



## Spring 2021 SARA Board Meeting Policy Modifications and Clarifications – February 9, 2021

Purple – brief rationale comments

Red- new language or removed language with strike through

### 21.1 SARA Manual proposals

- 2.5(c) Functional responsibilities of SARA states (policy clarification)
- 2.5(d) Functional responsibilities of SARA states (policy clarification)
- 2.6(c) State Renewal (policy clarification)
- 3.2(a)(8) Provisional Status (policy modification)
- 3.2 (e) Provisional Status (policy modification)
- 3.2(g)(2) Provisional Status (policy modification)
- 5.10(b)(5) Physical Presence (policy clarification)
- 6.2 Data use by NC-SARA (policy clarification)
- 8.2 Modifications (policy modification)

Section 2.5 Language for financials and parent companies (for instances where there is no federal FRCS for the parent company).

This clarification was proposed by NC-SARA staff

#### 2.5 Functional responsibilities of SARA states)

- c. For independent institutions, the state accepts an institutional federal Financial Responsibility Composite Score of 1.5 as indicative of sufficient minimum financial stability to qualify for participation in SARA. For Institutions with a Composite Score between 1.0 and 1.5, the state shall consider additional information regarding financial stability provided by the institution. The state may, at its discretion, determine if there is sufficient evidence of financial stability to justify the institution's participation in SARA. The state shall not permit an Institution with a Composite Score below 1.0 to participate in SARA. For Institutions owned or controlled by another entity (i.e., a parent entity), the relevant Composite Score will be the Composite Score of the parent entity, as published at <https://studentaid.gov/data->

[center/school/composite-scores](#), in accord with current U.S. Department of Education (ED) practice. An Institution's financial status must be evaluated using the most recent Composite Score provided in writing by the Department of Education, whether published online or provided in written form to the Institution by a responsible Department of Education official. SARA states are to monitor the U.S. Department of Education's periodic publication of Composite Scores, review the scores assigned to the institutions they have approved to participate in SARA, determine whether those scores meet SARA requirements, and within 90 days of notification take appropriate action regarding the SARA participation of those institutions. Implementation date of January 1, 2021.

In the event that an Institution does not participate in federal Title IV financial aid programs and therefore has no ED-calculated Composite Score for Title IV purposes, the state must calculate, or have calculated by a certified, independent accountant acceptable to the state, a comparable score based on the Institution's most recent audited financial statements and using the methodology prescribed by the U.S. Department of Education (see Proprietary: [https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=244c69ba71362343458e9923fa9c63f3&mc=true&r=APPENDIX&n=ap34.3.668\\_1176.a](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=244c69ba71362343458e9923fa9c63f3&mc=true&r=APPENDIX&n=ap34.3.668_1176.a) and Private non-profit: [https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=244c69ba71362343458e9923fa9c63f3&mc=true&r=APPENDIX&n=ap34.3.668\\_1176.b](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=244c69ba71362343458e9923fa9c63f3&mc=true&r=APPENDIX&n=ap34.3.668_1176.b)). Alternately, the state may require Institutions lacking a Composite Score calculated by the U.S. Department of Education to provide such calculation either as a part of the Institution's most recent audited financial statements or as separately calculated and certified by a certified, independent accountant acceptable to the state. The state will then use such calculated scores to determine whether the Institution meets SARA eligibility requirements regarding financial responsibility. In either case, the state is to use the Department-provided calculation methodology that matches the Institution's sector, whether for-profit or not-for-profit.

Section 2.5. Institution appeals—ensuring that compacts and NC-SARA are notified. This clarification was proposed by NC-SARA staff.

#### 2.5. Functional responsibilities of SARA states

- d. By January 1, 2021 SARA Member states shall develop and implement a means to hear and internally resolve appeals from Institutions for which they deny initial participation or renewal of participation in SARA. During any such appeal the Institution's status as a SARA participating (or non-participating) Institution remains unchanged. **States shall notify their regional compacts within 5 business days of the initial appeal. Regional compacts shall notify NC-SARA within 5 business days of notification by the state.** States must ensure that the

agency designated with the responsibility for hearing appeals ensures consistent application of its process to all institutions.

Section 2.6. State appeals—ensuring that NC-SARA is notified. This clarification was proposed by NC-SARA staff.

#### 2.6. State Renewal

- c. By July 1, 2020, each regional compact shall develop and implement a means to hear and itself resolve appeals from states for which the compact denies membership or renewal of membership in SARA. **Regional compacts shall notify NC-SARA within 5 business days of the initial appeal.** During any such appeal the state's status as a SARA Member (or non-Member) state remains unchanged

Section 3.2(a)(8) Additional language to Section 3.2(a)(8) to ensure that a state has the option to start a new provisional period for a change of ownership that will not count against the provisional clock. This will allow for a possible extension of provisional status in a situation where an institution is waiting to receive its new Federal Financial Responsible Composite Score. The additional time will not necessarily indicate greater risk of institutional closure and in some cases the opposite. This modification was proposed by MHEC and NC-SARA staff.

#### 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.

**Additional changes of ownership of the same institution constitute a separate basis for a state's determination of provisional status. Each such determination begins a new period of provisional status under Section 3.2(e).**

9. The participating institution is in violation of, or noncompliance with SARA policies.

Section 3.2(e) Additional language at 3.2(e) to ensure enough time when an institution may need to extend provisional status due to financial calculations at the federal level or for an investigation. This will allow for a possible extension of provisional status in a situation where an institution is waiting to receive its new Federal Financial Responsible Composite Score. The additional time will not necessarily indicate greater risk of institutional closure and in some cases the opposite.

