



2020 Fall NC-SARA Board Proposals for SARA Policy Modifications

NC-SARA AGENDA ITEM

Agenda Item VI: Modifications to the SARA Manual

Action Item: ☒ Yes ☐ No

Policy Change Modification

- a) **(ACTION)** Approve Section 3.2 change to add one additional reason that a state might put an institution on provisional status.

Policy Clarification Modifications

- b) **(ACTION)** Approve Section 1 modification to add a phrase regarding non-credit bearing courses to the definition of "Operate."
- c) **(ACTION)** Approve Section 2.6(c) modification to replace the word "it" with "the Compact" for clarity of reference.
- d) **(ACTION)** Approve Section 3(b)(6) modification to language to align with application requirements for all institutions when programs are no longer offered
- e) **(ACTION)** Approve Section 4.4(g) modification to delete the word "issues" in the context of the section regarding mandatory arbitration.
- f) **(ACTION)** Approve Section 8.2(a) modification to add a phrase to specifically indicate that input on policy is expected from institutions and other key stakeholders and brought to the attention of NC-SARA.

Proposed Modifications to the *SARA Manual*

Six proposed modifications are described below. One is a policy change recommended by states, and five are modifications to clarify policy.

Recommendation: Approve the proposed modifications.

Background. The SARA Manual is issued periodically by NC-SARA; the current version is Version 20.2, issued June 30, 2020, following the spring 2020 meeting. Successive versions incorporate policy changes made by the NC-SARA Board and clarifications provided by the staff of NC-SARA. The recommended modifications that follow, if approved, will result in a new Version 20.3, which will go



2020 Fall NC-SARA Board Proposals for SARA Policy Modifications

into effect immediately following an affirmative board vote and will be released on the NC-SARA web site within 30 days.

Policy Change Modification

- a) **(ACTION)** Approve Section 3.2 change to add one additional reason that a state might put an institution on provisional status.

Background. This modification was proposed by states seeking greater leverage to put institutions on provisional status specifically for lack of compliance with one or more of the requirements specified and agreed to at the time of approval of an initial application to participate in SARA, or a renewal application.

Alternatives Considered and Rationales

1) Do Nothing Scenario – Not Recommended

When institutions choose to participate in SARA, they agree in writing on the application to adhere to NC-SARA requirements. States specifically asked for there to be greater alignment *in SARA Manual* policy with the language in the applications. Continuing this lack of alignment is not recommended.

2) List out all of the requirements on the application in Section 3.2 – Not Recommended

Some of the application requirements are already included in Section 3.2, whereas others are not. Adding a summary sentence regarding all requirements in the application to this policy section will retain the weight of the serious issues already listed as grounds for states to place institutions on provisional status.

3) Add the summary sentence regarding adherence to application requirements to Section 3.2 – Recommended

This modification will grant greater leverage to states seeking to place institutions on provisional status for lack of compliance with application requirements. It provides a means for states to respond to institutions that are not in compliance with application and policy requirements, rather than move immediately to removing them from participation. It permits



2020 Fall NC-SARA Board Proposals for SARA Policy Modifications

flexibility in seeking to learn more about the unique circumstances at the institution, the institution's willingness to come into compliance, and to allow time for the state to work with the institution to come into compliance.

See **red lined** version of recommended modification below.

Section 3.2 Provisional admission or renewal of an Institution

- a. A State, at its discretion, may approve an Institution applying for initial or renewal participation in SARA to participate on Provisional Status in any of the following circumstances:
 1. The Institution is on provisional or probationary status or the equivalent with its institutional Accrediting Agency;
 2. The Institution is currently required by the U.S. Department of Education to post a letter of credit or is under a cash management agreement with the U.S. Department of Education (such institutions must still have a Federal Financial Responsibility Composite Score of 1.0 or above);
 3. The Institution has a Federal Financial Responsibility Composite Score between 1.0 and 1.5;
 4. The Institution is the subject of a publicly announced investigation by a government agency, and the investigation is related to the institution's academic quality, financial stability or student consumer protection;
 5. The Institution is the subject of a current investigation by its Home State related to the institution's academic quality, financial stability or student consumer protection;
 6. A third-party action such as a private lawsuit or news story does not by itself establish a government investigation. (If such a third-party event results in an investigation by a government agency as set forth in subsections 3 and 4 above, these subsections become applicable. Lawsuits by government entities are considered to have resulted from a governmental investigation and can be the basis of a determination of Provisional Status);
 7. Lack of compliance with SARA policies related to data reporting;
 8. The Institution has a change of ownership as determined by the Home State; or
 9. **The State determines that the Institution has failed to comply with the requirements specified in the Application and Approval Form for Institutional Participation in SARA.**
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2020 Fall NC-SARA Board Proposals for SARA Policy Modifications

