

# Approval of Distance Education Across State Lines

Considering the  
State Authorization Reciprocity Agreement  
(SARA)/ Part 49 Regulations

Board of Regents Meeting  
September 2016

# SARA: Procedural History

**January 2015**: Representatives from the four higher education sectors in NYS presented information on SARA to the Regents.

**February 2015**: Regents discussed SARA and directed the Department to forward priority legislation to authorize the Department to join SARA.

**April 2015**: Regents discussed preliminary implementation steps for SARA, including seeking the authority to collect and use fees to bring on essential new staff resources to support SARA efforts.

**August 2015**: SARA legislation signed into law (Chapter 220 of the Laws of 2015; Education Law 210-c).

**October 2015**: Department requested authority to spend fees to be collected for SARA implementation in the 2016–2017 State Budget.

**April 2016**: The 2016–2017 State Budget is approved, including appropriation authority for staff positions to support SARA.

**April 2016**: Regents discuss SARA / Part 49 regulations designed to implement Education Law 210-c, and directed the Department to publish Part 49 for public comment.

**July 2016**: Department received 30 comments regarding Part 49 regulations. 18 expressed strong support; 12 expressed concerns or objections.

# Public Comment Summary

## Supportive

- ▶ Provides a multi-layered approach to effectively regulating online learning, without giving up any of the State's consumer protections.
- ▶ Enables greater student access to New York State's high quality Institutions of Higher Education (IHE).
- ▶ Levels the playing field for NYS IHEs.
- ▶ Provides significant relief from financial and administrative burdens negatively affecting NYS IHEs.
- ▶ Broad-based support from all NYS higher education sectors, including IHEs from across all regions and all sizes and types.

# Public Comment Summary Concerns & Objections

- ▶ Fails to protect consumers from predatory for-profit IHEs.
- ▶ Weakens NYS authority to protect consumers.
- ▶ Creates a two-tiered system where out-of-state IHEs operate through different standards than in-state IHEs.
- ▶ Incentivizes predatory practices by requiring that for-profit, nonprofit, and public institutions be assessed by the same standards.

# Out-of-State Colleges and Universities Offering Distance Ed. Programs in NYS

## Current Department Policy

- ▶ Out-of-state colleges that do not establish a physical location in New York State are not subject to SED regulation.
- ▶ There are no SED approvals required of out-of-state colleges before advertising to and enrolling NYS students in online degree programs.
- ▶ SED has no authority to monitor and does not in any way oversee out-of-state colleges advertising to and enrolling New York State residents in online degree programs.
- ▶ SED has no complaint process for NYS students who enroll in out-of-state online degree programs, because colleges are not currently subject to SED regulation and SED does not have staff capacity to manage student complaints regarding out-of-state online colleges.
- ▶ SED does however refer students who may have complaints to the Attorney General's office, Consumer Protections and Fraud Division.

# Benefits of SARA for NYS Students

**New York State's participation in SARA would:**

- ▶ Provide NYS students with access to clear consumer information about the availability of out-of-state online providers that meet interstate standards. (Identifies out-of-state IHEs that are legally operating in NYS through the agreement).
- ▶ Incentivize NYS IHEs to increase the scope and quality of their online program offerings, which would be equally accessible and beneficial to NYS residents (as they would be to out-of-state residents).
- ▶ Require out-of-state online providers to be accredited by a USDE recognized accrediting body in order to participate in SARA and enroll New York State residents.
- ▶ Require out-of-state online providers to meet financial stability standards to participate in SARA and enroll NYS residents.

(continued on the next slide)

# Benefits of SARA for NYS Students

(continued)

- ▶ Establish new staff positions at SED specifically directed toward monitoring out-of-state online activity in New York State and assisting NYS consumers seeking to resolve student complaints (while retaining all of NYS existing authority and laws for consumer protection and fraud).
- ▶ Provide NYS students with clear pathways for seeking to resolve student complaints against out-of-state institutions, without waiving current NYS authority and laws for consumer protection and fraud.
- ▶ Establish a network of support for SED, through the regional compact and other state agencies in the agreement to facilitate the resolution of student complaints.
- ▶ Annually collect data about out-of-state online providers' activities in NYS and nationally, and make data available for use by the public and policymakers for continuous evaluation. Including:
  - Each out-of-state IHE's enrollment of NYS residents.
  - Numbers of complaints lodged against specific out-of-state institutions.



# How SARA adds protections for NYS consumers

<u>Currently</u>	<u>Under SARA</u>
<ul style="list-style-type: none"><li>• There are <u>no</u> State approvals required of out-of-state online providers before advertising to and enrolling NYS students.</li><li>• SED has no staff capacity or legal authority to assist consumers in resolving issues with out-of-state online providers because they are not subject to SED regulation.</li><li>• NYS Attorney General's office can, however, take action against out-of-state online providers that violate general laws of consumer protection and fraud.</li></ul>	<ul style="list-style-type: none"><li>• Out-of-state online providers must meet initial quality standards, agree to provide data as requested by State agencies, and work to resolve complaints.</li><li>• SED will have new staff capacity and a network of support from other states to resolve student complaints. Out-of-state online providers are subject to SED regulations.</li><li>• NYS Attorney General's office <u>maintains its authority</u> to take action against out-of-state online providers that violate laws of consumer protection and fraud.</li></ul>