

# SOUTH DAKOTA BOARD OF REGENTS

## Policy Manual

**SUBJECT:** South Dakota State Authorization Reciprocity Agreement (SARA)

**NUMBER:** 1:29

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### **A. PURPOSE**

To regulate the operation of the State Authorization Reciprocity Agreements (SARA) within the state of South Dakota, as the Board of Regents serve as the State Portal Entity for the state, pursuant to Executive Order 2018-05 & SDCL §13-48-42.

### **B. DEFINITIONS**

- 1. SARA Institution:** An institution currently participating in SARA.
- 2. SARA Manual:** A governing document of NC-SARA, which includes the required procedures for and practices for member states and their State Portal Entities, as well as for participating institutions. SARA Manual refers to the latest version of the document as published on the NC-SARA website.
- 3. SD-SARA:** South Dakota SARA. This term is used to describe SARA policies or procedures (such as fees or applications) that only pertain to South Dakota institutions.
- 4. State Authorization Reciprocity Agreements (SARA or NC-SARA):** A voluntary agreement among its member states and U.S. territories that establishes comparable national standards for interstate offering of postsecondary distance education courses and programs, therefore guaranteeing that participating institutions are authorized to provide distance education in all member states.
- 5. State Portal Entity (SPE):** An entity designated by the State to coordinate SARA matters for the State. The SPE serves as the principal point of contact for participating institutions within the state and other state agencies, determines eligibility for institutions within the state, serves as the initial point of contact for complaints, and manages the state fee process, among other duties prescribed by the SARA Manual and Unified Agreement. The designated SPE for South Dakota is the South Dakota Board of Regents (also “Board of Regents” or “Board”).
- 6. State Portal Entity Contact:** The official SARA contact for the State of South Dakota, as recognized by NC-SARA. The State Portal Entity Contact is a member of the Board of Regents Staff, and may also be referred to as the SD-SARA Administrator.

**Unified Agreement:** Refers to the Unified State Authorization Reciprocity Agreement, which is signed by the four regional compacts to participate in NC-SARA: the Midwestern Higher Education Compact (MHEC), the New England Board of Higher Education (NEBHE), the Southern Regional Education Board (SREB), and the Western Interstate Commission for Higher Education (WICHE).

## **C. POLICY**

### **1. Institutional Participation in SARA**

#### 1.1. Eligibility

- 1.1.1. Institutions that operate from a principal campus or central administrative unit domiciled in South Dakota may apply to the South Dakota State Portal Entity to participate in SARA, therefore authorizing the institution to provide distance education programming to students located in other SARA member states. Institutions must meet the eligibility criteria as described in the SARA Manual.

#### 1.2. Application & Renewal Process

- 1.2.1. Institutions that seek participation in SARA may do so by submitting an SD-SARA application, which is available from the State Portal Entity. Institutions applying to SARA must meet all application and eligibility requirements as described in the SARA Manual.

- 1.2.1.1. The State Portal Entity shall determine whether the institution meets the criteria for participation in SARA, and shall take one of the following actions:

- 1.2.1.1.1. Approve the institution for full participation in SARA;

- 1.2.1.1.2. At the State's discretion, approve the institution for provisional participation in SARA, if the institution falls within the criteria for provisional admission;

- 1.2.1.1.3. Deny the application for participation in SARA if an institution does not meet the requirements for participation.

- 1.2.2. Participating institutions in SARA must file an annual renewal application in order to maintain membership in SARA. The NC-SARA fee is also due at the time of institutional renewal.

- 1.2.2.1. The State Portal Entity shall determine whether the institution continues to meet the criteria for participation in SARA, and shall take one of the following actions:

- 1.2.2.1.1. Approve the institution for the renewal of their full participation in SARA;

- 1.2.2.1.2. At the State's discretion, approve the institution for provisional participation in SARA, if the institution falls within the criteria for provisional admission;

- 1.2.2.1.3. Deny the application for renewal due to the institution no longer meeting the criteria for membership in SARA, therefore ending the institution's participation in SARA.

- 1.2.2.1.3.1. In the event an institution is found to no longer meet the requirements of SARA prior to their renewal date, they may be removed from SARA at that time, per the SARA Manual.

- 1.2.2.1.3.2. Institutions that are removed from participation in SARA must follow the requirements of the SARA Manual for future and current enrollment of distance education students, as the institution is no longer allowed to operate under the authorization of SARA.

## **2. Fees**

### **2.1. NC-SARA Fees**

- 2.1.1. National Council for State Authorization Reciprocity Agreements fees will become payable to the National Council for State Authorization Reciprocity Agreements upon admission to SARA and renewal fees will be due at such times and in such amounts as the National Council for State Authorization Reciprocity Agreements may specify.

### **2.2. SD-SARA Fees**

- 2.2.1. The State Portal Entity shall establish an annual SD-SARA fee at a level required to cover the cost of administering SARA. The annual SD-SARA fee will be based upon the State of South Dakota fiscal year, which runs from July 1 through June 30.

