



## National Council for State Authorization Reciprocity Agreements

*A voluntary, regional approach to state oversight of distance education*

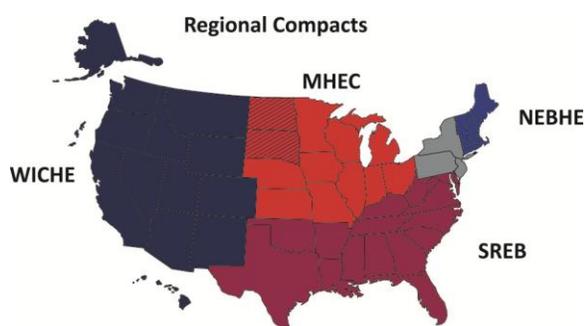
### Frequently Asked Questions about SARA

SARA staff developed FAQs based on the policies established by the National Council for SARA (NC-SARA, [Policies and Standards](#), issued Nov. 18, 2013). Please note that if policies and standards are revised in the future, these FAQs may no longer be current for all issues. When a question refers to a specific SARA policy, the policy section and subsection are shown as, for example, [NCS 3\(9\)](#). More detail and the formal policy can be found in the SARA Policies and Standards document.

#### BASIC QUESTIONS ABOUT SARA

##### What is SARA?

The State Authorization Reciprocity Agreement is an agreement among member states, districts and territories that establishes comparable national standards for interstate offering of postsecondary distance education courses and programs. It is intended to make it easier for students to take online courses offered by postsecondary institutions based in another state. SARA is overseen by a National Council and administered by four regional education compacts (see map below).



[MHEC – Midwestern Higher Education Compact](#)  
[NEBHE – New England Board of Higher Education](#)  
[SREB – Southern Regional Education Board](#)  
[WICHE – Western Interstate Commission for Higher Education](#)

##### Who belongs to SARA?

The members of SARA are states, not institutions or students. Therefore a state “joins” or becomes a “member” of SARA while a college or university “operates under” or “participates in” SARA. States join SARA through their respective regional compact.

**NOTE:** The District of Columbia and U.S. Territories that are part of a regional compact are also eligible to join SARA.

##### Does SARA completely replace state authorization?

No. Any degree-granting institution in the U.S. must be authorized to issue degrees by a government. This is typically a state but it can also be Congress or an Indian tribe. SARA pertains to approval of distance education courses and programs offered across state lines by institutions that already have degree authorization in at least one state. What SARA does is centralize the authorization process for each institution in a single state called the institution’s “home state.” Colleges or universities in a SARA state therefore only need their home state authorization to offer distance education to any other SARA member state.

### **Is every state a member of SARA?**

No, membership is voluntary. States may choose to join SARA through the regional compact to which they belong. NC-SARA will maintain a list of SARA member states and institutions operating under SARA.

### **When will SARA begin operation?**

Membership was opened in January 2014. Application materials for states and institutions are available online from each of the regional compacts' websites and at the National Council for SARA web site ([nc-sara.org](http://nc-sara.org)).

## **SARA AND THE U.S. GOVERNMENT**

### **Does the federal government operate or control SARA?**

No, SARA is a voluntary initiative funded by Lumina Foundation during its startup phase and by user fees from participating institutions thereafter. SARA has its own board called the National Council for SARA.

### **Will the U.S. Department of Education recognize home-state authorization under SARA as meeting federal "state authorization" requirements for distance education programs offering courses in multiple states?**

SARA staff has been advised that the Department of Education will embrace this approach. Institutions will still need to get separate authorization in non-SARA states.

### **If a college offers online courses to federal employees at a military base, are those offerings covered by SARA, assuming both states are members?**

Yes, SARA covers federal employees and dependents at a military base if the courses are online or delivered by some other distance education means, but does not allow opening such offerings to the general public under SARA. SARA does not have any effect on state laws respecting operation of on-

ground instruction on a military or other federal installation. [NCS 3\(9\)](#).

### **Does SARA include similar coverage for other federal facilities or just military bases?**

Only military bases.

