



**National Council  
for State Authorization  
Reciprocity Agreements**

*A voluntary, regional approach  
to state oversight of distance education*  
*A voluntary, regional approach  
to state oversight of distance education*

State: Massachusetts

**Indicate Regional Compact:**

- Midwestern Higher Education Compact
- New England Board of Higher Education
- Southern Regional Education Board
- Western Interstate Commission for Higher Education

**RENEWAL APPLICATION AND EVALUATION FOR  
STATE MEMBERSHIP IN SARA**

A state that would like to renew its membership in the State Authorization Reciprocity Agreement (SARA) must submit this form and required documentation to its **regional** education compact's SARA office

A state may wish to include a cover letter and/or additional documentation to supplement the application and to strengthen the case for a state continuing as a member of SARA.

To be approved for renewal into a regional **State Authorization Reciprocity Agreement**, a state must reaffirm that it that it can and will operate under the criteria for state membership established in the *Unified Agreement* and the *SARA Manual*. The requirements for state membership are set forth below. For purposes of SARA, the term "state" includes the District of Columbia and the organized U.S. Territories.

State Applicant  
to complete this column

**Requirements for State Membership Renewal in SARA**

Regional Compact Evaluator  
to complete this column

State affirms meeting  
the requirement

State meets the requirement  
(Check the appropriate box)

(Initial here)

Yes No

<p>..... CES</p>	<p>1. The state is a member of one of the four interstate higher education regional compacts that administer SARA, or has concluded an affiliation agreement with a compact covering SARA activity.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>..... CES</p>	<p>2. The state entity responsible for joining SARA has the legal authority under state law to enter into an interstate agreement on behalf of the state and has provided a copy of the statutory or other legal authority documenting this authority.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>..... CES</p>	<p>3. The state accepts institutional accreditation by an accrediting body recognized by the U.S. Secretary of Education — and whose scope of authority, as specified by the Department of Education distance education — as sufficient, initial evidence of academic quality for approving institutions for participation in SARA.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>..... CES</p>	<p>4. The state considers applications from degree-granting institutions of all sectors (public, private non-profit and private for-profit) on the same basis and approves institutions that meet SARA standards and agree to SARA processes and commitments without differentiating by sector.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>..... CES</p>	<p>5. For private institutions, the state accepts the U.S. Department of Education's institutional federal financial responsibility rating of 1.5 or above (or 1.0-1.49 with additional justification satisfactory to the state) as indicating sufficient financial stability to qualify for participation in SARA.</p>	<input type="checkbox"/>	<input type="checkbox"/>

## Requirements for State Membership **Renewal** in SARA

State Applicant  
State affirms meeting  
the requirement

Regional Compact  
Evaluator

State meets the  
requirement

(Initial here)

Yes                  No

<p>..... CES</p>	<p>6. The state has a clearly articulated and comprehensive state process for consumer protection in regard to SARA activities, both with respect to initial institutional approval and on-going oversight, including the resolution of consumer complaints in all sectors, and has provided the regional compact a copy of the complaint investigation and resolution process to be used to handle all complaints resulting from institutional operations (public and nonpublic) under SARA.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>..... CES</p>	<p>7. The state designates a "Portal Entity," as defined in the <i>SARA Manual</i>, to coordinate SARA matters for the state and provide a principal point of contact for resolution of student complaints. NOTE: The designated entity need not itself be responsible for all oversight activities of SARA providers inside the state, but will be the SARA Portal for that state.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>..... CES</p>	<p>8. The state agrees that it will work cooperatively with other SARA states, regional compacts and NC-SARA to enable success of the initiative. It will follow up on requests for information or investigations from SARA member states or any SARA regional or national office, providing such data or reports as are required.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>..... CES</p>	<p>9. The state agrees that, if it has requirements, standards, fees or procedures for the approval and authorization of non-domestic institutions of higher education providing distance education in the state, it will not apply those policies, fees, or procedures to any non-domestic institution that participates in SARA. Instead, the state will apply those policies, fees, or procedures specifically prescribed in or allowed by the <i>SARA Manual</i>.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>..... CES</p>	<p>10. The state agrees to require each SARA applicant institution to apply for state approval using the standard SARA institutional application and agree to operate under the <i>Interregional Guidelines for the Evaluation of Distance Education</i> developed by the Council of Regional Accrediting Commissions (C-RAC), as summarized in the <i>SARA Manual</i>, Section 4.7.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>..... CES</p>	<p>11. The state agrees to serve as the default forum for any SARA-related complaint filed against an institution approved by the state to participate in SARA. The state's SARA Portal Entity is responsible for coordinating any such efforts and is empowered to investigate and resolve complaints that originate outside of the state. All other state entities and governing boards of SARA participant institutions shall assist as necessary in such investigations and report as needed to the Portal Entity. State remedies, if any, including refunds or other corrective action, must be available to resolve complaints involving residents of other SARA states.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>..... CES</p>	<p>12. The state agrees to document:</p> <ul style="list-style-type: none"> <li>a) all formal complaints received;</li> <li>b) complaint notifications provided to institutions and accrediting bodies;</li> <li>c) actions taken that are commensurate with the severity of violations; and</li> <li>d) complaint resolutions.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>

