Talking Points -

Ten "Non-sequential" Steps to Get Started in State Authorization Compliance

Introduction

Congratulations on your new job in state authorization compliance. Maybe you are new to this role, or to your institution--or both. First, welcome to this sometimes bizarre but interesting area of regulatory compliance for out-of-state activities of the institution. If you've stumbled across the WCET State Authorization Network ("SAN"), then you know that you aren't alone in this journey. We look forward to helping you at any step along the way.
State authorization compliance can seem overwhelming at first. The purpose of this document is to provide a total beginner with a list of ten steps to take to get started. The exact order is not important, but hopefully these steps will provide some guideposts as you dive in.

Acclimate Yourself to the Regulations

Learning the regulatory framework is a long-term task—indeed. Learning is ongoing because regulatory changes are inevitable. You will want to review the SAN website pages "How it Works" and "Why Comply" for a good overview of state authorization issues.

Keep this basic principle in mind: if an institution offers activities to students located in another state, then the institution must obtain authorization by the state according to the regulations of that state. States vary in how they regulate activities occurring within their borders. Examples of out-of-state activities that require state authorization include online courses, field experiences, brick and mortar locations, group activities, faculty teaching from another state, and recruiting. You may begin research on state requirements in each state by review of The State Authorization Guide.

An alternative to obtaining approval and managing the fees, reporting, and applications for each state, is to gain institutional approval for certain distance education related activities as a SARA participating institution. The State Authorization Reciprocity Agreements (SARA) provides SARA participating institutions with the approval to offer and participate in certain designated activities related to distance education in other SARA states as described in the SARA manual. Currently, all states with the exception of California and also the Pacific Territories, are members of SARA.

The SARA manual is essential reading for SARA participating institutions. An awareness of process for reciprocity through SARA for non-participating institutions is beneficial as well. The manual provides the policies that address the important details about state authorization of distance education through participation in reciprocity. Read one chapter per day. Take a week off, then do it again. You will be ahead of many experienced professionals, believe it or not.

On July 1, 2020, the US Department of Education new regulations became effective that condition an institution's participation in Title IV financial aid programs with obtaining state authorization in each state in which it offers activities

to students or is otherwise subject to a state's jurisdiction. The institution is compliance with the new regulations by obtaining individual state approvals or by participating in a reciprocity agreement. [This WCET Frontiers post dives into these regulations,](#) and that is a useful article to start reading sooner rather than later.

Get to Know the Institution

One of your first steps should be to build your knowledge base of your institution. Whether you are new to state authorization and/or new to your institution, it is always a good idea to familiarize yourself with the resources and stakeholders. In effect, you are building a communications network and creating a repository of information commonly requested by states and other entities.

What kind of information should be included in your study of the institution? The following is a representation, much of which can be found within your institution's accreditation /reaccreditation submissions.

- Type of Institution (Public, Private Not-for-Profit, Religious, Private For-Profit, and Tribal (also considered public))
- Institutional Accreditor -, (e.g. [Middle States Commission on Higher Education](#), [Higher Learning Commission](#), [Northwest Commission on Colleges and Universities](#), [Southern Association of Colleges and Schools, Commission on Colleges](#), [The Distance Education Accrediting Commission](#))
- Authorization from your institution's home state (Certificate of Authority, Certificate of Authorization, etc.)
- Types of programs offered by your institution
- Your institution's status on common physical presence triggers:
  - *Instruction* – Externships, clinical partnerships, seminars
  - *Recruiting* – Agents in state, frequency of contact w/ students
  - *Property* – Equipment (computers) or Instructional Site
  - *Employment* – Faculty members, mentors, supervisors
  - *3rd Party Contracts* – Proctored Exams, Student Services
  - *Advertising* – National media or local media (targeted)
- Programmatic accrediting agencies
- Annual Reports (financials)

A helpful suggestion for getting to know your institution: Institutions have an "About" section on their main websites. Often overlooked, this link provides quick access to key pages concerning leadership, mission statements, institutional authorization, facts and figures (statistics), locations, etc. Spend some time reading this information. Think of it as a portal to everything about your institution.

Review Enrollment History and the Courses & Programs Offered

Conducting an initial review of your institution's enrollment history will provide a snapshot of the institution's out-of-state activities. Even if your institution does not have students enrolled in online courses, a review will show which on-ground programs have experiential learning components that may occur outside of your institution's home state. Acquiring enrollment history can be achieved in several ways. Aside from programs, there are other departments across your institution that compile data (including enrollment, retention, outcomes, attrition). Institutional research, financial aid and registrars are examples of such departments. Depending on the size of your institution, there may be similar departments within each location; quite possibly each may retain separate data. For example, an institution may have separate offices of registrar, financial aid and admissions for each school. After gaining an understanding of the history, you'll want to start thinking about how to track these enrollments moving forward.

