

BOARD OF REGENTS
BRIEFING PAPER

Handbook Revision, Student Complaints and the State Authorization Reciprocity Act (SARA)

BACKGROUND & POLICY CONTEXT OF ISSUE:

At the June 2013, Board of Regents meeting, Vice Chancellor of Academic and Student Affairs Crystal Abba presented a [report](#) on efforts to provide authority for states, including Nevada, to join the State Authorization Reciprocity Agreement (SARA) through the Western Interstate Commission for Higher Education (WICHE). As noted in testimony, SARA was developed for institutions delivering distance education in states beyond their home state to gain state authorization in other states where they are providing distance education.

As of January 2014, states may apply to join the SARA under a uniform application process through which the state is required to demonstrate to its regional compact (WICHE) that it meets the standards established for participation in SARA. Thus, under this process, Nevada must apply to join SARA through WICHE. In addition, the National Council for State Authorization Reciprocity Agreements (NC-SARA) has been established to ensure that the SARA initiative provides a national solution, rather than four regional solutions. Once a state joins SARA, accredited, degree-granting institutions within that state may individually elect to apply and participate in SARA. Detailed information on SARA is available through the National Council's website (<http://nc-sara.org/>) and through WICHE's website (<http://www.wiche.edu/sara>).

With the support of the Academic Affairs Council, the System Office worked over the past year to ensure that Nevada is eligible to join SARA so that NSHE institutions have the option to participate in SARA. These efforts include passage of [Senate Bill 446 \(Chapter 341, Statutes of Nevada\)](#) by the 2013 Nevada Legislature to authorize Nevada's three WICHE Commissioners to enter into SARA on behalf of the State. In addition, the System Office has been consulting with the Commission on Postsecondary Education (CPE), which regulates private postsecondary institutions in Nevada, to ensure collaboration under SARA for both public and private institutions in the State.

As part of demonstrating it meets the standards established for participation in SARA, Nevada and its institutions must provide certain consumer protections for distance education students. Under these standards, Nevada must be able to document that NSHE and the CPE have processes to investigate and resolve student complaints against any SARA-participating degree-granting institutions in the state, public and private. For private institutions in Nevada, the student complaint process is established and governed by the CPE. Currently, NSHE institutions individually have established student complaint processes, but a system-wide policy has not yet been adopted. The attached policy proposal outlines a System-level appeals process that must be in place for Nevada to participate in SARA.

SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Amend Title 4, Chapter 14 of the *Handbook* to create system-wide policies governing student complaints. Specifically, create a new section 25 that requires institutions to establish a process for addressing student complaints generally. In addition, create a new section 27 to establish procedures governing distance student complaints and appeals for institutions that elect to participate in SARA. Finally, create a new section 26 that prohibits deceptive trade practices and other acts of fraud generally. (See the attached policy proposal.)

IMPETUS (WHY NOW?):

States may now submit applications to their regional compacts to participate in SARA. Nevada is not eligible to participate in SARA unless NSHE established policies governing the required processes for investigating and resolving student complaints.

BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- Under federal regulations, institutions offering distance education must seek authorization from any state in which it "operates." This authorization is required to maintain eligibility for students of that state to receive federal financial aid. Institutions have until July 1, 2014, to have obtained the appropriate approvals. Meanwhile, institutions are required to demonstrate a 'good faith' effort to comply in each state in which it serves students. This process can often be costly and burdensome depending upon the individual state requirements. Institutional participation in SARA will alleviate many of the financial and administrative burdens associated with seeking state authorization in every state that an institution is serving students via distance education.
- As noted on the WICHE website, "SARA provides an affordable, consistent, transparent way for accredited, degree-granting institutions to achieve authorization to provide education beyond the state in which they are based. Participating institutions will be authorized by their home state, eliminating the need for them to obtain individual approvals in all of the states where they serve students."
- Importantly, SARA also offers strong consumer protection provisions for students. The policy proposal will require student complain processes on each campus, and will provide for an appeals mechanism at the System-level for SARA-participating institutions.
- Participation in SARA is voluntary for both the state and individual institutions. NSHE institutions can conduct their own cost-benefit analysis to determine whether they want to apply to participate in SARA.

POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

None have been presented.

ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:

If Nevada does not join or is not eligible to join SARA, individual NSHE institutions may continue to seek authorization from and pay any required fees to other states where students taking distance education courses are located.

COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title #____ Chapter #____ Section #____
- X Amends Current Board Policy: Title # 4 Chapter # 14 *New* Sections 25, 26 and 27
- Amends Current Procedures & Guidelines Manual: Chapter #____ Section #____
- Other:_____
- Fiscal Impact: Yes____ No x
Explain:_____

POLICY PROPOSAL

TITLE 4, CHAPTER 14, *new* SECTIONS 25, 26, AND 27

State Authorization Reciprocity Agreement – Student Complaints and Appeals

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

New Section 25. Student Complaint Process

Institutions must establish a process of addressing student complaints, including complaints involving deceptive trade practices and other acts of fraud as defined under Section 26 of this Chapter.

New Section 26. Deceptive Trade Practices and Acts of Fraud Prohibited

Deceptive trade practices and other acts of fraud are prohibited including, but not limited to the following:

- 1. To intentionally and materially represent falsely, directly or by implication any statement or representation, oral, written, or visual, in connection with the offering of educational services, including but not limited to statements or representations relating to recruitment and marketing information; tuition, fees and other charges; and admissions information;*
- 2. To adopt a name, trade name, or trademark that represents falsely, directly or by implication, the quality, scope, nature, size, or integrity of the institution or its educational services;*
- 3. To represent, directly or by implication, that students who successfully complete a course or program of instruction may transfer the credits earned to any institution of higher education;*
- 4. To intentionally and materially represent falsely, directly or by implication, in its advertising or promotional materials or in any other manner, the size, location, facilities, or equipment of the institution; the number or educational experience qualifications of its faculty; the extent or nature of any approval received from any state agency; or the extent or nature of any accreditation received from any accrediting agency or association; or*
- 5. To provide prospective students with testimonials, endorsements, or other information that materially misleads or deceives prospective students or the public regarding current practices of the institution.*

New Section 27. State Authorization Reciprocity Agreement – Student Complaints and Appeals

- 1. For the purpose of establishing eligibility for Nevada to participate in the State Authorization Reciprocity Agreement (SARA), the following procedures governing student complaints and appeals are adopted in addition to any other such processes or procedures adopted by an institution. These procedures:*
 - a. Are written to provide consumer protection for students enrolled in distance education courses or programs; and*

- a. *Upon receipt of a complaint, the Vice Chancellor or his or her designee shall verify within fourteen days that the complaint warrants investigation under this subsection. The Vice Chancellor shall not take action on a complaint if it does not meet the requirements for an appeal under this Section and if the process for reviewing complaints at the institutional level has not been exhausted.*
 - b. *If the complaint warrants investigation, the Vice Chancellor shall first forward the complaint to the institution for a written response. The institution shall have thirty days to respond in writing to the Vice Chancellor and to forward a copy of the response to the student. During the thirty-day period, the institution may attempt to resolve the complaint with the student, and the Vice Chancellor may assist in the efforts to resolve the complaint. If the Vice Chancellor determines at any time that a complaint no longer warrants investigation, the Vice Chancellor shall notify the institution and the student that the matter is closed.*
 - c. *If a complaint is not resolved during the thirty-day period, the Vice Chancellor may decide not to take further action on the complaint based on the institution's response, investigate the complaint further, or recommend that the Committee created pursuant to this subsection review the merits of the complaint.*
 - d. *After investigation, the Vice Chancellor may forward a complaint to a standing Appeals Committee appointed by the Chair of the Board of Regents. The Committee shall consist of one of Nevada's appointed WICHE Commissioners, one representative of the Board of Regents, one representative from each of the universities, one representative from the state college and one representative from each of the community colleges. If the Committee finds the complaint is meritorious, it shall direct the institution to take specific action to remedy the complaint.*
5. **Definitions.** *The following definitions apply for purposes of this Section:*
- a. **Physical Presence.** *An institution has a physical presence in a state in which it has an actual physical location for instructional purposes or the maintenance of an administrative office to facilitate instruction in the state. NSHE institutions delivering courses or programs on-line and conducting no other activities in another state are deemed not to be physically present. Activities including, but not limited to, the following do not constitute a physical presence in a state other than Nevada: advertising, recruiting, faculty residing in the other state, and proctored exams held in the other state.*
 - b. **Distance Education.** *The term "distance education" means a formal educational process in which the majority of the instruction occurs when the student and instructor are separated by geographic distance or time. Instruction may be synchronous or asynchronous. Distance education may employ correspondence study, audio, video, or other electronically mediated technologies.*

RENUMBER SECTIONS 25 AND 26 AS SECTIONS 28 AND 29.