

STATE AUTHORIZATION RECIPROCITY AGREEMENT

September 25, 2012 Draft

PREAMBLE

Americans deserve and require access to high quality postsecondary education, not only because the economic vitality of the nation depends upon how well our population is educated but because a well educated population also contributes greatly to the social and civic vitality of the nation.

Historically, the federal government, state governments, and the postsecondary education community through its accrediting processes and organizations have collaborated to assure that the providers of higher education services were meeting standards of quality and access to serve the nation and its citizens well. Through what is often referred to as *the federal triad* the federal government has accepted responsibility for assessing the financial viability of education providers; the states have accepted primary responsibility for assuring that students, as the consumers of educational services, are protected from fraud, abuse, or inadequate provision of services by educational providers; and the educational community through accreditation has accepted responsibility for assuring the adequacy of educational services offered by educational providers.

This three way collaboration has traditionally worked well to assure reasonable quality, accountability, and consumer protection.

As the nature of postsecondary education has evolved, particularly since the advent of the Internet and the exponential growth of education offered “off campus,” each leg of the federal triad has faced challenges, but the states’ role in assuring consumer protection has come under particular scrutiny. What state is responsible when an institution physically located in one state (the traditional criteria for state oversight) provides education in other states?

To clarify the federal government’s understanding of state responsibilities in this regard, in October 2010 the U.S. Department of Education issued regulations indicating that, consistent with existing federal law, states were responsible for all education offered to residents within their state boundaries, regardless of where this education “originated.” This regulation appropriately applied to all types of postsecondary education for which students qualified for federal student assistance, regardless of the sector or level of higher education. While this was consistent with existing law, it was counter to the way in which many states were overseeing education; relatively few states were either overseeing or were even aware of the substantial amount of education being provided within their boundaries by institutions from other states.

This clarification of federal expectations had major implications for postsecondary institutions and states. In addition to existing state regulations, there was now a clear federal requirement that all institutions offering education in other states be able to demonstrate that they had the approval to serve students in each of those other states. With the expansion of distance education (via Internet-based education, telecommunications, or other means) many institutions increasingly served students from other states. While some institutions had sought and received such authorizations, in many cases at substantial expense, most institutions offering such instruction had not done so. This federal clarification, therefore, had significant potential implications for institutions, including incurring the costs of securing and maintaining such approvals to operate and the substantial time and effort in securing such authorizations. In some cases access for students to quality higher education was eliminated if their institution decided not to incur the cost of complying. States also faced substantial new expectations, with the potential of thousands of institutions requesting approval from all states, well exceeding the management capacity of current state authorization agencies.

Although a federal district court has vacated this regulation and an appeals court affirmed the lower court's decision, those rulings dealt only on technical issues regarding the Department of Education's processes for notification in development of the regulation. The Department's ultimate authority to regulate in this area was upheld. The Department continues to believe strongly in the role of the states in overseeing the delivery of these educational services. While it will not enforce the regulation as originally written, we believe that some form of the regulation will emerge that addresses the court's concerns but maintains a strong state role in overseeing all education delivered within their boundaries.

Despite the difficulties arising from the federal regulatory action, the federal expectation of a strong state role in authorization makes sense. This is, in fact, an appropriate state role and responsibility with or without the federal mandate. Consistent with their collaborative missions, we believe that the four existing regional higher education interstate compacts are uniquely positioned to quickly and effectively assist on this issue. The compacts include the Midwestern Higher Education Compact (MHEC), the New England Board of Higher Education (NEBHE), the Southern Regional Educational Board (SREB), and the Western Interstate Commission for Higher Education (WICHE). The compacts operate with the express purpose of expanding educational opportunity within their respective regions. We believe that states within a region, working together and agreeing on terms of engagement and collaboration, can trust each other to work cooperatively and consistently toward reciprocally accepting each other's authorization of institutions to operate. Interstate recognition within a region would also extend to cover all participating states regardless of region. Trust, thus, becomes a guiding principle for a state authorization reciprocity agreement. Trust, however, requires confidence that each of the partners takes seriously its responsibilities with regard to authorizing only institutions that provide high quality education, whether that is through traditional campus-based classroom experiences or through technology mediated or off-campus based experiences.

Similarly, this agreement presumes the efficacy of *the federal triad*.

