National Council for State Authorization Reciprocity Agreements
NC-SARA Board Meeting
Renaissance Concourse Atlanta Airport Hotel
December 2, 2014
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Action Item II: Update on progress of the SARA initiative
   a) Marshall Hill, National Council for State Authorization Reciprocity Agreements (NC-SARA)
   b) Larry Isaak, Midwestern Higher Education Compact (MHEC)
   c) Michael Thomas, New England Board of Higher Education (NEBHE)
   d) David Spence, Southern Regional Education Board (SREB)
   e) David Longanecker, Western Interstate Commission for Higher Education (WICHE)

Action Item III: Finance report – Larry Isaak, Treasurer

Action Item IV: Methodology for allocating fee revenue paid by SARA institutions

Action Item V: Additions and modifications to NC-SARA Policies and Standards
   a) Policy on data to be submitted by SARA institutions
   b) Policy on reporting of complaints
   c) Clarification of “legal domicile”
   d) Probationary status for some institutions
   e) Physical presence standards
      i. Clinical placements
      ii. Recruiting

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      ii. States’ use of federal scores in institution eligibility
      iii. Tutoring and physical presence
      iv. Aviation programs
   c) Executive Director presentations

Work plan moving forward

Questions, comments, reflections from council members

Comments from the audience

Adjourn
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NC-SARA AGENDA ITEM

Action Item I: Approval of minutes from the meeting May 14, 2014

Action Item: ☑ Yes ☐ No

Background: n/a

Staff Recommendation: Approve the minutes.
MINUTES — NC-SARA Board Meeting
May 14, 2014
Hyatt Regency O’Hare • 9300 Bryn Mawr Avenue • Rosemont, IL 60018

NOTICE OF MEETING
Notice of the time and place of the NC-SARA board meeting was given to board members, regional directors, Lumina Foundation, Gates Foundation, and other interested parties.

An agenda is maintained in the NC-SARA offices at 3005 Center Green Drive, Suite 130, Boulder, CO 80301 and online at www.nc-sara.org

CALL TO ORDER AND INTRODUCTIONS
Chair Paul Lingenfelter called the meeting to order at 9:04 a.m.

Board Members present:
Barbara Ballard
Crady deGolian
Kathryn Dodge*
Dianne Harrison
Terry Hartle
Arthur Kirk, Jr.
David Longanecker
Teresa Lubbers
M. Peter McPherson
Patricia O’Brien*
Pam Quinn
George Ross
Helena Stangle
Michael Thomas
Leroy Wade
Belle Wheelan

Council staff present:
Marshall Hill
Lisa Greco
Michelle Perez-Robles

Regional Compact SARA Directors present:
Sandra Doran, NEBHE-SARA*
Rhonda Epper, WICHE-SARA
Mary Larson, SREB-SARA
Jennifer Parks, MHEC-SARA

Lumina Foundation staff present:
Christine Marson

Gates Foundation staff present:
Travis Reindl

EducationCounsel, LLC staff present:
Arthur Coleman
Teresa Taylor

Guest attendee:
Steven Clark, Liberty University

*indicates joined meeting via conference call

ACTION ITEM I:
APPROVAL OF THE MINUTES OF THE NOVEMBER 1, 2013, NC-SARA BOARD MEETING

Terry Hartle moved to approve the minutes of the November 1, 2013, NC-SARA board meeting; Belle Wheelan seconded the motion. The motion passed with all members present voting “yes.”
ACTION ITEM II
UPDATE ON PROGRESS OF THE SARA INITIATIVE

Marshall Hill, SARA executive director, updated the board on the progress of SARA. He provided additional details on information summarized on the “State Actions Regarding SARA” chart. He also reported on the work of the negotiated rule making panel at the U.S. Department of Education; two draft rules affecting state authorization of postsecondary distance education are under consideration. Hill is participating in that process.

Jennifer Parks, M-SARA director, updated the board on the progress of M-SARA, noting that Indiana and North Dakota have joined. Parks estimates that nine MHEC states will join SARA by the end of 2014. A detailed report was provided with the agenda materials and is on file with the NC-SARA office.

David Longanecker, WICHE president, and Rhonda Epper, W-SARA director, updated the board on the progress of the W-SARA region, noting that Alaska, Washington, Idaho, Nevada, and Colorado have joined SARA. A detailed report was provided with the agenda materials and is on file with the NC-SARA office.

Michael Thomas, NEBHE president and CEO, updated the board on progress of the N-SARA region. New Hampshire, Vermont, Connecticut, and Rhode Island have begun the process of joining SARA. A detailed report was provided with the agenda materials and is on file with the NC-SARA office.

Mary Larson, S-SARA director, updated the board on progress in the S-SARA region. Several states will be moving from SECRA (SREB’s regional reciprocity agreement) to SARA in the coming months. A detailed report was provided with the agenda materials and is on file with the NC-SARA office.

Board members requested that SARA directors begin identifying themes and patterns for states that appear reluctant to join SARA.

The reports were accepted by general consent.

ACTION ITEM III
FINANCE REPORT

David Longanecker summarized the financial status of SARA. A detailed report including tables was provided with the agenda materials and is on file with the NC-SARA office. Chair Lingenfelter asked for a motion to approve the financial reports, with the provision that moving forward, quarterly financial reports will be sent to board members. Terry Hartle made that motion; Dianne Harrison seconded. The motion was approved with all members present voting “yes.”
ACTION ITEM IV
CONSIDERATION OF LEGAL STATUS FOR NC-SARA

Hill provided a summary of the detailed analysis and recommendations that Education-Counsel, LLC prepared for NC-SARA regarding legal status of the organization. A detailed report was provided in the agenda materials and is on file with the NC-SARA office. M. Peter McPherson moved to provisionally approve this recommendation subject to final review of the executive committee after additional legal consultation regarding the definition of lobbying. Hartle seconded the motion. The motion was approved with all members present voting “yes.”

ACTION ITEM V
ADOPTION OF BYLAWS FOR NC-SARA

Hill summarized the current status of NC-SARA bylaws. A detailed report was provided with the agenda materials and is on file with the NC-SARA office. Hartle moved to approve the proposed bylaws with the addition of specific beginning and ending times for board members; Wheelan seconded the motion. Discussion resulted in modifications to Article 1, Section 2: the word “oversight” was removed, and language was added to clarify the purposes of the organization, particularly in regard to promoting and certifying consistency among the four regional SARA agreements and providing a venue to discuss and mediate disputes. Harrison moved to approve the bylaws inclusive of modification; Hartle seconded the motion. The motion was approved with all members present voting “yes.”

ACTION ITEM VI
ELECTION OF OFFICERS AND MEMBERS OF THE EXECUTIVE COMMITTEE

Chair Lingenfelter provided an overview of his actions in appointing the nominating committee, which consisted of Crady deGolian, Arthur Kirk, Helena Stangle, Kathryn Dodge, Paul Lingenfelter and David Longanecker. The committee nominated M. Peter McPherson as Vice-Chair; Larry Isaak as Treasurer; and the following members to the executive committee: Michael Thomas, Belle Wheelan, Leroy Wade, and Paul Shiffman. Arthur Kirk, Jr., moved to elect as officers and members of the executive committee the council members nominated by the committee. Hartle seconded the motion. The motion was approved with all members present voting “yes.”

ACTION ITEM VII
ADDITIONS AND MODIFICATIONS TO NC-SARA POLICIES AND STANDARDS

Hill discussed two draft policies for possible adoption: data submission requirements for institutions participating in SARA, and complaint resolution reporting for states participating in SARA. He provided a list of the members of the group that he convened to make recommendations on those issues.

The board discussed data issues for SARA in detail, as well as policies for reporting complaints. Board members requested that a technical advisory panel consisting of people knowledgeable in specific areas be created to review implementation documents and procedures prior to their use. After extended discussion, but without
adoption of a formal motion, the board expressed their general approval for the policies outlined in the agenda material, encouraged careful attention to limiting language designed to ensure accurate reporting, and stated that the technical advisory panels should include individuals currently active in institutional reporting roles. Chair Lingenfelter suggested that our work in this area should be careful and deliberate, avoid harm to institutions, and fit for our purposes, rather than expanded into other areas.

The board agreed that the staff should proceed under these general understandings and that the documentation developed to implement the reporting of data by SARA institutions and the reporting of complaints by state SARA agencies would be reviewed and approved by the board prior to use. Staff agreed to move forward under the general principles introduced with the goal of beginning the reporting process in late 2014 or early 2015. Staff agreed that if that timeline proved impractical, adjustments would be made, a “pilot” approach with institutional volunteers would be considered, etc. All agreed that these were important matters and must be handled with care.

WORK PLAN MOVING FORWARD

Hill provided information to the board regarding upcoming SARA presentations and welcomed invitations to speak at additional venues. He presented the board with a document that the NC-SARA staff has developed in conjunction with Education-Counsel, LLC that will serve as a resource to states as they consider joining SARA. The document will be available on the NC-SARA website. Hill told the board about the growing number of subscribers to the NC-SARA newsletter and informed them that SARA is also operating a blog, and the website provides direct links to the regional compacts.

EFFORTS OF THE BILL & MELINDA GATES FOUNDATION, THE PRESIDENT’S FORUM, AND THE COUNCIL OF STATE GOVERNMENTS TO PROMOTE SARA

Hill introduced Travis Reindl, a representative of the Bill & Melinda Gates Foundation. Reindl summarized the Foundation’s interest in supporting SARA. He stated that its goals are to work closely with SARA to bring key stakeholders together, inform stakeholders and organizations about SARA, to provide consistent and effective messaging to stakeholders regarding SARA, and to work in collaboration with SARA, states, and organizations as a community around this issue. The Foundation will be providing financial support to the Presidents’ Forum and the Council of State Governments to aid that work. The Foundation is also likely to provide some direct financial support to NC-SARA and the four regional compacts to support SARA implementation.

Crady deGolian provided a summary of CSG’s support of SARA. CSG will provide additional opportunities to inform state government leaders about SARA and will work in conjunction with SARA staff in that regard. CSG’s goal is to help SARA spread to all 50 states.
QUESTIONS, COMMENTS, REFLECTIONS

No further questions, comments, or reflections.
Meeting adjourned at: 2:35 p.m.
NC-SARA AGENDA ITEM

12/2/2014

Action Item II: Update on progress of the SARA initiative

Action Item: ☑ Yes ☐ No

Background: The SARA initiative has made a great deal of progress since the NC-SARA meeting on May 14, 2014. Marshall Hill will provide an overall assessment. Representatives of the regional compacts will focus more closely on developments within their regions.

a) Marshall Hill, National Council for State Authorization Reciprocity Agreements (NC-SARA)
b) Larry Isaak, Midwestern Higher Education Compact (MHEC)
c) Michael Thomas, New England Board of Higher Education (NEBHE)
d) David Spence, Southern Regional Education Board (SREB)
e) David Longanecker, Western Interstate Commission for Higher Education (WICHE)

Staff Recommendation: Accept and approve reports on progress of the SARA initiative.
### STATE ACTIONS REGARDING SARA

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<td>n/a</td>
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<td>✓</td>
<td>10/17/2014*</td>
</tr>
<tr>
<td>Wisconsin (MHEC)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

n/a: Legislation not needed
North Dakota & South Dakota are members of both MHEC & WICHE; chart indicates SARA affiliation.
* Louisiana and West Virginia have an effective operational date of December 1, 2014.

November 16, 2014
<table>
<thead>
<tr>
<th>State</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>M-SARA staff anticipates receiving state application in Fall 2014. Legal Authority: Senate Bill 3441. The Illinois Board of Higher Education (IBHE) is the portal agency.</td>
</tr>
<tr>
<td>Indiana</td>
<td>Approved as first SARA state in February 2014. Legal Authority: IC 21-18.5-6-12(d) and IC 21-18-12.2-1. The Indiana Commission for Higher Education (ICHE) is the SARA portal agency. More than 20 institutions from the state have joined.</td>
</tr>
<tr>
<td>Iowa</td>
<td>Iowa legislation requires some fine tuning, likely to be submitted early in 2015. Legal Authority: Senate Bill 2271. The Iowa College Student Aid Commission is the portal agency.</td>
</tr>
<tr>
<td>Kansas</td>
<td>Kansas was approved November 16, 2014. Legal Authority: HB2544. The Kansas Board of Regents is the designated portal agency.</td>
</tr>
<tr>
<td>Michigan</td>
<td>M-SARA staff anticipates legislation to be introduced in December 2014. The Office of Licensing and Regulatory Affairs is the agreed upon portal agency.</td>
</tr>
<tr>
<td>Minnesota</td>
<td>M-SARA staff anticipates receiving state application in late 2014. Legal Authority: SF 2856. The Minnesota Office of Higher Education (MOHE) is the portal agency.</td>
</tr>
<tr>
<td>Missouri</td>
<td>Missouri was approved November 16, 2014. Legal Authority: SB 699. The Missouri Department of Higher Education (MDHE) is the portal agency.</td>
</tr>
<tr>
<td>Nebraska</td>
<td>Nebraska was approved in August 2014. Legal Authority: LB1069. Nebraska Coordinating Commission for Postsecondary Education (NCCPE) is the portal agency. More than 10 institutions from NE have already joined.</td>
</tr>
<tr>
<td>North Dakota</td>
<td>Approved as second SARA state in April 2014. Legal Authority: HB1103. Twelve institutions from ND have joined. The North Dakota University System (NDUS) is the portal agency.</td>
</tr>
</tbody>
</table>
M-SARA staff anticipates receiving state application in late 2014. Legal Authority: HB484 (Section 3333.171). The Ohio Board of Regents will be the designated portal agency.

South Dakota

Joined W-SARA November 11, 2014.

Wisconsin

M-SARA staff continues to support and provide information to WI educational sector leadership.

Pennsylvania

M-SARA staff continues to support and provide information to PA educational sector leadership and institutional representatives.

