

Out-of-State Student Complaint Options

Introduction

Students may find that there is reason to raise a complaint regarding their education or relationship with a postsecondary institution. The question is, do the students know to whom they should address complaints or where to find this information? While students should do all they can to resolve the issue within their institution, they may have need to consider external options to seek recourse for their complaints. However, the post-secondary institution must provide an easily discoverable and clear process for the student to implement to first ensure institutional review of the student's concern prior to seeking recourse beyond the institution.

Institution Complaint Process

Institutions should provide a "student friendly" explanation of the institution's student complaint process. This process should be in an easily accessible location, such as an intuitive place on the institution website, and easily found through a search. The process should be well-defined for the student to engage the institution. These complaints or concerns may include, but are not limited to, the following:

- Academic issues (ex. grades, classroom issues, faculty, or concerns regarding online learning issues).
- Non-academic issues (ex. issues with Student Affairs, Financial Aid, Academic Advising, Bursar Office, Registration and Student Records, technical support, the conduct of other students, failure to provide proper disclosures, or a complaint regarding the facilities).
- Title IX incidents (ex. discrimination on the basis of gender or incidents of sexual misconduct).

The institution complaint process should also include direction for students to understand under what circumstances the student may wish to seek recourse outside the institution.

Recourse Outside the Institution

Institutional Information Requirements

Institutions participating in Title IV HEA (federal financial aid) programs are required, by Federal regulation 34 CFR 668.43 (b)¹, to provide enrolled and prospective students the contact information for filing complaints with the institution's:

- Accreditors;
- State approval or licensing entity; and
- Any other relevant State official or agency that would appropriately handle a student's complaint.

¹ Institutional Information, 34 CFR 668.43(b) (2019). Retrieved from: <https://www.ecfr.gov/cgi-bin/text-idx?type=simple;c=ecfr;cc=ecfr;sid=f415ba12edb2f62d553f2738cfb4d597;region=DIV1;q1=668.43;rgn=div8;view=text;idno=34;node=34%3A3.1.3.1.34.4.39.3>.

Please note that this federal regulation is one that applies to all students regardless of educational modality. Federal regulation 34 CFR 600.9(a) & (b)² directs that for an institution to be authorized in a state, the State must have a process to review and appropriately act on complaints concerning the institution including enforcing State laws. Therefore, online and face to face students must be advised of the applicable state agency to submit a complaint. Information that should be shared includes the institutional and program accreditor information, state oversight agencies and (if applicable) the State Portal Entities for the National Council of State Authorization Reciprocity Agreements (SARA).

In most situations, the student must exhaust all avenues of complaint resolution at the institution before following the state's instructions to seek an appeal or satisfaction from the state agencies outside the institution. There typically has to be an unusual circumstance (e.g., the institution is non-responsive, the institution has acted in an egregious manner, or the institution is not following its own procedures) for most third-party agencies to pursue a complaint without the student having sought to use or abandoning the complaint processes internal to the institution.

SARA Student Complaint Process

If a student with an unresolved complaint is located outside the state where the institution is located, they should determine if their institution is approved to serve students by means of the State Authorization Reciprocity Agreements (SARA) As indicated in the SARA Manual³ Section 4, the student may appeal an institution's decision for SARA resolution. The types of activities subject to SARA review include distance education course, activities, and operations by SARA-participating institution to students in other SARA states. Complaints regarding grade disputes or student conduct may not be appealed for SARA resolution.

If there are complaints about fraud or criminal activity, the SARA process does not inhibit the student from seeking recourse from any state Attorney General or the Office of Inspector General or complaint unit of the Department of Education.

It is very important to note that this process is specific for the out-of-state student located in a SARA member state participating in an activity of a SARA participating institution. This includes face-to-face programs with experiential learning that is subject to SARA policy. Complaints about a SARA participating institution regarding a student taking part in an in-state activity of the institution are not subject to SARA review and are to be submitted for review to the State's higher education approval agency.

