

Distance Education and Regulatory Issues: What's Coming Down the Pike?

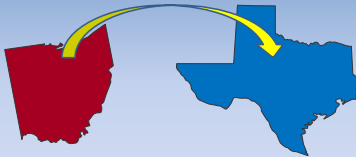
Marianne Boeke, Ph.D.
Senior Associate, NCHEMS

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Agenda

- Basics of State Authorization
- Federal Regulations
- State Regulations (Professional Licensure)
- State Authorization Reciprocity Agreement (SARA)
- Steps to State Authorization
- Discussion

Basics of State Authorization



State authorization...

If you are crossing a state line to perform ANY activity.
You need to check!

Basics of State Authorization

There are two types of
state authorization...

Institutional →



← *Licensure Programs*

Basics of State Authorization



The states view this as
**Consumer
Protection.**

Basics of State Authorization

*The answer to nearly
every state authorization question is:
IT DEPENDS!!!!*

Federal Regulations

The "Distance Ed" Regulation Chapter 34, §600.9(c)

- Still on "pause" ...
- ...probably will not be reissued.
- ...HEA reauthorization increasingly unlikely.



Chapter 34, §600.9(c)
<http://tinyurl.com/lgzdvel>

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Federal Regulations

The Department of Defense is checking for state authorization for military students receiving Tuition Assistance.



Are you finding this to be true?



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Federal Regulations

The "On Ground" Regulation Chapter 34, §600.9(a) & (b)

In your state, know the state agency that...

- Approves institution.
- Hears complaints.



Chapter 34, §600.9(a) & (b)
<http://tinyurl.com/lgzdvel>

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Federal Regulations

Complaint Process:

Institutions must provide current and prospective students with contact information for filing complaints with their accrediting agency and with the appropriate state agencies.



Deadline was **July 1, 2011**.



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Federal Regulations

These four items should be easily found on your institution's website:

1. Information about your institution's complaint process.
2. Accreditation information (including their complaint processes).
3. State agency complaint web links.
4. State authorization information.



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State Regulations

States expect institutions to follow their laws and regulations.

Question:

Where can I find the state regulations?

Answer:

State Higher Education Executive Officers (SHEEO) provides a **FREE** listing of all state regulations:

http://sheeo.org/sheeo_surveys/



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State Regulations

There is no list of “easy” or “hard” states in terms of state authorization:

- For profit / not-for profit / public / private
- Offering distance education vs. clinicals/internships vs. on the ground facilities
- Number of students (Maryland Example)

State Regulations

Physical Presence Triggers:

- **Instruction**—Externships, clinical partnerships, seminars
- **Recruiting**—Agents in state, frequency of contact
- **Property**—Equipment (computers), Instructional Site
- **Employment**—Faculty members, mentors, supervisors
- **3rd Party Contracts** – Proctored Exams, Student Services
- **Advertising**—National Media or Local Media (targeted)

State Regulations

An institution offering only distance education in another state:

- **17 states** require approval of degree-granting institutions (100% online programs):
Alabama, Arkansas, Delaware, Idaho, Iowa, Kansas, Indiana, Maryland, Michigan, Minnesota, Missouri, Montana, Oregon, Rhode Island, Wisconsin, Wyoming, and WDC

State Regulations - Changes

Some states recently revised regulations in anticipation of or in conjunction with becoming a SARA state.

Changes include:

- Regulated activities in the state.
- Fees required for compliance.
- Application process.

State Regulations - Changes

The “Teach Out” options for field experiences no longer exists in NC. Exceptions:

1. The student is in the military and transferred to North Carolina during their program of studies, or
2. The student moves to North Carolina during their program of studies.

Contact Terrence Scarborough trscarborough@northcarolina.edu for more information about authorization in North Carolina

State Regulations – Professional Lic.

Important Considerations:

- Each state licensing board has standards that an academic program must meet in order for a graduate to be eligible for a license.
 - Where do you find the state requirements?
- It is the responsibility of institutions to know the professional licensing standards in each state where they have students.