This State Authorization Reciprocity Agreement (SARA), therefore, is built upon these three partnerships: the first being between each higher education regional compact's member states as reciprocal partners, the second being agreement between the four higher education regional compacts, and finally the partnership between nationally recognized accreditors, the federal government, and the

states.¹

Definitions

A good agreement must be easily and consistently understood by all partners. Definitions of terms, therefore, become very important. Throughout this agreement, where references are made to terms that might be interpreted differently by different partners, definitions are included in footnotes to ensure maximum transparency.

This is a Voluntary Agreement

This agreement establishes reciprocity between willing regional compact member states that accept each others' authorization of accredited institutions to operate in their states to offer educational services beyond state boundaries. Participation in this agreement is entirely voluntary on the part of the state. This agreement is intended to facilitate expanded access to high quality distance education opportunities for students by improving state policy and operational mechanisms. This agreement applies only to educational services provided by institutions outside of their home state boundaries, and in no way affects the unique processes that states may use to authorize institutions to operate or to *exempt*² institutions from oversight within their own state.

Just as participation at the state level is voluntary, so too is participation at the institution level. Institutions that wish not to subject themselves to the level of oversight consistent with interstate reciprocity can opt not to participate and thus either choose not to provide educational services beyond the boundaries of their state or to seek separate authorization to operate in those states in which they wish to offer educational services.

Benefits of Reciprocity

Significant benefits will accrue to students, institutions and states if the current lack of uniformity in the patchwork of state regulation can be improved through sharing in common, high quality and consistently applied processes and standards.

- Institutions will reap financial benefits by no longer having to engage in the confusing and duplicative process of seeking approval to operate on an individual, case-by-case basis in each state in which it serves students.
- States will benefit by maintaining their rights and responsibilities to assure quality

¹ SARA is an agreement among states; it is not an agreement among institutions. Institutions need to seek authorization from their home state to participate in the reciprocity agreement.

² **Exempt** means: an institution that by state regulation is not required to have a full approval to operate within the state based on meeting certain criteria in that state. Exempt institutions will not be eligible to participate in the State Authorization Reciprocity Agreement unless they seek and obtain approval from their home state to operate under the terms of this agreement.

programs are offered by institutions within their state. States will also benefit by focusing their limited resources on the oversight of institutions within their state, regardless of where that institution serves students. As the number of institutions serving students in multiple states continues to increase, state regulatory offices would find it difficult to conduct meaningful reviews and on-going oversight of the hundreds, if not thousands, of out-of-state institutions operating in their states.

- Students will benefit as lower costs for institutions will mean fewer costs passed on to students. Some students are finding their options limited as institutions choose not to serve students in states with onerous authorization requirements. Since regulators will focus their reviews on their “home state” institutions, they will have more confidence in the review process and that complaints will be handled and resolved.

Ultimately, the quality of postsecondary education is reflected in the outcomes derived from education. But quality outcomes result from quality processes, and state authorization must focus on both the processes that enable students to acquire the pertinent knowledge and skill as well as the outcomes that demonstrate the acquisition of knowledge and skills.

Partnerships

WICHE has benefitted greatly in the development of this agreement from the work of the Presidents’ Forum and Council of State Governments. With support from Lumina Foundation, they have been engaged in an effort to create a model nationwide interstate reciprocity program. Now both efforts are being brought together, establishing a framework for the four regional interstate compacts, and states and territories that do not currently belong to one of the four interstate compacts, to join together in a collaborative effort to ensure nationwide coverage through four collaborative regional reciprocal agreements. We believe that collaboration between these well-established and highly-regarded regional interstate compacts is the most cost-effective and viable approach to achieve nationwide coverage and will achieve the purposes imbedded within the work of the Presidents’ Forum and Council of State Governments.

PURPOSES

This compact builds upon and strengthens the existing efforts of states, accrediting bodies, and the federal government to facilitate expanded access to high quality education by:

1. Establishing common, high quality and consistently applied processes and standards endorsed by participating states, which are efficient and cost-effective;
2. Providing for consumer protection and a complaint resolution process;
3. Providing for the uniform collection and sharing of information between and among member states for the purposes of assuring adequate quality for education services provided by institutions operating outside of their home state boundaries;

4. Reducing barriers to innovation in educational delivery;
5. Increasing access to postsecondary education and degree completion.

