

### 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 was to be in July 2020.<sup>3</sup> In August of 2020, USDE release final rules on distance education, going into effect July 2021.<sup>4</sup>

Updated information about state authorization is available online from the [WICHE Cooperative for Educational Technologies \(WCET\)](#) (Resource #1), as well as the [USDE Summary of Distance Education and Innovation Final Rule](#) (Resource #2).

### 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

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<sup>1</sup> “SARA Policy Manual 21.1” page 15. 4 August 2021. 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. 4 August 2021. 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. 4 August 2021. Retrieved from <http://wcet.wiche.edu/advance/state-approval-history>

<sup>4</sup> “U.S. Department of Education Issues Final Rules on Distance Education and Innovation”. 4 August 2021. <https://nc-sara.org/news-events/us-department-education-issues-final-rules-distance-education-and-innovation>

- Reporting required by institutions to maintain authorization
- Policies for handling student complaints
- Exemptions from regulations for specific types of institutions or entities.

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 transitioned its survey to NC-SARA, under a new name The State Authorization Guide.

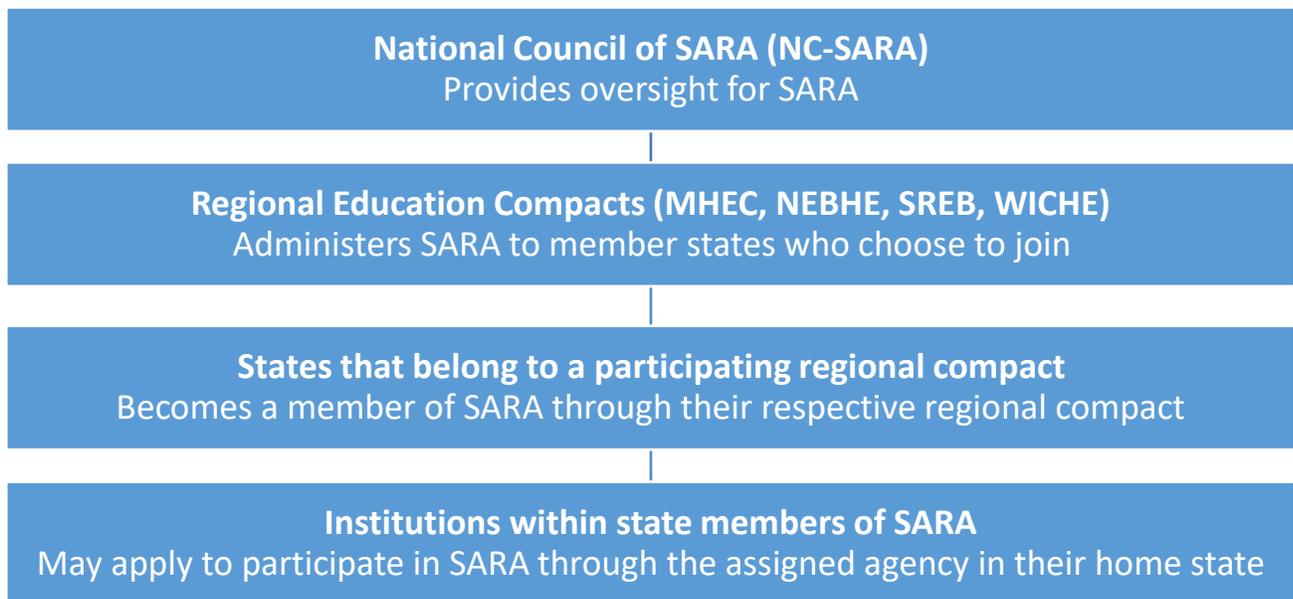
### State Authorization Reciprocity Agreements (SARA)

The State Authorization Reciprocity Agreement (SARA) is a voluntary agreement between states to “streamline regulations around distance education programs.”<sup>5</sup> SARA was created by a non-profit group, the National Council of SARA (NC-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:

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<sup>5</sup> “About: General Information.” 4 August 2021. Retrieved from <http://nc-sara.org/about>.

- “The state must be a member of one of the four interstate regional compacts that administer SARA or must have concluded an affiliation agreement with such a compact covering SARA activity;
- The state agency or entity responsible for joining SARA must have the legal authority under state law to enter into an interstate agreement that covers all of the elements of SARA; and
- A state that joins SARA as an affiliate under the terms of the *SARA Policy Manual* shall operate in the same manner as a member state except as provided in the *SARA Policy Manual*<sup>6</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 2023, 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 and Guam 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 post-secondary 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.

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?**

ACEND defines distance education as “the delivery of any didactic courses in the professional curriculum where students are separated from instructors and learning synchronously or asynchronously through live or recorded media. Regular and substantial interaction between the student and the instructor must

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<sup>6</sup> “SARA Policy Manual 21.1” page 20. 4 August 2021. PDF available at <http://nc-sara.org/content/sara-policies-and-standards>.

<sup>7</sup> “Coverage and Limitations of SARA.” *SARA Manual*, p. 49. 3 August 2021. PDF available at <https://nc-sara.org/sara-policy-manual>.

occur.”<sup>8</sup> [ACEND-accredited distance education programs](#) where coursework and/or rotations can be completed entirely online 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 2023 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?** [The State Authorization Guide](#) is a comprehensive tool to browse State Authorization compliance information listed on the NC-SARA website (Resource #11).

Of note, the ACEND distance education definition does apply to supervised practice. For those supervised practice programs that include interstate students, “supervised field experiences and out-of-state learning placements are considered distance education for purposes of SARA.”<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) USDE Summary of Distance Education and Innovation Final Rule, effective date July 2021: <https://www2.ed.gov/policy/highered/reg/hearulemaking/2018/distanceandinnovationfactsheet.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: <https://nc-sara.org/directory>
- 6) Links to participating Regional Education Compacts: <http://nc-sara.org/content/regional-education-compacts>

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<sup>8</sup> Accreditation Council for Education in Nutrition and Dietetics Policy and Procedure Manual,” page 66. 3 August 2021. PDF available at <https://www.eatrightpro.org/-/media/eatrightpro-files/acend/fees-and-policies/acend-policy-and-procedure-manual-may-2021-2.pdf?la=en&hash=743039358D038B03DFC16A9DB71DE195A5CCCE71>

<sup>9</sup> “SARA Policy Manual 21.1” page 50. 4 August 2021. PDF available at <http://nc-sara.org/content/sara-policies-and-standards>.

- 7) SARA Fast Facts: <https://nc-sara.org/fast-facts>
- 8) To find out if your program is considered a provider of distance education by ACEND, go to <https://www.eatrightpro.org/acend/accredited-programs/accredited-programs-directory> and use the right side “Program Features” filter to select “Distance Education”
- 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 2021: <https://nc-sara.org/directory>
- 11) SARA The State Authorization Guide: <https://nc-sara.org/guide/state-authorization-guide>