

**CAPPS 34th
ANNUAL
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RANCHO
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Observations From The Regulatory
Front Lines

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COMPLIANCE ACTIVITY AT DOE

- ▶ Regulatory Changes
 - ▶ Borrower Defense to Repayment
 - ▶ Gainful Employment
 - ▶ Title IX
- ▶ Accreditation
 - ▶ ACICS
 - ▶ New Neg Reg
- ▶ Enforcement Unit
- ▶ Program Reviews
- ▶ More Cooperative....Sometimes

COMPLIANCE ACTIVITY AT ACCREDITING AGENCIES

- ▶ ACICS Effect
- ▶ Are accrediting agencies simply applying their rules or are they being unreasonably tougher on members and applicants?

COMPLIANCE ACTIVITY AT STATE AGENCIES

- Depends on the State
 - State Attorney Generals
 - Massachusetts
 - Group of 20
 - California

OBSERVATIONS FROM RECENT CASES

- ▶ Transactions
 - ▶ Numerous - Most Active in Years
 - ▶ Smaller Transactions
 - ▶ Acquisitions of Schools Being Closed
 - ▶ Regulatory Cooperation
- ▶ Sexual Harassment
 - ▶ CEO
 - ▶ Regulatory Response
 - ▶ Solution in For Profit Setting
- ▶ Initial Accreditation Caused by ACICS Issues
 - ▶ Results
 - ▶ Approvals
 - ▶ Deferrals
 - ▶ Denials

OBSERVATIONS FROM RECENT CASES

- ▶ Administrative Capability
 - ▶ Consequences of Not Being Hands On or Paying Attention
- ▶ Enforcement
 - ▶ Fraud Allegations/Investigations
 - ▶ HCM2
 - ▶ Late Audit Filing
 - ▶ Provisional Certification and letter of credit requirement for five years

TOP PROGRAM REVIEW FINDINGS

- ▶ NSLDS Roster Reporting/Inaccurate - Untimely
- ▶ Entrance/Exit Counseling Deficiency
- ▶ Credit Balance Deficiency
- ▶ Repeat Finding - Failure to Take Corrective Action
- ▶ Inaccurate Calculation of EFC and/or COA
- ▶ Enrollment Status not Verified before Disbursement
- ▶ Attendance Records Missing/Policy Inadequate
- ▶ Lack of Administrative Capability
- ▶ Borrower Not Timely Notified of Right to Cancel All or Part of Loan or Loan Disbursement

COMMON PROBLEMS

- ▶ Sloppy documentation (missing signatures, poor copies or scanning)
- ▶ Missing documentation in the files
- ▶ High School diploma issues (foreign, home school, diploma mills)
- ▶ Poor documentation for verification and/or C codes
- ▶ Conflicting documentation
- ▶ Exit interviews not done or done incorrectly

COMMON PROBLEMS

- ▶ Less than full eligibility offered for loans or proof not in file
- ▶ LOAs not properly documented or school policy not followed
- ▶ COD reporting errors
- ▶ Making exceptions not properly documented or contrary to school policy
- ▶ Improper application of professional judgment
- ▶ Not monitoring maximum timeframe for SAP
- ▶ Lack of understanding of R2T4
- ▶ Incomplete forms

COMMON PROBLEMS

- ▶ Documentation
 - ▶ Sloppy and Poor
 - ▶ missing signatures, poor copies or scanning
 - ▶ Missing
 - ▶ Conflicting and Unresolved
- ▶ Examples
 - ▶ Exit interviews not done or done incorrectly
 - ▶ LOAs Not Documented Or Contrary To School Policy
 - ▶ COD Reporting
 - ▶ Exceptions Not Documented
 - ▶ High School diploma issues (foreign, home¹¹ school, diploma mills)

COMMON PROBLEMS

- ▶ Disconnect between departments, management and staff
- ▶ Discord between departments
- ▶ Academic staff unaware of impact of decisions on FA eligibility
- ▶ Catalog and policy updates not rolled out, not explained
- ▶ Staff not up to date on current rules
- ▶ Incomplete P&P manual
- ▶ Drug and alcohol policy biennial review not done
- ▶ Proof of consumerism requirements not accessible
- ▶ Reconciliation not done monthly
- ▶ Enrollment reporting not accurate or timely

BEST PRACTICES -- PREPARE FOR ON-SITE VISITS

- ▶ Always expect a visit - Don't wait for the program review letter
- ▶ Involve other departments - not just FA
- ▶ Is there a difference between an audit and a program review?

BEST PRACTICES - POLICIES AND PROCEDURES

- ▶ Make sure there is consistency in all publications of the school
- ▶ Are current rules, regulations and guidance reflected?
- ▶ Are your business rules stricter than ED's?
 - ▶ Are they being followed?
 - ▶ Are exceptions allowed?
 - ▶ How are exceptions documented

BEST PRACTICES - RECORDS

- ▶ Is your ECAR up to date?
- ▶ When was it last reviewed?
- ▶ When is it necessary to update the ECAR?
- ▶ Are you listening to staff concerns?
- ▶ Are you listening to student complaints?

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For 37 years, Mr. Leyton has devoted his practice to resolving regulatory and compliance matters and to achieving desired transactional results through mergers, acquisitions and reorganizations for institutions, private companies and others. Particular attention is paid to institutional eligibility, compliance with Title IV requirements, audits, investigations and program reviews, accreditation, licensure and student complaints. Mr. Leyton and six other attorneys in the Firm are fully engaged in counseling and representing institutions, private companies and others on such matters before the U.S. Department of Education (DOE), national, regional and programmatic accrediting agencies, state licensing and other regulatory agencies and other third parties and in federal court throughout the U.S. Mr. Leyton has served three two-year terms on the board of directors of Career Education Colleges and Universities and the predecessor organizations.

Peter earned his law degree from Catholic University School of Law in 1980, a master's degree in public administration from American University in 1974, and a bachelor's degree in political science from Antioch College in 1971 and resides in the District of Columbia.

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