The student will seek redress through the SARA Portal Entity of the Home State of the institution. The SARA Manual describes that the SARA Portal Entity in the institution's Home State will investigate and resolve allegations. The Home State SARA Portal Entity will notify the State Portal Entity where the student is located. The institution Home State SARA Portal Entity will have the final authority on SARA Complaints. You may wish to review the diagram of the SARA Student Complaint Process located in Section 4.5 of the SARA Manual.

Student Complaint Process for Related Concerns Outside of Reciprocity (SARA)

Despite growth in the number of SARA state members and SARA participating institutions, some student complaints must be reviewed outside of the SARA Student Complaint Process. A student may find that their complaint must be reviewed by the State's higher education approval agency. Reasons for this could include:

² State authorization, 34 CFR 600.9(a)&(b) (2019). Retrieved from: https://www.ecfr.gov/cgi-bin/text-idx?SID=3f3801be3afcdf6c285c77781e781600&node=pt34.3.600&rgn=div5#se34.3.600_19 .

³ NC-SARA. *State Authorization Reciprocity Agreements Manual*. Section 4. Retrieved from <https://nc-sara.org/resources/guides> .

- In-state activity – the location of the activity was in the Home State of the institution;
- Out-of-state activity takes place in a non-SARA state – SARA is operational only in member states;
- Institution is in a non-SARA state or the institution chooses not to participate in SARA, but offers an out-of-state activity; or
- Out-of-state activity is outside the oversight of SARA as defined in the SARA Manual – not all activities that an institution may offer in another state are covered by SARA.

In any of the above situations, the student must first typically review and exhaust the complaint resolution options at the institution, unless there are extenuating circumstances. The path to seek an appeal or satisfaction beyond the institution decision varies widely per state. The wide variance in state processes prevents a description of a single process that will be applicable to all states. The higher education agency may or may not have the ability to accept and act on student complaints to enforce state laws on the institution.

A student participating in an in-state activity in the Home State of the institution will be subject to a compliant process designated by that state as is required for the institution to participate in Title IV financial aid⁴. The agency implementing that complaint process and taking action may be a different agency than a state higher education agency. Notification of the specific agency to review and act on complaints should be provided by the institution in the previously described institutional information notification⁵. It is recommended that the student participating in the in-state activity reach out to the state higher education agency first. For enforcement of laws, if the higher education agency cannot enforce state laws against the institution, the higher education agency may direct the student to the appropriate state agency.

When a student participates in an out-of-state activity that is not subject to reciprocity through SARA, there remains a question as to what agency in the state where the student is located can review and act on complaints. Typically, an institution that has obtained institutional approval in the state where the student is located is then subject to that state's laws. However, one must be aware that not all states wrote their state complaint process to bring the out-of-state institution under the jurisdiction of the state process to enforce state laws on an out-of-state institution. Additionally, some states do not require institutional approval of an out-of-institution to provide online education and/or experiential learning to students located in their states. In that situation, the state higher education agency does not have authority to enforce state laws against the out-of-state institution. A student should seek guidance from the state higher education agency in the state where the student is located. The agency will attempt to mitigate and provide guidance if it is not in a position to enforce state laws on the out-of-state institution.

Academic Issues for Review by an Accreditor

A student may wish to bring a complaint to the institution's accreditor for issues relating to the quality of the school's program or instruction or failure to meet the standards designated by the accreditor. The student should have access to the accreditor's contact information, as is required by federal regulation Institutional Information⁶. Institutional accreditors, such as the Higher Learning Commission (HLC)⁷ and the Southern Association of Colleges and Schools

⁴ State authorization, 34 CFR 600.9(a)&(b) (2019). Retrieved from: https://www.ecfr.gov/cgi-bin/text-idx?SID=3f3801be3afcdf6c285c77781e781600&node=pt34.3.600&rgn=div5#se34.3.600_19 .

