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## What is Distance Education Authorization?

Distance education authorization generally refers to rules put into place to regulate postsecondary “instruction offered by any means where the student and faculty member are in separate physical locations.”<sup>1</sup> This document specifically reviews regulations surrounding students and faculty members who are present in different states within the United States and U.S. territories.

## Federal Jurisdiction over Distance Education Authorization

Between June 2010 and April 2011, the United States Department of Education (USDE) created and clarified regulations tying state authorization of both on-the-ground and distance postsecondary education to an institution’s ability to offer federal financial aid (i.e. title IV, HEA programs). The USDE was sued by the Association of Private Sector Colleges and Universities in July 2011 to remove state authorization regulations on distance education from these rules. In June 2012, the US Court of Appeals ruled to vacate the distance education portion of the USDE’s state authorization regulations. In December 2016, the USDE released regulations for State Authorization for distance education and foreign locations of post-secondary programs, set to go into effect July 2018. Three distance education interest groups co-wrote a letter to the USDE expressing concerns about how to implement the regulations.<sup>2</sup> In May 2018, the USDE Secretary proposed a two-year delay in the effective date of these regulations; this delay was formalized in July 2018. The new effective date of these provisions will be July 2020.<sup>3</sup>

Updated information about state authorization is available online from the [WICHE Cooperative for Educational Technologies \(WCET\)](#) (Resource #1), as well as the [USDE regulations](#) (Resource #2) released in July 2018.

## State Authorization of Distance Education

Each state has mandated its own rules around distance education. While these regulations vary between states, common topics include:

- Application and renewal fees
- “Physical presence” standards
- Reporting required by institutions to maintain authorization
- Policies for handling student complaints
- Exemptions from regulations for specific types of institutions or entities.

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<sup>1</sup> “State Authorization Reciprocity Agreements Policies and Standards,” page 2. 7 August 2018. PDF available at <http://nc-sara.org/content/sara-policies-and-standards>.

<sup>2</sup> Poulin, R., Hill, M., & Matthews, L. (2018, February 7). [Letter to F. Brogan, Acting Assistant Secretary of Postsecondary Education]. Washington, D.C. 7 August 2018. Retrieved from [https://wcet.wiche.edu/sites/default/files/WCET-SARA-DEAC-Letter-2-7-18\\_0.pdf](https://wcet.wiche.edu/sites/default/files/WCET-SARA-DEAC-Letter-2-7-18_0.pdf)

<sup>3</sup> Boeke, M. and Poulin, R. (Publish date n/a). History of State Authorization. 7 August 2018. Retrieved from <http://wcet.wiche.edu/advance/state-approval-history>

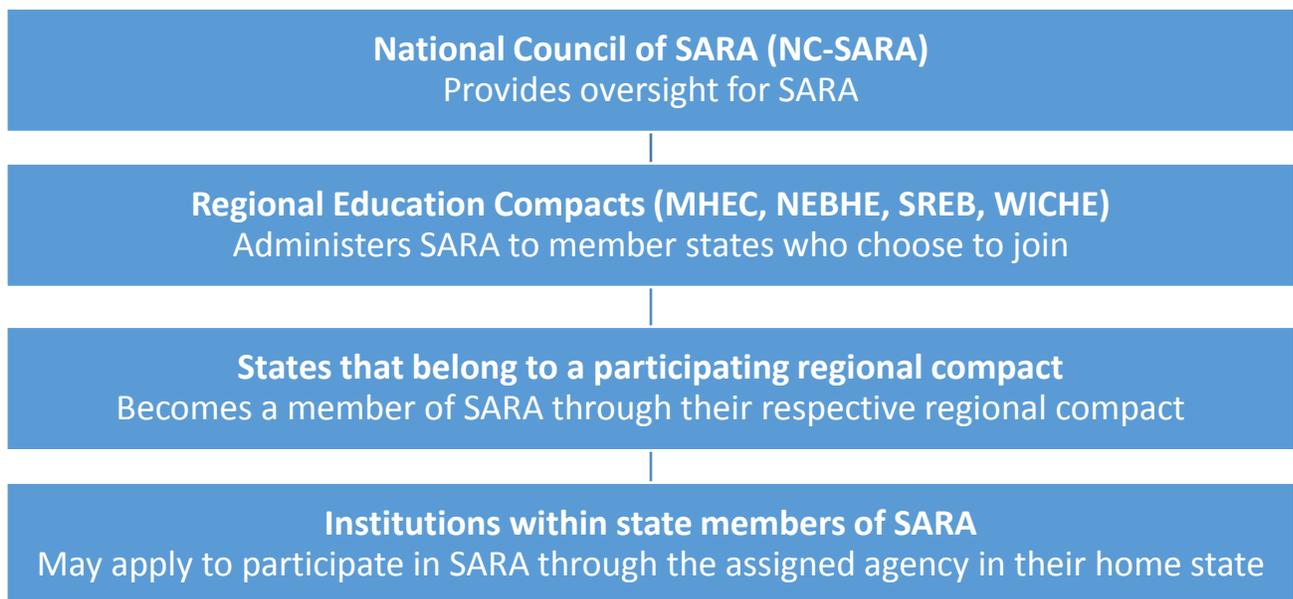
The [State Higher Education Officers Association \(SHEEO\)](#) has updated state distance education regulations listed by state and lead state agencies on their website (Resource #3). An initial survey collected this information in 2013 and updates were made in January 2017. In 2018, SHEEO will be transitioning it's survey to NC-SARA.