## Requirements for State Membership **Renewal** in SARA

<u>State Applicant</u>		<u>Regional Compact Evaluator</u>	
State affirms meeting the requirement		State meets the requirement	
(Initial here)		Yes	No
CES -----	13. The state agrees that it will promptly report complaints and concerns to the institutions about which the complaint is lodged, the home state SARA Portal Entity responsible for any such institution and, if appropriate, the relevant accrediting bodies.	<input type="checkbox"/>	<input type="checkbox"/>
CES -----	14. The state agrees that each quarter it will report to NC-SARA the number of appealed complaints it has received regarding each of the state's SARA-participating institutions and the resolution status of those complaints.	<input type="checkbox"/>	<input type="checkbox"/>
CES -----	15. The state has clear and well-documented policies and practices for addressing catastrophic events, as follows: <ul style="list-style-type: none"> <li>a) The state may request assistance from the institution's accreditor as the accreditor applies its standards under §602.24(c) of federal requirements for catastrophic events.</li> <li>b) The state has laws, regulations, policies and/or processes in place to deal with the unanticipated closure of an institution and will make every reasonable effort to assure that students receive the services for which they have paid or reasonable financial compensation for those not received. Such laws, regulations, policies and/or processes may include tuition assurance funds, surety bonds, teach-out provisions or other practices deemed sufficient to protect consumers.</li> <li>c) The state requires institutions to have adequate disaster recovery plans, particularly with respect to the protection of student records, or the state provides such a plan.</li> <li>d) A SARA member state agrees to apply its policies and practices for catastrophic events consistently and equally within each sector (public, private non-profit, and private for-profit) to residents of any state.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
CES -----	16. The state agrees that by January 1, 2021 it will develop and implement a means to hear and internally resolve appeals from institutions for which it denies initial participation or renewal of participation in SARA. During any such appeal, the institution's status as a SARA participating (or non-participating) institution remains unchanged.	<input type="checkbox"/>	<input type="checkbox"/>

Portal Entity Designation and Voluntary State Affirmation

State: Massachusetts

Portal Entity (principal SARA contact entity): Massachusetts Department of Higher Education

Mailing address of Portal Entity: One Ashburton Place, Room 1401, Boston, MA 02108

Website of Portal Entity (location of state's SARA information):

www.mass.edu/SARA

Name of staff member in Portal Entity who is the principal SARA contact<sup>1</sup>:

Alexander A. Nally, SARA Coordinator & Legal Intern

Phone number of the principal SARA contact: 617-994-6955

E-mail for the principal SARA contact: alex.nally@mass.gov

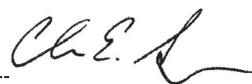
Name of staff member in Portal Entity who is the secondary SARA contact:

Ashley Wisneski, Deputy General Counsel

Phone number of the secondary SARA contact: 617-994-6952

E-mail for the secondary SARA contact: ashley.wisneski@mass.gov

I, the undersigned representative of the State of Massachusetts, having the authority to commit the state to the SARA interstate agreement, agree that the state will abide by SARA requirements as stated above, have provided proof of those requirements needing documentation, and hereby apply for the state's admission to the SARA interstate agreement.

Signature: .....

Typed name of Signatory Officer: Carlos E. Santiago, Ph.D.

