



# National Council for State Authorization Reciprocity Agreements

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

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Ms. MaryEllen Elia  
Commissioner of Education  
President of the University of the State of New York  
New York State Education Building  
89 Washington Avenue  
Albany, NY 12234

March 21, 2016

Dear Commissioner Elia:

I am writing to provide another point of view in response to an open letter you have received urging you to not to approve the participation of New York in the State Authorization Reciprocity Agreement (SARA). (Please see the attached document for direct responses to some points made in that letter.)

Let me begin by briefly introducing myself and providing some background. I am Chair of the Board of the National Council for State Authorization Reciprocity Agreements and President Emeritus of the State Higher Education Executive Officers (SHEEO), where I served from 2000 to 2013.

In 2012, along with Peter McPherson, President of the Association of Public and Land Grant Universities (APLU), I helped organize the National Commission on the Regulation of Postsecondary Distance Education, chaired by former U.S. Secretary of Education, Richard Riley. The Commission's 21 members (a list of which can be found enclosed) included three accreditors, two former governors (including Secretary Riley), a former attorney general, a state legislator, four state higher education executives, and nine leaders from postsecondary institutions involved in distance education (including the then Provost and Vice President of SUNY Empire State College.) Some of the members have served in more than one of these capacities.

The Commission was formed to provide a broad perspective and develop a workable consensus for improving the regulation of distance education among the states. Before the Commission was organized, a related project involving the Council of State Governments and the Presidents' Forum (an association of large-scale distance educators) had formed a working group of

state regulators charged with creating a draft of common approaches for regulating distance education.

At the same time, the four regional higher education compacts, convened by David Longanecker, former U.S. Assistant Secretary for Postsecondary Education and President of the Western Interstate Commission for Higher Education (WICHE), advanced a strategy for employing the existing regional compacts as the operational entities to administer interstate reciprocity agreements.

The Commission, chaired by Secretary Riley, became the venue where the various groups working on improving the state regulation of distance education came together to develop a workable approach. SARA, and NC-SARA, a coordinating entity to advance the effort and assure reciprocity among the four regional compacts, emerged from this effort in the last half of 2013.

With apologies for the long introduction, let me now describe the purposes of SARA and make the case for New York to join the 36 other states who have become SARA participants.

SARA emerged from the convergence of two interests – the interest of institutions in manageable, affordable regulation and the interest of the public and its representatives in quality assurance and consumer protection. Some seem to believe that these interests could not possibly converge, but in this situation they *have* converged to good effect.

The use of the Internet for delivering postsecondary education expanded the potential regulatory load of every state from the number of institutions physically located in the state to every institution in the country. From the perspective of the states, only a much larger regulatory staff could possibly handle the workload, and even then, the work would be nearly impossible to do well.

From the perspective of institutions wishing to offer distance education, the need to achieve state authorization in every state where potential students live created an expensive regulatory nightmare. The differences in state regulations and the need to pay fees in multiple states became a burden that only large distance education providers (and well-capitalized for-profit entities) could bear.

From the perspective of the public interest in quality and consumer protection, incoherent, ineffective regulation is almost as bad as no oversight at all. In the past some states have done a poor job in meeting their responsibilities for consumer protection. To have effective regulation of distance education *all* states need to play an effective role, the rules need to be consistent and manageable, and their workload needs to be manageable.

To be admitted to SARA and to continue to be a member in good standing a state must:

- Designate a single entity within the state to manage and coordinate SARA;
- Review and approve applications from eligible institutions in the state that want to participate in SARA;
- Annually review and approve renewal applications from institutions;
- Agree to serve as the default forum for any SARA-related complaint filed against an institution approved by the state to participate in SARA;
- Agree to work with other SARA states to ensure the success of the initiative, providing information, reports, coordination of responses to student complaints, etc.; and
- Provide means to deal with catastrophic events that could affect SARA institutions and their students (closure, etc.).

To be admitted to SARA and to continue good standing an institution must:

- Be a degree-granting institution approved to operate by a governmental entity (most usually a state);
- Be accredited by an accrediting organization recognized by the U.S. Department of Education;
- If a non-public institution, have an acceptable financial responsibility composite index score, issued by the U.S. DOE;
- Have its president or provost commit in writing that the institution meets and will continue to meet the Council of Regional Accrediting Commissions' *Interregional Guidelines for the Evaluation of Distance Education Programs*;
- Agree to work with its home state's SARA entity to resolve any complaints arising from its students in SARA states, and to abide by decisions of that entity;
- Agree to provide to NC-SARA data on its operations in SARA states; and
- Agree to provide important notifications to students pursuing programs leading to licensure (such as nursing or teaching), so that students will know whether their completing the program will enable them to sit for licensure exams where they live or want to live.