<table>
<thead>
<tr>
<th>SARA Status for MHEC states</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State</strong></td>
</tr>
<tr>
<td>Ohio</td>
</tr>
<tr>
<td>South Dakota</td>
</tr>
<tr>
<td>Wisconsin</td>
</tr>
<tr>
<td>Pennsylvania</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SARA Status for NEBHE states</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State</strong></td>
</tr>
<tr>
<td>Connecticut</td>
</tr>
<tr>
<td>Maine</td>
</tr>
</tbody>
</table>
### SARA Status for NEBHE states

<table>
<thead>
<tr>
<th>State</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Massachusetts</td>
<td>Massachusetts’ higher education sectors have expressed great interest in joining SARA. There are ongoing discussions with the Department of Education and all stakeholders across the state. N-SARA worked with AICUM to collect distance education data and presented during their annual conference. N-SARA was invited to speak at the Northeast Regional UPCEA Conference this fall, and is also working closely with the Deans of Graduate and Continuing Education at Massachusetts’ public colleges and universities. N-SARA is working with all interested stakeholders in Massachusetts to essentially develop a grassroots movement. All interested parties are working together within their respective networks to move SARA forward.</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>New Hampshire has legal authority to enter into reciprocity agreements. N-SARA anticipates approval of the state SARA application by mid December, as the Higher Education Commission unanimously approved SARA participation. NH will begin accepting institutional applications in January 2015.</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>N-SARA anticipates proposed legislation in the 2015 session. SARA has full support from Rhode Island institutions, and is working closely with AICURI to gather data around distance education. The new commissioner of post-secondary education was supportive of SARA in his previous position at the Department of Education in Louisiana, which will be helpful moving the initiative forward in Rhode Island.</td>
</tr>
<tr>
<td>Vermont</td>
<td>Legislation was passed in the 2014 legislative session. N-SARA anticipates state SARA application by January 2015. N-SARA worked closely with the Agency of Education to enhance their student complaint process in Vermont.</td>
</tr>
</tbody>
</table>
New Jersey’s higher education sectors have expressed interest in joining SARA and have engaged in conversations with WICHE & NEBHE. N-SARA is working closely with Secretary of Education Rochelle Hendricks and President George Pruitt. We’ve reviewed their current legislation and provided sample legislation in preparation for the 2015 session.

New York’s higher education sectors have expressed interest in joining SARA. There are ongoing discussions with the Department of Education and all stakeholders, and the Commissioner of Higher Education will present to the Board of Regents. N-SARA is working directly with New York’s Association of Independent Colleges and Universities, as well as public and individual institutions to develop a strategy in New York.

### SARA Status for NEBHE states

<table>
<thead>
<tr>
<th>State</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New Jersey</strong></td>
<td>New Jersey’s higher education sectors have expressed interest in joining SARA and have engaged in conversations with WICHE &amp; NEBHE. N-SARA is working closely with Secretary of Education Rochelle Hendricks and President George Pruitt. We’ve reviewed their current legislation and provided sample legislation in preparation for the 2015 session.</td>
</tr>
<tr>
<td><strong>New York</strong></td>
<td>New York’s higher education sectors have expressed interest in joining SARA. There are ongoing discussions with the Department of Education and all stakeholders, and the Commissioner of Higher Education will present to the Board of Regents. N-SARA is working directly with New York’s Association of Independent Colleges and Universities, as well as public and individual institutions to develop a strategy in New York.</td>
</tr>
</tbody>
</table>

### SARA Status for SREB states

<table>
<thead>
<tr>
<th>State</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Alabama</strong></td>
<td>SARA participation discussions are ongoing with stakeholders. Legal Authority: Legislation action required prior to participation. The SARA portal agency has not been determined.</td>
</tr>
<tr>
<td><strong>Delaware</strong></td>
<td>SARA participation discussions are ongoing with stakeholders. Legal Authority: Legislation action required prior to participation. (2015 session) A statewide meeting was held April 11, 2014. The Delaware Department of Education is expected to be the SARA portal agency.</td>
</tr>
</tbody>
</table>
### SARA Status for SREB states

<table>
<thead>
<tr>
<th>State</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Florida</td>
<td>SARA participation discussions are ongoing with stakeholders. Legal Authority: Legislation action required prior to participation. The State University System of Florida is expected to be the SARA portal agency.</td>
</tr>
<tr>
<td>Georgia</td>
<td>SARA participation discussions are ongoing with stakeholders. Legal Authority: State may need to pass legislation; a study of existing statutes is underway. A statewide stakeholder meeting has been held to explore potential issues. The SARA portal agency has not been determined.</td>
</tr>
<tr>
<td>Kentucky</td>
<td>SARA participation discussions are ongoing with stakeholders. Legal Authority: Legislation action required prior to participation. A stakeholder meeting was held October 17, 2014. The Kentucky Council on Postsecondary Education is expected to be the SARA portal agency.</td>
</tr>
<tr>
<td>Louisiana</td>
<td>Louisiana approved as SARA state October 17, 2014 with an effective operational date of December 1, 2014. Institution applications accepted: Anticipated January 2015. The Louisiana Board of Regents is the SARA portal agency.</td>
</tr>
<tr>
<td>Maryland</td>
<td>SARA participation discussions are ongoing with stakeholders. Legal Authority: Legislation action required prior to participation. (2015 session) A statewide meeting was held May 6, 2014. The Maryland Higher Education Commission is expected to be the SARA portal agency.</td>
</tr>
<tr>
<td>Mississippi</td>
<td>SARA participation discussions are ongoing with stakeholders. Legal Authority: Legislation action required prior to participation. The SARA portal agency has not been determined.</td>
</tr>
<tr>
<td>North Carolina</td>
<td>SARA participation discussions are ongoing with stakeholders. Legal Authority: North Carolina Board of Governors. Agenda item for winter 2014 meeting. Additional MOUs between agencies. The University of North Carolina, General Administration will be the SARA portal agency.</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>S-SARA staff anticipate receiving state application by February 2015. Institution applications accepted: March 2015. Legal Authority: Oklahoma Statute Title 70 Chapter 50 Section 3206. The Oklahoma State Regents for Higher Education is the SARA portal agency.</td>
</tr>
</tbody>
</table>
SARA Status for SREB states

<table>
<thead>
<tr>
<th>State</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Carolina</td>
<td>SARA participation discussions are ongoing with stakeholders. Legal Authority: Legislation action required prior to participation. The South Carolina Commission on Higher Education is expected to be the SARA portal agency.</td>
</tr>
<tr>
<td>Tennessee</td>
<td>SARA participation discussions are ongoing with stakeholders. A stakeholder meeting was held October 7, 2014. Legal Authority: Legislation action required prior to participation. The Tennessee Higher Education Commission is expected to be the SARA portal agency.</td>
</tr>
<tr>
<td>Texas</td>
<td>SARA participation discussions are ongoing with stakeholders. Legal Authority: Legislation action required prior to participation. (2015 session) The Texas Higher Education Coordinating Board is expected to be the SARA portal agency.</td>
</tr>
<tr>
<td>Virginia</td>
<td>Virginia approved as SARA state October 17, 2014. Institution applications accepted: October 2014. Legal Authority: Legislation has passed. The State Council of Higher Education for Virginia is the SARA portal agency.</td>
</tr>
<tr>
<td>West Virginia</td>
<td>West Virginia approved as SARA state October 17, 2014 with an effective operational date of December 1, 2014. Institution applications accepted: Anticipated winter 2014. Legal Authority: Statutory. Statewide meeting was May 22, 2014. The West Virginia Higher Education Policy Commission is the SARA Portal Agency.</td>
</tr>
</tbody>
</table>

Non-Affiliated District

| District of Columbia | S-SARA staff anticipate receiving state application in spring 2015. Institution applications accepted: Anticipated spring 2015. The higher education sectors have met and will affiliate with SREB for participation in SARA. Discussions and documents in development. Legal Authority: Developing an arrangement for participation in SARA. The Office of the State Superintendent of Education (OSSE) is expected to be the SARA portal agency. |
## SARA Status for WICHE states

<table>
<thead>
<tr>
<th>State</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>Approved by WICHE November 11, 2014. Legal Authority: Arizona Revised Statutes 15-1747. (2014). An Interagency Governmental Agreement led to creation of the Arizona SARA Council which is the SARA portal agency.</td>
</tr>
<tr>
<td>California</td>
<td>Legal Authority: California will need to pass SARA-related legislation in 2015. Discussions with key stakeholders are ongoing. W-SARA staff anticipates receiving the state’s application in late 2015.</td>
</tr>
<tr>
<td>Hawai‘i</td>
<td>W-SARA staff anticipates receiving the state’s application in 2015. Legal Authority: Hawai‘i Revised Statutes 26-9, 446E-1.5 (2013). The Department of Commerce and Consumer Affairs is likely to be the SARA portal agency.</td>
</tr>
</tbody>
</table>
### SARA Status for WICHE states

<table>
<thead>
<tr>
<th>State</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Mexico</td>
<td>Legal Authority: Legislation will be introduced in the 2015 regular session. W-SARA staff anticipates receiving state application in 2015. The New Mexico Higher Education Department is expected to be the SARA portal agency.</td>
</tr>
<tr>
<td>Oregon</td>
<td>Approved by WICHE November 11, 2014. Legal Authority: OR Revised Statutes 351.735, 351.755, 351.758 and section 168a, chapter 768. (2014). The Oregon Higher Education Coordinating Commission is the SARA portal agency.</td>
</tr>
<tr>
<td>Pacific Territories</td>
<td>Expected application date: unknown.</td>
</tr>
<tr>
<td>South Dakota</td>
<td>Approved by WICHE November 11, 2014. Legal Authority: Executive Order 2014-09 (Appendix I) and section 1, chapter 96 of the 2014 Session Laws, codified as SDCL §13-48-42. The South Dakota Board of Regents is the designated SARA portal agency.</td>
</tr>
<tr>
<td>Utah</td>
<td>Legal Authority: Utah Code 13-2-1, 13-34-(103-113), 13-34a-(101-103), 13-34a-(201-207), 13-34a-(301-306) (2014). State agencies currently are discussing SARA implementation and the Utah Division of Consumer Protection is likely to be the SARA portal agency.</td>
</tr>
<tr>
<td>Wyoming</td>
<td>The Joint Education Committee will review draft SARA-related legislation at it's meeting on December 10, 2014. W-SARA staff anticipates a bill will be introduced in the 2015 session.</td>
</tr>
</tbody>
</table>
**NC-SARA AGENDA ITEM**

12/2/2014

**Action Item III:** Finance report – Larry Isaak, Treasurer

**Action Item:** ☑ Yes ☐ No

The finance report will be provided prior to the meeting under separate cover.

**Staff Recommendation:** Approve the report.
NC-SARA AGENDA ITEM

Action Item IV: Methodology for allocating fee revenue paid by SARA institutions

Action Item:  Yes  No

Background: Initial funding for the SARA initiative came from Lumina Foundation. In summer 2014 Lumina Foundation provided second-year funding and in fall 2014, the Bill & Melinda Gates Foundation provided additional funding. The ongoing financial plan for SARA relies on institutional fees.

Grant funding has been allocated to the five SARA entities (MHEC, NEBHE, SREB, WICHE and NC-SARA) in proportions agreed to by those entities and approved by the grantors.

There has been no agreement about how institutional fee revenues would be allocated among the compacts following transition to full reliance on that revenue. The following document provides an allocation model (for adoption by NC-SARA) for the rest of the current fiscal year (FY 2015) and the following (FY 2016). It has the support of the four regional compacts and the executive director of NC-SARA.

Recommendation: Adopt the described model for allocating institution fee revenue received through FY 2016 (therefore, from now until June 30, 2016).
General Principles
• To provide transparency to the community and accountability to one another and to NC-SARA, the financial model used to allocate institutional fee revenue to the SARA entities should be clear, made known to the community, and adopted by NC-SARA at its December 2, 2014 meeting.
• SARA should collect sufficient fee revenue to enable continuing, capable and efficient operation of the initiative by the regional compacts and coordination by NC-SARA. Once those amounts are steadily available, SARA should consider a reduction of institutional fees.
• To ensure prompt implementation and operation of a nationwide SARA system, the five SARA entities (MHEC, NEBHE, SREB, WICHE and NC-SARA) must be adequately supported for a reasonable start-up period, regardless of the variation among the regions in the early pattern of state adoption and institutional membership.
• The components and design of an equitable methodology to allocate institutional fee revenue may change over time as SARA is implemented, states join, and institutions participate and pay their fees. Therefore, the initial allocation model will be reviewed and formally adopted by NC-SARA every two years.

SARA’s Funding Background
• SARA’s initial funding came in the form of a $2.3 million grant from Lumina Foundation. Because the initiative did not begin full operation until the second month of the program year, not all of those first-year funds were spent in the first program year (July 2013 through June 2014). Lumina allowed the project to carry forward those unexpended funds into a second program year and, in addition, provided another $720,600 in second-year funds. More recently, the Bill & Melinda Gates Foundation provided $200,000 to support implementation of SARA. And finally, institutional fees have begun to arrive.
• It is evident that initial funding levels were less than the actual costs of implementing the initiative. The regional compacts, for example, were provided no overhead funding, though expenses were substantial. Additional unanticipated expenses were incurred, such as rent for NC-SARA and W-SARA and the need to raise certain salary levels in order to attract qualified staff.
• Although actual costs of operation are becoming clearer, certain costs remain difficult to predict. For that reason, NC-SARA will undertake a cost study and use the results of that study to determine how much institutional funding is actually required to operate the initiative during implementation and upon maturation.

Overview of Proposed Allocation Methodology
• Institutions pay fees to NC-SARA, which holds them in a common pool.
• NC-SARA will distribute fee revenue quarterly to five entities: MHEC, NEBHE, SREB, WICHE and NC-SARA. Allocations will be made within 10 business days of the conclusion of each quarter of NC-SARA’s fiscal year (July 1 - June 30). The first allocation will be made by January 15, 2015.
• Fee revenues will be allocated by two means:
“Base” funding will support the basic operational needs of all partners; “Base” funding will follow the allocation models of Lumina Foundation grants. Until FY 2017, all funding will likely be allocated in this way.