Date signed: May 26, 2020

Title of Signatory State Officer: Commissioner, Department of Higher Education

<sup>1</sup>The principal contact is the person with whom state entities and regional compacts should communicate about the state's membership in SARA. It is not necessarily the State Signatory Officer or the person(s) whom institutions and students should contact regarding institutional participation in SARA, student complaints, and other matters regarding the normal discharge of a state's responsibilities under SARA.

Regional Compact Evaluator Recommendation

For a state to renew its membership, the evaluator must find that the state agrees to or meets all of the requirements set forth in sections 1-14. If the evaluator finds that the state meets all required standards, the regional SARA director shall recommend approval of the state’s renewal application to the Regional Steering Committee of the compact by signing below.

The evaluator recommends approval of the application to the Regional Steering Committee:

Yes

No

Evaluator comments:

Signature of Regional Compact Officer: .....

Name of Regional Compact Officer:

Date signed:

Title of Signatory Regional Compact Officer:

Signature of Regional Compact President: .....

Name of Regional Compact President:

Date signed:

*If SARA membership is denied by the regional compact, the Regional SARA Director will provide to the applicant state a written reason for the denial. The state may reapply at any time, having corrected any deficiencies, or may appeal the denial to the National Council for SARA.*

Regional Steering Committee Recommendation

For a state to renew its membership in SARA, the Regional Steering Committee of the appropriate regional compact must find that the state agrees to or meets all of the requirements set forth in sections 1-14. If the Committee finds that the state meets all required standards, the Committee Chair shall recommend approval of the state’s renewal to the regional Executive Committee of the compact by signing below.

The Regional Steering Committee recommends approval of the application to the regional compact for action under the process the compact has determined:

Yes

No

Committee comments:

Signature of Committee Chair: .....

Name of Committee Chair:

Date signed:

*If SARA membership is denied by the regional compact, the Regional SARA Director will provide to the applicant state a written reason for the denial. The state may reapply at any time, having corrected any deficiencies, or may appeal the denial to the National Council for SARA.*

Section 9. The council shall have the following duties and powers:— (a) confer upon the boards of trustees the power to offer degree programs after taking into account, among other things, the need, resources and mission of the institution. The council shall confer the authority to award degrees to persons who have satisfactorily completed degree requirements; (b) in addition to the degrees authorized to be awarded under clause (a), the council may approve the awarding of certain other degrees and may define and authorize new functions or new programs, or consolidate, discontinue or transfer existing functions, educational activities and programs. The council shall act in writing on requests for program approval from boards of trustees within six months of said request, or said program shall be considered approved. The council may, after a public hearing and submission of a written report to the clerks of the house of representatives and the senate, by a two-thirds vote of the full membership of the council, recommend to the secretary to consolidate, discontinue, or transfer divisions, schools, stations, branches or institutions as the council deems advisable. If, in the opinion of the council, a college campus should be closed or consolidated, the council shall make that recommendation to the secretary and the secretary, if she approves the closure recommendation, shall submit such proposal to the secretary of administration and finance, the house and senate chairs of the joint committee on higher education, and the chairs of the house and senate ways and means committees. The joint committee on higher education may, within 30 days of the receipt of a proposal, hold a public hearing on its merits. The council shall not close a college without the authorization of the secretary and the general court; (c) analyze the present and future goals, needs and requirements of public higher education in the commonwealth and establish overall goals in order to achieve a well-coordinated quality system of public higher education in the commonwealth. Such analysis shall include, but not be limited to, an analysis of state and local labor market trends and the economic development plans of the commonwealth conducted in cooperation with the secretary of labor and workforce development, the secretary of housing and economic development, and their respective staffs; (d) develop mission statements as defined in section seven; (e) review institutional mission statements, pursuant to section seven; (f) subject to the secretary's approval prepare a five year master plan for public higher education in the

