

**Memorandum of Understanding
Between the Office of the Attorney General
and the Department of Higher Education**

I. Purpose of Memorandum of Understanding

The Purpose of this Memorandum of Understanding (the “Agreement”) is to document an agreement between the Office of the Attorney General (AGO) and the Department of Higher Education (DHE) to permit institutions of higher education (IHEs) located in Massachusetts to offer online courses to students in other states through the entry into a reciprocity agreement, while continuing to protect Massachusetts consumers from any unfair and deceptive trade practices conducted by for-profit and occupational schools.

II. Background

The State Authorization Reciprocity Agreement (SARA) is an agreement among member states to establish standards for interstate offering of online and other distance postsecondary education courses and programs. IHEs are not required to seek authorization in each state where they wish to offer distance education if their state of domicile has joined SARA, the IHE is approved by its state to participate in SARA, and the IHE has elected to join SARA. Massachusetts is not currently a member of SARA. In order to allow Massachusetts IHEs to more easily offer online education classes in other states, the DHE intends to recommend to the Board of Higher Education (the “Board”) that it submit an application to join SARA on behalf of the Commonwealth.

The AGO has promulgated regulations to protect Massachusetts consumers from certain unfair and deceptive business practices associated with for-profit and occupational schools. These regulations are intended to protect students from certain practices that unfairly harm consumers and frequently leave students with few career opportunities and significant student debt. This Agreement sets out the principles by which the AGO and DHE will work together to protect students from unfair and deceptive practices while facilitating the Commonwealth’s participation in SARA.

III. Enabling Legislation

The General Court recently enacted legislation that provides the Board with the authority to join interstate reciprocity agreements to allow IHEs in Massachusetts to provide distance education programs to students in other states. See 2017 Mass. Acts ch. 47, § 10. Any current or future statutory terms or conditions placed on the Commonwealth’s entry into interstate reciprocity agreements relating to distance education programs are hereby directly incorporated into this Agreement.

IV. Principles

The AGO and DHE agree on the following principles:

1. The Commonwealth’s participation in SARA shall not be construed to effect the authority of the AGO to enforce any statutes and promulgate or enforce any regulations

prohibiting consumer fraud and unfair or deceptive business practices, including but not limited to G.L. c. 93A;

2. Upon formal application and approval of the Commonwealth's participation in SARA, DHE shall act as the Commonwealth's SARA portal entity;
3. As the SARA portal entity, consistent with SARA, DHE will engage other state portal entities to address any consumer protection issues related to SARA-participating IHEs operating in Massachusetts under SARA;
4. For out-of-state SARA-participating IHEs, the AGO accepts SARA-related institutional disclosures as an alternative to those disclosures required of for-profit schools and occupational programs under 940 CMR 31.05;
5. All other existing regulations regarding consumer protections for students from unfair and deceptive business practices by for-profit and occupational schools, as promulgated under 940 CMR 31.00, are otherwise unaffected by this Agreement, as corroborated in the June 15, 2017 letter from Sandra Doran of the New England Board of Higher Education (NEBHE) to the AGO;
6. DHE shall inform the AGO of any consumer protection issues arising from, or related to, SARA-participating IHEs, including any possible violations of Massachusetts statutes or regulations; and
7. DHE shall periodically report to the AGO regarding SARA-participating IHEs enrolling Massachusetts students. These reports shall include but not be limited to enrollment and other data made available through the National Council for State Authorization Reciprocity Agreement (NC-SARA), as well as any unresolved issues or complaints related to Massachusetts consumers.

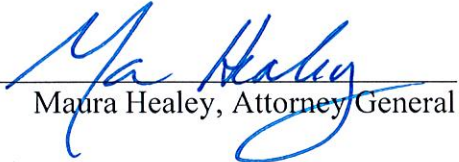
V. Waiver

It is specifically agreed between the parties that failure of either party to insist upon compliance with any provision herein at any time shall not waive performance of such provision at any other time. No waiver by either party of any default or breach hereunder by the other shall constitute a waiver of any subsequent default or breach.

VI. Approval and Signatures

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by a duly authorized representative on the date and year written below.

FOR THE OFFICE OF THE ATTORNEY GENERAL

By: 
Maura Healey, Attorney General

Date: 10/2/17

FOR THE MASSACHUSETTS DEPARTMENT OF HIGHER EDUCATION

By: 
Carlos Santiago, Commissioner

Date: 10/4/17