By Beverly Wade and Terri Taylor-Straut
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10 Steps You Can Take to Begin the State Authorization Process

This article is an update to a blog post (https://wcetfrontiers.org/2012/05/17/10-steps-to-begin-authorization/) written in May of 2012 when WCET took on the task of providing initial guidance to institutional leaders and staff about how they might start the process of state authorization. Thanks go to Sharmila Mann, Russ Poulin, and Marianne Boeke for this ground-breaking early work. This article updates the basic information about how to get started and adds new information related to the impact of SARA membership on the process.

When speaking about state authorization to institutional audiences, we are often asked to provide guidance to institutional leaders and staff on how they might go about starting the process of becoming authorized outside of the institution's home state. After thinking carefully about the issues surrounding the process of state authorization, speaking with numerous state regulators, listening to institutional leaders and staff who are experienced doing this work, we have identified the following ten-step process to help frame the work ahead.

All Steps:

Step 1: Select the right person to lead

When selecting a person at your institution to lead the state authorization work, choose someone who is organized, knows how to keep a good paper/e-trail (more on that in Step 10), really understands your institution, and is willing to do the work to understand and comply with the regulation requirements of other states. This will greatly increase the likelihood that your institution's state authorization processes will move forward in an efficient and timely manner.

Step 2: Review your enrollment history – do you know where your students are?

Review your enrollment history for online learning, experiential learning, and all other out of state activities of the institution. You will need to develop and maintain a clear understanding of your student body and where they participate in out of state activities. You may find that your population of online students and students in internships/practica/clinicals is limited to just a handful of states. This gives you an early sense of which agencies to target in your initial communications. You will continue to be required to track the location of your students out of state.

Step 3: Develop relationships across your institution

Authorization is not limited to distance education. It encompasses everything that an institution is doing (i.e., advertising, practica, or any face-to-face activities) in another state. Therefore, it is important to work with the faculty and deans at your institution to understand which programs are serving students or have a physical presence in outside states. In addition to providing you further clarity about where – and for what – your institution will need to be authorized, this allows you to develop trust and channels of communication with your colleagues across your institution. You will reap the rewards of this early work many times over as you repeatedly return to these folks to gather and verify information related to the authorization process.

Step 4: Engage and inform institutional leaders

Ensure that the leaders of your institution – presidents, provosts, deans, and legal counsel – understand the process of state authorization for your institution. Investing the time to nurture these relationships in the context of authorization will help institutional leaders understand why they (and their faculty) are being asked to provide certain information to you. Leadership buy-in can also translate to an institutional culture of accountability, which facilitates the information-gathering work you will need to do to complete the authorization processes in the states. Ultimately, decisions about how to proceed (where to apply; denying students access) will involve institution-wide strategic choices that must be made by or must have the full support of these leaders.

As you move from planning to beginning the implementation, knowledge of the impact of the State Authorization Regional Agreement (SARA) will affect your work.

SARA Institutions

Step 5: Assessment

If your institution in located in a SARA-member state then you will want to assess if this is a route that will help meet your institutional goals in other SARA-member states. Your institution may already have authorization in some states and it may be beneficial to maintain those authorizations if the activities that are being conducted will quickly meet the SARA-member thresholds. Please see Section 5: Coverage and Limitations of SARA in the SARA Manual (http://nc-sara.org/content/sara-manual) for further explanation.

Step 6: Develop a relationship with portal agent

When questions regarding SARA arise, those questions should be directed toward the portal agent. This allows them to be better stewards of consumer protection for their state. Names and contact information for portal agents. http://nc-sara.org/content/state-portal-entity-contacts

Step 7: Welcome Letter

Forward SARA membership letter to portal agencies in SARA states so that they understand that your institution has elected to operate under membership status. It is also helpful to include the link that lists your institution under your home state.

Non-SARA & SARA Institutions

Step 5: Research state agency regulations

After developing a good sense of which states house students, faculty, buildings, and other triggers for authorization from your institution, you will want to review the regulations, requirements, and web sites for all of the authorization agencies in these states. Agencies vary in their purview of authorization; it helps if you begin your research armed with a good sense of the type of institution you are representing, the number of students served in each state in which you are seeking authorization, the types of programs offered in that state, and any other activities your institution is conducting in that state. A good place to start your research is the SHEEO State Authorization Surveys (http://sheeo.org/sheeo_surveys/) which includes a directory of state regulators and contact information for each. Some states (e.g., Ohio, North Dakota, and Oregon) have developed state authorization networks for people to share information. Your home state may have an existing regional network or one in the works that may help with the issues surrounding state authorization.

Note that SARA institutions should have a working knowledge of the state regulations where the institution participates in activities to weigh the cost benefit of being a member of SARA and to know any compliance requirements if the institution participates in activities not covered by SARA.

Step 6: Develop a relationship with regulators

It is important to remember that state regulators are seeking to develop relationships with institutions that are offering instruction, or have a physical presence, in their state. This allows them to be better stewards of consumer protection for their state.

