

What is the issue?

State-led reciprocity agreements are a way for states to collaboratively create a uniform structure to address varying states' legal processes affecting an interstate issue. A reciprocity agreement addressing interstate distance education provides uniform oversight of institutions for distance education-related activities for all states choosing to be members of the agreement. Concerns were raised by the U.S. Department of Education and some consumer protection advocates. They maintain that a state authorization reciprocity agreement to provide institutional approval for interstate distance education limits some states, which may have stronger enforceable protections over out-of-state institutions, from enforcing their specific state laws when applicable. While the State Authorization Reciprocity Agreements (SARA) currently covers 49 states, the proposed regulations are aimed at any such agreement.

Proposed language

The [Department's proposed language](#) (pages 5-6) would create 600.9(d). This proposed language would require that a state authorization reciprocity agreement must include certain parameters for an institution that obtains state authorization for interstate distance education through a reciprocity agreement to be eligible for Title IV Federal Aid. Proposed parameters that must be included that affect institutions are as follows:

- **Limit of 500 students** enrolled by the institution in a state for two consecutive years for the institution to maintain state authorization through reciprocity.
 - More than 500 enrolled students would require individual state authorization for that state.
 - The language was brief and missing many implementation factors.
- **Enforcement of certain state-specific laws**, regardless of participation in reciprocity.
 - Institutions are subject to applicable general-purpose state laws. (those enforceable on any business).
 - State laws related to closure, if any in a state. For each state, institutions in a reciprocity agreement would still need to follow each state's record retention or teach-out plans and pay into tuition recovery funds or surety bonds.
- **Complaint process requirements** related to states and the national organization.
 - Permit students to complain directly to the state agency without first seeking resolution at the institution if permitted by state statutes and regulations.

Current policy

[Section 600.9\(c\)](#) allows an institution offering distance education to students located in a different state to be considered compliant in that state for purposes of Title IV Federal Aid if the institution is covered by a state authorization reciprocity agreement and the state where the institution is offering education is a member to the agreement. The definition of a state authorization reciprocity agreement, as defined in [Section 600.2](#), directs that the agreement cannot prohibit a member state from enforcing its own general-purpose State laws. Through SARA, states agree to enforce the authorization standards set forth in SARA policy.

Potential impact

If the proposed language goes forward, reciprocity through the State Authorization Reciprocity Agreements (SARA) will be limited.

A limit of 500 enrolled students in a state will confuse institutions and states if the terms of the regulations are not clarified significantly when the proposed regulations are released. Unknown terms include:

- Do the 500 enrolled students include those participating in experiential learning?

- Whose data is being used to make the determination?
- Can states provide institutional approval quickly enough for institutions that surpass the 500 thresholds for the institution to remain in compliance?
- Will the Department provide extensions if states cannot act quickly to authorize?
- If an institution serves more than 500 students in a state that has no oversight of out-of-state institutions, how is this proposed language protecting students since it removes student consumer protections in reciprocity and replaces them with no protections?

Institutions that participate in SARA will be responsible under this proposed language for compliance with additional state-specific laws where students are located. Current regulations and SARA Policy already direct that a state may enforce its own general-purpose State laws on an institution even though it participates in the reciprocity agreement.

However, the proposed language will cause the institutions to research each of the various states where the institution serves students and comply with the applicable state laws related to closure, including record retention, teach-out plans or agreements, and tuition recovery funds or surety bonds. Institutions need to be aware that:

- States will vary.
- Not all states will have enforceable state laws on out-of-state institutions.
- Regular monitoring of changes in states' laws will be important.
- Documentation of compliance will be necessary.
- Some of these closure laws will come at a financial cost to the institution.

Complaint process requirements addressed in the proposed language will primarily impact states. However, currently, SARA Policy directs the student to seek a resolution at the institution before appealing to the SARA State Portal Entity (SPE). The proposed language directs that a state may allow direct receipt of the complaint and there are instances of egregious institutional behavior that warrant this change. It is strongly urged that institutions provide a very clear complaint process that is easily found on the institution's website.

Finally, there are questions about the authority of a federal agency to create restrictions on a state-to-state agreement voluntarily chosen by state governments.

The earliest the regulation would go into effect is July 1, 2025.

Next steps

Institutions that participate in SARA for institutional authorization to provide distance education-related activities in another state should consider the following:

- Review current processes to determine what changes might need to be made should the proposed language be finalized as regulations.
- Work with your government relations department to contact your federal and state elected officials.
- Be prepared to explain the impact on students that the proposed language would have.

Note: This document was created for members of the [SAN \(State Authorization Network\)](#) and [WCET \(WICHE Cooperative for Educational Technologies\)](#). Regulatory language and references are subject to change. The information should not be considered legal advice. Legal questions should be directed to legal counsel.