⁵ Institutional Information, 34 CFR 668.43(b) (2019). Retrieved from: <https://www.ecfr.gov/cgi-bin/text-idx?type=simple;c=ecfr;cc=ecfr;sid=f415ba12edb2f62d553f2738cfb4d597;region=DIV1;q1=668.43;rgn=div8;view=text;idno=34;node=34%3A3.1.3.1.34.4.39.3> .

⁶ Institutional Information, 34 CFR 668.43(b) (2019). Retrieved from: <https://www.ecfr.gov/cgi-bin/text-idx?type=simple;c=ecfr;cc=ecfr;sid=f415ba12edb2f62d553f2738cfb4d597;region=DIV1;q1=668.43;rgn=div8;view=text;idno=34;node=34%3A3.1.3.1.34.4.39.3> .

⁷ Higher Learning Commission (HLC). *HLC Policy*. Policy Title: Complaints and Other Information Regarding Affiliated Institutions, Number: COMM.A.10.030. Retrieved from: <https://www.hlcommission.org/Policies/complaints-and-other-information-regarding-institutions.html> .

(SACS)⁸ indicate that they will make every effort to expedite an investigation once a written complaint is submitted. As previously discussed, a student must typically exhaust all efforts to resolve the issue prior to filing a complaint with the accreditor, unless there are extraordinary circumstances.

Beyond intuitional accreditation, some programs are accredited on their own, such as physical therapy, nursing, education, engineering, plus more. Program accreditor information, if any, should be provided by the institution as required and previously discussed by Federal Regulation 34 CFR 668.43(b). A student may review the accrediting agency's standards to determine whether to file a complaint with the program accreditor alleging that the program is not in compliance. It is expected that the student will follow institution process prior to seeking recourse by the program accreditor.

A finding of noncompliance by a program or institution will typically result in efforts to bring the institution into compliance and other institution consequences. Depending on the accrediting agency, the complaint might not result in the specific resolution of the complaint filed by the student.

When filing a complaint with an accrediting agency, a student may wish to ask about the purpose of the accrediting agencies complaint process. The State and SARA complaint processes are meant to bring resolution to a situation in which a student believes to be aggrieved. Resolution could be in favor of the student, in favor of the institution, or some compromise. Some accrediting agencies use the complaint process to gather evidence about the institution for the purposes of reviewing and maintaining the institution's accreditation status. That complaint may not result in a resolution either way for the individual student.

Military Affiliated Students

A student who participates in the Military Tuition Assistance Program (TA) or is a Military Spouse Career Advancement Accounts Scholarship recipient, may submit a complaint through the Department of Defense – Postsecondary Education Complaint System⁹. This process is for students who find that their school failed to follow the Principles of Excellence¹⁰. The system was created to provide these military affiliated students the ability to report misleading or unfair actions by institutions. Examples of the types of educational related complaints that may be reviewed by the Department of Defense include, quality of education, financial issues, recruiting and marketing practices, refund or collection issues, and others as you may review on the Department of Defense Military OneSource Website for the Postsecondary Education Complaint System listed in the footnotes. Upon receipt of a student complaint, the Department of Defense representative will work with the student's institution and provide the student with a response to the complaint. The student will receive a response to the complaint.

A military affiliated student who is receiving Veterans Affairs (VA) education benefits, may need to submit a complaint to the Department of Veterans Affairs (VA)¹¹. Those students receiving assistance through Montgomery or Post 9/11 GI Bill may submit their complaint to the VA that will review the complaint and seek response to the student's complaint by the institution. The institution will review and communicate with the student with a response to the complaint. The VA

⁸ Southern Association of Colleges and Schools Commission on Colleges (SACS) Policy Statement. Complaint Procedures Against SACSCOC or its Accredited Institutions. Retrieved from: <http://www.sacscoc.org/pdf/081705/complaintpolicy.pdf> .