RESPONSIBILITIES OF THE REGIONAL COMPACTS AND THE RECIPROCATING STATES

Responsibilities of the Regional Compacts

Each of the regional higher education compacts will manage reciprocity between its member *states*³ in the acceptance of state authorization from all reciprocating states that meet the criteria for reciprocity as defined in this agreement. Each compact will establish a regional State Authorization Reciprocity Agreement (SARA) steering committee. The regional steering committees shall be composed of one representative from each state participating in the reciprocity program selected by the regional compact's commissioners from that state, and up to five additional members selected by the regional compact's commissioners from a slate developed by the respective compact's chief executive officer to represent communities of interest in this agreement that have not been included naturally through the selection process outlined above. Examples of communities of interest include, but are not limited to: state regulators, accreditors, institutions from all sectors of higher education, and state government. Steering committee members' terms of service will be determined by the respective regional compact's governing board.

Three states (New Jersey, New York, and Pennsylvania), the District of Columbia, and all of the U.S. territories and protectorates, do not currently belong to a regional compact. They all have access to all federal education programs and thus are captured at least by the federal government's interest in this set of regulatory issues. These states and territories, subsequently referred to as "non-affiliated" states in this agreement, have the option of paying a \$50,000 annual fee to align with one of the regional compacts so that they can participate in the reciprocity agreement. If they do so, they will each have one representative on the respective compact's regional steering committee.

Each of the regional State Authorization Reciprocity Agreement (SARA) steering committees will establish the criteria for state participation in this reciprocity program and will adjust these criteria, as appropriate, over time. A state seeking to participate in its region's SARA program will submit a plan as to how it will meet the criteria for participation. The regional steering committee will review the plan and work with the state to improve the plan until the committee is able to recommend its approval by that region's regional compact. The steering committee also recommends other procedural details and actions regarding participation in SARA to their regional compact's commissioners.

Each regional compact will develop processes for informing states of the requirements for joining the regional reciprocity agreement, accepting states into the reciprocal arrangement, rejecting states from acceptance into the reciprocal arrangement, sanctioning states that fail to meet fully

³ **State** means: any state, commonwealth, district, or territory of the United States.

the requirements for participation, and dismissing from the reciprocal arrangement states that fail to respond to concerns that they are not meeting the requirements for participation. These processes must include a process for appeal in the event that a state disagrees with the compact's decision. All states entering into the reciprocity agreement will be reviewed on at least a biennial basis by their respective regional compact to assure that their authorization processes and participating institutions continue to meet all of the criteria for inclusion in the reciprocity agreement.

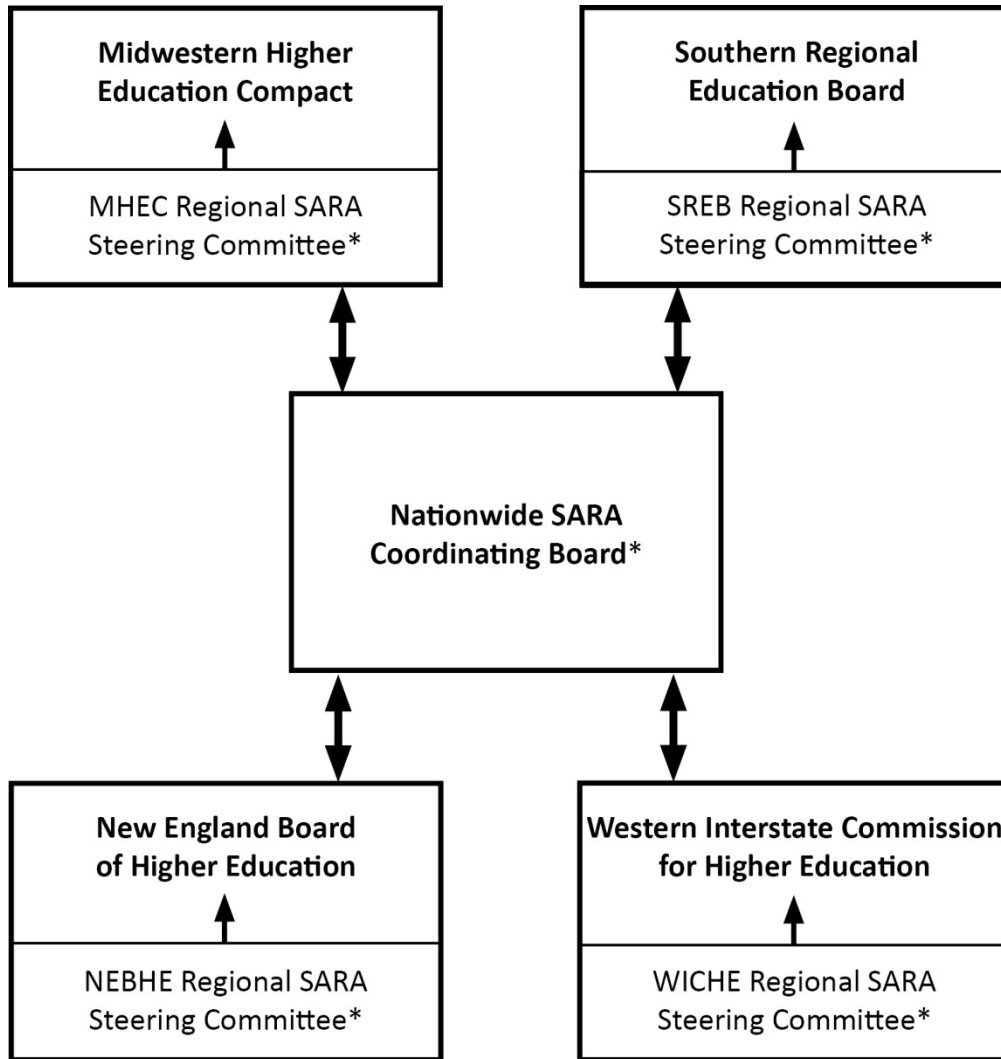
The program will be operated by each regional compact under its bylaws, consistent with all other programs that are under its control. Each regional compact will oversee the agreement in within its own region.

