

Know the Facts: The Inaccuracies Surrounding NC-SARA

The federal State Authorization Rule requires colleges to be state-approved in order to receive federal financial aid, both for in-person and distance education programs. However, the rule has a significant caveat - institutions operating online across state borders can satisfy this requirement by participating in a State Authorization Reciprocity Agreement. The National Council for State Authorization Reciprocity Agreements (NC-SARA) is one example of a such an agreement.

NC-SARA was established in 2013, when states were just beginning to grapple with how to oversee institutions operating exclusively online and in multiple jurisdictions. However, over time it has become apparent that NC-SARA's attempt to facilitate institutions' operations across state lines by streamlining regulation instead undermines states' ability to protect their residents, and puts students at increased risk from predatory institutions.

This document fact checks and explains some of the most common misconceptions and inaccuracies about NC-SARA, state authorization, and consumer protections.

Claim #1: NC-SARA raises the consumer protection bar for distance education by streamlining state authorization.

"NC-SARA improves student consumer protections...NC-SARA was founded in 2013 when higher education stakeholders – including state regulators and education leaders, accreditors, the U.S. Department of Education, and institutions – recognized the growing demand for distance learning opportunities and joined together to establish the State Authorization Reciprocity Agreements (SARA), which streamlined regulations for distance education programs." [2021 NC-SARA Annual Report]

Fact Check: FALSE!

NC-SARA's policies undermine consumer protections for students. NC-SARA was created with the goal of streamlining regulatory burdens for institutions interested in offering online education in multiple states.¹ While the policies NC-SARA has created do include some minimum accreditation-type standards, they do not provide sufficient consumer protections for students and weaken states' authority to regulate and enforce consumer protection laws.

States are an important part of the higher education "triad," and are primarily responsible for protecting students from unscrupulous and fraudulent schools. Unfortunately, NC-SARA prohibits states with strong higher education oversight laws – particularly laws relating to for-profit institutions – from taking action to protect their residents from out-of-state online institutions. NC-SARA also acts as a barrier to state policymakers who wish to enact laws to protect their residents from low-quality and deceptive out-of-state online education providers. NC-SARA therefore represents a consumer protection ceiling, limiting states' authority to regulate online institutions that enroll their residents. When institutions are allowed to avoid state laws in the name of relieving regulatory burden on institutions it undermines the oversight system which exists to protect students.

Claim #2: NC-SARA has strong consumer protection requirements that states must enforce.

“Two critical components of our mission are (1) to assure students are well-served in a rapidly changing education landscape, and (2) to increase the quality and value of higher education credentials earned through distance learning programs. To do so, SARA participating institutions and states must meet certain requirements – many of which are focused on ensuring appropriate consumer protections for students.” [[Protecting Students & Demanding Quality, NC-SARA](#)]

Fact Check: FALSE!

NC-SARA has few substantive or proactive consumer protection requirements beyond those already required by federal regulations, and none of the requirements found in many state consumer protection laws, such as minimum cancellation periods (during which students can cancel their enrollment agreements and receive a full refund); non-federal funds refund requirements; and contract requirements.

Instead of creating measurable and enforceable consumer protection standards like these, NC-SARA has adopted the “Guidelines for the Evaluation of Distance Education” drafted by the Council of Regional Accrediting Commissions (C-RAC). The C-RAC guidelines, however, were drafted with the intention that they would be implemented by accrediting agencies and rely on a system of peer review and improvement common to accreditors, rather than the bright-line standards that are easy for consumers to understand and for state agencies to enforce. Moreover, NC-SARA’s policies prohibit states from investigating the accuracy of institutional claims. Instead, “[a] state must accept an institution’s self-certification that it will meet the policies set forth in the SARA Policy Manual and commitments contained in the institutional application to participate in SARA once it is allowed to participate.”² Research conducted by TICAS found that NC-SARA State Portal Entities routinely make exceptions for institutions that do not meet NC-SARA’s already weak minimum standards and to continue to operate with little or no oversight, investigation, or limitations. The lack of clarity and effective consumer protection standards in NC-SARA’s policies enable institutions to operate with little or no oversight or limitations, creating a patchwork of protection and enforcement within NC-SARA that puts students at risk.

Claim #3: If states want better consumer protections, they are free to make them.

“States and territories are ultimately responsible for conducting oversight of higher education institutions and distance learning programs offered by colleges and universities.” [[How Do We Protect Online College Students as Consumers?](#), Dr. Lori Williams, president and CEO of NC-SARA]

Fact Check: FALSE!

NC-SARA explicitly supersedes states’ higher education laws and usurps their authority to enforce consumer protections specifically designed to protect students against out-of-state institutions. In fact, even if states wanted to create stronger consumer protections, as NC-SARA suggests they do, they are unable to enforce those protections against out-of-state institutions under the terms of the agreement. The policies NC-SARA has created specifically require states to give up their right to apply the “requirements, standards, fees or procedures for the approval and authorization of non-domestic institutions of higher education providing distance education in the state” to any out-of-state institution that participates in NC-SARA. NC-SARA member states are therefore only able to enforce their *general-*

*purpose laws*³ against out-of-state institutions, meaning they cannot enforce the laws that apply specifically to institutions of higher education (including consumer protection laws). As a result, states are not able to enforce laws that are specifically designed to protect students from the types of deceptive and unlawful practices against institutions that, in some cases, enroll tens of thousands of their residents.