commonwealth, which plan shall take into account the analysis mandated in clause (c) and the five year plans submitted by individual boards of trustees. The master plan shall include, but need not be limited to, enrollment projections, utilization of existing facilities, promotion of research, programmatic excellence, and public service activities, recommendations for closing of facilities or the construction or acquisition of new facilities, program distribution and the need for program revision, including the termination of obsolete or unnecessarily duplicative programs. The master plan shall be filed with the clerk of the house of representatives, the clerk of the senate and the secretary of administration and finance; (g) annually file a detailed progress report on the five year master plan with said clerks and secretaries by the first Wednesday in September; (h) require boards of trustees to submit admission standards and program standards, which shall be subject to the disapproval of the council; provided, however, that said admission standards shall comply with the provisions of section thirty and that the council shall publish all admission and program standards; (i) develop a rational and equitable statewide tuition plan for the state universities and the community colleges in the commonwealth, which plan shall take into account by type of institution, the per student maintenance costs and total mandated costs per student. The total mandated costs per student shall include the state appropriation, retained revenue, fringe benefits and ongoing maintenance. Said tuition plans shall include direct and indirect elements of the per student maintenance costs, including but not limited to, faculty and administrators that support an institution's primary mission of instruction; student admission services, and ongoing maintenance for classrooms, administrative buildings, libraries and laboratories. Said tuition plan shall include revised retention expenditure regulations which take into account the needs of said institutions with regard to personnel and utility costs. Said tuition plan shall further take into account the need to maximize student access to higher education regardless of a student's financial circumstances. The council shall issue regulations governing the implementation of such tuition plans by the state universities and the community colleges. Tuition rates shall be subject to the approval of the council; provided, however, that tuition rates at the University of Massachusetts shall be subject to section 1B of chapter 75 and shall not

require the approval of the council. The council shall establish final tuition rates for the subsequent academic years no later than fifteen days prior to the deadline for submission of state or federal financial aid applications by students attending the institutions of higher education set forth in section five. The council shall establish guidelines to be followed by each state university and community college relative to student charges and whether said charges should be classified as tuition or as fees. Said guidelines shall be based upon a study of tuition and fees which shall be conducted by the council, and which shall be authorized by statute; provided, that fees as defined by said guidelines, shall not exceed twenty-five percent of total student charges for the state colleges and the community colleges. (j) receive allotments to the commonwealth under federal programs of aid to public higher education and disburse such funds in accordance with a plan promulgated by the council, not to include grants to individuals or grants received directly by institutions; (k) review enrollment levels for each institution of the system subject to disapproval of the council; (l) require each institution in the system to submit to the council and the secretary a 5-year plan, which plan shall be updated annually and shall be subject to the secretary's approval, in consultation with the council; (m) have overall responsibility for the property, real and personal, occupied or owned by the council, state universities and community colleges; (n) subject to its direction and approval, authorize the commissioner to seek, accept and administer grants, gifts and trusts for system-wide purposes from private foundations, corporations, individuals and federal agencies, which shall be administered under the provisions of section two C of chapter twenty-nine of the General Laws and disbursed at the direction of the council pursuant to its authority; (o) from time to time, employ consultants and experts to study and report on matters necessary to the operation of the system; (p) maintain a uniform accounting system as required by the state comptroller; (q) approve and fix the compensation of the chief executive officer of each institution within the state university system and community college system; (r) review annually, in accordance with post-audit procedures established by the council, the fiscal operations of constituent institutions. The council shall insure public inspections, through publication, of institutional spending plans; (s) require, collect, analyze, maintain such data from institutions and agencies for public higher education as may be

relevant to the careful and responsible discharge of its purposes, functions and duties and such data shall include information available from private institutions of higher education. In the case of public institutions, such data shall include, but not be limited to, analyses of the rates of graduation and the scores received by students on standardized examinations. In order to facilitate the timely use of such data, the board shall, in consultation with the public institutions of higher education, establish a schedule for submission of the data. The council shall publish said analyses, both for the system and for individual institutions. (t) issue regulations defining resident of the commonwealth and proof of the same for the purpose of admission and tuition expenses of public institutions of higher education and prepare uniform proofs of residence to be used by all public institutions; provided, however, that insofar as the Massachusetts Maritime Academy is designated a regional maritime academy by the United States maritime administration, residents of the states comprising the designated region and attending the Massachusetts Maritime Academy shall be considered Massachusetts residents for the purposes of admission and tuition; (u) establish, where appropriate, coordination between and among post-secondary institutions public or private and resolve conflicts of policies or operations arising in public higher education; (v) develop and implement a transfer compact for the purpose of facilitating and fostering the transfer of students without the loss of academic credit or standing from one public institution to another; (w) establish an affirmative action policy and implement a program necessary to assure conformance with such policy throughout the system; (x) in the case of state universities, fix the classification, title, salary range within the general salary schedule and descriptive job specifications for each position shall be determined by the council for each member of the professional staff and copies thereof shall be placed on file with the governor, budget director, personnel administrator and the joint committee on ways and means, except that any such salary may be fixed at any amount not less than the minimum salary nor more than the maximum salary shown in said schedule; provided, however, the council may establish the salary for the chief executive officer and such other officers and members of the professional staff and for the academic deans and members of the professional teaching staff without reference to the general salary schedule and salary range; and,