Creating Reciprocity Nationwide

The four regional compacts jointly accept the responsibility for working together and with states and territories that currently do not belong to a regional compact, for the purposes of harmonizing the State Authorization Reciprocity Agreement across the regions and assuring that the quilt of regional agreements will cover the nation as a whole. This will include creating an organizational structure for the coordination of efforts between these various entities. This Nationwide SARA Coordinating Board will be composed of three members from each of the compacts; including the chief executive officer of the regional organization plus two members appointed by each compact's commission. The nationwide coordinating board will also include one representative of the Presidents' Forum of Excelsior College and one representative of the Council of State Governments, organizations which have contributed substantially to the development of the state reciprocity concept.

In addition, up to five additional members will be selected by the members of the nationwide coordinating board to represent communities of interest in this agreement that have not been included naturally through the selection process outlined above, including state authorizing entities, accreditors, institutions from all sectors, and state and federal governments.

Below is a diagram of how this network of collaborative efforts will fit together to provide a nationwide framework. An organizational flow chart follows.



* Refer to the Responsibilities of the Regional Compacts and the Creating Reciprocity Nationwide sections for information on the composition of the committees and board.

This organizational structure will work as follows. The states will be the principal guardians of consumer protection. They will develop processes for authorizing and overseeing all accredited degree granting *postsecondary education*⁴ *institutions*⁵ within their state that wish to offer educational services outside the state’s boundaries. The regional SARA Steering

⁴ **Postsecondary education** includes all education beyond high school and includes all public, non-profit private, and for-profit private institutions as well as all institutions offering certificates, diplomas, and/or degrees. For purposes of this reciprocity agreement, however, institutional participation will be restricted only to degree granting institutions.

⁵ **Institution** means: a college, university, or other postsecondary education institution or collection of such entities doing business as one organization, with an institutional identification from the Office of Postsecondary Education within the U.S. Department of Education (OPEID).

Committees will develop processes for *recognizing*⁶, for purposes of reciprocity in state authorization, states that demonstrate that they have developed and operate agencies that appropriately *authorize*⁷ and oversee all degree granting postsecondary education institutions within their state that wish to offer educational services outside state boundaries. The nationwide coordinating board will develop processes for recognizing reciprocity between regional SARAs, for assuring that each SARA is appropriately overseeing the states within its regional reciprocity agreement, and for harmonizing procedures among the regions to make the reciprocal recognition of state authorization as seamless and uniform as possible for institutions.

Responsibilities of the Reciprocating States

States participating in this reciprocity agreement have two major areas of responsibility.