⁹ Military One Source. *Postsecondary Education Complaint System (2018)*. Retrieved from: <https://www.militaryonesource.mil/education-employment/for-service-members/choosing-a-college/postsecondary-education-complaint-system> .

¹⁰ The White House. *Executive Order -- Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members (2012)*. Retrieved from: <https://obamawhitehouse.archives.gov/the-press-office/2012/04/27/executive-order-establishing-principles-excellence-educational-instituti> .

¹¹ U.S. Department of Veterans Affairs. *VA GI Bill Feedback Tool (2019)*. Retrieved from: <https://www.benefits.va.gov/gibill/feedback.asp> .

will communicate with the student to learn if the institution's response is satisfactory, but they have indicated the communication will be for tracking purposes only.

U.S. Department of Education Federal Student Aid (FSA) Self-Resolution Checklist and Ombudsman's Office

For student complaints regarding Federal Financial aid, for Pell Grants, and federal loans (Title IV HEA programs) the students may find the Federal Student Aid (FSA) Self-Resolution Checklist¹² helpful. The FSA describes a step by step self-analysis to help the student determine whether they have taken the necessary steps to resolve the problems themselves. If the problem remains unresolved after self-analysis, the student may submit feedback to FSA through the FSA Feedback System¹³. If the student receives a response for which they do not agree, the student may contact the Federal Student Aid Ombudsman Group¹⁴ which is deemed a neutral, information and confidential resource to seek final recourse from FSA about the student's federal aid. A student can expect the Ombudsman Group to work with the student to resolve concerns, but does not themselves overturn decisions, accept complaints about private loans, or replace specified channels of process resolution within the Department of Education or in federal court. Additionally, the Ombudsman Group does not accept payments or process deferment, forbearance, or discharge requests. The Ombudsman Groups serves the student by providing assistance for research and support to the student to seek solutions.

Consumer Financial Protection Bureau

If a student has a dispute or complaint about a private loan (offered by bank, credit unions, or online loan companies), the student may wish to contact the Consumer Financial Protection Bureau (CFPB)¹⁵. The CFPB is described as a U.S. government agency that ensures that banks, lenders, and other financial entities operate fairly. The CFPB will help the student connect with the financial companies to address the errors and seek prompt responses from the financial entities about problems. CFPB will also determine if there is another government agency that would be better to assist to resolve the student's issues. CFPB will forward the complaint to that agency and advise the student. The financial entity reviews the complaint and will communicate with the student about the steps taken and that will be taken on behalf of the student on the issue of the complaint. When the complaint process is closed, with the student's consent, the CFPB will publish the issue and outcome in the Consumer Complaint Database¹⁶ for future benefit of others, to collect data to review financial entities, and manage rules and regulations. In essence, the CFPB acts to assist the student with the conflict with the financial entity through a process to address the complaint on the private loan and manages a database of complaints and resolutions.

¹² Federal Student Aid. An Office of the Department of Education. *Self-Resolution Checklist*. Retrieved from: <https://studentaid.ed.gov/sa/repay-loans/disputes> .

¹³ Federal Student Aid. An Office of the Department of Education. *FSA Feedback System*. Retrieved from: https://feedback.studentaid.ed.gov/s/?language=en_US .

¹⁴ Federal Student Aid. An Office of the Department of Education. *Federal Student Aid Ombudsman Group*. Retrieved from: <https://studentaid.ed.gov/sa/repay-loans/disputes/prepare> .

¹⁵ Consumer Financial Protection Bureau. *Having a problem with a financial product or service?* Retrieved from: <https://www.consumerfinance.gov/complaint/> .

¹⁶ Consumer Financial Protection Bureau. *Consumer Complaint Database*. Retrieved from: <https://www.consumerfinance.gov/data-research/consumer-complaints/> .

