

Department of Education Draft Regulations and SARA: What To Know

Countdown to Start:

10:00

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 Breaktime for PowerPoint by Flow Simulation Ltd.

Pin controls when stopped ☒

June 1, 2023

WELCOME!



Terri Taylor-Straut

*Educational Programs Architect and Research
Analyst*



Webinar Guidance

- Please use the Question & Answer feature for questions.
- The Closed Caption option is available.
- The webinar will be recorded.
- This presentation and other resources referenced will be posted on the NC-SARA Call to Action webpage.



TODAY'S AGENDA & PANELISTS

Overview of the Department of Education's Draft Regulations Impacting SARA

- Patrick Lane, Vice President, Policy Analysis and Research, WICHE
- Marianne Boeke, Interim President, Vice President for Research and State Partnerships, NC-SARA

Regional Perspective (WICHE)

- Patrick Lane, Vice President, Policy Analysis and Research, WICHE

State Perspective

- Leroy Wade, Deputy Commissioner, Missouri Department of Higher Education and Workforce Development

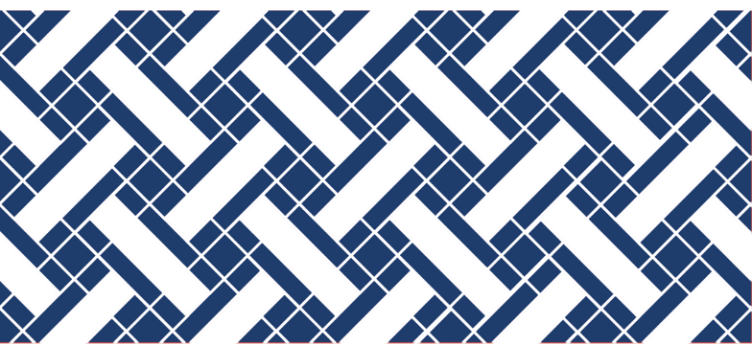
State Perspective

- Joe DeFilippo, Director of Academic Affairs, State Council of Higher Education for Virginia

Institution Perspective

- Cheryl Dowd, Senior Director, State Authorization Network and WCET Policy Innovations

Q&A



Overview of the US Department of Education's Draft Regulations Impacting SARA

Marianne Boeke, Interim President, Vice President for Research and State Partnerships, NC-SARA

Patrick Lane, Vice President, Policy Analysis and Research, WICHE

Overview of the Department of Education's Draft Regulations Impacting SARA - History

- 2021/2022 – The US Department of Education (ED) held a Negotiated Rulemaking process.
 - State Authorization was not on the agenda – This came from Certification Procedures
- May 19, 2023 – ED released a set of draft regulations for comment.
- **June 20, 2023 – Public comment period closes.**
- Summer 2023 – ED will respond to comments.
- Fall 2023 – ED may release final regulations and set an implementation date.



Department of Education's Draft Regulations Impacting SARA - Language from May 19, 2023

§ 668.14(32)(iii)

(32) In each State in which the institution is located or in which students enrolled by the institution are located, as determined at the time of initial enrollment in accordance with 34 CFR 600.9(c)(2), the institution must determine that each program eligible for title IV, HEA program funds

(iii) Complies with all State consumer protection laws related to **closure**, **recruitment**, and **misrepresentations**, including both generally applicable State laws and those specific to educational institutions;



Overview of the Department of Education's Draft Regulations Impacting SARA - Concerns

The SARA community's overarching substantive concern about the new draft language is that it is inherently vague and imprecise.

Additional Issues from the SARA Community Perspective:

- Limiting Reciprocity?
- Does this affect SARA Policy?
- Infringement on States' Role?
- Flawed Negotiated Rulemaking Process?
- Timeline for Implementation?

NC-SARA's public comment letter will request that these regulations not go into effect at this time, and that the topic be addressed in fall 2023 with an upcoming negotiated rulemaking session focused on state authorization. We will post our letter to NC-SARA's Call to Action webpage.

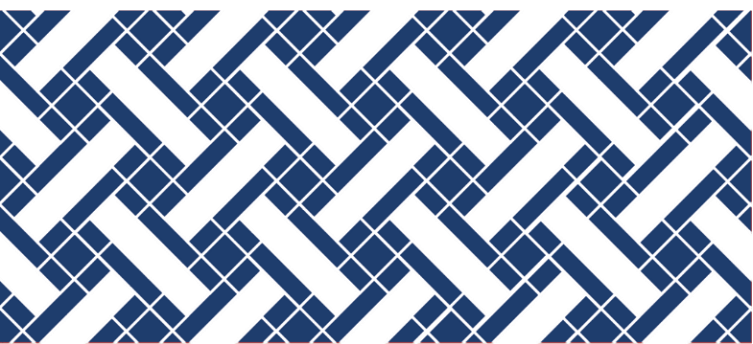


Overview of the Department of Education's Draft Regulations Impacting SARA - Impact

What Might This Language Mean for SARA Participating Institutions and SARA Member States?