Authorizing Responsibility: First, the states must assure that they have appropriate laws, policy, practice, and processes for authorizing all *accredited*⁸ postsecondary education institutions that operate from their state. The state is defined as the *home state*⁹ for all institutions claiming the state as its principle location for accreditation purposes. This includes authorizing all distance learning activities of these institutions not only in the home state, but in all other states (defined as *host states*¹⁰) in which the institutions provide educational services. After initial authorization, the home state must review the institution at least every other year for the purposes of affirming or denying authorization. To demonstrate a state's adequacy in authorizing institutions, the state must demonstrate to the regional SARA that it meets all of the criteria for authorizing institutions outlined in the next section of this agreement.

Physical Presence

One of the most difficult tasks in crafting an interstate agreement on state authorization is determining what activities an institution can or cannot conduct in a state, whether those activities be at a distance or face-to-face. While states use different monikers for these criteria used to determine which activities are allowed in a state, they tend to fall under the notion of "physical presence." It is imperative, therefore, to clearly define what "physical presence"

⁶ **Recognize** means: states participating in the reciprocity agreement agree to accept each other's institutional authorization decisions.

⁷ **Authorized** means: holding a current valid charter, license or other written document issued by a state, federal government or government of a recognized Indian tribe, granting the named entity the authority to issue degrees.

⁸ **Accredited** means: holding institutional accreditation by name to offer distance education as a U.S.-based institution from an accreditor recognized by the U.S. Department of Education. Only institutions holding such accreditation can participate in interstate state authorization reciprocity.

⁹ **Home State** means: a state where the institution holds its principal institutional accreditation.

¹⁰ **Host State** means: a state in which an institution operates under the terms of this agreement, other than the home state.

means for institutions participating in SARA for two reasons: 1) because institutions with a physical presence in a host state will not be eligible for reciprocal authorization; and 2) to clearly define what activities can be conducted in a state as a result of participating in this agreement.

The following sections begin to describe the activities that an institution participating in SARA can or cannot conduct in other states that are part of the Agreement. There are so many variations on these activities that it is impossible to cover all contingencies. The items listed below provide initial guidelines to each regional compact, but it is anticipated that each region's steering committee will need to review specific instances of activities conducted in other states and provide additional guidance.

Physical Presence Activities in a Host State Allowed by SARA

If an institution is authorized by its home state and that home state is an approved participant in SARA, the institution is eligible to conduct the following activities in any of the SARA states. Physical presence (or "to operate") is not triggered in a state participating in this agreement by any of the following activities:

1. Courses offered at a distance (online, through the United States mail or similar delivery service) that do not require the physical meeting of a student with instructional staff in a host state.
2. Academic offerings among institutions from SARA states that are participating in a consortia agreement approved by each of those participating institutions.
3. Advertising to students within a state, whether through print, billboard, direct mail, internet, radio, television or other medium.
4. An educational experience arranged for an individual student, such as a clinical, practicum, residency, or internship.
5. An educational field experience arranged for a group of students that are participating in campus-based programs in another state.
6. An offering in the nature of a short course or seminar, if instruction for the short course or seminar takes no more than twenty classroom hours.
7. A portion of a full-term course that comprises less than one-fourth of the requirements necessary to complete the course.
8. Course offerings by an accredited institution on a U.S. military installation, limited to active and reserve military personnel, dependents of military personnel, and civilian employees working on the military installation.

9. Operation of a server, router or similar electronic service device when such device is not housed in a facility that otherwise would constitute a physical presence; the presence of a server or similar pass-through switching device in a state.
10. Having faculty, adjunct faculty, mentors, tutors, recruiters, or other personnel residing in a state. The presence of instructional faculty in a state, when those faculty offer entirely online or other distance-education instruction and never meet their students in person for educational purposes while in that state, does not establish a presence of the institution in that state or an offer of a course or program from that state for purposes of this agreement.
11. Requiring a student to take a proctored exam at a location or with an entity in the host state prescribed by the institution.
12. Having a contractual arrangement in a state.

Physical Presence Activities in a Host State Not Covered by SARA

For purposes of this agreement, any of the following activities in a host state are not covered by this agreement since they constitute a “physical presence.” An institution would be subject to the laws and regulations of each individual state in which it conducts these activities:

1. Establishing a physical location in a state for students to receive synchronous or asynchronous instruction; or
2. Requiring students to physically meet in a location in the state for instructional purposes as required for the course; or
3. Establishing an administrative office in the state, including:
 - a. Maintaining an administrative office in the state for purposes of providing information to prospective students or the general public about the institution, enrolling students, or providing services to enrolled students;
 - b. Providing office space to instructional or non-instructional staff; or
 - c. Establishing an institutional mailing address, street address, or phone number in the state.