provided further, that no such salary shall be established for any academic dean or any member of the professional teaching staff unless his classification rating is equal to or higher than that of professor, nor shall the number of academic deans and members of the professional teaching staff whose salaries may be so established exceed one percent of the combined total number of academic deans and members of the professional teaching staff. A notification of each personnel action taken shall be filed by the council with the personnel administrator and with the comptroller; (y) in the case of community colleges, fix the classification, title, salary range of each member of the professional staff within the general salary schedule, except that any such salary may be fixed at any amount not less than the minimum salary nor more than the maximum salary shown in said schedule; provided, however, that the council may fix the salary and salary range for the chief executive officer of each individual community college and other officers and members of the professional staff of the community college system not exceeding in number one percent of the total number of such other officers and members of the professional staff taken together in the community college system, without reference to the general salary schedule; and provided further, that no such salary shall be fixed for any such member classed within the one percent unless he holds a position equivalent to or higher than the rank of professor; (z) recognize the duly elected student government association at each public institution of higher education as the official representative of the student body; (aa) submit a written application of HEFA requesting that said authority undertake a project, as defined in section three of chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight, on behalf of one or more public institutions for higher education, as so defined; provided, however, that the council shall only make such application for a project on behalf of the public university if such project is approved by the board of trustees of the public university; (bb) transfer or pledge that they will periodically transfer to HEFA any funds available for expenditure by the council, in order to provide for the expenses of HEFA and for the payment of indebtedness incurred by HEFA in connection with any project financed by HEFA on behalf of the council, one or more public institutions of higher education, their affiliated building authorities, or any other organization affiliated therewith, as defined in paragraph (e) of said

section three of said chapter six hundred and fourteen; provided, however, that in the case of any funds expected to be available for expenditure by the council or such other entities pursuant to subsequent appropriation or other spending authorization by the legislature, the council may only pledge that they will so transfer such funds subject to such subsequent appropriation or other spending authorization. Any such pledge shall be valid and binding from the time when the pledge is made; the funds so pledged shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the council or any such public institution of higher education, affiliated building authority, or other organization affiliated therewith, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which such a pledge is created need be filed or recorded except in the records of HEFA; (cc) administer a program, without further appropriation, to provide no-interest loans to undergraduate students domiciled in the commonwealth, enrolled in and pursuing a program of higher education in the commonwealth in any approved public or independent college, scientific or technical institution, or any other approved institution furnishing a program of higher education. Such assistance shall consist of full or partial loans to students in need of assistance. Repayment shall commence within six months of graduation or termination of studies; provided, that no repayment schedule shall exceed a term of ten years. Monies received in repayment shall be retained by the council to provide the no interest loans and to provide for the administration of the programs without further appropriation; provided, however, that not more than \$775,000 of the monies shall be expended annually for the administration of the program. The Massachusetts state scholarship office shall establish guidelines to govern said program which shall include, but not be limited to, eligibility requirements for students, eligibility requirements for participating institutions, terms of payment, deferment options, provisions for default, and a maximum loan award as determined by an indexing system; (dd) to develop funding formulas for state and community colleges pursuant to section 15B of this chapter; (ee) to develop a standardized form for reporting institutional expenditures, and for the submission of

institutional spending plans pursuant to subparagraph (m) of the first paragraph of section 22 of this chapter; (ff) to approve the expansion of campus missions to embrace specialized missions, expanded regional or national outreach, or a more entrepreneurial model of service delivery pursuant to section 7 and subparagraph (p) of the first paragraph of section 22 of this chapter; (gg) develop a system to track students who transfer out of public institutions of higher education in order to improve data on what degrees, if any, those students earn from other institutions of higher education.

Notwithstanding the provisions of any general or special law to the contrary, the board of higher education shall have authority to approve degree programs offered by institutions of higher education; provided, however, that any other licensing body approving specific course offerings required as components of such degree programs under said licensing body's licensing authority shall not have any other authority over course offerings which are not required for licensure.

