



NISTS 2020

REIMAGINING THE TRANSFER STUDENT EXPERIENCE FEBRUARY 5-7, 2020 • ATLANTA, GEORGIA

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Conference Sponsor

Navigating New Legal and Ethical Considerations in Transfer Admission

Matriculation Trends and Issues, Partnerships and Collaboration

Join us for a presentation on the changing legal landscape in college admission, and how it will affect the practice of transfer advising and admission. In the wake of numerous federal investigations and private lawsuits, transfer professionals need to be aware of new considerations for practice as it relates to marketing, recruitment, and informed student decision-making.

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National Association for College Admission Counseling (NACAC)

NAVIGATING NEW LEGAL AND ETHICAL CONSIDERATIONS IN TRANSFER ADMISSION

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NISTS 2020 ANNUAL CONFERENCE | ATLANTA, GA

SESSION OBJECTIVES

Attendees will be able to:

- **Relay implications of changes to legal and ethical standards in transfer admission to other stakeholders on their campus;**
- **Implement appropriate training or practice to ensure their staff incorporates legal and ethical considerations; and**
- **Minimize risk of negative consequences for their institutions.**

WHAT ARE THE RULES OF THE ROAD FOR COLLEGE ADMISSION?

- Code of Ethics and Professional Practice (CEPP)
- <https://www.nacacnet.org/advocacy-ethics/NACAC-Code-of-Ethics/>
- *Raison d'être* of NACAC since 1937
- Student / consumer protection:
 - Freshman May 1 - “waiting period”
 - Freshman ED/EA Definitions - standardization of terms
 - Aid award letters - comparability
 - Transparency and complete information

TRANSFER ADMISSION: GUIDING PRINCIPLES AND RATIONALE

Transfer admission is complex in ways that make it impractical to establish universal dates and deadlines for when applications may be accepted and when candidates must accept or decline offers of admission. Transfer admission is often contingent on the available space in the undergraduate class or in specific majors or programs, or on the number of first-year students who have accepted offers of admission. This significant variation in transfer recruitment and admission practices across institutions makes it difficult to standardize the transition for transfer students.

Fairness and transparency require that transfer candidates not be asked to make a commitment to enroll until they are able to review their financial aid award and an estimate of how many credits already earned will transfer and advance them toward a degree at the receiving institution.

TRANSFER ADMISSION: CEPP PROVISIONS

1. While NACAC's Code of Ethics and Professional Practices does not set **specific dates and deadlines** for transfer admission, colleges must **clearly state their deadlines** for applying for transfer admission, financial aid, scholarships, and housing. Colleges must make **good faith efforts** to be flexible in enforcing commitment deadlines so that candidates have the opportunity to assess all of their transfer, financial aid, course registration, and credit evaluation options.

TRANSFER ADMISSION: CEPP PROVISIONS

2. Colleges will be **transparent** in publishing their admission requirements for transfer candidates, including **restrictions or limitations** regarding particular majors or programs.

TRANSFER ADMISSION: CEPP PROVISIONS

3. Colleges will publish up-to-date lists of the institutions with which they have **articulated transfer agreements**, including which courses and credits transfer and the minimum course grade that is acceptable for transfer.

TRANSFER ADMISSION: CEPP PROVISIONS

4. Before transfer candidates are required to submit an enrollment deposit or other commitment to enroll, colleges will provide them with:

- a. an **evaluation of their prior college-level credits** that is a **good faith estimate** of how those credits will be applied toward their graduation requirements. An online articulated transfer agreement will meet this requirement.
- b. a **financial aid award notification**, as long as they have submitted all requested application forms and supporting materials by the designated deadline.
- c. either a deposit deadline extension or, upon request, an enrollment deposit refund, if colleges cannot provide credit evaluations or aid notification and the student decides not to enroll.

TRANSFER ADMISSION: CEPP PROVISIONS

5. Colleges must not solicit transfer applications from a previous year's applicant or prospect pool unless the students have themselves initiated a transfer inquiry or the college has verified prior to contacting the students that they are either enrolled at a college that allows transfer recruitment from other colleges or are not currently enrolled in a college.

TRANSFER ADMISSION: CEPP PROVISIONS

6. To facilitate transfer, colleges from which a student is transferring will provide **accurate, legible, and complete transcripts** and other school documents for all candidates for admission or scholarships.

HOW DID THE NACAC RULES CHANGE?

- Colleges now allowed to continue recruiting students after they have committed to or **are enrolled in** another institution
- Colleges offering Early Decision (ED) may now provide incentives *exclusively* to students who apply ED
- There is a second one-year moratorium on enforcement of the NACAC rules

WHY DID THE RULES CHANGE?

RESTRAINT OF TRADE AND COLLEGE ADMISSION



DEPARTMENT OF JUSTICE: ANTITRUST DIVISION

The Division prosecutes certain violations of the antitrust laws by filing criminal suits that can lead to large fines and jail sentences.

In other cases, the Division institutes a civil action seeking a court order forbidding future violations of the law and requiring steps to remedy the anticompetitive effects of past violations.

More information:
<https://www.justice.gov/atr/mission>

SHERMAN ANTI-TRUST ACT

This Act outlaws all contracts, combinations, and conspiracies that unreasonably restrain interstate and foreign trade, also referred to as “anti-trust” activities. This includes agreements among competitors to fix prices, rig bids, and allocate customers, which are punishable as criminal felonies.

More information:
<https://www.justice.gov/atr/antitrust-laws-and-you>

DOJ “NO POACH” APPROACH

RECENT CASES INVOLVE:

- Independent music teachers
- Railway workers
- Medical school faculty
- Fast food employees

NO-POACH APPROACH



WHY DOES IT MATTER?

- **Potential long-term scrutiny of NACAC, college admission in general is a potential**
- **Lack of clear-cut perception of what defines a 'free market' for college applications**
- **Places limits on ability to collectively self-regulate; institutions will operate in isolation on issues of principle**
- **Will have effects on college application process for students**

CHANGES MOVING FORWARD

- **Colleges may now continue to recruit students who have already committed to attend another institution**
- **Colleges may now make unsolicited recruitment offers to students currently enrolled at other institutions for transfer**
- **CEPP currently under review**

KEY TAKEAWAYS

- **Institutions may continue to practice in a manner consistent with removed provisions if they so choose.**
- **Groups of institutions may expose themselves to restraint of trade scrutiny if the coordinate on practices involved in removed provisions.**
- **For transfer students and advisors, emphasizing ‘consumer protection’ practices will be increasingly important.**

Questions?

For more information:

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