Complaint Resolution Responsibility: The states must assure that they have reasonable processes for monitoring authorized institutions and for addressing and redressing complaints or concerns that are raised concerning authorized institutions. To demonstrate a state’s

adequacy in monitoring and adjudicating the actions of authorized institutions, the state must demonstrate to the respective regional compact's SARA entity that it meets all of the criteria for monitoring and adjudicating actions of authorized institutions, as outlined in the next section of this agreement.

CRITERIA FOR STATE AUTHORIZATION AND OVERSIGHT

The previous section introduced the responsibility of states in two essential, related, but distinctly different types of activities: authorization of accredited institutions to operate and oversight of institutions that are authorized to operate. Because the criteria for these two functions differ, they are detailed separately in this section.

Criteria for Authorizing Institutions to Operate and to Continue Operating

Academic Integrity: States wishing to participate in this regional interstate reciprocity agreement will agree to accept accreditation by a federally-recognized accrediting agency as both necessary and sufficient evidence of reasonable institutional academic quality for purposes of delivering services outside their home state or receiving services from other states participating in the reciprocity agreement. Accreditation, therefore, will be acceptable evidence of adequacy with respect to curriculum, measurement and achievement of student learning outcomes, award of credit, faculty qualifications, student support services, and academic support services. States that wish to require more documentation for their home institutions certainly have the prerogative of doing so, but for purposes of reciprocal acceptance of institutional authorization from other states to offer educational services beyond state boundaries, accreditation by an accrediting agency recognized by the U.S. Secretary of Education upon the advice of the U.S. Department of Education's National Advisory Council on Institutional Quality and Integrity (NACIQI) must be accepted as sufficient evidence of reasonable institutional academic quality. Additional criteria to be used in resolving student academic complaints about an institution are provided in the complaint section below.

Financial Integrity: States wishing to participate in this interstate reciprocity agreement will agree to accept the standards established by the federal government for demonstrating financial responsibility. The U.S. Department of Education considers a public institution to be financially responsible if its debts and liabilities are backed by the full faith and credit of the state or other government entity. The school must provide the Department with a letter verifying that backing from the state, local, or municipal government entity, tribal authority, or other government entity that has the legal authority to make that designation. While accrediting associations also collect financial information, the federal government has developed a robust and well-accepted process for assessing independent, nonprofit and for-profit institutions' financial data based on audited financial statements. Relying on this federal information provides a high quality mark that is updated annually and reduces redundancy of reporting by institutions, thus reducing administrative burden. All institutions deemed financially responsible by the federal government for participation in federal Title IV programs, with a composite financial responsibility score of 1.5 or better, will be deemed financially

responsible for purposes of approval to operate within the State Authorization Reciprocity Agreement. Institutions with a federal composite financial responsibility score of 1.0 to 1.5 may be deemed financially responsible within the State Authorization Reciprocity Agreement if the home state, upon broad review of the institution's financial information, determines that the institution's financial condition is sound. No institution with a federal composite financial responsibility score less than 1.0 will be considered eligible for interstate reciprocity, even if it has been deemed to be Title IV eligible by the U.S. Department of Education. Any institution that wishes to participate in the State Authorization Reciprocity Agreement but that does not have an established federal composite financial responsibility score because it has chosen not to participate in federal Title IV programs must be determined by the state authorizing entity in its home state to be financially responsible based on audited financial information and calculations comparable to those used by the U.S. Department of Education.

Consumer Protection: The federal triad gives states the lead responsibility for protecting consumers of postsecondary education. Some of the criteria in this arena are also included within institutional accreditation and within federal oversight, but the primary responsibility of the states lies in this area. The potential adverse consequences for the citizens of the states are so significant that these criteria cannot be assigned solely to either the accreditors or the federal government. States will maintain responsibility for:

Recruitment, Marketing, and Other Institutional Disclosures: To qualify for acceptance into the State Authorization Reciprocity Agreement, a state must demonstrate that institutions authorized by the state are held accountable for and have attested to the veracity and adequacy of the institutions' recruitment material, marketing efforts, and other institutional disclosures. This must include each institution being held accountable for and attesting to at least the following:

- Providing full information about institutional and program requirements in a format that prospective students and the public can easily understand and access.
- Assuring that program advertisements and promotional information include all special or exceptional program requirements.
- Ensuring that job placement and related salary information are supported by evidence of their accuracy and efficacy.
- Providing information on programs that prepare students for licensed professions that explicitly states whether the program, including clinical or experiential practice, meets licensure standards in all states in which the institution has students enrolled.
- Monitoring and accepting responsibility for assuring professional conduct of recruiting and marketing staff.