## **SARA AND THE STATES**

### **How does a state join SARA?**

There is a uniform SARA application process through which a state will be required to demonstrate to its regional compact that it meets the standards established for participation in the interstate reciprocity agreement. Key actions for a state are:

1. Determine which state agency, if any, has the legal authority to sign an interstate agreement governing distance education laws for both public and private colleges. The authority must be sufficient that once the state signs, its existing laws are waived for SARA activity both to and from the state. If legislation is needed to establish such authority, obtain sample laws if needed from the National Council for SARA office.
2. Determine which state agency will be the SARA portal agency. This is the "lead" agency for SARA, responsible for contact with other states and students from other states, but it need not be a college governing board. It can work with other agencies as needed for problem-solving.
3. Determine whether state law allows the state's SARA portal agency, or a combination of agencies, to investigate and resolve complaints against all degree-granting institutions in the state, public and private. Federal law requires that such processes exist, and a state must provide documentation of such processes to join SARA.

### **Can a state withdraw from SARA?**

Yes, a state may withdraw from SARA by providing 90 days written notice from an appropriate state authority to its regional compact. Any institutions

operating under SARA from that state may continue to do so to the conclusion of the current term or 90 days after the date of receipt of notice of withdrawal, whichever is later, but not to exceed six months from the date the notice was received by the regional compact. [NCS 2\(2\)](#).

### **Are any sample statutes or other laws available for states that want to join SARA?**

SARA can refer states to SARA member states for examples of existing laws. States will need to work with their own legal counsel to ensure that unique state needs are met.

### **Does the state have to assign all SARA problem-solving to the same state agency?**

No. The problem-solving functions need not be conducted by the same state agency for all colleges and universities, but every institution participating in SARA must be under the jurisdiction of at least one state agency or entity for purposes of resolving problems arising from its interstate operations. Thus the board of regents for a system of public colleges could serve as the problem-solving entity for a multi-campus public university while a different office could handle the same functions for private colleges. [NCS 2\(5\)\(d\)](#).

### **Does a state have to establish a new agency to handle SARA activity?**

No. A state can assign SARA duties to an existing agency or entity. In some cases this may require statutory changes, in other cases a “blanket” law governing the state’s membership in SARA could establish the authority.

### **If the state requires a nonpublic institution to accept state agency oversight for purposes of interstate activity under SARA, does the state also have authority over that college’s in-state activities?**

No. SARA only applies to interstate distance education activity.

### **If a state joins SARA and SARA rules supersede state laws for purposes of oversight of SARA-member programs coming into the state, does the state lose its oversight laws completely?**

No. States will need to retain all of their current oversight rules covering distance education offerings because some states may not join SARA, some institutions in SARA states may choose not to operate under SARA and SARA does not cover offerings by non-U.S. providers.

### **Can a SARA member state require a higher federal financial responsibility score for its nonpublic colleges and universities than SARA requires for institutional participation?**

Yes, if that standard is applied to the institutions as part of the state’s general rules for operating in the state. The state cannot apply a standard higher than the SARA standard solely for eligibility screening for an institution’s participation in SARA. For this reason, in a state that applies a higher standard to its nonpublic providers, those providers will by definition operate under a higher standard for purposes of SARA, but not because of SARA rules. [NCS 2\(5\)\(c\)](#).

### **Can a college operating under SARA start a campus on the ground in another SARA member state without going through the host state’s authorization procedures?**

No. SARA only applies to distance education activity, with a very limited number of on-ground or group activities included. [NCS 3\(4\)](#).

### **What issues fall under “consumer protection” in SARA?**

SARA considers consumer protection to cover any dishonest or fraudulent activity by a provider, including giving false or misleading information to a student. It also includes operating a course or program contrary to practices set forth in the [Interregional Guidelines for the Evaluation of Distance Education Programs \(Online Learning\)](#) in such a way that harms a student. Examples of issues that may arise include, but are not limited to:

- Veracity of recruitment and marketing materials;
- Accuracy of job placement data;
- Accuracy of information about tuition, fees and financial aid;
- Complete and accurate admission requirements for courses and programs;
- Accuracy of information about the institution's accreditation and/or any programmatic/specialized accreditation held by the institution's programs;
- Accuracy of information about whether course work meets any relevant professional licensing requirements or the requirements of specialized accrediting bodies;
- Accuracy of information about whether the institution's course work will transfer to other institutions; and
- Operation of distance education programs consistent with practices expected by institutional accreditors (and, if applicable, programmatic/specialized accreditors) and/or the [C-RAC Guidelines](#) for distance education.

