



National Council for State Authorization Reciprocity Agreements

A voluntary, regional approach to state oversight of distance education

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Memorandum

To: Institutional Administrators of SARA-participating Institutions

From: Marshall A. Hill, Executive Director, NC-SARA *Matt*

Re: Commenting on the U.S. Department of Education's
Proposed Regulations for State Authorization of Distance
Education

Date: August 11, 2016

As you may know, on July 22nd the Department of Education released draft regulations for state authorization of distance education, bringing renewed attention to the issue of regulatory compliance and consumer protection. In short, the department's draft regulations require:

- institutions offering interstate distance education to demonstrate proper authorization to do so, to include participation in a state authorization reciprocity agreement (SARA);
- institutions to document state processes for resolving student complaints regarding distance education programs;
- public and individualized disclosures to enrolled and prospective students in distance education programs, including adverse actions against a school, its refund policies, and whether certain programs meet state licensure or certification requirements; and
- proper authorization of foreign branch campuses or locations by the appropriate foreign government, and approval by the appropriate accrediting agency for the home state of the institution.

Existing SARA Policies and Standards largely are congruent with the department's draft regulations, and NC-SARA is particularly pleased the department recognizes an institution's participation in a reciprocity agreement as evidence of state authorization and an appropriate way to protect students in distance education programs. The department's final regulations, which we anticipate by November 1, 2016 to be effective July 1, 2017, will remain prominent in future policies and standards adopted by SARA.

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The public comment period for the current draft regulations concludes **August 24th**; we strongly encourage SARA institutions to submit comments, including support for SARA, as soon as possible. In addition to general support for SARA, include your institution's responses to the proposed rules or to any of the information included or referenced below.

Additional Information

Our good friend and colleague Russ Poulin, Director of Policy and Analysis at WCET, has issued two great articles on the proposed rules. He's given us permission to direct you to them, and we do so with thanks that we don't have to re-invent his very helpful wheel. First see:

<https://wceftrfrontiers.org/2016/07/22/departement-of-education-state-authorization-for-distance-ed-regulations-a-first-look/> and then: <https://wceftrfrontiers.org/2016/08/02/comment-on-state-auth-reg/>

And finally, we have printed below his very helpful and concise piece on "How to Comment on the Proposed Federal Rules."

SARA-Focused Points

- 1) SARA has taken online education from a complex mix of state regulation, including no regulation in some places, to a voluntary set of uniform standards that have been developed by a group of policy experts, institutional representatives and state regulators, working together with students' interests and consumer rights in mind.
- 2) Prior to SARA, obtaining state authorization to offer interstate distance education was frustrating and complex, costly, and often provided minimal student protections. For institutions such as ours with an active online presence, the potential benefits of SARA are obvious. SARA expands access for students, reduces regulatory complexity and costs, and most importantly, significantly improves processes for students to file and resolve their complaints.
- 3) For example, a student residing on our campus taking an online course from a SARA institution in another state can just as easily access the SARA state entity in our state, or the SARA entity in home state of the other institution to address his or her complaint. We've come to realize that many states do not regulate distance education at all; therefore, SARA expands student protections via its 1,000+ institutions, current membership of 40 states, the District of Columbia, and forthcoming states that are in various stages of applying to become SARA members.
- 4) States and higher-ed institutions are telling us they need SARA through their participation in SARA. The vast majority (more than 95 percent) of the 1,000+ institutions that have signed up to offer distance education under SARA provisions are public or private nonprofit institutions. Nearly seven of every ten students who enroll in online degree programs attend public or private nonprofit colleges and universities. *All* students, regardless of where they enroll, deserve the same high level of consumer protection—and SARA makes this possible.
- 5) Nothing in SARA prevents, prohibits or even discourages states from taking strong enforcement actions – including actions brought by state attorneys general – against any college or university that engages in misrepresentation or outright fraud.

- 6) Students at for-profit institutions need the consumer protection that SARA offers as much, if not more than, students at public and independent, non-profit institutions. SARA increases protections for students at for-profit institutions by requiring:
 - a. satisfaction of financial viability by disclosure of the institution's federal financial composite score for federal Title IV eligibility;
 - b. certification to operate by the Interregional Guidelines for Evaluation of Distance Education;
 - c. the state to establish a SARA office as the one-stop resource for all SARA institutions and students;
 - d. annual review to ensure compliance with SARA *Policies and Standards*; and
 - e. quarterly reporting of student complaints appealed beyond the institutional level.
- 7) Given its reasonable solution to the longstanding challenge of monitoring online education, we fully intend to retain our SARA participation. We provide our full support to SARA and the National Council for State Authorization Reciprocity Agreements (NC-SARA), its coordinating entity for this much needed nationwide initiative.

Process for Submitting Comments

Institutions, programs, or individuals may reply. For an institutional or programmatic reply, you'll need to navigate the proper government relations channels at your institution, which may be difficult given the August 24th deadline. If you reply as an individual, you can't use your institution or organization letterhead. You can supply your name, title, and employer, and it might be good to reiterate that you are not responding in your official capacity.

How to submit a comment (with thanks to Russ Poulin):

- Directions are offered in the "Addresses" section of the [Supplemental NPRM](#).
- Submit through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery.
 - o Do not submit comments by fax or by email.
- Submit your comments only once to avoid duplication.
- Include the Docket ID at the top of your comments (ED-2016-OPE-0050)
- Strongly encouraged to submit any comments or attachments in Microsoft Word format.

Tip: If you plan to use the Portal, give yourself some time to figure it out or get help from the person who usually submits comments for your institution. Read the specific instructions on pages 2 and 3 of the proposed regulation.

Who should comment:

- Institutions, programs, or individuals may comment.
- If you serve students via distance education in other states, you should consider commenting.
- For an institutional or programmatic replay, you need to navigate the proper government relations channels at your institution.
 - o This may be difficult given the August 24 deadline.
- As an individual you cannot use your institution or organization letterhead.
 - o You can supply your name, title, and employer.
 - o Best to reiterate that you are not responding in your official capacity.

What should be included in the comment:

- Personalize it.
 - o Form letters get less attention.
- Briefly tell your story.
 - o Who are you?
 - o What impact would these regulations have on students?
 - o What impact would these regulations have on your program?
- Focus on what would have the greatest impact on you and your students.
- Say why the proposed regulations would help or hurt you, your institution, and (especially your students).
- Discard the rest.
- Be Respectful.
- Make positive or helpful suggestions.
 - o Offer at least some healthy alternatives to show not just objecting to oversight, but wanting to make sure the regulations serve a purpose.
- Ask questions about clarifications that are needed.