

SPE Annual Conference 2024

U.S. Department of Education Regulations Affecting SARA

September 11, 2024



Speakers



WICHE Cooperative for Educational Technologies



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ED Rulemaking Progression

How did we get where we are now for reciprocity?

Winter 2022 Negotiated Rulemaking

Initial Rulemaking Announcement – Certification procedures for participation in title IV, HEA programs under [34 CFR 668.13](#);



We searched the announcement and call for negotiators! No mention of professional licensure, state authorization, or reciprocity!

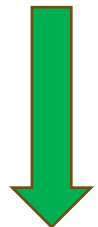
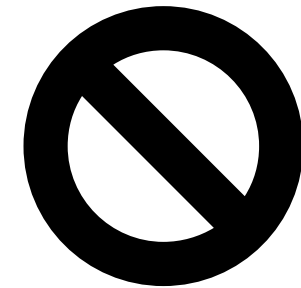
Week 1 – Initial Issue Paper

- **Professional Licensure Subsection-** Ensure that all programs that require programmatic accreditation and/or licensure/certification meet those requirements. **No mention of distance education state authorization or reciprocity.**

Winter 2022 Negotiated Rulemaking

Week 2 – Initial Issue Paper

- **Professional Licensure Subsection– No mention by ED of distance education state authorization or reciprocity.**
 - **Two negotiator proposals were submitted but not discussed.** Comply with all state consumer protection laws, including both generally applicable state laws and those specific to educational institutions, except for state requirements for obtaining state authorization that are inapplicable pursuant to a state authorization reciprocity agreement.
 - **ED said it was not considering new issues.** After repeatedly being pressed on transcript withholding by some negotiators, ED cut short discussions on new proposals.



Winter 2022 Negotiated Rulemaking

Week 3 – Initial Issue Paper

- **Professional Licensure Subsection – New language regarding state authorization and reciprocity added** – ED used the language provided by the negotiators' proposals.



Winter 2022 Negotiated Rulemaking

Final rulemaking language for committee vote –

- **Week 3 issue paper language remained** - to comply with all state consumer protection laws except for state requirements for obtaining state authorization that are inapplicable pursuant to a state authorization reciprocity agreement. **NO CONSENSUS!**

Proposed Regulation

- **Modified to specific consumer protection laws:** 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.”

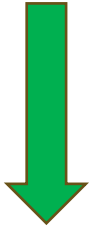
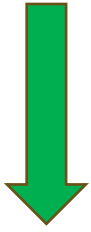
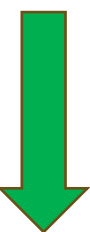
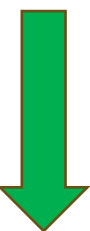


Winter 2022 Negotiated Rulemaking



Final Regulation Effective July 1, 2024

- **Modification of proposed regulation to include only closure laws.**
Complies with all State laws related to closure, including record retention, teach-out plans or agreements, and tuition recovery funds or surety bonds.



Winter 2024 Negotiated Rulemaking

Initial Rulemaking Announcement –

“Institutional eligibility under [34 CFR 600.2](#), including **State authorization** as a component of such eligibility under [34 CFR 600.9](#)”

Week 1 – Initial Issue Paper

- **Complaints** – propose that students be able to report student complaints in the state in which they reside.
- **Governing Board Composition** – proposed that only state employees who serve in a regular/law enforcement role can serve on the board and prohibit institution representatives from serving.
- **Questions for discussion** –
 - Exemptions for in-state institutional approvals by the state.
 - What is the definition of “education-specific” laws?



Winter 2024 Negotiated Rulemaking



Week 2 – Initial State Authorization Issue Paper



- **Complaints**
- **Governing Board Composition**
- **Sunsetting of some in-state exemptions by July 1, 2030.**
- **Start of Conversation about Compliance with State Laws -**
 - Discussion to distinguish between authorization/renewal and complying with state “**education-specific**” requirements
 - Purpose to enforce state-specific laws on institutions participating in reciprocity.

Winter 2024 Negotiated Rulemaking

Week 3 – Initial Issue Paper

- **Complaints** – Addition: student ability to submit to the state to address complaints without first submitting the complaint to the institution if permitted in the state.
- **Governing Board Composition**
- **Sunsetting In-state Exemptions** - some revisions.
- **Compliance with All State Laws - New Language** – Reciprocity agreement must allow states to enforce state-specific laws and regulations outside of initial approval for state authorization and application fees and processes.
- **1,000 student threshold raised as a question/proposal**

Winter 2024 Negotiated Rulemaking

Final language for committee vote – “A Compromise”

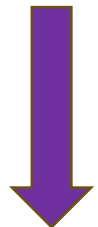
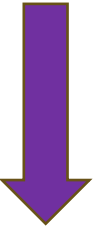
- **Complaints**
- **Governing Board Composition**
- **In-state Exemptions as Revised**
- **Compliance with state laws related to closure.** – Scaled back from all state laws to only those related to closure.
- **500 Threshold** – The institution may not be authorized by reciprocity in a state where it enrolls more than 500 students in the two most recently completed award years.


Winter 2024 Negotiated Rulemaking

Final language for committee vote – “A Compromise”

- **Complaints**
- **Governing Board Composition**
- **In-state Exemptions Revised** – New exemption to include if a public institution or in operation on or before November 3, 1965. Sunsetting of other exemptions remains.
- **Compliance with state law related to closure.** – Scaled back from all state laws to only those related to closure.
- **500 Threshold** – Institution may not be authorized by reciprocity in a state where it enrolls more than 500 students in the two most recently completed award years.

**NO
CONSENSUS!**





What is next for the State Authorization Regulations?

July 17, 2024 - [Update on Department of Education's Postsecondary Education Regulatory Work](#) - ED blog post, by James Kvaal, US Under Secretary of Education. The post shares the timeline for future proposed rules and to expect another rulemaking to address Third-Party Servicers.

1. “Proposed regulations related to State authorization, including State authorization reciprocity agreements, cash management, and accreditation will be published by next year.”
2. Public Comment Period – typically 30 days.
3. ED must review all public comments.
4. Release of final regulations.
5. Earliest effective date July 1, 2026.

What is the
SARA
Community
Doing?





What is the SARA Community Doing?

- Review and disseminate information, survey data from states/institutions, and communicate with stakeholders (including ED).
- Continue to gather data/evidence and conduct robust policy analysis.
- Share information, data, evidence with SARA Community (including ED).

Stay Informed!

- SARA Call to Action Page - <https://nc-sara.org/sara-neg-reg-call-action>
- Sign Up for SARA Updates - <https://formstack.io/71987>

Virtual location/DE data

Professional Licensure

Attendance Taking for Distance
Education

Third Party Servicers & OPMS

Distance Education Proposed
Regulations

Accreditation

Other Topics of Interest?



Questions from the Audience



Resources:

US Department of Education Rulemaking site:

bit.ly/EDRulemaking2024

WCET *Frontiers* Updates:

bit.ly/NegRegWeek1Update

bit.ly/NegRegWeek2Update

bit.ly/NegRegWeek3Update

wcet.wiche.edu/frontiers





Additional Resources on the SAN Website

SAN Website:

- Federal Regulations Landing Page
<https://wcetsan.wiche.edu/resources/federal-regulations>
- Professional Licensure Landing Page
<https://wcetsan.wiche.edu/resources/professional-licensure>
- Getting Started with Compliance Management Gateway
<https://wcetsan.wiche.edu/resources/getting-started>



Contact Information



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