- 2.2.1.1. Any changes to the fee structure will be adopted by the Board of Regents at its first official meeting following the close of the Legislative Session.

#### **2.2.2. Initial Application Fee**

- 2.2.2.1. At the time of submitting an application to participate in SARA, an institution must tender payment sufficient to cover the annual SD-SARA fee. The application will not be approved by the State Portal Agency until the initial application fee has been received.

#### **2.2.3. Renewal Fees**

- 2.2.3.1. Renewal payments of the annual SD-SARA fee will be due on July 1.
- 2.2.3.2. An institution's first SD-SARA renewal fee will be prorated based on the date that the institution receives approval from the National Council for State Authorization Reciprocity Agreements. The State Portal Entity will determine the prorated amount by calculating 1/12 of the annual SD-SARA fee for each full or partial month that the institution participates in SARA.

- 2.2.4. No refunds or proration of the SD-SARA annual fee will be made if an institution elects to withdraw from SARA or if its right to participate is terminated by the State Portal Entity.

#### **2.2.5. Failure to Pay Fees**

- 2.2.5.1. Institutions will forfeit their right to participate in SARA if they fail to pay fees required by National Council for State Authorization Reciprocity Agreements or by the State Portal Entity.

- 2.2.5.1.1. Termination for failure to pay National Council for State Authorization Reciprocity Agreements fees will be effective upon receipt of notice by the State Portal Entity from the National Council for State Authorization Reciprocity Agreements.
- 2.2.5.1.2. Termination for failure to pay the annual SD-SARA fee will become effective on August 1.

### **3. Student Complaint Process & Reporting**

A complaint is a written, signed allegation that a postsecondary institution does not meet the state authorization requirements of SDCL ch 13-48; an allegation that a postsecondary institution violated deceptive trade practices and consumer protections guaranteed by SDCL ch 37-24; or an allegation raised by a distance education student that a SARA institution does not meet standards established by the institution's accrediting agency or SARA.

Disputes involving student grades or student conduct violations are governed entirely by institutional policy and the laws of the SARA institution's home state and do not constitute complaints for purposes of this policy.

#### **3.1. Student Complaint Process**

The State Portal Entity Contact will be responsible for reviewing and administering complaints submitted by distance education students, hereafter, "complainants," that a South Dakota institution that participates in SARA does not meet standards established by the institution's accrediting agency or SARA. Complaints reviewable under this policy include allegations by a distance education student of harm caused because a SARA institution operated a course or program contrary the requirements of NC-SARA, per the SARA Manual.

- 3.1.1. Complaints shall first be reviewed to determine whether they have been processed through the institution's own procedures for resolution of complaints.
  - 3.1.1.1. Complaints that have not been reviewed by the SARA institution will be referred to it for review and resolution within the time frames established under institutional policy.
    - 3.1.1.1.1. The State Portal Entity Contact will notify complainants at the time a complaint is forwarded to the SARA institution and will advise complainants of their right to request further review of the institutional determination if they process their complaints through the institutional procedure but find the institutional response unsatisfactory.
    - 3.1.1.1.2. If a complainant declines to participate in the SARA institution's complaint procedures, the complaint will be deemed to have been withdrawn, and no further action will be taken on the complaint.
- 3.1.2. Complainants who processed their complaints through institutional complaint resolution procedures but remain dissatisfied with the outcome of the institutional process may request that the State Portal Entity Contact review the institutional resolution of the complaint.

- 3.1.2.1. The request for review of a SARA institution's decision must be filed with the State Portal Entity Contact within two years of the incident about which the complaint is made.
  - 3.1.2.2. The request for review must be accompanied by copies of all correspondence, filings and documents exchanged between the complainant and the institution.
  - 3.1.2.3. The request shall specify:
    - the basis for believing that the institutional action is inconsistent with accreditation or SARA requirements;
    - the harm caused to the complainant by virtue of the inconsistency; and
    - the corrective action that the complainant seeks.
    - If the complainant alleges that institutional documents were misleading, the request should contain the portions of the catalog, letters or e-mail exchanged between the complainant and the institution and should identify with specificity statements that the complainant found to be misleading and what the complainant understood the statements to mean.
  - 3.1.2.4. The State Portal Entity Contact will have no obligation to begin a review until all required documents and statements have been filed.
  - 3.1.3. Once all necessary documentation has been received from a complainant, the State Portal Entity Contact shall forward the materials to the institution for written response, which must be submitted to the State Portal Entity within sixty (60) calendar days.
  - 3.1.4. Upon receipt of the institutional response, or after sixty (60) calendar days if the institution fails to respond to the allegations, the State Portal Entity Contact may attempt to arrange an informal resolution to the complaint.
    - 3.1.4.1. In this connection, the State Portal Entity Contact may seek the assistance of the SARA institution's accrediting body.
  - 3.1.5. If an informal resolution cannot be reached within thirty calendar days, the State Portal Entity Contact shall issue a final resolution to the parties no later than fifteen (15) business days after the time allowed for informal resolution has lapsed.
    - 3.1.5.1. The final resolution shall be binding on both parties.
- 3.2. Appeal of the State Portal Entity Final Resolution
- 3.2.1. If a final resolution of a complaint adversely affects a legal right, duty, or privilege required by law to be determined after an opportunity for hearing, the institution may appeal the State Portal Entity Contact's final resolution to the Board of Regents.