**Is the requirement under SARA that a state have a complaint process for all of its institutions something that SARA invented?**

No. It is in existing federal law and predates SARA. The requirement that states have such a complaint process is found in 34 CFR 600.9(a)(1) (as amended in 2010) and reads:

Title 34: Education PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED  
Subpart A—General

§600.9 State authorization.  
(a)(1) An institution described under §§600.4, 600.5, and 600.6 is legally authorized by a State if the State has a process to review and appropriately act on complaints concerning the institution including enforcing applicable State laws, and the institution meets the provisions of paragraphs (a)(1)(i), (a)(1)(ii), or (b) of this section.

The U.S. Department of Education has commented on the meaning of this statement as follows.

**Complaints Process (C)**

C-Q1: Even if certain institutions are exempt from a State's approval or licensure requirements, is there still a requirement for the State to have a process to resolve complaints involving those institutions? In addition, could the State statutorily delegate this function to a non-State entity, such as an institution's governing board or a trade association?

C-A1: The State must have a process to handle complaints for all institutions in the State, except federally run institutions (including the service academies) and tribal institutions such as tribally controlled community colleges. For purposes of HEA eligibility under these regulations, the State remains responsible for responding to complaints about institutions in the State regardless of what body or entity actually manages complaints. The Department will only recognize a delegation that maintains the final authority with the State. This responsibility can be met by the offices of a State's Attorney General, or by a more specialized State entity. A State, upon considering a complaint, may refer it to other appropriate entities, such as an institution's accrediting agency, for final resolution. [Guidance issued 3/17/2011]

C-Q2: The Department appears to acknowledge that a State may have a combination of agencies or officials to handle complaints. If multiple agencies are used to handle complaints, do they need to have any affiliation or expertise with postsecondary education? For example, could the State's generic consumer protection agency act on complaints?

C-A2: Pursuant to section 600.9(a)(1), the Department did not specify that a single State agency must handle complaints, nor did it specify any particular expertise on the part of the State agency. If multiple agencies are applicable to an institution, the institution, under section 668.43(b), must provide its students or prospective students with contact information for filing complaints with the institution's State approval or licensing entity and any other relevant State official or agency that would appropriately handle a student's complaint. [Guidance issued 3/17/2011]

C-Q3: For purposes of acting on complaints, would a governing board that has oversight of multiple institutions as part of a State university system satisfy the requirement that a complainant have access to a process that is independent of any institution?

C-A3: As stated in the preamble to the final regulations (75 FR 66866 (Oct. 29, 2010)), "The State is not permitted to rely on institutional complaint and sanctioning processes in resolving complaints it receives as these do not provide the necessary independent process for reviewing a complaint. A State may, however, monitor an institution's complaint resolution process to determine whether it is addressing the concerns that are raised within it." A State may rely on a governing board or central office of a State-wide system of public institutions if the State has made the determination the governing board or central office is sufficiently independent to provide successful oversight of complaints for the institutions in that system. It would not be acceptable for such a board or central office to handle complaints for other institutions in the State. [Guidance issued 3/17/2011]

### **If a state joins SARA, will the state lose fee revenue from colleges in other SARA states?**

If a state currently charges applicant or review fees for distance education courses, including most field placements and clinicals, to colleges and universities located in other states, the state will lose that revenue over time as states join SARA. This revenue loss will likely take place incrementally over a period of several years.

However, the state may also gain fee revenue from its own institutions that participate in SARA if the state chooses to establish a SARA participation fee.

### **If a home state does not currently handle investigations and consumer protection for all of its distance education providers, will the home state need to start doing that?**

Yes. SARA centralizes primary responsibility for problem-solving in the home state, therefore the home state needs to be prepared to handle, in many cases, a larger volume of communication and issues for its domiciled providers, even as its work with

providers based in other states decreases. Whether this change of workload requires additional revenue from in-state sources will vary by state, but states that have a large number of online providers may encounter significant workload increases, while those with few providers may see very little change.