Whenever a public institution of higher education in the commonwealth requests a tuition rate and charges reduction for residents of bordering states, the board may approve such tuition reduction to not less than one-and-one-half times the resident tuition rate. Prior to the approval of any such tuition adjustment, the board shall promulgate regulations based upon an evaluation that yields the following conclusions: such institution is below enrollment capacity and the projected cost to the commonwealth of such tuition reduction would be minimal when taking into account projected enrollment growth associated with such adjustment. Not less than 30 days prior to the promulgation of such regulations, the board shall report the findings of such evaluation, including a fiscal impact analysis, to the house and senate committees on ways and means and the joint committee on higher education. The board shall seek reciprocal arrangements from bordering states where no such tuition reduction is available for Massachusetts residents.

Notwithstanding any general or special law to the contrary, the board of higher education shall have the authority to enter into interstate reciprocity agreements that authorize an accredited, degree-granting institution of higher education located in the commonwealth to voluntarily participate in

such an agreement and to provide distance education programs to students in other states in accordance with the agreement. The authority granted by this paragraph shall apply only to distance learning programs and shall not affect other approvals of institutions of higher education or programs required by law exemptions for institutions of higher education or programs. This section shall not prohibit an accredited, degree-granting institution of higher education located in the commonwealth that has been authorized to grant degrees by the board of higher education but that does not participate in such an agreement from offering a postsecondary distance education program in another state if the institution is duly authorized to do so by the other state. For purposes of online distance education programs, an accredited, degree-granting institution of higher education chartered, incorporated or organized in another state that is a party to the interstate reciprocity agreement entered into by the board shall be authorized by the board of higher education to conduct courses that lead to the award of a degree in the commonwealth in accordance with Section 31A of chapter 69; provided, however, that the institution of higher education is approved to participate in and meets the requirements of the interstate reciprocity agreement. This section shall not affect the authority of the attorney general to enforce statutes or promulgate and enforce regulations that prohibit consumer fraud and unfair or deceptive business practices including, but not limited, those under chapter 93A, and to enforce section 1042 of the federal Consumer Financial Protection Act of 2010 under section 1042. Before the board of higher education enters into an interstate reciprocity agreement, the department of higher education and the attorney general shall execute a memorandum of understanding necessary to coordinate the enforcement of relevant requirements, statutes and regulations, including those related to consumer fraud and unfair or deceptive business practices.

Section 31A. An educational institution chartered, located, offering courses or otherwise doing business within the commonwealth shall not award degrees within the commonwealth unless authorized or approved to do so by the commonwealth.

An educational institution chartered, incorporated or organized in another state shall not conduct within the commonwealth courses available to residents of the commonwealth that lead to the award of a degree unless the educational institution has received the authorization of the commonwealth for such courses; provided, however, that authorization may be granted by the board of higher education through the board of higher education's participation in an interstate reciprocity agreement under section 9 of chapter 15A. The board of higher education shall be responsible for the implementation of this section.



# Massachusetts Department of Higher Education

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## DHE Complaint Policy and Process

The Department of Higher Education (DHE) is responsible for authorizing the operation of public and private independent institutions of higher education located in Massachusetts and managing the complaint process required by Title IV of the Higher Education Act (34 CFR § 600.9(a)(1)).

### I. Scope

If you are a student, former student, faculty, staff, or parent of a student and you believe that an institution of higher education operating in Massachusetts is not operating in compliance with state requirements (as set forth in 610 CMR 2.00 or other state law or regulations) or its own policies and procedures, you may file a complaint with the DHE.

Generally, issues falling under the DHE's jurisdiction include academic quality and licensing; issues regarding student life (including, for example, student discipline, grading, and housing) typically fall within the purview of the institution itself. An institution of higher education's Board of Trustees is responsible for establishing and enforcing the policies necessary for the management of the institution under its authority. For this reason, nearly all complaints should be resolved at the institutional level. Please note that the DHE will only act upon complaints that were unable to be resolved through the institution's own internal dispute resolution process. Furthermore, our agency cannot and does not provide legal advice.

Please also note that there may be other agencies that may be more appropriate avenues for addressing the issues raised in your complaint, including but not limited to, the [US Department of Education Office for Civil Rights](#), the [US Department of Education Family Policy Compliance Office](#), the [Massachusetts Commission Against Discrimination](#), and the [Massachusetts Attorney General's Office](#). If your complaint involves allegations about criminal activity, you should contact your local law enforcement officials.