“Therefore, we seek feedback on the best way to construct this requirement so that students are protected, financially and otherwise, without creating unnecessary burden on institutions.”

Deadline to submit public comments is Tuesday, June 20, 2023.



Regional Perspective (WICHE)

Patrick Lane, Vice President, Policy Analysis and Research, WICHE



Introduction – Role of the Compacts, NC-SARA, and SARA

- **Compacts and NC-SARA work in concert to implement a voluntary state authorization reciprocity agreement known as SARA.**
- **State voice in SARA is not just essential, it is an assumed foundation.**



Overview of the Department of Education's Draft Regulations Impacting SARA - Language

§ 668.14(32)(iii)

(32) In each State in which the institution is located or in which students enrolled by the institution are located, as determined at the time of initial enrollment in accordance with 34 CFR 600.9(c)(2), the institution must determine that each program eligible for title IV, HEA program funds

(iii) Complies with all State consumer protection laws related to closure, recruitment, and misrepresentations, including both generally applicable State laws and those specific to educational institutions;



SARA Policy – 2.5(k-l)

2.5 (k) The state agrees that, if it has requirements, standards, fees, or procedures for the approval and authorization of non-domestic institutions of higher education providing distance education in the state, it will not apply those requirements, standards, fees or procedures to any Non-domestic (out-of-state) institution that participates in SARA; instead, the state will apply those specifically prescribed in or allowed by SARA policies.

2.5 (l) Except as precluded by Section 2.5(k) above, SARA member states continue to have authority to enforce all their general-purpose laws against Non-domestic, out-of-state institutions (including SARA participating institutions) providing distance education in the state, including, but not limited to, those laws related to consumer protection and fraudulent activities.



State Authorization Requirements (including closure, misrepresentation, and recruitment)

Rarely apply to all institutions educating students in a state.

Often, these laws and regulations apply only to subsets of institutions.

If a law does not apply to you, are you in compliance?

Exempted subsets in different state laws and regs include (but by no means are limited to):

1. Public institutions
2. Religious institutions
3. Institutions founded before certain dates
4. **Institutions participating in reciprocity agreements to which the state also belongs**



State Perspective

**Leroy Wade, Deputy Commissioner, Missouri
Department of Higher Education and Workforce
Development**



State Perspective

**Joe DeFilippo, Director of Academic Affairs, State
Council of Higher Education for Virginia**

A State Perspective

1. Virginia's interest is in a national distance education reciprocity agreement that is FULLY reciprocal.
2. To the extent that changes to Title IV regulations entail a threat to the "fullness" of reciprocity provided by NC-SARA, NC-SARA should be modified to obviate that threat—i.e., the changes should be incorporated into the NC-SARA agreement so that it remains FULLY reciprocal.
3. (Corollary to 2) States should make whatever internal arrangements are needed to preserve FULL reciprocity within the context of NC-SARA. This will be a priority of the State Council of Higher Education for Virginia: *we will do whatever we can to continue offering FULL reciprocity to SARA institutions in virtue of their SARA membership.*



Institution Perspective

**Cheryl Dowd, Senior Director, State Authorization
Network and WCET Policy Innovations**



Questions & Discussion



NEXT STEPS

- NC-SARA will post the recording and slides of this webinar on our Call to Action webpage: <https://nc-sara.org/sara-neg-reg-call-action>
- NC-SARA is continuing to work with SARA stakeholders to help inform and drive attention to this issue.
- NC-SARA will send our public comment letter to the Department, representing the SARA community's concerns, by June 20, 2023. We will post our letter to our [Call to Action webpage](#) at that time, and send an email alert to everyone on our email list when it's there.
- We encourage your organizations and institutions to help inform people and write your own letters to the Department of Education.

STAY TUNED!

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Featured News

Out-of-State Exclusively Distance Education Enrollment
Up 19% Above Pre-Pandemic Levels

RESOURCES OVERVIEW

[SARA Policy Manual](#)[SARA Resources for States & Institutions](#)[SARA Learning Station](#)[Student Resources](#)[Contacts](#)[Resource Directories and Guides](#)[NC-SARA Meetings & Presentations](#)[SARA Call to Action](#)

Thank You!



**National Council for
State Authorization
Reciprocity Agreements**

MHEC • NEBHE • SREB • WICHE

CONTACT US!

For questions please email:
info@nc-sara.org

NC-SARA Website:
www.nc-sara.org



<https://www.linkedin.com/company/nc-sara>



@NCSARA_News

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us shape future webinars!