- 3.2.1.1. An appeal must be brought within thirty (30) calendar days from the date on which the State Portal Entity Contact deposited the final resolution notice in the United States mail.
    - 3.2.1.2. Such an appeal shall state with specificity the legal right, duty, or privilege allegedly affected by the final resolution and shall identify the basis in law for concluding that this legal right, duty or privilege may only be reached by governmental action following a hearing.
      - 3.2.1.2.1. To the extent that the asserted right to a hearing arises from this policy, the institutional application form, or related SARA agreements, policies or standards, the appellant shall have the burden of showing that the State Portal Entity Contact misinterpreted, misapplied or violated a specific term or provision of this policy, the institutional application form, or related SARA agreements, policies or standards.
  - 3.2.2. Such an appeal shall set forth allegations asserting a specific factual basis for the appeal that, if proven, would establish that an action attributable to the State Portal Entity Contact deprived the institution of a right, duty or privileged arising under the law, policy, application form, or related SARA agreements, policies or standards that the institution cited as authority for its appeal.
  - 3.2.3. The Board of Regents shall refer the matter to the South Dakota Bureau of Administration Office of Hearing Examiners for review, findings and recommended disposition pursuant to SDCL ch 1-26.
- 3.3. Referral of Complaints Not Handled by the State Portal Entity Under SARA
  - 3.3.1. Certain complaints received by the State Portal Entity Contact will be forwarded to others for resolution.
    - 3.3.1.1. Complaints alleging violations of SDCL ch 13-48 will be forwarded to the South Dakota Secretary of State for review and disposition.
    - 3.3.1.2. Complaints alleging violations of SDCL ch 37-24 will be forwarded to the Consumer Affairs Division of the Office of the South Dakota Attorney General for review and disposition.
    - 3.3.1.3. Complaints raised by distance education students residing in South Dakota about SARA institutions domiciled outside South Dakota will be referred to the home state authorities of SARA institutions.
    - 3.3.1.4. Complaints raised by distance education students residing in South Dakota about South Dakota institutions that do not participate in SARA will be referred to the South Dakota Secretary of State.

#### **4. Institutional Appeals Process**

##### **4.1. Institutional Appeals**

- 4.1.1. In the event that an institution is notified by the State Portal Entity Contact of its intent to remove the institution from participation in SARA, or if the institution is denied initial participation in SARA, the institution may appeal

the denial of participation to the State Portal Entity for further review by the Executive Director of the South Dakota Board of Regents.

4.1.2. Institutions who choose to appeal must do so on the following grounds:

- 4.1.2.1. The State Portal Entity Contact did not follow procedures as outlined in the SARA Manual. The institution must submit supporting documentation.
- 4.1.2.2. The State Portal Entity Contact made a mistake in determining that the institution does not meet the eligibility criteria to participate in SARA, as outlined in the SARA Manual. The institution must submit supporting documentation to prove that the institution meets the eligibility criteria for SARA.

4.2. Appeals Process

- 4.2.1. Institutions wishing to appeal their removal or denial of participation from SARA must notify the State Portal Entity Contact in writing of their intent to appeal within five (5) days after receiving notice of their removal from SARA. For institutions who are currently participating in SARA, if no notice to appeal is received within the five (5) day timeframe, the State Portal Entity Contact will take the necessary steps to officially remove the institution from SARA by notifying the NC-SARA office.
- 4.2.2. Institutions who notify the State Portal Entity Contact of their intent to appeal must submit their official appeal, consisting of a letter stating their reason for appealing, along with the required supporting documentation, within seven (7) days after submitting their notice of their intent to appeal.
- 4.2.3. Upon receiving the official appeal and supporting documentation, the Executive Director of the Board of Regents will make a determination on the appeal within fourteen (14) days of the receipt of the official appeal.
  - 4.2.3.1. Institutions whose appeals are accepted will remain as a SARA participating institution, or will be granted initial participation in SARA if not already a participating institution.
    - 4.2.3.1.1. The institution must pay all fees associated with SARA participation before participation will be granted or before institutional participation can be renewed.
    - 4.2.3.2. Institutions whose appeals are denied will be notified of the decision of the Executive Director. For institutions currently participating in SARA, the State Portal Entity Contact will take immediate action to have them removed as a SARA participating institution following the notification of the decision of the Executive Director.
- 4.2.4. If an institution's SARA participation expires during the appeals process, they will remain a participating institution until such time as the appeals process can be resolved.

## **5. Other Topics**

- 5.1. For other topics which are not directly addressed in this policy, the State Portal Entity will defer to the SARA Manual.

### **FORMS / APPENDICES:**

None

### **SOURCE:**

BOR October 2014; BOR April 2015; BOR March-April 2016; BOR December 2019.