### **Does SARA cover distance education activity by an institution in a state to residents of the same state?**

No. SARA only covers distance education that crosses state lines. [NCS 3\(4\)](#).

### **If a corporation owns several degree-granting institutions, is the state where the corporate headquarters is located the "home state"?**

No. The corporate parent is not a degree-granting institution. The home state is where the principal location of the degree-granting institution is domiciled. This is usually also the institution that carries the accreditation for a multi-state network of privately-owned colleges. One corporate parent might own several degree-granting institutions that are domiciled in several different states.

### **Do the SARA standards cover recruitment activity by a SARA-authorized institution in a non-SARA state?**

No.

### **Does SARA have a minimum number of states necessary to trigger operations under SARA, or does reciprocity among member states begin as soon as at least two states join?**

SARA became operational in April 2014 after North Dakota joined with SARA's first state Indiana (approved February 2014).

### **Does SARA mandate how states establish their in-state fee structures for SARA-related work?**

No. States may use any fee structure that is rationally related to the state's actual or projected workload.

**Can a state increase its bonding or reserve fund requirement on institutions for which it is the home state in order to cover the potentially greater risk owing to the state's expanded responsibility for the institution's multistate distance education offerings?**

Yes. The state is allowed to establish necessary oversight of its own institutions that choose to operate under SARA. It may charge necessary fees to do this, including any necessary bonds.

**Is the state portal agency ultimately responsible for ensuring that a valid complaint results in proper redress?**

Yes. Although the portal agency can delegate responsibility to investigate and resolve such complaints to another government agency (e.g., a Board of Regents) or to a special body created to handle SARA complaints for a group of institutions, SARA requires that the portal agency have and retain the function of hearing any appeals from decisions made by other agencies. The portal agency cannot merely have advisory powers; it must have the formal authority to remove any institution, public or private, from the state's list of SARA-eligible providers if that institution fails to abide by SARA policies and standards.

**If a state joins SARA, does the state give up its ability to investigate misrepresentation, fraud or other illegal activity by colleges based in other states?**

No. A state retains the ability to use any of its general-purpose criminal or consumer protection laws against a college that violates those laws. What the state gives up is the ability to apply to SARA institutions laws specifically directed at colleges offering distance-education activity into the state; such oversight is centralized in the college's home state.

**If a state requires an out-of-state college to register with the secretary of state or other state registry and/or appoint an agent in the host state, does SARA affect that requirement?**

No. SARA is designed to simplify regulatory oversight of interstate operations by education agencies. It does not affect the applicability of general-purpose state laws such as business registries.

**Can a state require a SARA applicant institution to prove in advance of joining SARA that it will meet the standards for operating under SARA?**

No. A state must accept an institution's self-certification that it will meet the standards required for operating under SARA once it is allowed to participate. However, as soon as an institution is accepted into SARA, the state portal agency has a right to evaluate whether courses or programs offered under SARA meet the C-RAC norms or other SARA requirements and must investigate any claims that the institution does not meet these requirements.

**Are states obligated to use the published federal financial responsibility score when considering an institution's eligibility for SARA?**

No, a state can, if desired, require an applicant institution to provide the most recent federal score, which may in some cases be newer than what has been published.

**SARA AND THE LICENSED PROFESSIONS**

**If a program operates under SARA from another state and the program is intended to let a student become licensed to practice a profession (e.g. nursing, teaching, psychology), does the state in which the student lives have to let the student apply for licensure?**

No. SARA has no effect on state professional licensing requirements. The National Council for SARA and the four regional compacts that administer SARA have an expectation, set forth in the reciprocity agreement, that any college that offers courses or programs potentially leading to professional licensure must keep all students

informed as to whether such offerings actually meet state licensing requirements. [NCS 3\(5\)](#).

**NOTE:** In some cases a college may not know whether the program meets state standards because the state will not provide sufficient information. In those cases, the college must tell the student that the college does not know whether the program meets requirements in the student's state of domicile and making any such determination is up to the student.

**If a program is purely online except for field placements such as clinicals, student teaching, practica, etc., do those placements fall under SARA or are they considered a “physical presence” that activates state law?**

Almost all such field placements will fall under SARA, but many may also fall under the jurisdiction of state professional licensing boards. See [NCS 3\(5\)](#) and [6\(2\)\(i\)](#).