Tackle the CRAC guidelines—even if the institution does not participate in SARA

Determining evidence of academic quality of the institution's distance education activities is an important aspect of state institutional compliance. The Interregional Guidelines for Evaluation of Distance Education, commonly known as the C-RAC Guidelines, is a resource to analyze the distance education portfolio at your institution. Pick one of the principles and work to find the elements of your institution's distance education program that would demonstrate compliance. If you tackle one principle per day, you will be amazed at how much you can learn in a couple of weeks.

If the institution participates in SARA, the institution is bound by SARA policy to abide by these principles. The institution's chief executive or chief academic officer signs and affirms annually, though the SARA application and renewal, that the institution will abide by the C-RAC Guidelines. State portal entities, who serve as the agencies in each state for oversight of SARA policy on participating institutions, may request documentation that your institution follows these guidelines in order to approve or renew the institution's annual participation in SARA.

While working through the C-RAC guidelines, it is also a good idea to have a basic understanding of the regulatory triad of higher education in the US.

Learn More About the Institution's Administrative Structure and Goals

Ascertain the infrastructure and interest in these issues in order to manage a comprehensive compliance program. You, as a beginning state authorization professional, have limited control over these factors. However, a powerful action is to review your institution's mission and strategic plan. Start thinking about how state authorization compliance fits with institutional goals. Then, when you are building the required relationships with peers across your campus, you can show how collaborating with you will help them achieve objectives that they already are striving to achieve.

Develop Relationships Across the Institution

Forging relationships is vitally important both within your institution and beyond. At your institution, there are individuals of varying levels of responsibility who may prove to be excellent resources. Make it a priority to meet at least once per semester. (Meeting annually may suffice with some groups.) Having an agenda is important as you will want to communicate all pertinent information. However, it is a good idea to reserve part of your meeting for Q&A as those attending may have questions or concerns that need to be addressed. Another option is to establish an informal committee or group composed of persons from each department or school you communicate with. Also, make yourself available for one-on-one meetings with each member of the group. This allows for concentration on matters exclusive to their program(s) or school. Find out if there are already established liaisons. Perhaps a school or program has designated an individual or group to communicate with you.

Meetings do not always occur in-person--even before COVID. Video-conferencing platforms and phones provide useful options.

Spread the Knowledge: Create Elevator Pitch & Decide Who Needs to Hear it

It is likely that you will be invited to introduce state authorization (and in effect, yourself) to a new audience of stakeholders. The audience might be programmatic faculty, department chairs, deans, a faculty senate committee, or perhaps institutional leadership (i.e., provost or general counsel). Your introduction might occur during an informal chat or you may be asked to present to a larger group. Your ability to communicate on matters concerning authorization, enrollment, licensure and compliance is important. Prepare a presentation outlining state authorization, its impact on issues such as accreditation and federal funding, adherence to state and federal regulations, and the consequences of non-compliance. Be prepared to ask and answer questions on topics such as necessity, costs, locations, enrollment and

pro/cons for authorization. Depending on the audience, key decision makers may be present who determine whether to proceed with state authorization, participation in reciprocity, and when to terminate or scale back the institution's out-of-state presence.

Since stakeholders exist at varying levels, it is best to plan how much to disseminate to each group. For example, your presentation to programmatic faculty may differ in content to what you present to institutional leadership.

Get Started on Professional Licensure Notifications

Institutions offering courses and/or programs that lead to professional licensure or certification have additional regulatory responsibilities. Federal regulations now require that institutions review educational programs leading to professional licensure or certification regardless of modality (online and face-to-face). The institution must provide public notifications whether or not the curriculum meets state educational requirements for licensure or certification or that the institution has not made a determination for all states and territories. Individual notifications are also required for prospective and enrolled students under certain circumstances as prescribed by the Federal regulations. Notifications may also be required by State laws and SARA Policy 5.2.This is a major topic at this time; start with SAN's professional licensure implementation handbook. This, too, is a resource that is best digested in pieces, bookmarked, and revisited frequently.

After gaining a decent understanding of the regulatory requirements, start inventorying the programs at your institution that lead to licensure, and set up meetings with administrators in those departments in order to build relationships and gain a detailed understanding of these programs.