Policy Clarifications

- b) **(ACTION)** Approve Section 1 modification to add a phrase regarding non-credit bearing courses to the definition of “Operate.”

Background. This modification was proposed by institutions to provide clarity that non-degree programs operated by a SARA participating institution include both credit bearing and noncredit bearing courses.

Alternatives Considered and Rationales

1) Do Nothing Scenario – Not Recommended

Institutions are confused at times regarding whether non-degree programs that are not offered for credit are covered by SARA. Because of this confusion, is not recommended to do nothing by not making this clarification

- c) Add a phrase regarding non-credit bearing courses to the definition of “Operate.”–
Recommended

This clarification will help states, regional compact SARA staff, and NC-SARA staff who are asked frequently about noncredit bearing distance offerings coverage under SARA. Much like with institutional accreditors (formerly known as regional and national) that accredit an entire institution including all of its programs, NC-SARA “covers” all of an institution’s programs too. This was an assumption that was shared since NC-SARA’s inception, and has been in our definition of “operate” with language intended to include all programs. This will add additional clarity to the intent that all programs are included in an institution’s SARA participation. Participation is not on a programmatic level.

See **red lined** version of recommended modification below.

Section 1, Definitions

“Operate” means: activities conducted by an Institution in support of offering Distance Education degree or non-degree courses or programs, **and non-credit bearing courses** in a State, including but not limited to instruction, marketing, recruiting, tutoring, Supervised Field Experiences, experiential learning placements, Out-of-State Learning Placements and other student support services.



2020 Fall NC-SARA Board Proposals for SARA Policy Modifications

- d) **(ACTION)** Approve Section 2.6(c) modification to replace the word “it” with “the Compact” for clarity of reference.

Background. This modification was recommended by NC-SARA staff to provide clarity that it is the regional compact that decides whether a state joins or renews its membership in SARA.

Alternatives Considered and Rationales

1) Do Nothing Scenario – **Not Recommended**

The word “it” has no clear reference in this sentence. To leave the ambiguous word “it,” without clear referent, is not recommended.

2) Replace the word “it” with “the Compact” in Section 2.6(c) – **Recommended**

This clarification is needed to state clearly that it is the regional compact that decides whether a state joins or renews its membership in SARA.

See **red lined** version of recommended modification below.

By July 1, 2020, each Regional Compact shall develop and implement a means to hear and themselves resolve appeals from States for which ~~it~~ **the Compact** denies membership or renewal of membership in SARA. During any such appeal the State's status as a SARA Member (or non-Member) State remains unchanged.

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- e) **(ACTION)** Approve Section 3(b) modification to language to align with application requirements for all institutions when programs are no longer offered.

Background. This modification was recommended by NC-SARA staff to better align NC-SARA policy with application requirements for institutional participation in SARA.

Alternatives Considered and Rationales

1) Do Nothing Scenario – **Not Recommended**



2020 Fall NC-SARA Board Proposals for SARA Policy Modifications

There is concern that although institutions must adhere to the requirement that they provide for an alternative program or financial compensation for programs that are discontinued, this requirement is not codified in policy. Therefore, not making this change is not recommended.

- 2) Add language to Section 3(b) to articulate clearly that to protect students as consumers, when institutions discontinue programs, they need to ensure that students are taught out, or are offered reasonable alternatives or provided financial compensation for having lost time, credits and tuition. – **Recommended**

See **red lined** version of recommended modification below.

Institution application

Teach-out plan or refund

The institution agrees that in cases where the institution cannot fully deliver the instruction for which a student has contracted, to provide a reasonable alternative for delivering the instruction or reasonable financial compensation for the education the student did not receive.

