

Overview of Distance Education Protections Desired by Consumer Advocates

Identified Problem

Interest has been expressed to develop increased student consumer protections for students who participate in interstate distance education. Some believe that current elements of oversight for state authorization of institutions through a state authorization reciprocity agreement for interstate distance education lacks sufficient accountability for institutions and consequences for failing to maintain designated standards.

Public Policy Principles: With the growth of distance education opportunities for students at postsecondary institutions, there is a corresponding interest in strong consumer protection for students. States hold an important role to oversee regulatory requirements to protect students and to maintain the viability of institutions. The U.S Department of Education wishes to provide strong student protections as well, while also preserving the integrity of title IV, Federal Financial Aid programs.

Current Status of State Authorization of Institutions Offering Interstate Distance Education

State & Federal oversight structure of institutions includes the following:

- State regulations and laws of the state where the student is located provide the oversight of institutions offering interstate distance education. State laws and regulations vary widely.
- States, with the exception of California, have voluntarily become members of a reciprocity agreement to provide uniform state authorization requirements for distance education. Most states became members of the reciprocity agreement through legislation signed by the governor of the state.
- Institutions, in states that voluntarily chose to become members to the reciprocity agreement, are given the opportunity to participate in reciprocity. Participating institutions obtain approval to participate from the home state agency of the institution. Institutions are then subject to a uniform set of requirements, as directed by the reciprocity agreement, to offer distance education in states that are members of the reciprocity agreement.
- The institution may obtain state authorization for interstate distance education either by approval of state agencies in each state where a student is located, with the varying state laws and regulations, or through participation in reciprocity.
- Federal regulation [34 CFR 600.9\(c\)](#) ties participation in Title IV HEA programs to the institution meeting state requirements to be legally offering postsecondary education through distance education. The institution is considered to be meeting state requirements through either:
 - Meeting any state requirements in each state where the institution is offering distance education; or
 - Participating in a state authorization reciprocity agreement, if the institution is located in a state that is a member of the reciprocity agreement and is offering distance education in a state that is also member to the agreement.
 - Institutions are subject to any limitations in that agreement and to any additional requirements of that State not relating to State authorization of distance education.
- Federal regulation defining state authorization reciprocity agreement [34 CFR 600.2](#) :
 - an agreement among states
 - to legally authorize the institution in a State covered by the agreement
 - to provide distance education to students located in another state covered by the agreement; and
 - cannot prohibit any member State from enforcing its own general-purpose State laws and regulations
 - outside of the state authorization of distance education.

Solutions Suggested by Consumer Advocate Groups to Strengthen Oversight of Interstate Distance Education

Themes:

- State Control to:
 - Limit problematic institutions from enrolling residents.
 - Enforce state policy limitations on enrollment.
 - Enforce the state's own state consumer protection laws on higher education, even when the state participates in a reciprocity agreement.
- Strengthen reciprocity through the State Authorization Reciprocity Agreements (SARA)
 - Restructure the NC-SARA Board to include at least 50% state regulators and a representative of a member state attorney general's office or a representative of a non-profit organization representing the interests of consumers and/or students.
 - Strengthen state accountability through enforcement of requirements and consumer protection standards for participation in reciprocity through SARA.
 - Facilitate transparent institutional and complaint data sharing between states for enforcement and notice to the public.
 - Publish all policy proposals and receive public comments on proposals.
 - Give states authority over the creation and modification of distance education regulations.
 - Require mandatory tuition recovery funds.
 - Include minimum cancellation periods.
 - Include non-federal funds refund requirements.
 - Create a complaint process that focuses on students, encourages collaboration among states, and contains transparency requirements to assist in identifying problematic institutional behavior patterns.

Resources informing the solution suggestion themes for increased student consumer protections are found below:

- [Going the Distance Consumer Protection for Students Who Attend College Online](#); TICAS; August 28, 2018.
- [Distance Learning and Educational Innovation Fast and Huppert Proposed Proposal](#); Rulemaking proposed language submitted by Carolyn Fast and Sue Huppert; February 2019
- [State Attorneys General Policy Change Recommendations to Improve NC-SARA Student Protections](#); State of Maryland Office of the Attorney General; August 2, 2021
- [What is State Authorization and What Role Does NC-SARA Play?](#); TICAS; September 14, 2021.
- [Certification Procedures Proposal](#); Rulemaking proposed language submitted by Carolyn Fast & Jaylon Herbin, Yael Shavit & Adam Welle, and Deborah Cochrane; February 1, 2022. (see the comment on page 3)
- [Certification Procedure Memo About State Consumer Protection Laws](#); Rulemaking memo submitted by Barmak Nassirian and Carolyn Fast; March 16, 2022.
- [Comments in Response to the Proposed NC-SARA Policy Modification Process](#); TICAS; March 15, 2022.



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