Look into Possible Additional State Requirements

Depending on the state, further requirements may be imposed upon your institution in addition to requirements for institutional approval for distance education as directed by the state or through reciprocity requirements. These may include, but are not limited to: Teach-outs, Secretary of State registration, Surety Bonds, Workers Compensation Insurance for Field Placements, Student Tuition Relief Fund (which may also be known as Protection Fund or Recovery Fund), Agent of process, Agent of service.
The table below provides two examples of other state requirements:

Requirement	What is it?	Why is it necessary?
Teach-Out Policies Teach-Out Plans / Agreements	Teach-out policies are drafted usually at the institutional level. Teach-out plans are the outlined courses of action at the programmatic level (allow existing students to finish the program and cease to enroll new students). A teach-out agreement is a written arrangement between the institution and another institution that can provide comparable alternatives to the discontinued program(s).	Teach-outs are required by States to demonstrate institutions have written contingencies in the event of but not limited to programmatic or institutional closure; loss of accreditation; or revocation of authorization to operate. Teach-out plans and agreements may be subject to approval by an institution's accrediting agency depending on agency policy. Teach-out plans and agreements may vary per an institution's schools and programs.

Surety Bond Letter of Credit	Part of the application process in many states. In the event an institution is required to refund students' tuition (due to closures, disaster, etc.), a surety bond or letter of credit is a State's documented assurance the institution has the financial resources to do so.	Whether to maintain or cancel a surety bond varies per state. In some states, authorizing agencies allow surety bonds to be cancelled once an institution has been authorized, while other states require schools maintain surety bonds as long as the institution has students enrolled in their states.

Document What You Do

This is a first step, a middle step, and a forever step. As you research, plan, and implement your compliance program, you should keep a written record. State authorization compliance involves some nuance and discretion. Your institution may make different decisions than one down the road. At SAN, we often urge institutions to come up with defensible plans that include a rationale for decisions made. Recently in WCET Frontiers, New Federal Regulations Ready for Your Comments – State Authorization and Student Notifications, for instance, we discuss coming up with a defensible plan for tracking student location. This is one of many examples of "showing your work." Documentation of many aspects of your state authorization compliance program will be useful in a Title IV program review. It is also invaluable for sharing your knowledge with colleagues present and future and for promoting consistent implementation of the institution's policies. Sometimes you will need reminders, too, and a good internal record is a huge timesaver.

Conclusion

Review of suggested steps – the order of implementation may vary:
1. Acclimate Yourself to the Regulations.
2. Get to Know the Institution.
3. Review Enrollment History and the Courses & Programs Offered.
4. Tackle the CRAC Guidelines.
5. Learn More About the Institution's Administrative Structure and Goals.
6. Develop Relationships Across the Institution.
7. Spread the Knowledge: Create Elevator Pitch & Decide Who Needs to Hear it.
8. Get Started on Professional Licensure Notifications
9. Look into the additional state requirements.
10. Document What You Do.

Now what? How do I start?
After reading this much, you might be wondering how to apply any of this material. The following chart pairs resources with concrete actions to apply them. Again, these do not have to be done in order. And please know also that SAN is here with you every step of the way.

Resources to Read	Application
Enrollment data for your institution.	Create a summary of where your institution's students are located.
C-RAC Guidelines	Begin gathering evidence of your institution's compliance with each guideline.

SAN Website: Why Comply, WCET Frontiers: Final Federal Regulation for State Authorization Released, (Nov. 2019) SAN Resource: Professional licensure implementation handbook.	Prepare a presentation outlining state authorization, its impact on issues such as accreditation and federal funding, adherence to state and federal regulations, and the consequences of non-compliance
Your institution's org chart.	Introduce yourself to at least three administrators whose help you will need to implement or enhance the state authorization program at your institution.

Acknowledgements

Thanks for reading, and best of luck as you get started. We hope you enjoy learning more about the relevant regulations and how they apply in the unique context of your institution. SAN is here to help, every step of the way. And, speaking of help, (and collaboration), the authors of this document are grateful to Marianne Boeke, Sharmila Conger Mann, Russ Poulin, Beverly Wade, and Terri Taylor-Straut because they have written prior versions of this guidance.

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Note: The information presented is offered as considerations when an institution wishes to develop a process to manage out-of-state activity compliance. The information should not be considered legal advice. Legal questions should be directed to legal counsel.

State Authorization Network
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