State Regulations – Professional Lic.

Notifications and Disclosures:

- Several **states** have regulations regarding disclosures and professional licensure.
- The **federal** government requires institutions to disclose information about professional licensure through the misrepresentation regulations.
- Both the federal and state regulations indicate that disclosures shall be made to “**prospective students**” and the “general public.”



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State Regulations – Professional Lic.

Just like state authorization regulations – professional licensing regulations change.

Institutions need to keep current!



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State Regulations



State authorization... has consequences for non-compliance.



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State Regulations

- Cease and desist orders.
- Possible fines and institutional sanctions, etc.
- Lawsuits.
- Domino effect with accreditors and US ED.
- **Student ability to work (particularly for professional licensure programs).**
- Damaged reputation!



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SARA

State Authorization Reciprocity Agreement (SARA)

The Current Process:

Institutions seek authorization from every state or territory where they hope to serve students.

The SARA Process:

Institutions seek approval from their home states which have joined SARA and the state agency then regulates those institutions with regard to the export of online education across state lines to host states.



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SARA

An interstate agreement.

Voluntary for states and institutions to join.

Covers **institutional** authorization for many activities in other states.



National Council for State Authorization Reciprocity Agreements

A voluntary, regional approach to state oversight of distance education



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State Authorization Reciprocity Agreement (SARA) - 36



SARA

4 Basic Principles:

1. Sets a uniform set of “triggers” for physical presence:
 - Marketing and recruiting.
 - Servers and instructors in other SARA states.
 - Proctored exams.
 - Class field trips across state lines among SARA states.
 - More clinical and experiential learning.

SARA

2. Preserves state oversight of on-the-ground activities.
3. SARA states agree to impose no additional fees or requirements on institutions from other SARA states.
4. Shifts principal oversight responsibility to the “home state.”

SARA

Institutional Costs

- Cost to get approved by the home state
- Yearly fees to SARA:
 - \$2,000 – FTE LT 2,500.
 - \$4,000 – FTE of 2,501 to 9,999.
 - \$6,000 – FTE 10,000 or greater.

SARA

SARA Important Points:

- SARA has no effect on state professional licensing requirements.
- SARA has no effect on a state’s requirement for out-of-state colleges to register with the secretary of state or other state registry.
- SARA allows for non-credit activities.

Steps to Begin

10 Steps You Can Take To Begin The State Authorization Process:

1. Select the right person to lead
2. Review your enrollment history - do you know where your students are?
3. Develop relationships across your institution
4. Engage and inform institutional leaders
5. Research state agency regulations

Steps to Begin

10 Steps You Can Take To Begin The State Authorization Process:

6. Develop a relationship with regulators
7. Determine where you will apply
8. Apply!
9. Determine post-approval steps and timelines
10. Document what you do



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What Should Your Institution Be Doing?

What Should Your Institution Be Doing:

- Proceed – don't wait!
- Know where you students are – have a process and follow it.
- Update your web site.
- Know what your institution is doing in other states.
- Communication is a two-way street!



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What Should Your Institution Be Doing?

Make strategic decisions:

- Prioritize which states to seek authorization in.
- Assess your adversity to risk.
- Include key personnel (president, provost, counsel, department heads) in key decisions.

Stay up to date on SARA:

- Will your state join?
- Will other states where you have students join?
- Will your institution join?



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Resources



<http://wcet.wiche.edu/initiatives/state-authorization-network>

WCET State Authorization Webpage

<http://wcet.wiche.edu/focus-areas/policy-and-regulation/state-authorization>

WCET Frontiers Blog

<https://wcetblog.wordpress.com/>



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Resources

SHEEO Surveys – sheeo.org

Workshops:

Sold Out
March 8-9, 2016
Beginner to Intermediate Compliance Workshop
Louisville, Kentucky

June 14-15, 2016
Advance Topics Workshop
Boulder, Colorado



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Thank you!



Marianne Boeke, Ph.D.
Senior Associate
NCHEMS

State Authorization
Network (SAN)

marianne@nchems.org



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