<table>
<thead>
<tr>
<th>Organization</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>MHEC</td>
<td>16 percent</td>
</tr>
<tr>
<td>NEBHE</td>
<td>15 percent</td>
</tr>
<tr>
<td>SREB</td>
<td>16 percent</td>
</tr>
<tr>
<td>WICHE</td>
<td>17 percent</td>
</tr>
<tr>
<td>NC-SARA</td>
<td>36 percent</td>
</tr>
</tbody>
</table>

“Reserve” and “Variable” funding

- Beginning in Fiscal Year 2017 (or before, if higher-than-anticipated revenues permit), there will be two non-base allocations.
  - First, each quarter, 10 percent of fee revenues will be taken “off the top” and set aside as a reserve (held by NC-SARA) to be used by NC-SARA and/or the four compacts as needed for strategic work. Those reserve funds will grow to and be maintained at a level equal to approximately 50 percent of the combined annual operating budgets for SARA work in the five SARA entities. The executive committee of NC-SARA will hear and approve proposals to access those funds.
  - Second, “variable” funding will be provided to each regional compact to reflect varying workloads. Each regional compact will receive 10 percent of the fees paid by the institutions within its region, including institutions from non-compact-member states/districts/territories that align with a compact for SARA participation.
  - The funds remaining after these reserve and variable allocations will be distributed to the five SARA entities in the proportions of the initial Lumina grant.

- This allocation model will remain in place throughout FY 2015 and FY 2016 (extending, therefore, until June 30, 2016). NC-SARA will review the allocation model at its spring 2016 meeting, consider any needed changes, and adopt an allocation model for the next two-year period (FY 2017 - FY 2018).

**Implementation Steps**

- NC-SARA adopts an allocation methodology at its meeting December 2, 2014, covering now - June 30, 2016.
- NC-SARA carries out a cost study to determine the amount of funding necessary to support the SARA work of the regional compacts and NC-SARA. The study will be completed by December 1, 2015.
- NC-SARA considers the results of that study as it reconsiders institutional fee levels in early 2016.
- Spring 2016, NC-SARA sets allocation model for July 1, 2016 - June 30, 2018.
- Allocation model is reconsidered every two years.
NC-SARA AGENDA ITEM

Action Item V: Additions and modifications to NC-SARA Policies and Standards

Action Item: ☑ Yes ☐ No

Background: NC-SARA is a young and still-developing initiative. This agenda item addresses issues that need to be established in policy and issues that are now included but require clarification or modification. (Current NC-SARA Policies and Standards document is on pages 42-54.)

Summary of issues:

Item V (a): Policy on data to be submitted by SARA institutions (modification). Data on cross-state delivery of postsecondary distance education is sorely lacking for an activity that has become a significant part of higher education delivery in our country. NC-SARA data collection is designed to improve that situation by building, over time, a picture of the extent to which SARA institutions are serving students who live in other states. In May, 2014, NC-SARA gave conceptual approval to a policy and asked that some additional work be done prior to implementation. Staff assembled an advisory committee (roster included herein) to help develop the recommendations on the data and complaints issues.

Item V (b): Policy on reporting of complaints (modification). There is no consolidated information on student complaints about distance education providers. The staff is recommending a basic approach to the issue for SARA institutions that will focus on complaints that are not resolved at the institutional level.

In May 2014, NC-SARA gave conceptual approval to the policies recommended by staff and asked that some additional work be done on certain details. Staff assembled an advisory committee (the same group that worked on data issues) to help develop the following recommendations.

Item V (c): Clarification of “legal domicile” (new). This item deals with a thorny question that continues to arise. The issue affects the determination of an institution’s “home state” for SARA purposes.

Item V (d): Probationary status for some institutions (new). This item addresses the concerns of some SARA states about certain institutions that meet currently stated SARA eligibility requirements but which have problems or challenges of which the state is aware. It would allow special attention to institutions facing certain situations.

Item V (e) 1: Clinical placements (modification). Questions about experiential learning activities (clinical placements, internships, supervised field experiences, etc.) continue to arise, and resolving them is challenging. This recommended change is prompted by many questions from the field. NC-SARA assembled an advisory group to help consider the issue. A roster of that group is included.

Item V (f) 2: Recruiting (new). The four regional compacts’ SARA documents include recruiting as an institutional activity that does not trigger physical presence. This recommended addition to the NC-SARA Policies and Standards document would bring the document into compliance with the regionals’ documents.

Staff Recommendation: Approve the recommended policies.
ITEM V (A): POLICY ON DATA TO BE SUBMITTED BY SARA INSTITUTIONS

Background: On May 14, 2014, NC-SARA discussed and gave provisional approval to the following action item, subject to additional review and final approval at the next meeting of the Council:

Data Submission Requirements for Institutions Participating in the State Authorization Reciprocity Agreements (SARA), for Consideration by the National Council for State Authorization Reciprocity Agreements at its May 14, 2014 Meeting

Institutions participating in the State Authorization Reciprocity Agreements (SARA) shall annually submit the following data to the National Council for State Authorization. Reciprocity Agreements:

1. The number of students enrolled in the institution via distance education delivered outside the home state of the institution, reported by state, territory, or district in which the students reside.

2. A list of programs that a student may complete without on-campus attendance (using the U.S. Department of Education definition of a distance education program).

NC-SARA shall convene a technical advisory panel to help develop data submission protocols; that information will be made available to SARA institutions well before data submission is required. Data and information submitted through this process will be reported on the NC-SARA website. NC-SARA will not collect individually identifiable student data and will comply with the Family Educational Rights and Privacy Act (FERPA).

Beginning in 2016, institutions participating in SARA will be required to further disaggregate the above enrollment data by program of study.

Subsequent work: On September 23, 2014, a technical advisory panel met in Boulder, Colorado. Panel membership was as follows:

Michael Ball  
Associate Director  
Washington Student Achievement Council

Marianne Boeke  
Senior Research Associate  
National Center for Higher Education Management Systems

Sandy Doran  
Regional SARA Director  
New England Board of Higher Education

Beth Bean  
Chief Research Officer  
Colorado Department of Higher Education

Ellen Boswell  
Director of Institutional Research  
Metropolitan State University of Denver

John Lopez  
Regional SARA Director  
Western Commission for Higher Education

Kris Biesinger  
Senior Advisor  
Southern Regional Education Board

Monnica Chan  
Director of Policy and Research  
New England Board of Higher Education

Jennifer Parks  
Regional SARA Director  
Midwestern Higher Education Compact
The panel discussed the relevant issues in depth, generally affirmed the policies listed above, and makes the following recommendations, which are supported by the NC-SARA executive director.

1. As discussed on May 14, 2014, SARA institutions should report the number of students enrolled in the institution via distance education delivered outside the home state of the institution, reported by state, territory, or district in which the students reside.
   a. This data should be reported annually to NC-SARA one month following the due date for institutions to make their fall enrollment reports to IPEDS. The first reports will therefore be due in fall 2015.
   b. SARA’s reporting of enrollment data will utilize the following format:

<table>
<thead>
<tr>
<th>States</th>
<th>SARA State 1</th>
<th>SARA State 2</th>
<th>SARA State 3</th>
<th>SARA State 4</th>
<th>Total in Non-SARA States</th>
<th>Total SARA + Non-SARA States</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SARA Institution 1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SARA Institution 2</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

   Note: Although the majority of the advisory committee supported this approach, some members expressed concerns about asking institutions to report enrollments in non-SARA states.
   c. Submitted data will be compiled by NC-SARA and reported on the NC-SARA website (www.nc-sara.org).
   d. In making their fall 2016 reports, institutions should disaggregate their out-of-state distance education enrollments by broad academic discipline categories (details to be specified later, likely to be two-digit CIP code) and also report 12-month unduplicated enrollments (instead of fall headcount enrollments) in out-of-state distance education offerings.

2. NC-SARA should develop a data usage agreement to be signed by responsible parties of the SARA institution and NC-SARA prior to data submission.

3. In regard to providing lists of programs that may be completed wholly at a distance, the panel recommends the following as a more workable approach:
   a. On its website listing of SARA institutions, NC-SARA may include (if the institution so chooses) a link to the institution’s distance education page, where students can determine academic programs that can be completed at a distance.
   b. NC-SARA should investigate the challenges, costs, and benefits of constructing and maintaining the accuracy and completeness of a searchable data base of distance education programs offered by SARA institutions. That process should include consideration of working with other entities, as well as proceeding independently.
Notes and rationale:

Adding to the pool of accurate data on distance education

All current attempts to measure the extent of distance education/online enrollments are incomplete or flawed in various ways. SARA’s enrollment numbers will also be incomplete, as they will only count the out-of-state enrollments of SARA institutions. But as the number of SARA institutions grows, the data will represent an increasing share of all such enrollments by U.S. higher education institutions. Capturing this data from the beginning of the SARA initiative will provide a baseline against which to measure the anticipated growth in cross-state distance education enrollments by SARA institutions. The data set as proposed will disaggregate offerings of institutions by the state in which their students reside; over time a more complete picture of this activity will emerge. In addition, SARA states will have a better sense of how many of their residents are enrolled in offerings of SARA institutions from other states.

Which enrollment data – and why?

When speaking of institutional enrollments, many people have in mind their institution’s “fall headcount” enrollment. As enrollment patterns have shifted with the increasing numbers of “non-traditional” students participating in higher education, “fall headcount” enrollment is an increasingly less useful number to capture the full extent of institutional enrollments. The advisory committee believes that “twelve-month unduplicated headcount” enrollment is a superior measure of institutional size and student engagement, especially for community colleges and for-profit institutions. That number is likely to be a more accurate measure of total distance education enrollments, as variable start dates and term lengths for distance education courses and programs become increasingly common.

A searchable database

Consider the following scenario: a student learns of SARA, is impressed by its consumer protection provisions and academic quality assurances, and wants to enroll in an institution that participates in the initiative. His/her possible online query on the NC-SARA website: “I’d like to see a list of SARA institutions that offer a fully online master’s of social work, or a baccalaureate in geography, or . . . whatever.” Sounds like a perfectly reasonable thing to ask. But getting such a database established – and keeping it current – would be an extremely daunting task. And, given the increasing sophistication of Internet search engines, there’s some question about whether the added benefit of such a query tool would justify the substantial effort and cost. The technical review panel recommends continued study.
ITEM V (B): POLICY ON REPORTING OF COMPLAINTS

Background: On May 14, 2014, NC-SARA discussed and gave provisional approval to the following action item, subject to additional review and final approval at the next meeting of the organization. (Note: italicized words were added during discussion.)

Complaint Resolution Reporting for States Participating in the State Authorization Reciprocity Agreements (SARA), for Consideration by the National Council for State Authorization Reciprocity Agreements at its May 14, 2014 Meeting

States participating in the State Authorization Reciprocity Agreements shall report the following information to the National Council for State Authorization Reciprocity Agreements on a quarterly basis:

1. The number of complaints from out-of-state students, by SARA institution, appealed to the state’s SARA portal agency after the person making the complaint has completed the institution’s or governing board’s (if relevant) complaint resolution process.

2. The resolution of those complaints in the aggregate, by SARA institution: number resolved in favor of the person making the complaint, number resolved in favor of the institution, number resolved by agreement, and number pending resolution.

NC-SARA shall form a technical advisory panel to determine the protocols of this reporting. NC-SARA shall advise participating SARA states of those provisions well before data submission is required. Data and information submitted through this process will be reported on the NC-SARA website. NC-SARA will not collect individually identifiable student data and will comply with the Family Educational Rights and Privacy Act (FERPA).

Subsequent work: On September 23, 2014, a technical advisory panel met in Boulder, Colorado. Panel membership was as follows:

Michael Ball  
Associate Director  
Washington Student Achievement Council

Beth Bean  
Chief Research Officer  
Colorado Department of Higher Education

Kris Biesinger  
Senior Advisor  
Southern Regional Education Board

Marianne Boeke  
Senior Research Associate  
National Center for Higher Education Management Systems

Ellen Boswell  
Director of Institutional Research  
Metropolitan State University of Denver

Monnica Chan  
Director of Policy and Research  
New England Board of Higher Education

Sandy Doran  
Regional SARA Director  
New England Board of Higher Education

John Lopez  
Regional SARA Director  
Western Commission for Higher Education

Jennifer Parks  
Regional SARA Director  
Midwestern Higher Education Compact

Russell Poulin  
Deputy Director, Research and Analysis  
WICHE Cooperative for Educational Technologies

Ken Sauer  
Senior Associate Commissioner for Research and Academic Affairs  
Indiana Commission for Higher Education

John Schmahl  
Director of Student Services  
Colorado Community College Online
The panel discussed the relevant issues in depth, affirmed the policies listed above, and made the following recommendations, which are supported by the NC-SARA executive director.

1. SARA states should report as indicated in the May 14, 2014, discussion. Quarterly reporting on this metric will provide timely identification for students and states of any SARA institution for which numerous complaints are appealed to their state’s SARA portal agency.

2. The number of complaints appealed to the SARA portal agencies should be placed within the context of the institution’s total out-of-state distance education enrollments, as follows:
   a. Numerator – number of complaints appealed to the portal agency;

3. NC-SARA should report on its website the number and status of appeals in the following format, in a cumulative manner.

<table>
<thead>
<tr>
<th>Student complaints appealed to SARA portal agencies (Date to Date)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of complaints appealed to the portal agency*</td>
</tr>
<tr>
<td>Alaska</td>
</tr>
</tbody>
</table>

* After completion of the institution’s full complaint resolution process.

4. Initial reporting by SARA states should begin in April 2015.

Notes and rationale:

**Why report only appealed complaints?**

People experienced in dealing with complaints report that the vast majority of complaints are resolved within the institution. SARA will focus on complaints against SARA institutions that are not resolved at that level and require consideration and resolution by the institution’s SARA portal entity.