**If the state agency responsible for degree program authorization is also the state agency that determines, or helps determine, whether a program meets requirements for professional licensure, is there a conflict?**

No. Although SARA will supersede the degree authorization function for such an agency for some purposes, it will not preclude that agency from performing other duties under state law, including determinations of whether a program meets requirements for state licensure in professional fields.

**SARA AND INSTITUTIONS**

**Do all of a state's eligible institutions have to join SARA if the state does?**

No. Every college or university decides for itself whether to operate under SARA. In general, an institution that offers online or other distance education courses to students in several states will benefit from operating under SARA because that college may have less paperwork and fewer fees to pay. A college that only offers courses to students in one or two other states may opt to work directly

with those states to obtain necessary authorization rather than joining SARA. However, that decision will depend on institutional needs and what the laws of those states require.

**Can a group of related, jointly owned or connected institutions participate in SARA as a system or cluster?**

No. SARA participation is by institution, so the institutions in a state system, or those with common ownership but which operate separately, must apply separately. An independently accredited entity must apply to SARA separately. A branch campus that operates under the accreditation of a main campus is not considered a separate institution for purposes of SARA.

**What state is an institution's “home state” for SARA purposes?**

The home state is the state where the college's main campus or central unit holds its principal legal domicile. [NCS 1\(13\)](#).

**NOTE:** In the event that a college disagrees with SARA staff determination of its home state and the states are in the same region, the regional compact's SARA Steering Committee will make the final determination. If the states in question are in different compact regions, the SARA National Council will make a final determination in consultation with the affected regions.

**If a physical campus offers a course or program, part of which is offered online and part of which is on the ground, does the state have jurisdiction over the entire program?**

Yes. Whenever there is a physical campus, the entire program available at that site is under the jurisdiction of the state where the campus is located, subject to state law.

SARA is designed to allow states to retain full oversight capacity over any on-ground campus. That must include the entire program offered by such a campus, including such portions as are delivered online, from any source. Therefore, SARA cannot be used to “screen” part of such a program from state oversight by outsourcing part of a program to an online provider operating under SARA.

This does not prevent a campus from requiring part of its program to be done online if state law allows, it simply doesn't qualify as operating under SARA. It would be done under normal state rules. [NCS 6\(1\)](#).

### **What fees does SARA charge institutions?**

The following fee structure has been established by the National Council for SARA. These annual fees are paid to the National Council, which will distribute them to the four regions under a formula system. [NCS 3\(2\)\(a\)](#).

#### **Enrolled FTE – Annual Fee to Participate**

Under 2,500.....	\$2,000
2,500-9,999 .....	\$4,000
10,000 or more.....	\$6,000

States are also allowed to charge a state fee to SARA participants for administering SARA, but this is not required. It is likely that states in which there are a large number of major providers of distance education will consider a SARA fee in order to ensure that consumer protection functions can be carried out. [NCS 3\(2\)\(c\)](#).

### **Does SARA cover class field trips across state lines or term-length group activities such as summer courses at a field station in another state?**

SARA covers class field trips across state lines, but does not cover full-scale residency programs such as a summer session at a field station. [NCS 3\(6\)](#).

### **Does SARA cover short courses, weekend seminars and the like?**

Physical presence under SARA is not triggered if the instruction provided for a short course or seminar takes no more than 20 classroom hours. In regard to a full-term course, it would not trigger physical presence if the instructor and students physically meet together for no more than two meetings, totaling less than six hours. [NCS 3\(7\)](#).

### **Does SARA cover graduate work?**

Yes. SARA covers undergraduate and graduate programs and courses. *But see* special provisions for licensed professions, noted in that section of FAQs.

### **Does SARA cover “test prep” and other similar training programs offered by entities that are not degree-granting institutions?**

No. Although these business activities often claim to prepare students for exams offered by a degree-granting provider, they are not covered by SARA.

**NOTE:** SARA does cover exam preparation activity offered by a SARA participant accredited degree-granting institution that is integral to a course or program offered by that institution among SARA member states.