- Disclosing institutional and programmatic accreditation status and providing a brief explanation of what the accreditation status means along with the respective accreditor's information.

Tuition, Fees, and Other Charges: With respect to tuition, fees, and other charges, states require their authorized institutions do at least all of the following:

- Disclose all tuition, fees, and other costs associated with attendance, including fees and costs that are unique to specific programs of study.
- Publish clear policies and practices regarding refunds to students, including transparent and readily available information on refund deadlines and refund amounts.
- Provide accurate and complete information about financial aid available to students attending the institution, including all forms of financial aid (grants, scholarships, loans, and work-study) and the sources (institutional, private philanthropic, state, and federal) of each form of aid.

Admissions: To qualify for acceptance into the State Authorization Reciprocity Agreement, a state must demonstrate that it assesses the efficacy of the admissions process for every institution seeking new or renewal of authority to serve students via distance delivery in other states. Admissions criteria must include at least the following:

- Clearly stated and comprehensive requirements for admission to the institution must be available to prospective students and this information must also be available as applicable for programs resulting in a certificate, degree, or diploma.
- Reasonable assurance the admitted students have the capacity to succeed in the program(s) to which they are accepted.

Complaints and Concerns: To qualify for acceptance into the State Authorization Reciprocity Agreement, a state must assure that it requires all institutions seeking authorization to demonstrate that they do at least all of the following with respect to complaints against the institution and resolution of such complaints:

- Establish and sustain a complaint procedure that includes clearly understood and published processes for lodging a complaint, both within the institution, to the state authorizing entity, and to the institution's accrediting agency;
- Establish and sustain processes within the institution for responding appropriately to complaints and for documenting their resolution;
- Establish and sustain a process for reporting formal complaints and their

resolution to the state authorizing entity, including procedures that ensure that an institution's complaint resolution process has been exhausted before the complaint is elevated to the state authorizing entity; and

- Establish and sustain a process for working with the state authorizing entity on resolving complaints that have been lodged and not resolved with that entity.

In addition to requiring institutions to provide such assurances of responsiveness to consumer complaints, the state must demonstrate that it has processes for following up on both formal complaints that it receives and on concerns that come to the attention of the state authorizing entity. The state must demonstrate that it is prepared to accept and act on all legitimate complaints and concerns registered with the state agency with regard to an institution that it has authorized for operation, whether the education provided by the institution was provided in the home state or in a host state. The state authorizing entity must have processes for responding to complaints and concerns from students as consumers, institutions, accrediting agencies, other states within the reciprocity program, the federal government, or other interested parties. Because the states have the primary responsibility for consumer protection and because the accrediting bodies focus more directly on institutional issues, rather than individual student or consumer complaints, it is the responsibility of the state to follow up on all legitimate complaints. The responsibility includes complaints not only related to violations of the consumer protection requirements or of financial solvency of the institution but also include academic standards initially established with an institution's accreditation.

With respect to resolving complaints regarding academic standards, all states participating in the State Authorization Reciprocity Agreement will be guided by the standards for the evaluation of distance education (on-line learning) adopted by the Council of Regional Accrediting Commissions (C-RAC), which is composed of all of the regional accrediting associations. Abiding by the C-RAC guidelines will ensure that the standards used by accreditors for initial authorization of institutions by the state will be consistent with the guidelines used by states in responding to complaints or concerns lodged with them regarding matters of academic integrity. If deemed necessary in the future, SARA can review and replace these guidelines that are consistent with those used by other entities in reviewing institutional practices.

The state must demonstrate that it accepts affirmative responsibility to promptly report, as appropriate, complaints and concerns to both the institutions about whom the complaints/concerns were lodged and, as appropriate, to the body that accredits the institution. While the host state is not responsible for following up on complaints regarding an institution operating within the state but based elsewhere, the host state must have a process of transferring such complaints that it receives to the home state that has authorized the institution to operate. The home state is

responsible for informing the host state of the status or outcome of a complaint lodged through the host state.