**Why report quarterly instead of less frequently?**

If a SARA institution is the focus of many appealed complaints, the sooner that is made known to other states, and potential students, the better.
ITEM V (C): CLARIFICATION OF “LEGAL DOMICILE”

Proposed addition to NC-SARA Policies and Standards

Subject: Definition of “Legal Domicile” for an institution

NC-SARA staff have been asked several times what is meant by an institution’s domicile, for purposes of establishing the home state. The problem is that some states are not sure whether the location of a corporate parent is the domicile. It is not, because the corporate parent is not necessarily the entity holding legal authority to issue degrees or accreditation. The following proposed definition follows the advice SARA staff has been giving states and formalizes that position.

Proposed addition to Definitions in NC-SARA Policies and Standards

(__) “Legal Domicile” of an institution for purposes of SARA eligibility means the state in which the institution’s principal campus holds its institutional accreditation and, if applicable, its federal OPEID number. In the event that the OPEID number is assigned to a campus that is in a different state than the principal accredited campus, the SARA committees of the affected regional compacts shall determine which is the home state for purposes of SARA.
ITEM V (D): PROBATIONARY STATUS FOR SOME INSTITUTIONS

[___] Probationary admission of an institution

1. A state may place an applicant institution on probationary status upon approval to operate under SARA in the following circumstances.
   a. If the institution is on probationary status or the equivalent with its institutional accrediting association,
   b. If the institution is currently using a letter of credit or is under a cash management agreement with the U.S. Department of Education,
   c. If 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, or
   d. If 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.

2. An institution admitted to SARA participation in probationary status is subject to such oversight measures as the home state considers necessary for purposes of ensuring SARA requirements are met regarding program quality, financial stability and consumer protection, including enrollment limits if deemed necessary. The home state shall report to its regional SARA committee at least once a year on the status of any institutions admitted in probationary status.

3. An institution admitted to SARA in probationary status shall remain in that status for a period of at least six months, Section 4 notwithstanding.

4. In the event that an institution on SARA probation is no longer subject to any of the conditions set forth in Section 1, its home state shall remove it from probationary status.

5. In the event that an institution on SARA probation is found by its home state to not meet the requirements of SARA, the home state may disallow any further enrollments under SARA and shall:
   a. Remove the institution from SARA participation and notify its regional compact, or
   b. Allow the institution a period of time not to exceed six months in which to come into compliance with SARA standards under state supervision. Only one such grace period is allowed in any three-year period.

6. In the event that an institution on SARA probation is found by its home state to not meet the requirements of SARA, the home state shall allow any students enrolled in the institution under SARA at the time of the finding of noncompliance a period of six months in which to conclude their work at the institution, irrespective of the institution’s SARA status.
ITEM V (E) 1: CLINICAL PLACEMENTS

Proposed revision showing proposed changes based on reviewer comments to NC-SARA Policy 5(2)(i), related to requirements for SARA coverage of supervised field experiences.

Existing language:

i. Operating limited supervised field experiences. For purposes of this agreement, interstate supervised field experiences originating from campus-based programs in a member state are considered to be distance education and not to establish physical presence if they:

A. place fewer than ten students from each program in a member state who are physically present simultaneously at a single facility or site in a host state, and
B. do not involve any multi-year contract between a sending institution and a field site.

Proposed language:

Note: Section would be removed from the “Physical Presence” subsection and given its own subsection number (3) in recognition of the fact that clinical placements are a unique and significant aspect of SARA that will require continuing work.

3. Supervised Field Experiences¹

(a) Supervised field experiences are considered not to establish a physical presence under SARA and are therefore covered by the provisions of SARA governing interstate distance education activity, whether or not the field experience is part of a distance-education or campus-based program.

(b) Existing contracts among provider institutions and sites used for supervised field experiences as of the date that an institution begins participating in SARA are not impaired, revised or otherwise affected by SARA. At the time that any provision of such a contract is changed, the new contract must comply with SARA policies and standards set forth herein.

(c) A contract for supervised field experiences to be covered by SARA is limited as follows. Such a contract:

(1) Cannot exceed ten students placed simultaneously at one clinical or practicum site.

¹ The term “Supervised Field Experiences” is defined in the first section of the NC-SARA Policies and Standards and is not repeated here.
(2) May be objected to by the host state portal agency on grounds that the institution has:

(A) a demonstrable failure to achieve an acceptable professional licensing rate in the host state if the program customarily leads to licensure, provided that the acceptable rate is not higher than the lower of (a) the lowest rate of a host state-based institution in good standing or (b) the average state licensure rate, or

(B) an unreasonable number of valid, documented complaints about program operation or quality which have not been adequately resolved by the institution.

(3) In the event that a host state objects to a clinical placement under SARA on the grounds set forth in subsection (2) above, the affected regional compacts shall determine whether the placement is allowable under SARA, using procedures developed for that purpose.

(d) Any student enrolled in a program at the time the institution begins operations under SARA may be placed in any clinical site available at the time of enrollment, irrespective of SARA policies, provided that the institution chooses to maintain that site agreement.

(e) An institution operating under SARA that owns a clinical or practicum site is not subject to the limitations of subsection (c) on placement of its own students at such a site.

(f) SARA policies and standards regarding clinical placements do not supersede, replace or modify any federal law that would affect students placed under SARA. SARA policies are subsidiary to any such federal laws covering the same subjects.

Clinical Placements Advisory Committee

Alan Contreras  
SARA Coordinator  
NC-SARA and W-SARA

Marcia Bankirer  
President  
Denver School of Nursing

Shari L. Miller  
Compliance Manager  
Office of Extended Campuses, Northern Arizona University

Larry Tremblay  
Deputy Commissioner  
Louisiana Board of Regents

Brandi Taylor  
Attorney  
Powers, Pyles, Sutter and Verville law firm, D.C.
ITEM V (F) 2: RECRUITING

Proposed addition to NC-SARA Policies and Standards

Subject: Recruiters

The four regional compacts’ SARA documents include recruiting as an activity that does not trigger physical presence. NC-SARA staff intended this provision to be included in the Policies and Standards document considered and approved by NC-SARA in November 2013. It was omitted due to our oversight.

Some individuals have noticed and asked about this difference between the regional SARA documents and the NC-SARA Policies and Standards document. This recommended addition would eliminate that difference.

Proposed policy, to be inserted into NC 5(2), Physical Presence (topic head shown below).

2. An institution does not have physical presence, and is therefore covered by SARA in SARA member states, if it is only:

(__) Using recruiters in a SARA member state. (This provision is not restricted to recruiting for courses or programs offered under SARA.)
State Authorization Reciprocity Agreements

Policies and Standards

A State Authorization Reciprocity Agreement (SARA) is an agreement among its member states, districts and U.S. territories that establishes comparable national standards for interstate offering of postsecondary distance-education courses and programs. It is intended to make it easier for students to take online courses offered by postsecondary institutions in a state other than the one where they reside. SARA is overseen by a national council and administered by four regional higher education compacts, MHEC, NEBHE, SREB and WICHE. The four SARA agreements of those compacts are collectively treated as a plural, the Agreements.

Section 1. Definitions

1. “Accredited” means: holding institutional accreditation by name as a U.S.-based institution from an accreditor recognized by the U.S. Department of Education.

2. “Approve” or “Approval” in the context of an institutional application to operate under SARA means: a written statement by a home state that an institution meets the standards required by SARA and is eligible to operate under SARA.

3. “Authorized” means: holding a current valid charter, license or other written document issued by a state, the federal government or a recognized Indian tribe, granting the named entity the authority to issue degrees and operate within a state or jurisdiction.

4. “Bylaws” means: those bylaws established by the National Council for SARA for its governance, or for directing or controlling its actions and conduct.

5. “Charter” means: a document bearing the word Charter issued by proper governmental authority that names a college or university as a degree-granting institution authorized to operate under the laws of the issuing jurisdiction.

6. “Complaint” means: a formal assertion in writing that the terms of this agreement, or of laws, standards or regulations incorporated by this agreement, are being violated by a person, institution, state, agency or other organization or entity operating under the terms of this agreement.

8. “C-RAC Guidelines” and other uses of “C-RAC” refers to the Interregional Guidelines for the Evaluation of Distance Education Programs (Online Learning) for best practices in postsecondary distance education developed by leading practitioners of distance education and adopted by the Council of Regional Accrediting Commissions (C-RAC).

9. “Credits” means: numeric descriptors of completion of academic work applicable toward a degree, including the Carnegie unit system.

10. “Degree” means: An award conferred at the Associate level or higher by an institution as official recognition for the successful completion of a program of studies. (Based on IPEDS definition.)

11. “Distance Education” means: instruction offered by any means where the student and faculty member are in separate physical locations. It includes, but is not limited to, online, interactive video or correspondence courses or programs.

12. “Faculty” means: a professional individual employed by or contracting with an institution primarily to teach, conduct research or provide related professional education services.

13. “Home State” means: a member state where the institution holds its legal domicile. To operate under SARA an institution must have a single home state.

14. “Host State” means: a member state in which an institution operates under the terms of this agreement, other than the home state.

15. “Hybrid” means: an educational program or course that includes both face-to-face and distance education. Also known by the name “blended” and, sometimes, other terms.


17. “Member State” means: any state, district or territory that has joined this agreement.

18. “Non-degree award” means: a formal postsecondary award that does not carry the designation of Associate degree or higher.

19. “Operate” means: activities conducted by an institution in support of offering distance education degree or non-degree courses or programs in a state, including but not limited to instruction, marketing, recruiting, tutoring, field experiences and other student support services.

20. “Physical Presence” means: a measure by which a state defines the status of an educational institution’s presence within the state. See the special section on physical presence below for the SARA standard.

21. “Portal Agency” means: the single agency designated by each SARA member state to serve as the interstate point of contact for SARA questions, complaints and other communications.

23. “Rule” means: a written statement promulgated by the National Council for SARA that is of general applicability; implements, interprets or prescribes a policy or provision of the agreement; or an organizational, procedural, or other requirement of the Council, including these policies and standards.

24. “State” means: any state, commonwealth, district, or organized territory of the United States.

25. “Supervised field experience” means: a student learning experience under the oversight of a supervisor, mentor, faculty member or other qualified professional, located in the host state, who has a direct or indirect reporting responsibility to the institution where the student is enrolled, whether or not credit is granted. Examples include practica, student teaching, or internships. Independent off-campus study by individual students not engaged in a supervised field experience is exempt from requirements of this compact and does not constitute a physical presence of a postsecondary institution in a SARA member state.

Section 2. States and Membership

1. Eligibility for membership

   a. The state must be a member of one of the four interstate Regional Compacts that administer SARA, or must have concluded an agreement with such a compact covering SARA activity.

   b. The state agency responsible for joining SARA must have the legal authority under state law to enter an interstate agreement that covers all of the elements of SARA.

   NOTE: The District of Columbia and U.S. territories are also eligible to join SARA.

2. Member withdrawal

   A member state may withdraw from SARA by providing 90 days written notice from the appropriate state authority to its Regional Compact. Any institution operating under SARA from that state may continue to do so to the conclusion of its current academic term or 90 days after the date of receipt of notice of withdrawal, whichever is later, but not to exceed six months from the date the notice was received by the Regional Compact. An institution that withdraws from SARA partway through its participation year receives no fee refund.

3. Member removal

   A member state may be removed from SARA membership by its Regional Compact if it ceases to abide by the requirements of SARA. The effect of removal on students and institutions will follow the same standards as set forth for Withdrawal.
4. Application

States apply for SARA membership using a uniform SARA application process through which a state will be required to demonstrate to its Regional Compact that it meets the standards established for participation in the interstate reciprocity agreement.

5. Functional responsibilities of states

a. The state accepts institutional accreditation by an accrediting body recognized by the U.S. Secretary of Education as sufficient, initial evidence of academic quality for approving institutions for participation in SARA.

b. The state considers applications from degree-granting institutions of all sectors (public, private non-profit, and private for-profit) on the same basis and approves institutions that meet SARA standards and agree to SARA processes and commitments without differentiating by sector.

c. For private institutions, the state accepts an institutional federal financial responsibility rating of 1.5 (or 1.0 with justification) as sufficient financial stability to qualify for participation in SARA. In the event that an institution does not participate in federal Title IV financial aid and therefore has no federal responsibility rating, the state must calculate this rating before allowing an institution to participate in SARA.

   **NOTE:** This SARA policy does not preclude a state from requiring a higher rating for nonpublic providers operating in the state as their home state. In that case, institutions operating from that state under SARA would have a higher required score, not because of SARA rules, but because of the home state’s law applicable to all providers.

d. The state has a clearly articulated and comprehensive state process for consumer protection in regard to SARA activities, both with respect to initial institutional approval and on-going oversight, including the resolution of consumer complaints in all sectors.

   **NOTE:** The problem-solving methods need not be identical for all institutions, as different boards or agencies may be involved depending on the nature of the problem, but the authority of the state to resolve complaints related to SARA activity must be substantially the same for all institutions.

e. The state designates a “portal agency” to coordinate SARA matters for the state and provide a principal point of contact for resolution of student complaints. The portal agency has the following duties:

   A. Serve as the point of contact for all other SARA member states and their agencies for questions about SARA within its state;

   B. Determine whether an institution in its state is eligible for participation in SARA, and lead any investigations regarding whether an institution is in compliance with SARA rules and policies;

   C. Serve as the initial contact point for complaints about any institutions in the state that are operating under SARA; and

   D. Collect and manage any in-state fees^1^ assessed on participating institutions for oversight of SARA.

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^1^ It does not collect the fees paid by institutions directly to the National Council for SARA.
NOTE: The designated portal agency need not itself be responsible for all oversight activities of SARA providers inside the state, and need not have a governance role with any institution, but will be the SARA portal for that state.

f. The state agrees that it will work cooperatively with other SARA states, Regional Compacts and the National Council for SARA to enable success of the initiative. The state will follow up on requests for information or investigation from other SARA member states or any SARA regional or national office, providing such data or reports as are required.

g. The state agrees that it will not impose on an institution operating under SARA from another state any requirements, standards, fees or procedures other than those set forth in SARA policies and rules. This does not preclude the state from enforcing its laws against nondomestic institutions in non-educational subject areas outside those covered by SARA.

h. The state agrees to require each SARA applicant institution to apply for state approval using the standard SARA institutional application, including agreement to operate under the C-RAC guidelines.