### **State Authorization Reciprocity Agreements (SARA)**

The State Authorization Reciprocity Agreement (SARA) is a voluntary agreement between states that “establishes comparable national standards for interstate offering of postsecondary distance-education courses and programs.”<sup>4</sup> SARA was created by a non-profit group, the National Council of SARA, in collaboration with a number of stakeholders in the higher education field, to address the issue of interstate distance education. The SARA standards apply to distance programs offered between an institution in a SARA state and a student in another SARA state. These standards include:

- What is considered an institution with a “physical presence”;
- Which state is considered a “home state” for an institution participating in SARA; and
- Who is responsible for complaints against an institution participating in SARA.

The oversight structure of SARA is illustrated below:



For states to become members of SARA, they must demonstrate the following:

- A willingness to accept institutional accreditation by an accrediting body recognized by the U.S. Secretary of Education as sufficient, initial evidence of academic quality for approving institutions for participation in SARA;

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<sup>4</sup> “About: General Information.” 7 August 2018. Retrieved from <http://nc-sara.org/about>.

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- A willingness to consider applications from degree-granting institutions of all sectors (public, private non-profit, and private for-profit) and approve institutions that meet SARA standards and agree to SARA processes and commitments;
- For private institutions, a willingness by the state to accept an institutional federal financial responsibility rating of 1.5 (or 1.0 with justification) as sufficient financial stability to qualify for such participation;
- A clearly articulated and comprehensive state process for consumer protection in regard to SARA activities, both with respect to initial institutional approval and on-going oversight, including the resolution of consumer complaints;
- The designation of a “lead agency” to coordinate SARA matters for the state and provide a principal point of contact for resolution of student complaints; and
- An assurance by the state that it will work cooperatively with other SARA states to enable success of the initiative<sup>5</sup>.

States can then submit an application to their respective regional compact to apply for membership. Of note, states are not automatically a member of SARA if they belong to a participating regional compact. They must apply individually. **As of August 2018, all states except California are SARA members.** Of the U.S. territories, the U.S. Virgin Islands and Puerto Rico are SARA members; the Commonwealth of the Northern Mariana Islands are not.

Once a state becomes a SARA member, institutions based in that state may apply to participate in SARA. Institutions must meet the following requirements:

- Be a degree-granting institution (covers both undergraduate and graduate work)
- Have distance education programs that originate inside the United States or a U.S. territory
- Must be accredited by a federally recognized institutional accrediting association.

Institutions can then submit an application to the assigned state agency. As with states, institutions are not automatically participating in SARA if their home state is a member. They must apply individually. Once an institution is approved to participate in SARA, they may apply it to interstate distance education with any member state of SARA.