The performance of states and of institutions in meeting their responsibilities to students is being monitored through the complaint reporting process at the regional and national level and in the annual renewal process. Each SARA state reports to NC-SARA every quarter the number and disposition of student complaints (by institution name) that have been appealed to the SARA entity in the state. NC-SARA reports that information on its website. This is the most transparent reporting of student complaints in American higher education.

If New York becomes a member of SARA it will be obligated to monitor the work of New York SARA member institutions in offering distance education, but it will be able to rely on other SARA states for meeting their responsibilities in monitoring distance education providers located in their state. It will *not* have to rely on other states in the event of fraud, misrepresentation, or abuse that violate New York laws. Any state can take independent action under such circumstances.

Finally, I'd like to address directly the charge that SARA will somehow weaken quality assurance and consumer protection for vulnerable students. It does the opposite: 1) by

increasing the capacity of states to manage the workload of regulation; 2) by creating incentives for states to improve their regulatory practices; 3) by creating a transparent national data base of complaints associated with individual institutions; and 4) by creating an incentive for the entire higher education community to embrace and comply with shared quality standards for distance education.

Many of the people involved in creating SARA have spent much of their careers working to improve quality in higher education. Secretary Riley and David Longanecker at the federal level, and many of us at the state level have been directly involved in closing institutions that have abused students and the public trust. None of us would claim that SARA solves or could possibly solve all of the thorny problems involved in increasing educational quality and protecting students from irresponsible institutions. But it is a strong step in the right direction.

By joining SARA New York can improve quality assurance in distance education for its own students and contribute to more effective quality assurance and higher quality distance education in the entire country.

With every good wish,

A handwritten signature in black ink, appearing to read "Paul E. Lingenfelter". The signature is fluid and cursive, with a large initial "P" and "L".

Paul E. Lingenfelter  
Chair of the NC-SARA Board

C: John D'Agati, Deputy Commissioner  
NC-SARA Board

<b>Statement in March 14, 2016 letter</b>	<b>Response</b>
<p>SARA prevents a state from acting against “predatory” online education from other (SARA) states.</p>	<p>By having high standards for institutional participation, and by requiring SARA states to be responsible for the actions of their institutions, SARA raises the bar for distance education. SARA has processes to identify and deal with institutions that exploit students or fail to observe standards of good practice, and nothing in the SARA agreement prevents any state’s Attorney General from taking action against any institution (including an out-of-state SARA institution) for consumer protection violations such as misrepresentation, fraud or abuse.</p>
<p>If NY signs on to SARA, it would formally agree to “weaker oversight of out-of-state online schools.”</p>	<p>NY does not regulate out-of-state institutions that enroll NY students via distance education; only 15 or so states attempt to do that because of the challenge of trying to regulate from any one state the thousands of institutions active in online education. SARA regulates exactly that kind of educational activity by requiring each SARA state to be responsible for its SARA institutions, with an oversight mechanism and standards developed by experienced educators and state higher education regulators. For students in NY and most states, SARA provides oversight precisely where none or little now exists.</p>
<p>SARA states have no way to express displeasure with another state’s resolution of a student’s complaint other than wholly withdraw from SARA.</p>	<p>SARA encourages states to work together to ensure that student complaints are appropriately addressed. And it publically reports that process (by institution name) on its website – a “first” in American higher education. If a SARA state believes another SARA state is not appropriately dealing with student complaints, it can bring that concern to the other state’s regional compact. If the concern is found to be valid, the compact can deal with it up to the consequence of removing that state from membership in SARA.</p>

<b>Statement in March 14, 2016 letter</b>	<b>Response</b>
SARA induces every college “to become an advocate for the worst, most predatory college” or “lose ability to operate in other member states.”	By requiring SARA states to be responsible for the actions of their institutions, SARA does just the opposite. No SARA institution would want to lose the benefits of operating under SARA because its state would not deal with malpractice by one of its institutions.
SARA forces states to treat all institutions (public, independent non-profit and independent for-profit) the same, despite “deceptive practices (that) are widespread in the for-profit education sector.”	By requiring all SARA institutions to meet the same standards, SARA sets clear and high expectations for institutional behavior in distance education. Institutions approved by their state to participate in SARA know what is expected of them, and they know the consequences of failing to meet the standards to which they have committed. All institutions, public, non-profit, and for-profit, must annually commit to those standards and live up to them.
SARA was “drafted by colleges, with little or no involvement of consumer groups, legal aid, or law enforcement.”	The development of SARA was shaped by the voices of strong individuals with a demonstrated commitment to student welfare and many years of direct experience regulating higher education institutions (including for-profit institutions) at the state and federal levels. A majority of the members of Commission on the Regulation of Postsecondary Distance Education were not institutional representatives, but elected officials, regulators, and accreditors. Additional individuals and groups convened by the four regional compacts were consulted in an open, multi-year development process. In the review and adoption of SARA by 36 states virtually every constituency has had multiple opportunities for input.

# Commission on the Regulation of Postsecondary Distance Education 2012-2013

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