SARA Manual Currently State responsibility

Section 2.5(h)(2)

The state has laws, regulations, policies and/or processes in place to deal with the unanticipated closure of an institution and will make every reasonable effort to assure that students receive the services for which they have paid or reasonable financial compensation for those not received. Such laws, regulations, policies and/or processes may include tuition assurance funds, surety bonds, teach-out provisions or other practices deemed sufficient to protect consumers.

SARA Manual Suggested Revision

Section 3(b)(6)

The institution agrees that, in cases where the institution cannot fully deliver the instruction for which a student has contracted, it will provide a reasonable alternative for delivering the instruction or reasonable financial compensation for the education the student did not receive.



2020 Fall NC-SARA Board Proposals for SARA Policy Modifications

- f) **(ACTION)** Approve Section 4.4(g) modification to delete the word “issues” in the context of the section regarding mandatory arbitration.

Background. This modification was proposed by NC-SARA staff in response to a recent letter from five consumer advocacy groups ahead of the spring 2020 board meeting asking NC-SARA not to accept mandatory arbitration as a solution to disputes between students and academic institutions. This very minor revision takes the word “issues” out for clarity.

Alternatives Considered and Rationales

- 1) Do Nothing Scenario – **Not Recommended**

NC-SARA policy, per Section 4.4(g) already states that mandatory arbitration has no place in SARA policy, but the word “issues” introduces a lack of clarity on the meaning of the sentence. Leaving “issues” in there is not recommended.

- 2) Revise the language in section 4.4(g) – **Recommended**

Taking the word “issues” out makes it clear that per SARA policy, mandatory arbitration is not permitted in the resolution of SARA-related matters.

See **red lined** version of recommended modification below.

Mandatory arbitration agreements do not pertain to SARA policy **issues**. Disputes between students and institutions on SARA-related matters are to be resolved by the Institution's State Portal Entity or through other means. A student may, however, bring to the Institution Home State Portal Entity any issue that potentially involves a violation of SARA policies. Institutions that choose to operate under SARA accept a student's right to bring complaints about violation of SARA policies through the SARA process.



2020 Fall NC-SARA Board Proposals for SARA Policy Modifications

- g) **(ACTION)** Approve Section 8.2(a) modification to add a phrase to specifically indicate that input on policy is expected from **institutions and other key stakeholders** and brought to the attention of NC-SARA.

Background. This modification was recommended by institutions and regional compact staff to better describe the intention to include institutions as stakeholders in seeking input into the decision-making process regarding SARA policy.

Alternatives Considered and Rationales

1) Do Nothing Scenario – **Not Recommended**

Because institutions have been clear about wanting to ensure that, as participants in SARA, they have a voice in policy making as stakeholders. To not add this phrasing leaves ambiguity.

2) Modify language at Section 8.2(a) more substantially – **Not Recommended**

NC-SARA staff and regional compact staff discussed the possibility of more substantially revising this section of the SARA Manual to describe the current more open process of seeking input from states and institutions regarding policy review and revision. This new process is still in an iterative stage of development, during which we are testing the new processes, so we are not yet confident that it will not need to change again. We also want more time to determine which portions pertain more to process and which to policy. Therefore, a more substantial revision of this section, at this time, is not recommended.

3) Modify language at Section 8.2(a) to specifically mention consideration of institution feedback and to make it clear that feedback can be sent to NC-staff as well as others listed in policy-
Recommended

This clarification is needed to ensure institutions know that they too are important stakeholders in the process of policy review and revision. It has also always been the process that institutions may share input and feedback to NC-SARA staff, so this should be added to this policy language as well.

See **red lined** version of recommended modification below.



2020 Fall NC-SARA Board Proposals for SARA Policy Modifications

Section 8.2(a)

- a. Process: Questions, comments, or suggested modifications to SARA policies, **from Institutions and other key stakeholders**, may be brought to the attention of:
- SARA Portal Entity directors in SARA states;
 - SARA directors in the Regional Compacts;
 - Regional SARA steering committees; or
 - The President of the National Council for State Authorization Reciprocity Agreements (NC-SARA) **or appointed staff**.