### II. Filing a Complaint

The DHE attempts to provide an avenue for **informal resolution** of matters concerning institutions and cannot require an institution to take any specific action in a matter.

Before contacting the DHE, you must first exhaust the institution's internal grievance or complaint procedures; all colleges and universities participating in federal financial aid programs (which is the vast majority of institutions) are required to have formal grievance procedures. These policies are usually published in the institution's catalog, student handbook, and/or on the institution's website, and they describe the steps you must take to file a complaint or

grievance. Sometimes there are different processes, both informal and formal, that are available to resolve complaints. These procedures exist to ensure that your complaint will be heard fully and fairly, and the college or university must provide for the prompt and equitable resolution of complaints. When filing a complaint with your school, you should be specific in describing the nature of the complaint and relevant information: the name of the parties involved, including witnesses, dates, the policy or procedure violated (if known), the course/program, and your contact information. In addition, it is important to include any supporting material that substantiates your complaint.

After you have pursued your concerns using the institution's dispute resolution procedures, and have not reached a mutually agreeable resolution, you may proceed with filing a formal complaint with the DHE through the DHE website or by submitting the DHE's complaint form via fax or mail.

### **III. How Complaints are Handled**

#### **General Complaints**

The [general complaint process](#) is available to any student, former student, faculty, staff, or parent of a student, regardless of where the student currently resides, who is enrolled online or on-the-ground at a Massachusetts college or university.

To initiate a complaint about a college or university located in Massachusetts, or if you are a Massachusetts resident taking online courses at an institution located either in Massachusetts or in another state, you must complete the DHE complaint form.

(<http://www.mass.edu/forstufam/complaints/complaintform.asp>)

After a student submits a complaint to the DHE, the complaint is reviewed by DHE staff for completeness. Where a student submits a complaint electronically and indicates that the student will be submitting supporting documentation separately, the DHE will hold the complaint until the supporting documentation is received. Once a complaint is considered complete, it will be referred to the relevant institution for response. The institution generally has 30 days from its receipt of the complaint from the DHE to provide a response to the student and the DHE. If, after 30 days, the DHE has not received any response from institution, the DHE will follow up with the institution to request a response to the complaint.

Once the institution's response is received, DHE staff will review the information provided. If the institution's response satisfies the DHE, the DHE will consider the complaint to be closed. If the forthcoming response does not satisfy the DHE, the DHE will either review the complaint further, request clarification where necessary, or, in its discretion, send the complaint directly to another agency that is authorized to address the concern(s) raised in the complaint, including to the Consumer Protection Division and/or the Public Charities Division of the Massachusetts Attorney General's Office, or another state's equivalent entity, for review and possible enforcement action.

If, after an institution has provided its response, a complainant submits a further response or supplementary information, the DHE will review the information to determine whether the complainant is making new allegations (in which case the complainant may be directed to file a new complaint or the institution may be asked to provide follow up information) or if the complainant is dissatisfied with the institution's response but has provided no new information or allegations (in which case the DHE may inform the complainant that the DHE is satisfied with the institution's response and that the matter is closed).

## **SARA Complaints**

The State Authorization Reciprocity Agreement ([SARA complaint process](#)) is available to any student who currently resides in a [SARA member state](#) or territory other than Massachusetts and is enrolled in distance education or online courses or programs at a [Massachusetts SARA Institution](#). The SARA complaint process is *not* to be utilized by Massachusetts residents if the complaint concerns a Massachusetts institution; Massachusetts residents should instead utilize the [general complaint process](#).

As the Massachusetts portal entity for SARA, the DHE is empowered to investigate and resolve out-of-state students' complaints of violation of the terms and policies of SARA, the laws, standards, or regulations incorporated by SARA, and/or the provisions of 610 CMR 12.00 against all institutions of higher education located in Massachusetts which offer distance education programs through SARA.

Complaints by Massachusetts students against out-of-state SARA institutions should be submitted to the SARA portal entity in the state where the institution is located once the complaint process at that institution has been exhausted.