Section 3. Institutions and Participation

1. Eligibility

Any degree-granting institution based in the United States, holding proper authorization from Congress, a U.S. state or a federally recognized Indian tribe and holding accreditation from an accrediting association recognized by the U.S. Secretary of Education is eligible to apply to its home state to participate in SARA if that state is a SARA member. To be eligible for offer under SARA, distance education must originate inside the United States or a U.S. territory. Ownership of an institution located outside the United States or its territories by a U.S. institution does not qualify the nondomestic institution to operate under SARA.

2. Participation Fees

a. Fees for an institution to participate in SARA potentially consist of two parts. The first is a required SARA fee paid to the National Council for SARA. This annual fee is based on an institution’s total full-time equivalent (FTE) enrollment as shown in the Integrated Postsecondary Education Data System (IPEDS) and is assessed as follows:

<table>
<thead>
<tr>
<th>Enrolled FTE</th>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 2,500</td>
<td>$2,000</td>
</tr>
<tr>
<td>2,500-9,999</td>
<td>$4,000</td>
</tr>
<tr>
<td>10,000 or more</td>
<td>$6,000</td>
</tr>
</tbody>
</table>

b. Institutions that pay SARA participation fees prior to September 1, 2014 receive 18 months of initial approval to operate under SARA instead of 12 months. Renewals are on an annual basis.

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2 Fees may be revised by the National Council for SARA as needed beginning in 2016.
States have the option of charging SARA participant institutions a fee to cover the state’s costs in administering SARA.

3. Loss of institutional eligibility

An institution that does not renew its participation agreement with its home state or pay its required SARA fees annually is no longer eligible to participate in SARA. At the time of annual renewal, the state must determine whether the institution still meets SARA requirements. An institution can also be removed at any time by its home state or by the SARA Regional Compact under which it operates for violation of SARA standards. An institution that is removed from eligibility partway through a period of approval receives no fee refund.

NOTE: The National Council for SARA office will maintain a list of SARA participant institutions.

4. Limitations of SARA

SARA applies solely to distance education activity conducted across state lines. It does not apply to distance education activity inside a state or to on-ground campuses. For purposes of SARA, “distance education” includes a limited number of group activities conducted for short periods on the ground. See Section 3, subsections 6, 7, 9 and the Physical Presence standards in Section 5 for details.

5. Programs leading to licensure

SARA has no effect on state professional licensing requirements. Any institution operating under SARA that offers courses or programs potentially leading to professional licensure must keep all students, applicants and potential students who have contacted the institution about the course or program informed as to whether such offerings actually meet state licensing requirements. This must be done in one of two ways:

a. The institution may determine whether the course or program meets the requirements for professional licensure in the state where the applicant or student resides and provide that information in writing to the student, or

b. The institution may notify the applicant or student in writing that the institution cannot confirm whether the course or program meets requirements for professional licensure in the student’s state, provide the student with current contact information for any applicable licensing boards, and advise the student to determine whether the program meets requirements for licensure in the state where the student lives.

Failure to provide proper notice in one of these two ways invalidates the SARA eligibility of any course or program offered without the proper notice.

6. Field trips and seasonal residential activity

SARA covers class field trips across state lines among member states, but does not cover full-scale residency programs such as a summer session at a field station.
7. Short courses and seminars

Physical presence under SARA is not triggered if the instruction provided for a short course or seminar takes no more than 20 classroom hours. Class meetings during a full-term course do not trigger physical presence if the instructor and students physically meet together for no more than two meetings, totaling less than six hours. Apparent abuses of these provisions may be brought to the attention of the home state.

8. Third-party providers

Contacts between a third-party provider of educational services and any SARA office or state must be made via the degree-granting institution that operates under SARA. A third-party provider may not represent an institution regarding any subject under SARA operating policies to any SARA office or any state operating under SARA. The institution that transcripts a course is considered the degree-granting institution for purposes of this section.

**NOTE:** A SARA-approved institution may hire third-party providers to offer or support instruction contained within a program that is otherwise SARA-eligible, assuming that the instruction otherwise meets SARA standards, institutional requirements and requirements of accrediting bodies. However, the degree-granting institution cannot delegate any SARA-related problem-solving functions to a third-party provider, nor may it use the third-party provider as its vehicle for contacting or working with a state.

9. Offerings on military bases

All distance education course offerings provided interstate by a SARA participant institution to federal employees and their dependents located on a U.S. military facility or vessel in a SARA member state are covered by SARA. If such offerings are open to the general public for enrollment, SARA does not apply and state law where the facility or vessel is located applies.

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**Section 4. Consumer protection**

*SARA Policies and Standards*, including those for consumer protection and the resolution of complaints, apply to interstate distance education offered by participating SARA institutions to students in other SARA states. Only those complaints resulting from distance education courses offered by participating institutions to students in other SARA states come under the terms of the agreement. Complaints about a SARA institution’s in-state operations are to be resolved under the state’s provisions, not those of SARA.

SARA consumer protection provisions require the home state, through its SARA “portal” entity or agency, to investigate and resolve allegations of dishonest or fraudulent activity by a provider, including the provision of false or misleading information.

Consumer protection within SARA, in addition to dealing with alleged fraudulent activity, also provides for the investigation and resolution of complaints that an institution is operating a course or program contrary to practices set forth in the *C-RAC Guidelines* (see below) in such a way that a student is harmed. Examples of issues that may arise in regard to alleged fraudulent activity or more general complaints include, but are not limited to:
a. Veracity of recruitment and marketing materials;
b. Accuracy of job placement data;
c. Accuracy of information about tuition, fees and financial aid;
d. Complete and accurate admission requirements for courses and programs;
e. Accuracy of information about the institution’s accreditation and/or any programmatic/specialized accreditation held by the institution’s programs;
f. Accuracy of information about whether course work meets any relevant professional licensing requirements or the requirements of specialized accrediting bodies;
g. Accuracy of information about whether the institution’s course work will transfer to other institutions; and
h. Operation of distance education programs consistent with practices expected by institutional accreditors (and, if applicable, programmatic/specialized accreditors) and/or the C-RAC Guidelines for distance education.

1. Responsibilities for resolving complaints

Initial responsibility for the investigation and resolution of complaints resides with the institution against which the complaint is made. Further consideration and resolution, if necessary, is the responsibility of the SARA portal agency, and other responsible agencies of the institution’s home state (see the following section: Complaint Resolution Processes). The portal agency is responsible for staffing the investigation and resolution of complaints that are not resolved at the institutional level. (The portal agency may enlist the assistance of other responsible entities in the state in carrying out the work of complaint resolution.) Institutions operating under SARA shall make their and SARA’s complaint resolution policies and procedures readily available to students taking courses under SARA provisions.

2. Complaint Resolution Processes

a. Complaints against an institution operating under SARA go first through the institution’s own procedures for resolution of grievances.

b. Complaints regarding student grades or student conduct violations are governed entirely by institutional policy and the laws of the SARA institution’s home state.

c. If a person bringing a complaint is not satisfied with the outcome of the institutional process for handling complaints, the complaint (except for complaints about grades or student conduct violations) may be appealed, within two years of the incident about which the complaint is made, to the SARA portal agency in the home state of the institution against which the complaint has been lodged. The resolution of the complaint by that SARA portal agency, through its SARA complaint resolution process, will be final, except for complaints that fall under the provisions of (g), below.

d. While the final resolution of the complaint rests with the SARA portal agency in the home state of the institution against which the complaint has been lodged, nothing precludes the state in which the complaining person is located from also working to resolve the complaint, preferably through...
that state’s SARA portal agency. Indeed, it is expected that SARA states will facilitate the resolution of any complaints brought to their attention.

e. While final resolution of complaints (for purposes of adjudication of the complaint and enforcement of any resultant remedies or redress) resides in certain cases with institutions (complaints about grades or student conduct violations), or more generally with the relevant institution’s home state SARA portal agency (all other complaints), the regional compact(s) administering SARA may consider a disputed complaint as a “case file” if concerns are raised against a participating state with regard to whether that state is abiding by SARA Policies and Standards. The regional compact may review such complaints in determining whether a state under its purview is abiding by the SARA standards. Similarly, a complaint “case file” may also be reviewed by NC-SARA in considering whether a regional compact is ensuring that its member states are abiding by the SARA standards required for their participation in the agreement.

f. SARA shall develop policies and procedures for reporting the number and disposition of complaints that are not resolved at the institutional level. Such data will create transparency and can be used in determining whether a regional compact is ensuring that its SARA member states and those states’ institutions are abiding by the standards required for participation in the agreement.

g. Nothing in SARA Policies and Standards precludes a state from using its laws of general application to pursue action against an institution that violates those laws.

3. Oversight of complaint investigation

Investigation of a SARA-related complaint against an institution requires that a board or agency outside the institution’s immediate management be available to handle complaints that are not resolved within the institution. A system board responsible for more than one separately accredited institution may serve this role under SARA provisions. A board responsible for only one accredited institution, or which lacks enforcement authority over an institution, cannot serve as the SARA external oversight agency for such an institution. In such circumstances, the institution’s home-state SARA portal agency may serve that function.

4. Incorporation of Existing Guidelines

The Interregional Guidelines for the Evaluation of Distance Education (Online Learning) (referred to as “C-RAC Guidelines” in this document) adopted by the Council of Regional Accrediting Commissions are incorporated in the requirements of SARA. States that join SARA need to base their oversight of SARA activity and their investigative actions on the following expectations. The president or chief academic officer of each institution participating in SARA (whether accredited by a “regional” or other recognized accreditor) shall attest that their institution meets and agrees to comply with the following C-RAC provisions.

1. Online learning is appropriate to the institution’s mission and purposes.

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2 The complete C-RAC framework and examples of good practices shall be made a part of the institutional application process. The numbering system used in this section is retained from the C-RAC framework.
2. The institution’s plans for developing, sustaining, and, if appropriate, expanding online learning offerings are integrated into its regular planning and evaluation processes.

3. Online learning is incorporated into the institution’s systems of governance and academic oversight.

4. Curricula for the institution’s online learning offerings are coherent, cohesive, and comparable in academic rigor to programs offered in traditional instructional formats.

5. The institution evaluates the effectiveness of its online learning offerings, including the extent to which the online learning goals are achieved, and uses the results of its evaluations to enhance the attainment of the goals.

6. Faculty responsible for delivering the online learning curricula and evaluating the students’ success in achieving the online learning goals are appropriately qualified and effectively supported.

7. The institution provides effective student and academic services to support students enrolled in online learning offerings.

8. The institution provides sufficient resources to support and, if appropriate, expand its online learning offerings.

9. The institution assures the integrity of its online offerings.

Section 5. Physical presence standards

Generally, an institution has physical presence when it operates a campus, branch instructional facility whether leased or owned, or administrative office within the boundaries of a state. However, because the specific definitions of physical presence currently vary greatly from state to state, especially with regard to out-of-state institutions that seek to conduct any activity within another state, SARA has established its own uniform standard for physical presence vs. distance education. For purposes of participation in SARA, this standard applies, but it does not affect the application of existing state laws to colleges that choose to operate outside of SARA or which are based in states that are not SARA members.

1. For purposes of SARA, an institution has physical presence and therefore must meet the state’s current non-SARA requirements if it does any of these things in a state:
   a. Establishes a physical location for students to receive synchronous or asynchronous instruction;
   b. Requires students to physically meet in a location for instructional purposes more than twice per full-term (quarter or semester) course for a total of more than six hours;
   c. Establishes an administrative office;
   d. Provides information to students for the purpose of enrolling students, or provides student support services, from a physical site operated by or on behalf of the institution in the state;
e. Offers a “short course” that requires more than 20 contact hours;
f. Provides office space to instructional or non-instructional staff;
g. Maintains a mailing address or phone exchange in a state.

2. An institution does not have physical presence, and is therefore covered by SARA in SARA member states, if it is only:

a. Offering courses to individuals via distance education in ways that do not require students to gather physically in groups, excepting the special provisions in Section 5(1);
b. Advertising to students whether through print, billboard, direct mail, internet, radio, television or other medium;
c. Offering distance education courses on a military base if enrollment in such courses is limited to federal employees and family members;
d. Maintaining a server, router or similar electronic service device housed in a facility that otherwise would not constitute physical presence (the presence of a server or similar pass-through switching device does not by itself constitute the offering of a course or program in that state);
e. Having faculty, adjunct faculty, mentors, tutors, or other academic personnel residing in a member state (the presence of instructional faculty in a state, when those faculty teach entirely via distance-education and never meet their students in person, does not establish physical presence for purposes of this agreement);
f. Holding proctored exams on behalf of the institution in the host state;
g. Having contractual arrangements in the home or host state.
h. Offering educational field experiences for students, including an educational field trip arranged for a group of students that are normally in residence at an institution in another state;
i. Operating limited supervised field experiences. For purposes of this agreement, interstate supervised field experiences originating from campus-based programs in a member state are considered to be distance education and not to establish physical presence if they:

   A. place fewer than ten students from each program in a member state who are physically present simultaneously at a single facility or site in a host state, and

   B. do not involve any multi-year contract between a sending institution and a field site.

Section 6. Data Submission Requirements for Institutions Participating SARA

Institutions participating in the State Authorization Reciprocity Agreements (SARA) shall annually submit the following data to the National Council for State Authorization Reciprocity Agreements:

1) The number of students enrolled in the institution via distance education delivered outside the home state of the institution, reported by state, territory, or district in which the students reside.
2) A list of programs that a student may complete without on-campus attendance (using the U.S. Department of Education definition of a distance education program).
NC-SARA shall convene a technical advisory panel to help develop data submission protocols; that information will be made available to SARA institutions well before data submission is required. Data and information submitted through this process will be reported on the NC-SARA website. NC-SARA will not collect individually identifiable student data and will comply with the Family Educational Rights and Privacy Act (FERPA).