### **Does SARA cover instructional activities by third-party providers that have contracted with a SARA participant institution?**

A SARA participant institution may hire third-party providers to offer instruction contained within a program that is otherwise SARA-eligible, assuming that the instruction otherwise meets SARA standards, institutional requirements and requirements of accrediting bodies. However, the degree-granting institution cannot delegate any SARA-related problem-solving functions to a third-party provider, nor may it use the third-party provider as its vehicle for contacting or working with a state. Contacts between a third-party provider and any SARA office must go through the degree-granting institution that is approved to operate under SARA by its home state. [NCS 3\(8\)](#).

### **My institution is a public university. Is it exempt from these rules?**

Public universities often have special exemptions inside the state from which they obtained their charter or state license to issue degrees. However, these exemptions stop at the state border. A public university has no exemptions outside its home state in most cases and is treated in most states the same way any other nondomestic provider is. Public institutions will need to apply to their state's designated SARA agency for approval to offer distance education interstate under the reciprocity agreement.

### **Can a public university board serve as the state agency responsible for investigating and resolving issues under SARA?**

Yes, if the board is responsible for more than one separately accredited institution and has the ability to require an institution to rectify a problem. If a board is responsible only for one accredited institution or does not have enforcement authority over its institution(s), it cannot serve as the SARA oversight agency.

**NOTE:** The National Council for SARA recognizes that this is a gray area with many possible scenarios. The Council will consider individual cases on their merits and may accept alternate configurations if it finds that the structure is likely to result in adequate student protection. A board may under some conditions acquire enforcement authority solely for purposes of SARA even though it otherwise has no oversight of a particular institution.

### **My institution is chartered by the U.S. Congress. How does it fall under SARA?**

For purposes of SARA, a college or university that is owned by the federal government, such as the Air Force Academy, is considered to have the authority to offer courses online to residents of any state and SARA will not be involved in regulating such colleges.

If a federally chartered college is located in Washington, D.C. and is privately owned or is owned by the government of the District of Columbia, SARA will treat it as a D.C. entity, and D.C. will have the opportunity to join SARA (as will U.S. territories).

### **My college is owned by a federally recognized Indian tribe. How does it fit into SARA?**

This question is still being researched by SARA staff. SARA intends to include any otherwise eligible tribal college in SARA and recognizes that many member colleges of the American Indian Higher Education Consortium (AIHEC) provide significant online education, but there are legal complexities involved because states cannot establish certain legal relationships with a tribe without federal permission, owing to the nature of tribal treaties with the U.S. government.

### **My institution is not accredited by a federally recognized accrediting body. Can it participate in SARA?**

No, only institutions accredited by a federally recognized institutional accrediting association can operate under SARA. [NCS 3\(1\)](#).

### **My college is a career school that does not offer any degrees. Can it operate under SARA?**

No, only institutions that offer degrees can operate under SARA. However, a degree-granting institution that operates under SARA can also offer nondegree programs if desired. [NCS 3\(1\)](#).

### **My college is based in Canada but offers online degrees to U.S. residents. Can it operate under SARA?**

No, only colleges that are based in a U.S. state or territory are eligible to participate in SARA, even if they are accredited by a U.S. accrediting body. [NCS 3\(1\)](#).

### **Can a recently established degree-granting college located in a SARA member state operate under SARA?**

Yes, once it achieves accreditation by a federally recognized institutional accrediting association.

### **Once an institution is accepted for SARA membership, can it be removed?**

Yes. An institution that does not renew its participation agreement with its home state annually is no longer eligible to participate in SARA. At the time of renewal, the state must determine whether the institution still meets SARA requirements. An institution can also be removed at any time for violation of SARA standards by its home state or by the SARA regional compact under which it operates. [NCS 3\(3\)](#).

**Does SARA cover all interstate placements of students in clinical sites and practica, or only those placements that are related to a distance-ed program?**

SARA covers all interstate placements in clinical or practica situations among SARA member states, no matter the nature of the main program. However, some such placements may also be subject to the rules of professional licensing boards, in which case the placement must also meet such requirements. SARA does not supersede professional requirements imposed by such boards.