State Attorneys General

Students may also seek resolution to consumer protection issues by seeking assistance from the state Attorney General (AG) in the state where the student is located during the activity of the institution. The student should note that the State AG does not act as a private attorney. However, in some states the AG may be able to offer informal dispute resolution programs for consumers¹⁷. The AG protects the public interests by taking legal action on behalf of the state against companies and organizations that violate consumer protection laws. Although there may not be a direct benefit to the student, the student may wish to submit a complaint to the AG for the purpose of accruing a number of examples of the improper actions of the institution for which students have been aggrieved.

Private Lawsuits

Although direction for support for student complaints have been described above, students who have been aggrieved by an institution may find that they have a cause of action for a private lawsuit against the institution. A student who can prove a monetary loss due to the actions or inactions of the institution may seek compensatory damages. Additionally, a student, in some situations, may seek injunctive relief for a court to order that the institution act or refrain from an action that caused the injury to the student. An example of a cause of action that results in an injury could be the institution's failure to follow state or federal regulations. If the student suffers a financial loss due to the institution's failure to comply with regulations, the student may file a lawsuit to seek compensatory damages and could seek injunctive relief to order the institution to come into compliance with the regulations. It should be noted that seeking relief through the courts could include a challenging time factor and cost factor with the likely need for the student to be represented by legal counsel.

Conclusion

Communication of effective processes for resolution of students' concerns is of primary importance. Students should have straightforward access to the complaint process at the institution including the higher education agency for which the student may seek satisfaction for an unresolved complaint. Should the student need additional assistance outside the institution, it is important for the student to understand that not all outside entities will provide a direct personal result to their concern. The following entities describe a direct resolution to the students who meet the eligibility requirements discussed: SARA Portal Entity, Higher Education Approval Agency, DOD Postsecondary Education Complaint System and Private Lawsuits. Others may offer either to collaborate with the institution to reach resolution or will address the deficiencies of the institution and possibly impose consequences on the institution. You may wish to review this chart to compare the options. Students should understand the differences when seeking final resolution to their concerns.

Addendum

Student Complaint Options Chart

Thank you to Beverly Wade and Jennifer Lewis for their contributions to this paper!



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The content of this student complaint option review should not be considered to be or used as legal advice. Legal questions should be directed to legal counsel.

¹⁷ Illinois Attorney General. *Protecting Consumers*. Retrieved from: <http://www.illinoisattorneygeneral.gov/consumers/index.html>.

Student Complaint Options April 2020

Questions	Where to Complain	Comments	Authority
Student has a complaint?	Institution: Student should start with the institution's process.	The institution should provide clear procedures.	
Complaint not resolved to the student's satisfaction or institution is stalling?	State Oversight Agency: If institution is in the same state that the student receives the instruction.	The institution should provide you with the state agency's contact information.	For institutions that offer Title IV Federal Financial Aid, the institution is required per 34 CFR 668.43(b) to provide the contact information for filing complaints with its State approval or licensing entity and any other relevant State official or agency that would appropriately handle a student's complaint.
	State Oversight Agency: If institution is located in another state from where the student received the instruction.	If SARA ¹ institution, with activity subject to SARA policy (ex. distance ed or experiential learning) in a SARA state, complain to the "SARA portal agency" in the institution's state.	Section 4 of the SARA Manual.
		If the activity is outside of reciprocity (ex. face to face course) or the institution does not participate in reciprocity, the student should complain to oversight agency* in the student's state.	*The oversight agency in the student's state may not have authority to enforce state laws over the out-of-state institution. However, the agency will assist the student to find the appropriate agency.