Beginning in 2016, institutions participating in SARA will be required to further disaggregate the above enrollment data by program of study.

**Section 7. Complaint Resolution Reporting for States Participating SARA**

States participating in the State Authorization Reciprocity Agreements shall report the following information to the National Council for State Authorization Reciprocity Agreements on a quarterly basis:

1) The number of complaints from out-of-state students, by institution, appealed to the state’s SARA portal agency after the person making the complaint has completed the institution’s or governing board’s (if relevant) complaint resolution process;

2) The resolution of those complaints in the aggregate, by SARA institution: number resolved in favor of the person making the complaint, number resolved in favor of the institution, number resolved by agreement, and number pending resolution.

NC-SARA shall form a technical advisory panel to determine the protocols of this reporting. NC-SARA shall advise participating SARA states of those provisions well before data submission is required. Data and information submitted through this process will be reported on the NC-SARA website. NC-SARA will not collect individually identifiable student data and will comply with the Family Educational Rights and Privacy Act (FERPA).

**Section 8. Revisions to Policies and Standards**

Changes to these Policies and Standards shall be classified as Corrections or Revisions. Corrections represent minor technical fixes or clarifications that do not represent a substantive change in policy, standards or procedures. Revisions represent substantive changes in policy (or new policies), standards or procedures. The last page of this document shall contain a running list showing the date that any Corrections or Revisions were made, and referring to any documentation of such changes, in order to maintain a record of such changes. That record follows this section.

**Policies and Standards** adopted by the National Council for SARA November 1, 2013, published in final form with minor revisions and corrections by NC-SARA staff November 18, 2013.

**Record of Corrections**

November 19, 2013 ............ Staff corrected section heading numbering, which was missing Section 4. We also adjusted FAQ references to match corrected headings. ALC

November 19, 2013 ............ Addition of commas to unify the format of the FTE and fee schedule. ALC

SARA Policies and Standards – August 19, 2014 – Page 12
Record of Revisions

February 10, 2014………………Revision of SARA’s Policies and Standards for Consumer Protection

May 14, 2014 ..................... Policy Added Section 6: Data Submission Requirements for Institutions Participating in SARA

May 14, 2014 ..................... Policy Added Section 7: Complaint Resolution Reporting for States Participating in SARA

August 19, 2014 ................. Revision of SARA’s Policies and Standards Section 3: Institutions and Participation, item 9: Offerings on military bases
NC-SARA AGENDA ITEM

12/2/2014

Information Items

a) Progress report on obtaining 501(c)3 status for NC-SARA

b) FAQs added since last NC-SARA Board Meeting
   i. SARA’s use of federal composite scores
   ii. States’ use of federal scores in institution eligibility
   iii. Tutoring and physical presence
   iv. Aviation programs

c) Executive Director presentations
REPORT ON PROGRESS IN OBTAINING 501(c)(3) STATUS FOR NC-SARA

Background: In May of this year, NC-SARA approved an agenda item directing the executive director to pursue 501(c)(3) tax-exempt status for the organization. This was subject to additional due diligence on the question of whether our advocacy of SARA with legislators and others would be classified as lobbying and make us ineligible for that status.

Marshall Hill asked EducationCounsel, NC-SARA’s legal counsel, to look deeper into this issue. They have done so, in collaboration with Gary Capps, a tax law expert with Nelson Mullins, a firm with which EdCounsel is associated. A full description of the relevant issues, the process EdCounsel used to research the issue, and their formal conclusions are included on pages 57-69. Here’s their short assessment:

“Based on and limited to the facts provided to date and the application of relevant law, we believe that there is a reasonable basis to conclude the following with respect to NC-SARA:

1. On issues related to lobbying (the National Council’s primary focus):
   a. The vast majority of SARA-related activity by NC-SARA and the regional compacts likely does not qualify as lobbying, as defined by the IRS, though a few examples within a gray area do exist.
   b. Even assuming that at least some of the activity conducted by NC-SARA and regional compact representatives might qualify as lobbying, these activities are likely not enough to be considered “substantial” in amount.
   c. SARA-related activity by NC-SARA and the regional compacts likely does not implicate the IRS’s rules relating to “grassroots” lobbying.

2. On other important issues related to filing for tax exempt status:
   a. NC-SARA will most likely qualify for tax exempt status as a § 501(c)(3) public charity described in § 509(a)(2) Internal Revenue Code (“IRC”).
   b. NC-SARA will most likely have a valid exempt purpose as a charitable organization dedicated to the advancement of education and/or lessening the burdens of government.”

The executive director shared the EdCounsel memorandum with the NC-SARA executive committee and arranged conference calls to allow questions to be raised and answered. Thanks to the thorough analysis provided by EdCounsel/Nelson Mullins, there were very few questions. Each member of the NC-SARA executive committee reviewed the memorandum and has had the opportunity to pose questions to our legal counsel. Each member of the executive committee has voted to initiate the process of obtaining 501(c)(3) federal tax-exempt status for NC-SARA. As a reminder, NC-SARA executive committee members are: Paul Lingenfelter (chair), M. Peter McPherson (vice chair), Larry Isaak (treasurer), Belle Wheelan, Paul Shiffman, Michael Thomas, and Leroy Wade.

In late October, the executive director met with EdCounsel staff to begin preparing the application. The process will likely take six to nine months.
To: Marshall Hill, NC-SARA  
From: Gary Capps, Nelson Mullins Riley & Scarborough; Art Coleman and Terri Taylor, EducationCounsel LLC  
RE: NC-SARA’s prospective application for tax exempt status  
Date: September 25, 2014

Privileged and Confidential Communication

This memorandum builds on guidance regarding federal tax-exempt status prepared for the May 14, 2014, meeting of the National Council for State Authorization Reciprocity Agreements (“NC-SARA”), and provides additional information and commentary on questions related to lobbying activity. This memorandum was developed at the request of the National Council, which gave conditional approval for NC-SARA to seek federal tax-exempt status pending additional due diligence on the question of any potential lobbying activity by NC-SARA and regional compact staff members. Our primary focus was on NC-SARA’s activities, but we also examined regional compacts’ activities because of the financial relationship they have with NC-SARA (currently sharing Lumina grant funding and planning to share institutional fees as well as any future grant awards).

This memorandum has been significantly informed by additional information provided by NC-SARA and regional compact representatives. On June 19, 2014, we conducted an in-depth interview with Marshall Hill, NC-SARA Executive Director, and Alan Contreras, consultant to NC-SARA. We also received from each regional compact a written response to questions directly related to any potential activity that might qualify under the definition of lobbying used by the Internal Revenue Service (the “IRS”). In addition to key observations included throughout this memorandum, a detailed summary of responses is included in Appendix A.

Based on and limited to the facts provided to date and the application of relevant law, we believe that there is a reasonable basis to conclude the following with respect to NC-SARA:

1. On issues related to lobbying (the National Council’s primary focus):
   a. The vast majority of SARA-related activity by NC-SARA and the regional compacts likely does not qualify as lobbying, as defined by the IRS, though a few examples within a gray area do exist.

These issues are especially important to examine, given the potential consequences if the rules are broken. An organization applying for tax-exempt status may not be approved if the record shows that the organization spends significant time on activities that would qualify as lobbying or grassroots lobbying under the IRS definitions. For approved organizations, tax-exempt status can be revoked if the IRS determines that excessive lobbying has taken place. Also, if an organization elects to use the expenditure test (discussed below) and then exceeds the defined limit for lobbying expenditures in a particular year, it must pay an excise tax equal to 25% of the excess. An organization that exceeds its limit over a four year period may lose its tax-exempt status, making all of its income for that period subject to tax.
b. Even assuming that at least some of the activity conducted by NC-SARA and regional compact representatives might qualify as lobbying, these activities are likely not enough to be considered “substantial” in amount.

c. SARA-related activity by NC-SARA and the regional compacts likely does not implicate the IRS's rules relating to “grassroots” lobbying.

2. On other important issues related to filing for tax exempt status:

a. NC-SARA will most likely qualify for tax exempt status as a § 501(c)(3) public charity described in § 509(a)(2) Internal Revenue Code (“IRC”).

b. NC-SARA will most likely have a valid exempt purpose as a charitable organization dedicated to the advancement of education and/or lessening the burdens of government.

In the conclusion of this memorandum, we briefly outline next steps that are likely to be pursued with regard to NC-SARA’s potential federal tax-exempt status. It is important to note that NC-SARA is a complex entity that is likely to be a challenge for IRS representatives to understand. NC-SARA should provide clear explanations of its purpose and activities (as well as those of regional compacts, as appropriate) in its application to the IRS for tax-exempt status in order to instill a clear understanding of what NC-SARA does and how it functions among its many stakeholders.

1. Issues related to lobbying

The National Council’s primary interest during the May 14, 2014, meeting was in gathering additional information and providing further analysis on issues related to potential lobbying activity associated with NC-SARA and the regional compacts. This section examines the legal basis and relevant facts related to three key elements of the lobbying issue – (a) whether any activity qualifies as lobbying under the IRS definition, (b) whether that activity qualifies as “substantial,” and (c) whether any grassroots lobbying is taking place. We conclude that, though some activity seems to be within a gray area under the current IRS definition, it is very unlikely to qualify as “substantial” activity.² (No grassroots lobbying appears to be taking place at all.)

a. The vast majority of SARA-related activity by NC-SARA and the regional compacts likely does not qualify as lobbying, as defined by the IRS, though a few examples within a gray area do exist.

A tax-exempt organization (or an organization applying for tax-exempt status) may not attempt to “influence legislation” (i.e., take part in lobbying activities) as a substantial part of its activities. In other words, an organization may engage in some lobbying, but may not devote a “substantial” amount of time or effort to lobbying without jeopardizing its tax-exempt status.² An organization will be treated as attempting to influence legislation if it contacts members of a legislative body (“direct lobbying”) or

urges the public to contact members of a legislative body ("grass roots lobbying") for the purpose of proposing, supporting or opposing legislation, or advocates the adoption or rejection of legislation.3

Under the "substantial part test," if a substantial part of the activities of an organization involve attempting to influence legislation by propaganda or otherwise, the organization will be considered an "action organization." The Treasury Regulations create a presumption that an organization is an action organization if it has two characteristics: (1) its main or primary objective or objectives may be attained only through the enactment or defeat of proposed legislation; and (2) it advocates or campaigns for the attainment of such main or primary objective or objectives.4

The IRS considers an organization to have attempted to influence legislation if it contacts — or urges the public to contact — members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation. The term "attempt to influence legislation" is not limited to direct formal contacts with members of the legislature to urge action for or against legislation. Conferences with legislative staff personnel would qualify as an attempt to influence legislation if the organization presses a position on legislation. Informal conferences with members or staff of the legislative body could also be suspect. If the organization requests the executive branch to support or oppose legislation, an attempt to influence legislation has occurred.

The IRS does not consider several advocacy-oriented activities as lobbying.5 For example, if the organization receives and accepts a written request to present testimony before the legislature on

3 It is important to understand that, for purposes for acquiring and maintaining tax-exempt status, the only definition of lobbying that matters is that established by the IRS. Definitions established by individual states, federal election law, and other authorities state authorities have no bearing in this area.


5 The IRS has stated that that attempting to influence legislation does not include the following activities:

1. Making available the results of nonpartisan analysis, study, or research, provided that (a) the material is available to the public, governmental bodies, officials, and employees, and (b) the material does not advocate the adoption or rejection of specific legislation.

2. Examining and discussing broad social, economic, and similar problems.

3. Providing technical advice or assistance (where the advice would otherwise constitute the influencing of legislation) to a governmental body or to a committee or committee subdivision in response to a written request by that body or subdivision.

4. Appearing before, or communicating with, any legislative body about a possible decision of that body that might affect the existence of the organization, its powers and duties, its tax-exempt status, or the deduction of contributions to the organization.

5. Communicating with a government official or employee, other than:
   a. A communication with a member or employee of a legislative body (when the communication would otherwise constitute the influencing of legislation), or
   b. A communication with the principal purpose of influencing legislation.

6. Communications between an organization and its members about legislation or proposed legislation of direct interest to the organization and its members, unless these communications directly encourage the members to attempt to influence legislation or directly encourage the members to urge nonmembers to attempt to influence legislation.

pending legislation, the appearance and testimony alone do not constitute an attempt to influence legislation. Furthermore, an organization may research and publish nonpartisan studies on pending legislation so long as the activity does not encourage enactment or defeat thereof.

Guided by these definitions, our examination of the activity of NC-SARA and regional compact staff revealed that, generally, very little activity by NC-SARA and regional compact representatives likely constitutes lobbying as defined by the IRS, though there are a small number of examples that may fall into a gray area. (A detailed summary of responses from NC-SARA and regional compact representatives is included in Appendix A.) Key observations from the responses include:

- Generally, all activity with state legislative, executive, and administrative has a nonpartisan educational and informational purpose. Our examination revealed no direct efforts to influence legislation or other governmental activity take place as part of the regular activity of NC-SARA or any of the regional compacts. Most (if not all) engagement with state governmental actors was initiated by the state governmental actors – not NC-SARA or a regional compact.