There are some issues in distance education that are not addressed by SARA. For example, SARA does not explicitly address non-credit instruction. However, a participating degree-granting institution with non-credit instruction will have both its for-credit and non-credit activities covered by the agreement.<sup>6</sup>

Beyond non-credit activities, SARA is not involved with professional licensing. If education is intended to lead to a student becoming licensed to practice a profession, SARA has no effect on whether the student may apply for licensure in a specific state.<sup>7</sup>

### What does this mean for my nutrition and dietetics program?

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<sup>5</sup> “What does my state need to do to join SARA?” 7 August 2018. Retrieved from <http://nc-sara.org/what-does-state-need-to-join-sara>

<sup>6</sup> “Issues SARA does not address.” (2018). Retrieved from <http://nc-sara.org/about/issues-sara-does-not-address>

<sup>7</sup> “Coverage and Limitations of SARA.” *SARA Manual*, p. 28. 7 August 2018. PDF available at [http://nc-sara.org/files/docs/NC-SARA\\_Manual\\_Final\\_2016.pdf](http://nc-sara.org/files/docs/NC-SARA_Manual_Final_2016.pdf).

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ACEND defines distance education as “the delivery of 30% or more of didactic courses in the professional curriculum where students are physically separated from instructors and learning synchronously or asynchronously through live or recorded media. Regular and substantial interaction between the student and the instructor must occur.”<sup>8</sup> [ACEND-accredited distance education programs](#) are listed on ACEND’s website (Resource #8).

If your program offers distance education to students in states other than where your institution is housed, you may want to find out the following information:

- **Does my institution participate in SARA?** A [list of SARA institutions](#) as of August 2018 is available (Resource #10). If you do not see your institution’s name on this list, administrators at your institution may know if your institution is in the process of applying.
- **Is my state a member of SARA? Are the students participating in my program’s distance education component residents of a SARA member state?** [SARA member states](#) are listed on their website (Resource #5).
- **If my institution or the state of one of my students is not covered under SARA, what are the state laws around distance education?** SHEEO publishes a survey of [states’ specific distance education rules](#) (Resource #3).

Of note, the ACEND distance education definition does not apply to supervised practice. Programs where students are studying with preceptors at supervised practice sites greater or equal to 100 miles from the sponsoring organization are considered “remote” sites. However, for those supervised practice programs that include interstate students, “SARA covers all interstate placements in clinical or practica situations among SARA member states, no matter the nature of the main program.”<sup>9</sup> For more information about SARA and how it might apply to your program, email questions to [info@nc-sara.org](mailto:info@nc-sara.org).

### Resources

- 1) Updates about federal rules regarding state authorization from WICHE Cooperative for Educational Technologies (WCET): <http://wcet.wiche.edu/learn/issues/state-authorization>
- 2) State Authorization of Postsecondary Distance Education, Foreign Locations; effective date: July 1, 2020: <https://www.gpo.gov/fdsys/pkg/FR-2018-07-03/pdf/2018-14373.pdf>
- 3) State Higher Education Officers Association (SHEEO) site with states’ specific distance education rules: [http://sheeo.org/sheeo\\_surveys/](http://sheeo.org/sheeo_surveys/)
- 4) National Council of SARA Website: <http://nc-sara.org/>
- 5) Status of U.S. states and territories who may be applying for SARA membership: <http://nc-sara.org/content/sara-state-status>

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<sup>8</sup> Accreditation Council for Education in Nutrition and Dietetics Policy and Procedure Manual,” page 65. Updated May 2018. PDF available at <https://www.eatrightpro.org/-/media/eatrightpro-files/acend/acend-policyproceduremanual.pdf?la=en&hash=0B877E2768D07F6572C3CFABE006A419646B2194>

<sup>9</sup> “SARA and institutions.” (2018). Retrieved from <http://nc-sara.org/content/sara-and-institutions#interstate-student-placement>

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- 6) Links to participating Regional Education Compacts: <http://nc-sara.org/content/regional-education-compacts>
- 7) SARA Frequently Asked Questions: <http://nc-sara.org/content/faqs>
- 8) To find out if your program is considered a provider of distance education by ACEND, go to <http://www.eatrightpro.org/resources/acend/accredited-programs>, click on the type of program, and select “Only Programs Offering Distance Education” in your search.
- 9) Distance learning statistics from the National Center for Education Statistics: <https://nces.ed.gov/fastfacts/display.asp?id=80>
- 10) SARA institutions as of August 2018: [http://www.nc-sara.org/files/docs/SARA\\_InstitutionList\\_080218.pdf](http://www.nc-sara.org/files/docs/SARA_InstitutionList_080218.pdf)