The additional language will ensure continued provisional status during an ongoing investigation that has not been completed in two years. This modification was proposed by MHEC and NC-SARA staff.

Section 3.2(e). ~~In no event shall such an extension of Provisional Status exceed one additional year.~~  
**An extension of Provisional Status shall not exceed one additional year unless a change of ownership has occurred during the current period of provisional status and additional time is needed to demonstrate compliance with federal requirements, or there is an ongoing investigation as described in Section 3.2(a)(4) and (5).**

Section 3.2(g)(2) Modification to language in Section 3.2(g)(2) to align with recommended edits to Section 3.2(e).

Section 3.2(g): If an Institution on SARA Provisional Status is found by its home state to not meet the requirements of SARA, the home state shall disallow any further enrollments under SARA, shall notify its Regional Compact and NC-SARA, and:

1. Remove the institution from SARA participation, or
2. Allow the institution a period of time not to exceed 12 months in which to come into compliance with SARA policies under state supervision. Only one such time period is allowed in any three-year period, **unless the extension is due to an ongoing investigation or as a result of a change of ownership during the current period of provisional status and additional time is needed to demonstrate compliance with federal requirements.**

Section 5.10(b) Remove the word academic to avoid states having to differentiate between types of staff. This clarification was proposed by NC-SARA staff with input from the compacts.

### 5.10 Physical Presence

b(5) Having faculty, adjunct faculty, mentors, tutors, recruiters or other ~~academic~~ personnel residing in a member state and working from their homes or another private, non-institutional site, provided that such staff is not engaged in activities that would otherwise constitute Physical Presence as defined by SARA policies;

Section 6.2 - remove screen shots and process references from the SARA Policy Manual. The process is detailed in the Data Handbook. This clarification was proposed by NC-SARA staff.

#### ~~6.2 Data use by NC-SARA~~

- a. NC-SARA on its website will report **distance education** enrollment data, by institution. ~~in a manner similar to the following format:~~
- b. NC-SARA on its website will report **out of state** learning placement data by institution. ~~, in similar format.~~

Section 8.2 & 8.3 - remove section 8.3 to combine with 8.2 to ensure all modifications are treated the same. This modification was proposed by NC-SARA staff with input from regional compact staff, SARA State Portal Entity staff and other stakeholders.

#### ~~8.2 Minor Modifications~~

- 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 or staff of the National Council for State Authorization Reciprocity Agreements (NC-SARA).

**Persons making such requests should provide a rationale supporting their request.**

Such communications shall be dealt with in as expedient a manner as possible, while ensuring broad consultation and consistency across the SARA community. Unresolved questions, concerns, or comments shall involve further consultation among state SARA portal entity directors, regional and NC-SARA staff. The NC-SARA President and NC-SARA staff shall work with regional directors to develop and/or propose responses. As appropriate, that process may include consultation with the SARA steering committees in the regional compacts and with the NC-SARA Board. The President of NC-SARA is responsible for ensuring that responses are developed.

**In responding to and ultimately acting on such requests, regional and national NC-SARA staff and the regional compacts shall evaluate proposed changes in light of SARA's fundamental reliance on interstate reciprocity and trust, and on the fundamental purposes of SARA, which are to support high quality distance education, resolve problems encountered by students, and simplify and support the interstate offering of distance education using a model under which an**

institution's home state is primarily responsible for what the institution offers under the aegis of SARA.

Other guiding principles for the review, clarification and modification of SARA policies include:

- Broad consultation with key stakeholders;
- Maintaining consistency in policy and procedures;
- Transparency and openness; and
- Responsiveness to stakeholders and emerging policy issues.

~~b. Minor Modifications: The President may approve and promulgate clarifications and minor modifications that do not substantively change SARA Policies, after concluding the consultative process described above.~~

### ~~8.3 Significant modifications~~

~~Ultimately, it is the responsibility of the President and CEO of NC-SARA to ensure broad consultation among the Regional Compacts, NC-SARA, and the SARA community at large in developing responses to requests for significant modifications to the SARA Policy Manual.~~

~~Requests for significant changes should be addressed to the President and CEO of NC-SARA, who will work with the Regional Compacts, their SARA steering committees, the NC-SARA executive committee, and the NC-SARA Board to ensure consideration and resolution. Persons making such requests should provide a rationale supporting their request. Such requests will normally be considered at the state level first, followed by consideration by the relevant SARA regional steering committee. If any such request gains the approval of a regional compact's SARA steering committee, the President at earliest opportunity shall place that request on the agenda of the NC-SARA Board for its consideration, or, if necessary, make other arrangements for Board consideration.~~

~~In responding to and ultimately acting on such requests, regional and national SARA staff and oversight committees shall evaluate proposed changes in light of SARA's fundamental reliance on interstate reciprocity and trust, and on the fundamental purposes of SARA, which are to support high quality Distance Education, resolve problems encountered by students, and simplify and support the interstate offering of Distance Education using a model under which an Institution's Home State is primarily responsible for what the Institution offers under the aegis of SARA.~~

~~Other guiding principles for the review, clarification and modification of SARA policies include:~~

- ~~• Broad consultation with key stakeholders;~~
- ~~• Maintaining consistency in policy and procedures;~~
- ~~• Transparency and openness; and~~
- ~~• Responsiveness to stakeholders and emerging policy issues.~~