institutional Attestations

- Faculty is appropriately qualified to teach subjects assigned
- The institution's grievance policy informs students they may lodge a complaint with SCHEV as a last resort and will not subject students to unfair actions as a result of doing so
- The institution's refund policy is compliant with SCHEV requirement
- Career-technical institutions meet standards of training in their fields

What We Found

- Institutions were attesting to things that were not in place
- Every institution had at least one item of non-compliance, many had four or more
- Assessing an administrative fee for every item of non-compliance would impose large fees on many institutions, including many small "mom and pop shops".

Challenge #2

- The audit process created tension between auditors and institutions
- Audit focus construed as being punitive

The 2007 Audit Process

- Institutions given one week notice prior to visit-delivered by fax and snail mail
- No pre-audit preparation by SCHEV
- Institutions given four “free” items of non-compliance
- Once institution had five non-compliant items, fees imposed
- At five items of non-compliance, no forgiveness fees began at \$5000

What We Found

- Constant changes to audit schedule because institutions had “excuses”
- During audit, we would try to find ways to keep items of non-compliance below five, sometimes unsuccessfully
- Schools with major compliance issues would be assessed large administrative fees
- Exit interviews were often uncomfortable; it was not uncommon for tempers to flare

What We Found
Part 2

- Time required for each audit was difficult to assess in advance
- Length of time required was not related to:
 - Size of school
 - Accredited vs. Unaccredited
 - Degree vs. vocational
 - Number of programs offered
- One day audits could take anywhere from six hours to twelve hours; some schools required up to three people for two days

Challenge #3

- Issues with the regulations:
 - One set of regulations for all types of institutions - PhD granting to bartending
 - Apparent errors in written regulations
 - Loopholes or omissions in regulations

What We Found

- While certain parts of the *Virginia Administrative Code* specifically refer to degree granting or vocational schools, large parts of the regulations are to be applied to all schools
- Some of the small, vocational schools had difficulty understanding how to comply
 - All institutions are required to have: "a clearly defined(written) process by which the curriculum is established, reviewed and evaluated."

What We Found

Part 2

- Certain parts of the regulation were impossible to comply with
 - i.e. Courses provided on a contractual basis must be offered by an accredited institution
- The regulations did not speak to some items that would help protect students
 - Finding that some schools used students as unpaid labor-blurring of line between school and business

Instituting Changes to the Audit Process

Addressing Challenge #1

How to convey the importance of the self certification process?

Linda has another vision



- Create a New School Orientation
- Require the owner or representative of the institution to attend prior to submitting an application for certification

New School Orientation

- Started in September 2008, originally monthly- now every other month
- Instructions on how to fill out certification application
- Compliance staff explains meaning of self certification, audit process, gives tips on common errors
- Forewarned is forearmed

Addressing Challenge #2

How to create a friendlier and more efficient audit process without losing purpose?

Audit Scheduling Changes

- No longer 1 week in advance
 - Plans made 3-4 months
 - Schools notified they will be visited in that time period
 - Audits scheduled well in advance- not 1 week
 - Longer prep time = less last minute changes to audit schedule
- Instituted pre-audit preparation
 - Institutions on audit list send catalogs, other documents prior to visit
 - Desk review of catalog, other documents takes place prior to audit
 - Notes on items of non-compliance from desk review noted for audit
 - Pre-audit prep = less time spent on-site

Audit Process Changes

- Eliminated four “free” items; charges beginning at \$5000
 - Created process to allow institutions to “fix” most items of non-compliance on site
 - Divided non-compliance items into two categories – those that significantly affect students; those that don’t
 - No charges, no report for those “fixed” on site
 - Administrative charges for those affecting students (refunds, unqualified instructors, curriculum issues)

Audit Process Changes (continued)

- All items, resolved or unresolved, noted in writing and given to institutions at end of audit
- Institutions advised of assessment of administrative fees if items resolved on site appear again in future audits
- Exit interview reflects exactly what will be on report in 99% of cases
- Less punitive system = less stress for institution and auditors

Addressing Challenge #3

How to make the regulation work sensibly for all schools regardless of type?

Regulatory Concessions

- A certain amount of flexibility is given when the regulation is applicable to all schools
 - i.e. library requirements
 - “a clearly defined(written) process by which the curriculum is established, reviewed and evaluated.” – expectations different for accredited vs. “mom-pop”
- The regulation is applied as it “is meant to be” as opposed to “how it is written”
 - “schools” offering courses on a contractual basis are NOT accredited

Regulatory Changes

- Revised regulations in 2009 with help of a team of schools we regulate
- Awaiting Governor’s approval of revised regulations



A Compliance Plan is Born

Page 1

- The primary purpose this Audit Compliance Plan is implement a program to aid in fulfilling POPE’s mission:
 - To provide the citizens of the Commonwealth of Virginia access to reliable and valuable alternative higher educational opportunities and vocational training options by ensuring legal operations, ethical practices and quality education in the private postsecondary sector.

A Compliance Plan is Born

Page 2

- The POPE compliance plan has the following sections:
 - Statement of Purpose
 - Protecting citizens from substandard educational institutions
 - Ensuring institutions meet minimal academic and administrative capability standards.
 - Roles and responsibilities of compliance staff
 - Auditing plan
 - How often to visit
 - Reasons for priority audit
 - Reasons for re-visit in less time

A Compliance Plan is Born

Page 3

- Factors Affecting the Auditing Plan
 - i.e. size of institution, complexity of audit, type of school
- Audit Schedule
 - Length of time to visit all institutions based on manpower, etc.
- Audit Process/ Site visit process
 - Written process to conduct audits
- Provisions for revisions to plan

What We Have Learned

- It's not easy (or constructive) being "mean"
- The audit process and compliance plan must be a good fit for the regulators
- Compliance does not exist in a vacuum, the back end is fully dependant on the front end (the certification process)
- Teamwork is essential - every audit is different
- Auditors must be both firm and flexible
- The best auditors have a "people" personality and a sense of humor
- In our case, division of work by strength has improved results



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