**If an institution is covered by SARA for its interstate distance education offerings, does its interstate advertising and recruitment for its on-ground courses also fall under SARA?**

All interstate recruitment activity by a SARA-authorized institution in another SARA member state falls under SARA policies and standards. This includes college fairs, recruitment for campus-based programs in another state and recruitment for distance education programs. Note that all recruitment by a SARA provider therefore must meet the SARA standards for accuracy, truthfulness, etc. [NCS 4.](#)

Recruitment by a person acting in a state for courses offered at a physical campus in the same state is not covered by SARA.

**NOTE:** This interpretation revises and changes the original SARA staff opinion expressed in the fall 2013 FAQs.

**If a SARA participant college offers a non-credit clinical or field placement in another SARA state, is that covered by SARA?**

Yes.

**If a college has a pre-existing contract for placement of students in clinical sites, and that contract allows for more students or a longer period of time than SARA allows, does participating in SARA invalidate the contract?**

No. SARA has no effect on pre-existing contracts of this nature. However, such contracts must be in compliance with existing state law in the state where the clinicals take place at the time the institution begins operating under SARA. When such a contract is revised or renegotiated, and both states are SARA members, SARA rules apply to future contracts.

**NOTE:** SARA staff intends to recommend to the National Council for SARA a policy that will set a limit to the length of time that an “auto-renewal” contract that is not in compliance with SARA can run. Proposed language will be made available for comment in that process.

**Why does SARA use the U.S. Department of Education’s financial responsibility composite scores to assess the financial soundness of non-public institutions that seek to participate in SARA?**

Students deserve assurance that SARA institutions from which they take courses and programs will remain in operation and not close due to financial problems. Distance education students likely have less information than campus-based students with which to evaluate an institution’s viability; in most cases, they can’t visit the campus, talk directly with institutional representatives, etc. While it is not possible to remove completely the risk of institutional closure, reasonable attempts to lessen that risk in regard to SARA institutions are desirable.

As a fundamental principle, SARA avoids developing new mechanisms and structures when sufficient ones already exist. That is why the initiative builds on the work of the “accountability triad” (the federal government, the states, and recognized accreditors) and the regional education compacts. Ideally, a financial assessment system for SARA would be uniform across the country, clear and readily understandable, already in place, well-regarded in the community, and reliable in evaluating whether an institution is in significant financial trouble and at risk of closure.

No current system meets all of those desirable qualities. The approach taken by the U. S. Department of Education has been in place for many years. It is applied across the country to all non-public institutions participating in federal Title IV programs, and it relies on the administrative capabilities of the Department, including the ability to investigate and audit. Unfortunately, it has been severely criticized by some as being based on outdated accounting approaches, inaccurately assessing the financial health of many institutions (i.e., identifying as financially troubled many institutions thought to be sound), and being unevenly applied.

Much of that criticism has come from the National Association of Independent Colleges and Universities (NAICU) and representatives of some of its member institutions. They have also criticized SARA for using the Department's scores to determine (in part) a non-public institution's eligibility for SARA. NAICU believes the Department's work in this area is seriously flawed, both in design and application.<sup>1</sup>

This issue was discussed at each step of the development of SARA. It was considered by the Presidents' Forum/Council of State Governments drafting team, the SARA development committees in each of the four regional compacts, the National Commission on the Regulation of Postsecondary Distance Education, and NC-SARA itself. Use of the Department's scores to determine (in part) a non-public institution's financial soundness for SARA purposes was affirmed at each step. The following paragraphs explain why.

Each SARA development group examined the question of whether there should be a financial soundness requirement at all; each group decided that there should be. Various alternatives were then considered. NAICU suggested that all institutions approved to participate in Title IV programs be allowed to participate in SARA, with no other financial expectations. The overwhelming majority of each group involved in the development of SARA believed that standard would be too low to support the consumer protection goals of SARA.

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<sup>1</sup> NAICU: *Report of the Financial Responsibility Task Force*, November 2012 ([http://www.naicu.edu/docLib/20121119\\_NAICUFinan.Resp.FinalReport.pdf](http://www.naicu.edu/docLib/20121119_NAICUFinan.Resp.FinalReport.pdf))

The possibility of allowing each SARA state to set its own financial expectations was discussed; that approach was rejected because it would not yield uniform standards, therefore undermining reciprocity. The possibility of having SARA develop and carry out its own financial evaluation system was also considered; that was rejected because of the likely difficulty of reaching consensus, the delay and cost that developing a new system would require, and the fact that SARA would lack the necessary investigative and auditing authority and capacity.