The best first way to communicate with state regulators is often through email. The first email should be relatively short, without sounding like a form letter; your question(s) should be clear and concise. Regulators are looking to get a sense of what activities you plan to undertake in their state: what types of programs would be offered, how many students are being served, and any advertising, proctoring, or face-to-face experiences that will be required of students. You can facilitate the authorization process by including this information in your early communications.

Please note that state regulators have heavy workloads and may be the only staff person in a particular agency. Therefore, be patient. The state regulator will get back to you in time; it behooves you to be kind and establish a friendly relationship. Remember that you and your staff will be working with this agency, and possibly this very person, for years to come.

Step 7: Determine where you will apply

After determining where your students are located, engaging your institutional leaders, faculty, and staff in this process, and making initial inquiries to state regulators, it is time to start thinking about putting together your applications for authorization. During your research process, try to determine which state agencies may require only an exemption for your institution, and where there might be a lengthy process or steep fees. By weighing the number of students you are serving in that state against the regulatory burden required, you can make some strategic decisions about where to apply.

An important note to remember is that for many states you will need to do little or nothing regarding authorization. Be sure to identify those states for which you are automatically approved or for which you can easily apply for an exemption. Do keep a paper trail of these exemptions, waivers, and automatic approvals for your institution's records (In some cases, this is a simple as printing out the web page that indicates your type of institution need not apply).

If you do decide that you will NOT apply for authorization in certain states, make sure that you indicate this clearly on your institutional website in appropriate places, so that you are in compliance with federal and state consumer protection laws.

Step 8: Apply!

Use the information provided on the state agency websites to determine the appropriate approval processes and information required from your institution to formally apply for state authorization. At a minimum, you should be able to provide the following information about your institution's operations in that state:

1. The type of Institution you represent – for-profit, not-for profit, religious, etc.
2. The number of students your institution is serving
3. The types of programs offered by your institution – degree, non-degree, or both?
4. Your institution's status on common physical presence triggers:
    1. Instruction – Externships, clinical partnerships, seminars
    2. Recruiting – Agents in state, frequency of contact w/ students
    3. Property – Equipment (computers) or Instructional Site
    4. Employment – Faculty members, mentors, supervisors
    5. 3rd Party Contracts – Proctored Exams, Student Services
    6. Advertising – National Media or Local Media (targeted)
5. Complete contact information, so they can contact YOU

Step 9: Determine post-approval steps and timelines

Determine post-approval steps and timelines and start thinking about the renewal process. Like it or not, state authorization is not a one-shot deal. It is a continual process that will need to be revisited regularly. SARA membership is renewed on an annual basis and for non-SARA authorization, every state agency has different renewal timelines, application processes, and fees. In addition, many states are in the process of revamping their state authorization regulations. You must be diligent about keeping up on the changes to state agency requirements to ensure that your institution remains in compliance.

Step 10: Document what you do

This is very important for two reasons. First, the US (Federal) Department of Education (USDOE) has to recertify your Title IV eligibility and part of the recertification process is documenting the states in which you have legal authority to provide postsecondary education. Meanwhile, the states expect you to already have received approval before serving the first student in their state.

The second reason to document what you do is for your own institution's peace of mind. In many institutions, this work is assigned to only one or two staff members. If you ensure a strong trail of documentation, then as people move in and out of positions within an institution, the state authorization work that was done will not be lost. It is YOUR responsibility to keep track of what you have done, NOT the state regulator's responsibility – so save yourself a massive headache and keep a paper trail, keep an electronic trail, keep records of what you've sent and who you've talked to, so you can go back and reference it in the future.

In Conclusion

As you begin on the state authorization journey keep in mind that staying organized, communicating with all affected parties, and networking with others in like positions will help to keep you sane. The best way to begin a large project is by taking the first step. We hope that we have given you an idea of where to take that first step… and a few more after that.

Beverly Wade, Director of State Authorization, University of the Pacific

Beverly Wade serves as the Director of State Authorization for the University of the Pacific. She was previously at the University of Arkansas, where she played a key role in developing and managing compliance activities and structures. With more than 10 years of experience in compliance and operations management, she guides and supports units across campus in state authorization and professional licensure compliance.

Terri Taylor-Straut, Senior Research Analyst, WCET - State Authorization Network

Terri Taylor Straut, Senior Research Analyst, WCET is an experienced elearning project manager and administrator. As the founding director of CU Online (for the University of Colorado) and a member of the founding management team of the Western Governors University (WGU), Terri has been part of the distance learning industry since its infancy in the mid-1990s. In addition to her work in higher education, Terri has significant experience in corporations, including Oracle and Level 3 as well as start-ups and non-profits. Terri earned her Masters of Business Administration from Northeastern University, her Bachelor of Arts from the University of Delaware and a Certificate in International Business from Ecole Superieure de Commerce, Reims, France.