- NC-SARA representatives – primarily Marshall Hill, Executive Director, and Alan Contreras, part-time consultant – do spend significant time promoting SARA to a variety of national, regional, and state audiences through educational and informational efforts, including presentations, participation in meetings, and providing guidance and regular updates on the NC-SARA website. These presentations are educational in nature and include basic information about SARA and its benefits and challenges, along with time for audience Q&A. As Mr. Hill explained, NC-SARA obviously has an interest in states adopting legislation that will allow them to participate in SARA, but it also respects states’ autonomy and independence in making that decision. In all presentations, NC-SARA representatives make clear that SARA is a voluntary system, and no attempts to lobby legislators or other government actors to adopt specific legislation have occurred or will occur.

- There are a few items that may fall into a gray area with respect to the IRS conception of lobbying:
  - During presentations, NC-SARA representatives routinely offer technical assistance on SARA implementation to states, including potentially providing sample legislation that has passed in other states. A small number of these presentations have had state legislators and other government actors present, though the identity of these audience members was not always made known to NC-SARA representatives.
  - Representatives from NC-SARA, MHEC, and WICHE, on separate occasions, provided guidance and technical assistance to state higher education agencies and/or state executive offices on whether proposed legislation met SARA requirements. In all instances, the guidance and technical assistance was provided at the request of the state agency or executive office.
  - One member of the National Council is a currently serving state legislator (Barbara Ballard) and another is currently serving as a state commissioner of higher education (Teresa Lubbers), but neither was involved in the passage of SARA-enabling legislation.
  - All four regional compacts include state legislators on their governing boards. In at least once instance, the state legislators on the MHEC governing board also served as sponsors of SARA-enabling legislation.
A common theme from NC-SARA and regional compact representatives was that any activity related to the passage of legislation in potential SARA states (including but not limited to the “gray area” activities above) would be likely to diminish significantly by 2015, at which time about 20 states are expected to be actively participating SARA members with appropriate enabling legislation already in place.

b. Even assuming that at least some of the activity conducted by NC-SARA and regional compact representatives might qualify as lobbying, this activity is likely not enough to be considered “substantial.”

Whether lobbying activities are considered a “substantial” part of a tax-exempt organization’s activities is usually determined on a case-by-case basis, informed by facts and circumstances related to the organization’s context. The IRS has not adopted a “safe harbor” percentage test for determining whether a substantial part of an organization’s activities consist of lobbying. (In contrast, some courts have recognized that lobbying is considered insubstantial if it constitutes five percent or less of an organization’s activities, though others have rejected that approach.)

One exception to this case-by-case approach is that the IRS does allow some organizations to elect to be measured by an objective “expenditure test” under IRC § 501(h) instead of the subjective facts and circumstances test described above. An organization will generally be eligible for this election if it is a public charity (except governmental units, churches, integrated auxiliaries of a church or of a convention or association of churches, or an affiliated group of such organizations). Under this expenditure test, the extent of an organization’s lobbying activity will not jeopardize its tax-exempt status, provided its expenditures do not normally exceed the limits described in the table below:

<table>
<thead>
<tr>
<th>Amount of exempt purpose expenditures</th>
<th>Lobbying nontaxable amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>≤ $500,000</td>
<td>20% of the exempt purpose expenditures</td>
</tr>
<tr>
<td>&gt;$500,00 but ≤ $1,000,000</td>
<td>$100,000 plus 15% of the excess of exempt purpose expenditures over $500,000</td>
</tr>
<tr>
<td>&gt; $1,000,000 but ≤ $1,500,000</td>
<td>$175,000 plus 10% of the excess of exempt purpose expenditures over $1,000,000</td>
</tr>
<tr>
<td>&gt;$1,500,000</td>
<td>$225,000 plus 5% of the exempt purpose expenditures over $1,500,000</td>
</tr>
</tbody>
</table>

In NC-SARA’s case, our examination revealed that a very small percentage of the activity of NC-SARA and regional compacts is implicated by those activities within the “gray area” described above.

- Mr. Hill estimates that about five to ten percent of his time is spent on presentations (including travel time); of that time, only about five percent involved presentations with state legislators present.

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6 Exempt purpose expenditures refer to the total amounts paid or incurred by the organization in a tax year to accomplish its exempt purposes.
• Mr. Contreras has occasionally commented on draft legislation in the context of answering a state agency’s question about whether the draft provision meets SARA requirements. (A common question involves required complaint procedures under SARA.) Mr. Contreras estimates that less than five percent of his time is spent on such activities.

• None of the members of the National Council participate in direct lobbying on behalf of SARA or NC-SARA, though they are encouraged to participate in general educational and informational activities, as appropriate.

• The regional compacts estimate that only about three to five percent of total staff time goes toward educational and informational activity relating to SARA (though the regional SARA directors and coordinators, like Mr. Hill, may spend significant time within their own duties). And the activities that might be considered lobbying represent only a few isolated examples within this broader educational and informational effort, meaning that the total percentage of staff time for the regional compacts that goes toward this "gray area" activity is miniscule.

c. SARA-related activity by NC-SARA and the regional compacts likely does not implicate the IRS’s rules relating to “grassroots” lobbying.

There are also limits on a tax-exempt organization’s grassroots lobbying efforts – those efforts that attempt to influence legislation and the political process through indirect efforts such as media outreach, social media campaigns, and community organizing. If an organization is subject to the “substantial part” test, grassroots lobbying would be taken into account as an attempt to influence legislation. If a § 501(h) election is made, grassroots lobbying is limited to 25 percent of the lobbying non-taxable amount set forth in the above table. For example, if a tax-exempt organization’s exempt purpose expenditures were $500,000, lobbying-related non-taxable expenditures could not exceed $100,000 and, of that $100,000, only $25,000 could go toward grassroots lobbying.

Our examination of activity by NC-SARA and the regional compacts did not show that grassroots lobbying is taking place. NC-SARA and the regional compacts spend significant time responding to constituent questions and share information publicly through their websites, Facebook, email listservs, and other communications efforts – for example, to announce when states pass legislation or are approved to join SARA. Neither NC-SARA nor the regional compacts, however, use these means to attempt to influence legislation or other government action.

2. Other important issues related to filing for tax exempt status

Though the National Council was primarily concerned with issues related to lobbying, we also wanted to share additional analysis on two issues central to NC-SARA’s prospective filing for federal tax exempt status: (a) as what type of tax exempt organization NC-SARA may qualify; and (b) whether NC-SARA has a valid charitable purpose. We conclude that, though additional fact-finding is needed, NC-SARA likely qualifies as a § 501(c)(3) public charity described in § 509(a)(2), and that NC-SARA likely has a valid charitable purpose.
a. NC-SARA most likely qualifies as a § 501(c)(3) public charity described in § 509(a)(2) of the IRC.

In order to qualify as a tax exempt public charity under IRC § 501(c)(3), an organization must comply with five basic rules:7

1. The organization must be organized and operated exclusively to further an exempt purpose.
2. The organization operates as a common-law charity.
3. The net earnings of the organization (in whole or in part) cannot inure to the benefit of any private shareholder or individual.
4. No substantial part of the organization's activities is dedicated to lobbying (i.e., carrying on propaganda or otherwise attempting to influence legislation).
5. The organization does not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office.

These rules apply regardless of the specific type of tax exempt organization.

Section 501(c)(3) organizations are further classified as either private foundations or public charities, a distinction based primarily by the degree of public involvement in the organizations. Public charities receive a greater portion of support from public sources and have greater interaction with the public, whereas private foundations receive the bulk of their support from investment income and are typically controlled by a family or small group of individuals. Private foundations are subject to detailed operating restrictions and excise taxes for failure to comply with those restrictions – burdens that make it is preferable to be classified as a public charity. A § 501(c)(3) organization is presumed to be a private foundation unless it meets one of the exceptions identified in the IRC. In NC-SARA's case, there are likely two relevant exceptions:

- An organization can qualify as a public charity if it normally receives more than one-third of its support in each taxable year from any combination of: (i) public support through gifts, grants, contributions, and/or membership fees; and (ii) gross receipts from admission fees, sales of merchandise, performance of services, or furnishing of facilities, to the extent that activities that are the source of these receipts are not an unrelated trade or business.8 Membership fees will generally be treated as public support and not as gross receipts from a related trade or business provided that the basic purpose for making the payment to the organization is to provide support for the organization generally. (Membership fees should thus be distinguished from specific benefits – e.g., admission to a particular event, unique merchandise or services, or

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7 IRC § 501(c)(3).
8 IRC § 509(a). The reason for the distinction between these two categories is that receipts in the second category, usually referred to as “exempt function income,” from any person or from any bureau or similar agency of a governmental unit (as defined in IRC § 170(c)(1)) are not counted to the extent they exceed $5,000 or two percent (whichever is greater) of an organization’s total support during the taxable year. As an overriding limitation, all receipts from “disqualified persons” – substantial contributors, foundation managers, and certain persons and related entities that have ownership interests (as defined in §4946) – are completely excluded. Once substantial contributor status is achieved, it is never lost. Governmental units described in § 170(c)(1) and public charities described in § 509(a)(1) are not considered to be disqualified persons, regardless of the percentage of their grants and contributions to the organization’s total support.
special use of facilities – that could be available to members of the general public who have no common goal or interest.)

- An organization can qualify as a public charity if it normally receives at least one third of its support from governmental units, direct or indirect contributions from the general public, or a combination of the two. To demonstrate that at least one-third of its support qualifies as public support, an organization is required to construct a support fraction: eligible public and governmental sources ("numerator") divided by total eligible support ("denominator"). This fraction is intended to prevent an organization from deriving too much of its support from any one member of the public. If a donor’s contribution exceeds two percent of an organization’s total support, the contribution may be fully included in the denominator but is only included in the numerator if it does not exceed two percent of the denominator. Generally, membership fees (as described above) are subject to the two percent limitation, but non-earmarked grants from governmental units and other publicly supported charities are not.

More information will need to be gathered during the application process to determine which of these exceptions is a better fit for NC-SARA.9 Our preliminary assessment is that NC-SARA would likely qualify under the first exception because, beginning in 2015, it will largely be supported by membership fees to provide support for NC-SARA and the regional compacts.

b. NC-SARA will most likely have a valid exempt purpose as a charitable organization dedicated to the advancement of education and/or lessening the burdens of government.

To qualify as an exempt organization under § 501(c)(3), the organization must be both organized and operated exclusively for one or more “exempt purposes” specified in that paragraph, which includes

9 There are several types of tax exempt organizations which we recommend NC-SARA not to pursue, either because NC-SARA likely does not qualify or because the classification will provide fewer benefits:

- Social welfare organizations are nonprofit civic organizations that are primarily engaged in promoting the common good and general welfare of people in a community. This is a very broad category of organizations – as the IRS has observed, “[a]lthough the Service has been making an effort to refine and clarify this area, § 501(c)(4) remains in some degree a catch-all for presumptively beneficial non-profit organizations that resist classification under the other exempting provisions of the Code. Unfortunately, this condition exists because ‘social welfare’ is inherently an abstruse concept that continues to defy precise definition.” Classification as a social welfare organizations, however, provides more limited benefits than classification as a § 503(c)(3) organization because social welfare organizations are not eligible recipients of contributions deductible as charitable contributions under § 170. See IRC § 501(c)(4); Internal Revenue Service, Social Welfare Purposes (reviewed and updated March 25, 2013), http://www.irs.gov/Charities-&-Non-Profits/Other-Non-Profits/Social-Welfare-Purposes.

- “Supporting organizations” must be organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more qualified supported organizations (§ 509(a)(1) or § 509(a)(2) public charities). See IRC § 509(a)(3).

- “Public Institutions” are excepted from private foundation status based on the types of activities in which they engage: churches, schools, organizations holding and administering property for the benefit of certain schools, hospitals and certain medical research organizations, and certain governmental organizations. See IRC § 170(b)(1)(A)(i)-(v).
“charitable” purposes. Charitable purposes include relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments or works; lessening of the burdens of government; and promotion of social welfare by organizations designed to accomplish any of the above purposes.

As reflected in its draft bylaws, NC-SARA’s mission – “to support the establishment of an effective and efficient state-level reciprocity process that will allow students across the country to enjoy increased access to higher education opportunities and will reflect the core aims of efficiently ensuring quality programs and consumer protection in a rapidly changing education landscape” – will likely qualify as an exempt purpose under the IRC.

Conclusion and Next Steps

Our conclusion is that NC-SARA is likely to be able to create a viable tax-exempt status application to the IRS. As a result, the following next steps are likely to be pursued:

1. Share this memorandum with NC-SARA’s executive committee for final approval to move forward (as agreed during the May 14, 2014, NC-SARA meeting).
2. Review IRS tax-exempt status application to determine additional areas for exploration and documentation.
3. Incorporate NC-SARA as Colorado nonprofit corporation and prepare various organizational and governance documents.
4. Compile federal tax-exempt status application and give all relevant parties an opportunity to review (e.g., the executive committee, regional compact presidents).
5. Submit tax-exempt status application and wait for IRS approval.

We estimate that these steps may be accomplished in three to six months, depending on schedules and complexity of compiling the tax-exempt status application. The IRS estimates that it can process all tax-exempt status applications within 270 days or less.

10 The term “charitable” is used in § 501(c)(3) in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in § 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of “charity” as developed by judicial decisions.
### Appendix A: Summary of Responses from NC-SARA and Regional Compact Representatives

The following table summarizes information provided by NC-SARA and the four regional compacts (MHEC, NEBHE, SREB, and WICHE) with regard to the questions posed in this memorandum.