After much discussion, each group involved in the development of SARA reached the conclusion that incorporation of the Department's system for assessing an institution's financial soundness, while flawed, offered the best available approach for SARA purposes.

SARA has acknowledged the shortcomings of the Department's system and the criticisms made of that system in two ways. First, SARA allows some institutional "wiggle room." An institution with a composite score of 1.0-1.49 has the opportunity to make the case to its home state that it is nevertheless sufficiently financially stable to justify state approval to participate in SARA. (The general threshold for the financial soundness requirement is 1.5.) Second, the regional compacts, the Commission on the Regulation of Postsecondary Distance Education<sup>2</sup>, and NC-SARA have all recommended that the Department review its methodology for determining institutional financial soundness.

## SARA AND STUDENTS

### **If a student has a complaint about an institution operating under SARA, does the complaint go directly to SARA?**

No, complaints go first through the institution's standard procedure for resolution of student grievances. If a student is not satisfied with the outcome of the institutional process, the complaint may then be brought to the responsible state agency

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<sup>2</sup> See <http://nc-sara.org/files/docs/Commission-on-Regulation-of-Postsecondary-Distance-Education-Draft-Recommendations.pdf> pages 28-29 additional discussion.

in the home state. Nothing precludes the state where the student is located from also working to help resolve the complaint. [NCS 4\(1\)](#).

**NOTE:** Although students may choose to work through their own state's SARA office for complaint resolution, the SARA office of the state where the provider is located is responsible for staffing the investigation and complaint resolution as needed. Students may not use SARA to complain about distance education courses offered inside the home state, only those offered across state lines.

### **Can students appeal grades or student conduct penalties through SARA?**

No, grade appeals and conduct complaints are expressly excluded by SARA. [NCS 4\(1\)\(d\)](#).

### **If a student signs an arbitration clause with an institution requiring that the student resolve complaints solely through that method, does that prevent a student from bringing a complaint to SARA?**

No. SARA is not a party to any arbitration requirements. A student may bring to SARA any issue that potentially involves a violation of SARA standards or policies.

## **SARA AND THE "PHYSICAL PRESENCE" STANDARD**

### **How does SARA define physical presence?**

Generally, an institution has physical presence when it operates a campus, branch instructional facility whether leased or owned, or administrative office within the boundaries of a state. However, because the specific definition currently varies greatly from state to state, especially with regard to out-of-state institutions that seek to conduct any activity within another state, SARA has established its own uniform standard for physical presence versus distance education.

This standard supersedes all conflicting state laws for purposes of SARA, but does not affect the application of existing state laws to colleges that

choose to operate outside of SARA or which are based in states that are not SARA members.

The detailed standards for physical presence under SARA are set forth at [NCS 5\(1\)](#) and [\(2\)](#).

### **Is one-on-one in-person tutoring by a faculty member living in one SARA state on behalf of an institution operating under SARA from another SARA state considered a physical presence or is it covered by SARA?**

It is covered by SARA unless more than one student is present in the same physical space at the same time. It does not constitute a physical presence if both states are SARA members. This scenario may be reviewed by SARA staff and the National Council in the future, but SARA staff consider this to be sufficiently similar to a supervised field experience to be covered by SARA.

### **If a college operating under SARA has an agreement with a flight school in another SARA state to offer the flight training component of a program leading to a degree or certificate from the SARA institution, is that a "clinical" site for purposes of SARA?**

No. Agreements of this nature involving a training or educational entity offering a significant part of a program as part of an agreement with another provider are not considered supervised field experiences as defined in NC 1 (25). They are considered a part of the core educational program and fall under the laws of the states where they are located. They are covered by the provisions of SARA that deal with third-party providers, see NC 3-8.

Exceptions: flight training activity falling within the "short course" provision (NC 3-7) or offered for federal employees on a military base (NC 3-9) are covered under SARA.