¹ SARA is the State Authorization Reciprocity Agreement: <http://nc-sara.org/>

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---- Academic Issues ----			
Questions	Where to Complain	Comments	Authority
Does the complaint have an academic component?	Institutional Accrediting: The student should complain to the institution's accrediting agency.	The institution should provide the student with the accrediting agency contact information.	For institutions that offer Title IV Federal Financial Aid, the institution is required per 34 CFR 668.43(b) , to provide its students or prospective students with contact information for filing complaints with its accreditors.
	Program Accrediting: If the student's program also has program accreditation.	The institution should provide the student with the programmatic accrediting agency contact information.	For institutions that offer Title IV Federal Financial Aid, the institution is required per 34 CFR 668.43(b) , to provide its students or prospective students with contact information for filing complaints with its accreditors.
---- Additional Complaint Paths, If You Have This Form of Financial Aid ----			
Is the student active duty military receiving Tuition Assistance or spousal assistance?	Department of Defense Postsecondary Education Complaint System	When the student finds that their school failed to follow the Principles of Excellence, ² they may report misleading or unfair actions by the institution.	Presidential Action: Executive Order established the Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members
Is the student a veteran using Montgomery or the Post 9/11 GI Bill?	Department of Veterans Affairs	Student may submit their complaint to the VA that will review the complaint and seek response to the student's complaint by the institution.	

² The White House. *Executive Order -- Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members (2012)*. Retrieved from: <https://obamawhitehouse.archives.gov/the-press-office/2012/04/27/executive-order-establishing-principles-excellence-educational-instituti>.

Does the student have a private student loan?	Consumer Financial Protection Bureau	CFPB will help the student connect with the financial companies to address the errors and seek prompt responses from the financial entities about problems.	
Is the student currently receiving federal financial aid?	Department of Education Ombudsman	If after prescribed student self-analysis ³ , the student may contact the FSA Ombudsman to seek final resolution about the student's aid. The Ombudsman Groups serves the student by providing assistance for research and support to the student to seek solutions.	
---- Additional Possibilities----			
Is the student still not satisfied?	Attorney general	Some students have found help with these, but there may be additional costs and time factors. The above choices are the official routes.	
	Private Lawsuits		

³ Federal Student Aid. An Office of the Department of Education. *Self-Resolution Checklist*. Retrieved from: <https://studentaid.ed.gov/sa/repay-loans/disputes> .

Links to Complaint Process Federal Regulations & SARA Requirements

34 CFR 600.9 (a)&(b). State Authorization – Summary: An institution as described in 600.4 is authorized by a State if there is a State process to review and appropriately act on complaints concerning the institution including enforcing applicable State laws: https://www.ecfr.gov/cgi-bin/text-idx?SID=3f3801be3afcdf6c285c77781e781600&node=pt34.3.600&rgn=div5#se34.3.600_19

34 CFR 668.43(b). Institutional Information – Summary: The institution must provide certain information to any enrolled or prospective students regardless of modality. Among the information to be provided is the contact information for filing complaints with the institution’s accreditor and with its State approval or licensing entity and any other relevant State official or agency that would appropriately handle a student's complaint: <https://www.ecfr.gov/cgi-bin/text-idx?type=simple;c=ecfr;cc=ecfr;sid=f415ba12edb2f62d553f2738cfb4d597;region=DIV1;q1=668.43;rgn=div8;view=text;idno=34;node=34%3A3.1.3.1.34.4.39.3>

SARA Manual Section 4. Consumer Protection – Summary: The Home State of the institution is responsible for investigating and resolving allegations of dishonest or fraudulent activity by the state’s SARA participating institutions. Use this link to find the most up to date version of the NC-SARA Manual: <https://nc-sara.org/resources/guides>

Links to Financial Aid Complaint Paths

- Department of Defense Postsecondary Education Complaint System: http://www.militaryonesource.mil/f?p=MOS3:TOPIC:0::::EKMT_ID:333.25.50.30.20.0.0.0.0content_id%3D274604
- Veterans Administration: <http://www.benefits.va.gov/gibill/feedback.asp>
- Consumer Financial Protection Bureau: <http://www.consumerfinance.gov/complaint/>
- Department of Education: <https://feedback.studentaid.ed.gov/>

Links Higher Education Agencies and SARA State Portal Entities

- State Higher Education Agency List: <https://nc-sara.org/guide/agency-list>
- State Portal Entity Contacts: <https://nc-sara.org/state-portal-entity-contacts>

SARA Student Complaint Process