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<tr>
<th>Entity</th>
<th>Relevant Activity</th>
<th>Estimated Time</th>
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<tr>
<td>NC-SARA</td>
<td>NC-SARA representatives (predominantly Marshall Hill, Executive Director, but also including Alan Contreras, consultant) frequently make presentations to a variety of national, regional, and state audiences, always at the request of the host organization or state. These presentations are educational in nature and include basic information about SARA and its benefits and challenges, along with time for audience Q&amp;A. Presenters usually offer to provide assistance for the development of SARA in states, including providing assistance with the development of legislative language by providing examples from other states. During presentations, NC-SARA representatives make it very clear that individual states should make their own decisions, and that SARA participation is entirely voluntary. Occasionally, legislators are present during these presentations. NC-SARA representatives have occasionally commented on draft legislation in the context of answering a state agency’s question about whether the draft provision meets SARA requirements; NC-SARA representatives have recommended changes that would allow for alignment with SARA requirements. A common question has involved required complaint procedures under SARA. To date, NC-SARA representatives have not been invited to provide testimony to a state or federal legislative committee, though they would, if asked, provide educational information and answer questions (but would not advocate for any specific legislation). No National Council members participate in lobbying, as defined by the IRS, on behalf of SARA or NC-SARA, though two members are sitting state legislators.</td>
<td>Though a significant amount of time is spent providing educational presentations and other information to various stakeholder groups, NC-SARA representatives’ time interacting with state legislators and/or other governmental actors with regard to specific legislation is less that 5% of the total staff time.</td>
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| Midwestern Higher Education Compact (MHEC) | MHEC and M-SARA staff members provide information and regular updates to all of MHEC’s state commissioners. N.B. Each MHEC state has five commissioners – two state legislators and three others (generally higher education leaders such as governing or coordinating board members, system CEOs, and institutional presidents or leaders). The executive committee of the commission (made up of two members from each state) approves state membership in SARA and any amendments to the M-SARA agreement. | Overall, for all MHEC staff the total would be less than 5%.  
- Larry Isaak, MHEC President: < 5%  
- Jenny Parks, M-SARA Director: 20% plus time for correspondence, document |
When requested by state legislative committees, MHEC and M-SARA staff members have provided testimony explaining SARA. On request, MHEC and M-SARA staff members also have provided technical assistance on legislation that is being drafted by state officials or legislative staff. State-specific interactions include:

- Iowa: MHEC met with prospective portal agency and attorneys general to answer questions and explain, in particular, principles of consumer protection within SARA.
- Illinois: MHEC met with institutions at the request of the Illinois Board of Higher Education on SARA-related legislation.
- Kansas: MHEC presented information to the Kansas Board of Regents at the Board’s request.
- Michigan: MHEC presented to institutional and sector leaders at their request.
- Missouri: MHEC met with institutions at the request of Department of Higher Education and, at the request of SARA-enabling bill sponsors (MHEC commissioners), provided informational testimony in senate and house committee at the request of bill sponsors.
- Minnesota: MHEC met with institutional leaders and Office of Higher Education staff and provided informational testimony to the state senate committee on SARA.
- Wisconsin: MHEC presented to sector leaders at their request.
- Pennsylvania (an unaffiliated state): MHEC presented to sector and institutional leaders at their request and later to an additional group of institutional representatives.

**Northeastern Board of Higher Education (NEBHE)**

NEBHE’s Board includes a total of 12 legislator members (two from each member state). The Board meets at least twice a year, and is consulted more often as prudent for good governance. At Board meetings SARA personnel have provided educational information about SARA. NEBHE formed a Legislative Advisory Committee in 2013 that is comprised of 31 legislators from across New England. This Committee meets semi-annually and more frequently as needed to advise NEBHE on an appropriate regional agenda. SARA-related educational programming has been provided during Advisory Committee meetings.

In all states, if requested by legislative or executive personnel, N-SARA conducts educational programs and provides information. NEBHE leadership, including the President, Northeast SARA ("N-SARA") Director, and N-SARA Coordinator, has met periodically with members of the Legislative and Executive branches of member states at their request. The function of such meetings has been to provide information regarding the origins and purpose of SARA and periodic updates regarding the regional and national landscape.

NEBHE estimates that such SARA-related activities constitute approximately 3% of total NEBHE staff time.

- Michael Thomas, NEBHE President: 6%
- Sandra Doran, N-SARA Director: 20%
- Kiley Danchise-Curtis, N-SARA Coordinator: 13%
- Carolyn Morwick, N-SARA Consultant: 9%
State-specific interactions:
- Vermont and New Hampshire: On request, NEBHE provided examples of legislation from other states to inform the development of these states’ SARA-enabling legislation, but NEBHE was not involved in direct advocacy or legislative activity in either state.
- Connecticut: NEBHE was invited to testify at the request of State Representative Willis and submitted both written and verbal testimony.
- Massachusetts: NEBHE has educated stakeholders and spoken at educational forums when requested, including meetings with the Commissioner’s office.
- Rhode Island: N-SARA personnel met with the outgoing Commissioner at his request.
- Maine: State Senate leadership requested samples of model legislation that was provided by N-SARA staff.
- New York (an unaffiliated state): NEBHE was requested to attend two meetings by the Deputy Commissioner. This meeting included a number of stakeholders and NEBHE conducted an educational briefing around the purposes and logistics of SARA for all participants.
- New Jersey (an unaffiliated state): NEBHE expects to meet with the Commissioner and NJ stakeholders to educate the Commissioner about SARA and discuss participation.

Southern SARA ("S-SARA") responds to questions and concerns about SARA from state legislative, administrative, and executive personnel through email, phone calls, letters, and in-person meetings and presentations. All activity is focused on educating those in the audience about SARA generally, and does not include advocacy for any particular legislative bill or other governmental action.

Though we did not receive a total estimate from SREB on how much total staff time goes toward SARA-related activities described, the following individual staff estimates were provided:
- Dave Spence, SREB President: 5%
- Mary Larson, S-SARA Director: 70%
- S-SARA Consultant – 6 days per month

S-SARA has not been involved in the development of legislation in any member states, though S-SARA monitors legislative developments and shared information with other SARA regional directors.
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<th>Entity</th>
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| Western Interstate Commission for Higher Education (WICHE) | Both WICHE’s President and W-SARA Director, upon request, assist state legislators, administrators, and executive personnel with technical assistance and information about the process of joining SARA and clarification of how to comply with SARA standards and requirements. We have also assisted, upon request, states in fashioning legislative language that would all the states to participate in reciprocity. The WICHE governing board includes state legislators, administrators, and executive officers, WICHE only seeks counsel from these individuals; attempts to influence them or guide their governmental activity, as defined by the IRS, do not take place. Although WICHE and W-SARA staff members provide assistance, upon request, no representative of WICHE has explicitly supported specific legislation. For Hawaii, however, WICHE and W-SARA staff members assisted key legislators and representatives of the Governor’s office in developing the legislation and, upon request, testified that the legislation that the Governor’s office proposed would meet the purposes of state authorization reciprocity. | WICHE estimates that such SARA-related activities constitute approximately 3-5% of total WICHE staff time. Specific staff members’ time includes:  
- David Longanecker, WICHE President: <2%  
- W-SARA Director: A much more substantial portion of the W-SARA Director’s time was spent, given her (now his) job is to assist states in joining SARA. |
FAQS ADDED SINCE LAST NC-SARA BOARD MEETING

Why does SARA use the U.S. Department of Education’s financial responsibility composite scores to assess the financial soundness of non-public institutions that seek to participate in SARA?

Students deserve assurance that SARA institutions from which they take courses and programs will remain in operation and not close due to financial problems. Distance education students likely have less information than campus-based students with which to evaluate an institution’s viability; in most cases, they can’t visit the campus, talk directly with institutional representatives, etc. While it is not possible to remove completely the risk of institutional closure, reasonable attempts to lessen that risk in regard to SARA institutions are desirable.

As a fundamental principle, SARA avoids developing new mechanisms and structures when sufficient ones already exist. That is why the initiative builds on the work of the “accountability triad” (the federal government, the states, and recognized accreditors) and the regional education compacts. Ideally, a financial assessment system for SARA would be uniform across the country, clear and readily understandable, already in place, well-regarded in the community, and reliable in evaluating whether an institution is in significant financial trouble and at risk of closure.

No current system meets all of those desirable qualities. The approach taken by the U.S. Department of Education has been in place for many years. It is applied across the country to all non-public institutions participating in federal Title IV programs, and it relies on the administrative capabilities of the Department, including the ability to investigate and audit. Unfortunately, it has been severely criticized by some as being based on outdated accounting approaches, inaccurately assessing the financial health of many institutions (i.e., identifying as financially troubled many institutions thought to be sound), and being unevenly applied.

Much of that criticism has come from the National Association of Independent Colleges and Universities (NAICU) and representatives of some of its member institutions. They have also criticized SARA for using the Department’s scores to determine (in part) a non-public institution’s eligibility for SARA. NAICU believes the Department’s work in this area is seriously flawed, both in design and application.¹

This issue was discussed at each step of the development of SARA. It was considered by the Presidents’ Forum/Council of State Governments drafting team, the SARA development committees in each of the four regional compacts, the National Commission on the Regulation of Postsecondary Distance Education, and NC-SARA itself. Use of the Department’s scores to determine (in part) a non-public institution’s financial soundness for SARA purposes was affirmed at each step. The following paragraphs explain why.

Each SARA development group examined the question of whether there should be a financial soundness requirement at all; each group decided that there should be. Various alternatives were then considered. NAICU suggested that all institutions approved to participate in Title IV programs be allowed to participate in SARA, with no other financial expectations. The overwhelming majority of each group involved in the development of SARA believed that standard would be too low to support the consumer protection goals of SARA.

The possibility of allowing each SARA state to set its own financial expectations was discussed; that approach was rejected because it would not yield uniform standards, therefore undermining reciprocity. The possibility of having SARA develop and carry out its own financial evaluation system was also considered; that was rejected because of the likely difficulty of reaching consensus, the delay and cost that developing a new system would require, and the fact that SARA would lack the necessary investigative and auditing authority and capacity.

After much discussion, each group involved in the development of SARA reached the conclusion that incorporation of the Department’s system for assessing an institution’s financial soundness, while flawed, offered the best available approach for SARA purposes. SARA has acknowledged the shortcomings of the Department’s system and the criticisms made of that system in two ways. First, SARA allows some institutional “wiggle room.” An institution with a composite score of 1.0-1.49 has the opportunity to make the case to its home state that it is nevertheless sufficiently financially stable to justify state approval to participate in SARA. (The general threshold for the financial soundness requirement is 1.5.) Second, the regional compacts, the Commission on the Regulation of Postsecondary Distance Education, and NC-SARA have all recommended that the Department review its methodology for determining institutional financial soundness.

Are states obligated to use the published federal financial responsibility score when considering an institution’s eligibility for SARA?

No, a state can, if desired, require an applicant institution to provide the most recent federal score, which may in some cases be newer than what has been published.
Is one-on-one in-person tutoring by a faculty member living in one SARA state on behalf of an institution operating under SARA from another SARA state considered a physical presence or is it covered by SARA?

It is covered by SARA unless more than one student is present in the same physical space at the same time. It does not constitute a physical presence if both states are SARA members. This scenario may be reviewed by SARA staff and the National Council in the future, but SARA staff consider this to be sufficiently similar to a supervised field experience to be covered by SARA.

If a college operating under SARA has an agreement with a flight school in another SARA state to offer the flight training component of a program leading to a degree or certificate from the SARA institution, is that a “clinical” site for purposes of SARA?

No. Agreements of this nature involving a training or educational entity offering a significant part of a program as part of an agreement with another provider are not considered supervised field experiences as defined in NC 1 (25). They are considered a part of the core educational program and fall under the laws of the states where they are located. They are covered by the provisions of SARA that deal with third-party providers, see NC 3-8.

Exceptions: flight training activity falling within the “short course” provision (NC 3-7) or offered for federal employees on a military base (NC 3-9) are covered under SARA.
EXECUTIVE DIRECTOR PRESENTATIONS MAY - DECEMBER 2014

West Virginia Virtual Learning Network (WVVLN)
May 22, 2014
Flatwoods, West Virginia

Council of State Governments (CSG) National & West Annual Conference
August 10, 2014
Anchorage, Alaska

Online Learning Consortium International Conference
October 29, 2014
Orlando, Florida

Webinar
Magna Publications
June 10, 2014

Southern Regional Education Board Electronic Campus Meeting
September 9, 2014
Louisville, Kentucky

Accrediting Council for Independent Colleges and Schools (ACICS) Annual Conference
November 3, 2014
New Orleans, Louisiana

Association of Private Sector Colleges and Universities (APSCU) Annual Convention and Exposition
June 17, 2014
Las Vegas, Nevada

Independent Colleges and Universities of Texas (ICUT) Annual Meeting
September 14, 2014
San Antonio, Texas

Church of Christ Institutions
November 11, 2014
York, Nebraska

State Meetings
June 23, 2014
Massachusetts and Connecticut

Accrediting Commission of Career Schools and Colleges (ACCSC) Professional Development Conference
September 19, 2014
Denver, Colorado

State Meeting
November 12, 2014
Des Moines, Iowa

Meeting with Undersecretary of Education Ted Mitchell
June 24, 2014
Washington, D.C.

WICHE Cooperative for Educational Technologies (WCET) Annual Meeting
November 19-21, 2014
Portland, Oregon

Association of Public and Land-grant Universities (APLU)
June 25, 2014
Washington, D.C.

Information Session: Louisiana Institutions of Higher Education
December 3, 2014
Baton Rouge, Louisiana

Council for Higher Education Accreditation (CHEA)
Summer Workshop
June 25, 2014
Washington, D.C.

Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) 2014 Annual Meeting
December 8, 2014
Nashville, Tennessee

State Higher Education Executive Officers Association (SHEEO)
Annual Meeting
July 11, 2014
Boise, Idaho

New England Association of Schools and Colleges (NEASC) Annual Conference
December 10-12, 2014
Boston, Massachusetts

Council of State Governments (CSG) Eastern Regional Conference
August 4-5, 2014
Baltimore, Maryland

SREB SARA Steering Committee Meeting
October 15, 2014
Atlanta, Georgia

Kentucky Chief Academic Officers Meeting
October 17, 2014
Elizabethtown, Kentucky

The Presidents’ Forum 2014 Annual Meeting
October 23, 2014
Washington, D.C.
National Council for State Authorization Reciprocity Agreements

A voluntary, regional approach to state oversight of distance education