



TO: Higher Education Committee

FROM: John L. D'Agati *John L. D'Agati*

SUBJECT: Approval of Distance Education Across State Lines:
State Authorization Reciprocity Agreement (SARA)

DATE: February 5, 2015

AUTHORIZATION(S): *Elizabeth B Berlin*

SUMMARY

Issue for Decision

Does the Board of Regents want to seek the necessary statutory authority to enter the interstate State Authorization Reciprocity Agreement (SARA) on behalf of New York State for purposes of approval of distance education across state lines?

Reason(s) for Consideration

Required by State statute.

Proposed Handling

This question will come before the Higher Education Committee at its February 2015 meeting, where it will be voted on and action taken. It will then come before the full Board at its February 2015 meeting for final action.

Background Information

At the January 2015 meeting of the Higher Education Committee, the Regents discussed whether to participate in the State Authorization Reciprocity Agreement (SARA), which would provide a mechanism for New York State institutions of higher education (IHEs) to offer distance education programs to residents of other SARA participating states. Representatives from each of the four higher education sectors, the State University of New York (SUNY), the City University of New York (CUNY), the Commission on Independent Colleges and Universities (clcu) and the Association of Proprietary Colleges (APC), presented their perspectives on the benefits of joining SARA and committed to working with the Department on the development of processes

for effectively carrying out SARA responsibilities. The implementation plan and timeline will include collaboration with the four higher education sectors.

The Regents requested that Department staff provide additional information concerning the following issues:

1. Would statutory authority be necessary for the Regents to sign SARA on behalf of New York State?

The application for state membership in SARA includes a requirement that the state affirm the following:

The state entity responsible for joining SARA has the legal authority under state law to enter an interstate agreement on behalf of the state and has provided a copy of the statutory or other legal authority documenting this.

In the opinion of the Department's Office of Counsel, the Board of Regents needs specific statutory authority to enter into this interstate agreement. The Department has drafted the attached one-page legislative proposal for consideration by the Board of Regents, which will be included in the Department's package of legislative proposals (Attachment A). If this legislative proposal is approved by the Board of Regents, the Department will then draft legislation to authorize the Board of Regents to enter into this interstate agreement, for consideration by the Legislature.

2. What procedure is in place if New York State chooses to withdraw from SARA?

A member state may withdraw from SARA by providing 90 days written notice from the appropriate state authority to its Regional Compact. Any institution operating under SARA from that state may continue to do so to the conclusion of its current academic term or 90 days after the date of receipt of notice of withdrawal, whichever is later, but not exceed six months from the date the notice was received by the Regional Compact. An institution that withdraws from SARA partway through its participation year receives no fee refund.

3. What would the Department's responsibilities be under SARA?

As discussed last month, if New York State participates in SARA, the Department would have several responsibilities. Those include:

- Developing an affiliation agreement with one of the regional higher education compacts that are administering SARA.

- Developing and maintaining a process and procedure for the submission, review and approval of annual applications, and required documentation, from NYS institutions of higher education (IHE) that wish to participate in SARA.
- Working with the four higher education sectors (SUNY, CUNY, clcu, APC) on a communication and roll-out plan for the new SARA process and procedures.
- Implementing procedures for the receipt, investigation and resolution of complaints filed by residents of other SARA states who are enrolled in NYS distance education programs and who file complaints alleging violations of SARA standards.
- Providing ongoing guidance and technical assistance for new IHE applicants seeking approval to offer distance education under the SARA.
- Providing assistance to other SARA states that receive complaints from NYS residents enrolled in distance education programs in those states.
- Working “cooperatively with other SARA states, regional compacts and the National Council for SARA to enable success of the initiative,” including serving as the SARA “portal agency” for purposes of providing data, reports, and other information that may be required by the regional higher education compact and SARA.

4. What resources would be needed to participate in SARA as well as carry out the responsibilities described above?

There will be a \$50,000 annual fee to affiliate with a regional higher education compact for purposes of participation in SARA (required by the SARA agreement).

Based upon information from the four higher education sectors, we also expect that, if New York State joins SARA, a large percentage of the 274 IHEs in NYS will apply to participate. It is estimated that the Department would require four full-time staff positions, at an approximate annual cost of \$500,000. This team would design, implement, and manage the statewide program, as well as coordinate with the National Council on SARA.

The Board of Regents would have the option of charging participant IHEs a fee to cover Department costs in administering SARA; however, without a state appropriation, the Department could not access these resources, and collecting and processing the fees would simply be an additional administrative burden.

5. What would be the next steps for implementation if the needed resources are provided?

If the Board of Regents decides to seek statutory authority to enter into SARA on behalf of New York State, and if that authority is approved and appropriations are

provided to cover the annual fee and staffing, the Department will develop a SARA implementation plan and timeline.

Recommendation

VOTED, that the Board of Regents approve the Department moving forward with legislative language to be included in the package of Departmental legislative proposals being submitted for consideration by the Legislature.

Attachment



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Ensuring Quality in Postsecondary Distance Learning

THE ISSUE:

Over the past several years, the widespread availability of digital and internet-connected technologies has created greater opportunities for institutions of higher education to provide programs of study to students through distance education.

The approval by the Board of Regents of a New York state institution of higher education to offer distance education degree programs in-state does not extend its authority to offer online programs to students residing in other states. Because authorization requirements vary from state to state, new challenges have emerged for institutions in terms of gaining the requisite state approvals to offer distance education across state lines.

Ensuring the integrity of distance education programs across state lines has been a major point of concern nationally. Proposed federal regulations that would have required institutions to obtain authorization from both the state in which the school was located and the states in which its students reside was challenged in court and vacated on procedural grounds.

THE SOLUTION:

After consultation with higher education stakeholders and institutions, the Department seeks legislative authorization to join the State Authorization Reciprocity Agreement (SARA), which is an interstate compact that establishes comparable national standards for interstate offering of postsecondary distance education courses and programs. By joining SARA, the Department would:

- Expand access to educational offerings for New Yorkers;
- Enhance the overall quality of distance education programs;
- Ensure more efficient and effective quality assurance and dispute resolution; and
- Reduce costs for states and students by streamlining the oversight and approval process for institutions.

Membership in SARA requires a \$50,000 annual fee to the state, as well as fees for individual institutions of higher education. In addition to the statutory authority to join SARA, the Department requires appropriation of the yearly fee in order to move forward with this initiative.