A recent example of a state law being superseded by NC-SARA occurred when the Maryland legislature was considering a bill to protect veterans from high pressure recruitment and deceptive marketing by predatory schools, NC-SARA made it known that seeking to enforce the statute against NC-SARA participating institutions that were not based in Maryland would put the state's membership in the agreement at risk. As a result, the Maryland Higher Education Commission is holding NC-SARA schools to a lower consumer protection standard than other online schools based outside of the state.

Claim #4: NC-SARA saves students money by reducing costs for institutions.

"SARA has made the authorization process more efficient and uniform as well as allowing states to be more effective about addressing quality and integrity issues, all leading to cost savings for institutions, states, and students." [[Institution Cost Savings Study](#), NC-SARA]

Fact Check: FALSE!

NC-SARA enables institutions to avoid paying the standard fees required by many state authorizers, however it does not require schools to pass those savings along to students and has provided no evidence that students are benefitting from institutional cost savings. Further, state regulation is designed to protect students, not to save institutions money, and NC-SARA denies state authorizers the funding revenue that supports institutional oversight.

Claim #5: NC-SARA saves institutions nearly \$70,000 per year.

"SARA-participating institutions save an average of \$69,797 each year." [[NC-SARA Cost Savings](#)]

Fact Check: MISLEADING!

Although it is true that participating in NC-SARA saves institutions money, NC-SARA has inflated the estimate of institutional savings. In a recent report, NC-SARA inaccurately assumed that all participating institutions would have to pay the state authorization fees charged to institutions with a physical presence in the state in all of the states in which they enrolled students. Instead, in many states it is likely that many NC-SARA participating institutions would pay a lower rate charged to schools operating exclusively online. Although NC-SARA does save institutions money, this assumption resulted in an inflation in the institutional cost savings calculations, meaning that the number they've publicly shared is inaccurately high.⁴ Further, the point of state regulation is not to save institutions money but to protect students, and NC-SARA policies undermine that essential consumer protection function.

Claim #6: NC-SARA's complaint system serves students' needs.

"SARA offers many benefits for students of participating institutions, including expanding access to educational opportunities and better resolution of complaints." [[A Resource for Students: Frequently Asked Questions about Filing a SARA Complaint](#), NC-SARA]

Fact Check: FALSE!

NC-SARA makes it more difficult for students to file and receive assistance with their complaints. NC-SARA's policies require students to exhaust complaint procedures at their institution before they are allowed to file their complaint with the State Portal Entity. Even having cleared this hurdle, students are then only permitted to appeal a complaint in the state where the institution is located, rather than the state where the student lives, despite the fact that the State Authorization Rule requires that there be a complaint procedure in place in every state to ensure that students' concerns about their institutions are reviewed and addressed under the law.

Claim #7: NC-SARA requires states to investigate consumer protection concerns.

"SARA-member states are required to investigate a variety of consumer protection issues, including truthfulness in advertising and marketing materials; accuracy of information about tuition, fees, financial aid and job placement rates; and accuracy of information related to the alignment of course work with relevant professional licensing requirements." [[States and Quality Assurance in Online Education](#), Dr. Lori Williams, president and CEO of NC-SARA and Robert Anderson, president of the State Higher Education Executive Officers Association (SHEEO) and member of the NC-SARA board of directors]

Fact Check: MISLEADING!

NC-SARA's repeated claims that states are required to investigate institutions implies that states are required to proactively investigate red flags indicating student risk, but in reality NC-SARA's policies only require states to reactively investigate if an allegation is raised by a third-party. States are not required to perform any proactive investigations in the absence of a complaint/allegation, and even that authority is limited to the state where the institution is headquartered, and preempted for the states where students reside.

And there is evidence that states are not meeting even that bar. The Colorado Attorney General's office found Stevens-Henager – an online college operated by the Center for Excellence in Higher Education (CEHE) – guilty of fraud and of violating the state's Consumer Protection Act. But the Utah Board of Higher Education (UBHE), the State Portal Entity responsible for Stevens-Henager, allowed the institution to continue to participate in NC-SARA, and there is no evidence that the UBHE ever followed up on the Colorado lawsuit by investigating whether CEHE was engaging in fraudulent or dishonest activity while participating in NC-SARA.

ENDNOTES

1 Commission on the Regulation of Postsecondary Distance Education (April 2013). "Advancing Access through Regulatory Reform: Findings, Principles, and Recommendations for the State Authorization Reciprocity Agreement (SARA)." Available at: https://nc-sara.org/sites/default/files/files/2021-04/Commission_on_Regulation_of_Postsecondary_Distance_Ed_Draft_Recommendations_FINAL_April.pdf.

2 National Council for State Authorization Reciprocity Agreements (May 2021). "State Authorization Reciprocity Agreements Policy Manual, Version 21.1." Available at: [SARA Policy Manual 21.1.pdf \(nc-sara.org\)](#).

3 Under the terms of NC-SARA, a "general-purpose law" is one that applies to all entities doing business of any type in the State.

4 TICAS' preliminary research uncovered at least 11 errors in NC-SARA's research regarding state fees. When notified of the inaccuracies, NC-SARA added the following disclaimer to the report: "The Cost Savings methodology assumes that if a student is currently enrolled at an out-of-state institution, that institution must obtain authorization in the student's state, either because the institution has triggered physical presence via other activity or because state regulations require it." Concerns shared with NC-SARA regarding the disclaimer's lack of acknowledgement of the inherent inflation of cost saving estimates as a result of this assumption were not addressed.