Criteria for Overseeing Authorized Institutions

As important as assuring that institutions seeking authority to operate within a state are fit for this purpose is the responsibility of the state to assure that the institution abides by the assurances and commitments it made in seeking authorization.

Complaints: The state must periodically demonstrate at least every other year to its State Authorization Reciprocity Program that the formal complaint process on which it was approved works effectively to protect students from possible institutional malfeasance, abuse, incompetence, or criminality. This must include evidence of at least the following:

- Evidence that consumers (students and subsequent employers) have reasonable access to information about the complaint process.
- Documentation of: 1) all formal complaints received, 2) notifications of complaints provided to institutions and accrediting agencies, and 3) complaint resolutions.
- Demonstration that complaint resolutions were appropriate to the severity and veracity of the complaints, including punishment and restitution for violations (within clearly described guidelines) including specific criteria for the termination of authorization to operate.

Each regional SARA steering committee will establish the specific criteria for these reporting requirements.

Concerns: The state authorizing entities will become aware of potential problems or possible violations of state authorization, either through staff inquiries or other sources. It is the affirmative obligation of the state entity to address appropriately such concerns. All states participating in a regional State Authorization Reciprocity Agreement must periodically demonstrate that they have clear and well documented policies and practices for addressing such concerns, and that they have followed these policies and practices, consistent with the processes identified in the preceding paragraph. Each regional SARA steering committee will establish the specific criteria for these reporting requirements.

Catastrophic Responses: State authorizing entities must respond on occasion to catastrophic events at one or more of the institutions that they oversee. All states must periodically demonstrate to their regional SARA entity that they have clear and well documented policies and practices for addressing such catastrophic events, including at least the following.

- In the event of the unanticipated closure of an institution, that the state has a process of assuring that students receive the education they contracted for or reasonable financial compensation for what they did not receive. Such

assurances can come in various forms – tuition assurance funds, surety bonds, teach-out provisions, etc. – and they can come from individual institutional requirements, multi-institutional cooperatives, or state-supported activities. A participating state can choose its own approach, but it must demonstrate regularly that the approach it has selected adequately protects students as consumers.

- The state entity must also assure that it either requires institutions to have disaster recovery plans, particularly with respect to the protection of student records, or that the state provides such a plan.

Financing SARA

To finance the expenses of establishment, organization, and ongoing activities and to assist states in fulfilling their roles in the State Authorization Reciprocity Agreement, the Nationwide State Authorization Reciprocity Coordinating Board has the authority to collect fees. Fees will be collected from institutions from SARA member states that have chosen to participate in the Agreement and have been authorized by the appropriate state entity.

These fees will be managed and distributed by the coordinating board and will be guided by the following principles:

- A. Participation in SARA does not infringe upon the right of any member state to charge fees to its home state institutions to cover the costs associated with review, approval, and monitoring of operations of institutions in its state. The home state shall retain all such fees.
- B. Institutions operating in states other than their home state under the provisions of this agreement shall pay a SARA fee annually to the Nationwide SARA Coordinating Board.
- C. The SARA fees will be sufficient, in aggregate, to fund the operational expenses associated with the Nationwide SARA Coordinating Board and the regional compacts' SARA related work and will be low enough to encourage institutional participation in this activity.
- D. The SARA fee will be standardized across all regions.

After receiving input from each regional compact and participating states and institutions, the coordinating board shall annually approve and publish the SARA fee schedule for institutions.

The SARA fee will use a graduated scale based upon the number of students enrolled in or served by an institution. The tier levels and the metrics to measure students will be determined by the

coordinating board and openly published as part of the fee schedule.

It is anticipated that the annual operating costs for the four regional compacts' SARAs and the nationwide coordinating board will be approximately \$1.5 million. If as few as 300 institutions chose to participate in these agreements, which is the fewest we can imagine would do so, the average cost, would be approximately \$5,000 per institution. If as many as 1,000 institutions chose to participate, which would represent slightly more than 20 percent of all degree-granting institutions currently participating in the federal Title IV student aid programs, and which represents a reasonable target for participation, the average cost per institution would be \$1,500. Initial fees will probably range between \$1,500 and \$5,000 per year and will be adjusted over time as more institutions participate.

Such are the criteria for participating in the State Authorization Reciprocity Agreement. Any of the states who meet these criteria, and are deemed to have done so by the relevant SARA steering committee, will be accepted into this reciprocal agreement.

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