



TO: Higher Education Committee

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

SUBJECT: Approval of Distance Education Across State Lines:
Resources Needed to Enter into and Implement the
Interstate State Authorization Reciprocity Agreement
(SARA) on Behalf of New York State

DATE: April 6, 2015

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SUMMARY

Issue for Discussion

What resources are needed for the State Education Department to enter into and implement the responsibilities related to 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 April 2015 for discussion.

Background Information

Over the past several years, the widespread availability of digital and internet-connected technologies has created greater opportunities for institutions of higher education (IHEs) to provide programs of study to students through distance education. The opportunity to offer programs of study through distance education has opened up a new marketplace for IHEs who can potentially enroll students who physically reside in places other than where an IHE is located, including other states.

Being competitive in the national marketplace for distance education is of critical importance for New York State's colleges and universities. As the sectors have indicated, the declining population, particularly upstate, and decreases in the number of students projected to graduate from high school over the next several years are forcing IHEs to consider changes in their allocation of resources, recruitment strategies, investment decisions, tuition policies and financial aid as they attempt to maintain their enrollment and remain competitive. One strategy for maintaining or increasing enrollment is the development of new course offerings that may be delivered through distance education to in-state and out-of-state residents.

The approval by the Board of Regents and the Department of a New York State IHE 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 IHEs in terms of gaining the requisite state approvals to offer distance education to students across state lines. For example, some states may require full and detailed program approval and review processes for out-of-state IHEs seeking to offer distance education to its residents. Other states may additionally require monetary fees from out-of-state IHEs for program proposal review. As is the case in New York State, other states require no specific state approval if the IHE is not establishing a physical presence within the state. Navigating these separate and varied approval processes can be time consuming, cumbersome and costly for New York State IHEs.

As one solution to the problem of interstate authorization of distance education, the higher education sectors in New York State have expressed interest in participating in the National Council for State Authorization Reciprocity Agreements' State Authorization Reciprocity Agreement (SARA). Since state membership in SARA is a requirement for individual IHEs to participate, the higher education sectors have urged the Department and Board of Regents to consider New York State's participation.

At the January and February 2015 meetings 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 IHEs to offer distance education programs to residents of other SARA participating states. In January, 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.

In February, Department staff provided information to the Board of Regents concerning the determination of the Department's Office of Counsel that specific statutory authority would be needed for the Board of Regents to enter into an interstate agreement on behalf of New York State. In addition, Department staff provided

information about the several responsibilities the Department would have under the SARA agreement, which are listed below:

- 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 IHEs 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 processes 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 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.

Resources Needed for Implementation and Administration of SARA

In February, the Regents also discussed the resources that would be needed for the Department to participate in SARA as well as to carry out the responsibilities described above. In addition to the \$50,000 annual fee to affiliate with a regional higher education compact for purposes of participation in SARA, which is required by the SARA agreement, it is estimated that the Department would require four full-time staff positions, at an approximate annual cost of \$500,000, to design, implement and manage the statewide program, as well as coordinate with the National Council on SARA, on behalf of New York State higher education institutions. The Department would need waivers to hire the staff as well as resources to cover the costs associated with those positions. The breakdown of those staff positions and costs are listed below:

- (1) Supervisor of Higher Education Programs (Grade 28): Duties would include the design, implementation and management of the annual application process, the complaint process and the reporting processes required for SARA participation.

Serve as liaison with regional higher education compact and National Council on SARA.

(2) Assistants in Higher Education (Grade 22): Duties would include assisting with the annual application process, the ongoing complaint process, data and the reporting processes required for SARA participation.

(1) Administrative Support Staff (Grade 11): Duties would include all administrative and clerical support functions related to the development, implementation and management of all SARA required responsibilities.

The total amount of annual resources that the Department would need for participation in SARA is approximately \$550,000: \$50,000 for the annual fee and \$500,000 for staff.

Rather than seeking an appropriation in the State Budget to cover the costs related to participation in SARA, the Board of Regents directed the Department to seek authorization to charge 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.

In February, the Board of Regents directed the Department to draft legislative language that would give the Board of Regents the statutory authority to enter into an interstate reciprocity agreement on behalf of New York State and to include the necessary appropriation language that would permit the Department to collect and use fees paid by participating New York State IHE's for the implementation and administration of such an agreement.

Out-of-State IHE's Seeking Permission to Offer Distance Education in NYS

As mentioned earlier in this item, New York State does not currently require that out-of-state IHE's that are not establishing a physical presence in New York State, but that are seeking to offer distance education to New York State residents, get approval from, or pay a fee to, New York State. Consistent with the practice in many other states, the Department is seeking the authority to charge a fee to out-of-state IHE's who are not participants in SARA and who wish to offer distance education in New York State. That fee would be used to support an application review process that will be developed and managed by the Department. If, at some future date, an institution that is authorized to provide distance education from a state that joins SARA, that institution will no longer be charged a fee to be in New York.

Next Steps

If the Board of Regents are given the statutory authority to enter into an interstate reciprocity agreement on behalf of New York State and, if the Department is given the authority to collect and use fees paid by New York State IHE's who wish to participate in

such an agreement, the Department will begin the development of a timeline for the implementation of that agreement.

Similarly, if the Department is given the authority to collect and use fees paid by out-of-state IHE's who are not participants in the interstate agreement, the Department will develop an application process and fee structure for those institutions to request permission to offer distance education programs in New York State.