## **IV. Personally Identifiable Information Waiver**

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a federal law that protects the privacy of student education records, including grades, judicial sanctions, financial records, and other personal information. All complainants will be asked to provide written consent for the institution to disclose to the DHE any relevant protected information, including FERPA information, from its student records in order to assist the DHE with evaluating the institution's response and making a determination on satisfaction.

## **V. Public Records**

Under most circumstances, the text of the complaint/inquiry and the institution's response will be considered public records, copies of which must be made available to any member of the public upon request. However, personally identifying information (e.g., name, address, phone number, etc.) will not be disclosed. Furthermore, no part of the complaint/inquiry or the institution's response will be provided in response to a request that asks specifically for a complaint/inquiry submitted by an individual.



## Massachusetts Department of Higher Education

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### **Policies and Practices for Addressing Catastrophic Events**

The Massachusetts Board of Higher Education (BHE) and the Department of Higher Education (DHE), under the broad powers and duties set forth in M.G.L. c. 15A and c. 69, employ a multi-tiered process for the purposes of addressing catastrophic events such as institutional closure.

In the event of the unanticipated closure of an institution, DHE provides the institution with the Notice of Closure Guidelines for Massachusetts Independent Institutions and Independent Institution Notice of Closure Submission Template (attached) and oversees the institution's orderly execution of the closure in accordance with the guidelines. In addition, DHE expects that the institution's closure process is fully compliant with the expectations of the institution's accreditor as it applies its standards under 34 CFR 602.24(c) of the federal requirements for catastrophic events.

In order to provide oversight of these processes and support for students, DHE utilizes its academic affairs/program review and legal staff members to assess, review, and manage the closure process, including teach-outs, transfer agreements, preservation of student records, and student complaints. Upon Massachusetts' membership in SARA, one additional full-time staff member will be hired at DHE to provide additional support for these processes, among other duties. Together with the closing institution, and the institution's accreditor, DHE endeavors to locate and make available educational programs that are of acceptable quality and reasonably similar in content, structure, and scheduling to those previously offered by the institution that is ceasing operations either entirely or at one of its locations.

In accordance with M.G.L. c. 69, s. 31B, 610 CMR 2.07(3)(f)(2), and 610 CMR 2.08(f), the institution must develop and implement plans for student academic records, including the designation of a permanent location and custodian of said records. If possible, subject to the approval of DHE, the institution works out an agreement with another Massachusetts institution for the protection of student records. In cases where an agreement with another institution may not be feasible or possible, DHE permits transcripts to be transferred to and held by an out-of-state institution and/or a third-party outside vendor. DHE maintains a dedicated web page to further assist consumers with locating their academic records from closed institutions:

<http://www.mass.edu/forstufam/diplomas/closedinst.asp>

All institutions applying to the DHE to participate in SARA are expected to affirm that they will follow New England Association of Schools and Colleges (NEASC)'s *Considerations When Closing an Institution of Higher Education* or the best practices of their national accrediting agency for addressing catastrophic events.



## Massachusetts Department of Higher Education

One Ashburton Place, Room 1401  
Boston, MA 02108-1696

TEL (617) 994-6950  
FAX (617) 727-0955  
WEB [www.mass.edu](http://www.mass.edu)

Carlos E. Santiago, *Commissioner*  
Chris Gabrieli, *Chairman*  
*Massachusetts Board of Higher Education*

### **Notice of Closure Guidelines for Massachusetts Independent Institutions<sup>1</sup>**

As an increasing number of Massachusetts institutions of higher education are merging with other institutions or closing completely, the Department of Higher Education has developed a protocol to support the process and to help institutions meet the challenges of closing, such that students are protected and enabled to complete their degree programs via teach-out plan or transfer to another institution.

Massachusetts law requires a closing institution to notify the Board of Higher Education of its intention to close “as far as possible in advance” by contacting the Department of Higher Education (DHE). The following Notice of Closure Guidelines must be adhered to by a closing institution. These Guidelines are designed to ensure that students are supported and protected through the institution’s final closure and termination date. As such, the DHE should be the first entity notified of an institution’s decision to close and the institutional leadership should remain in close communication with DHE throughout the process. See 610 CMR 2.07(3)(f)(2).

#### **PART I: NOTICE OF INTENT TO CLOSE**

1. It is expected that DHE will be the first point of contact for the closing institution. The President or CEO should contact the DHE with the Notice of Intent to Close, sent to the Commissioner of Higher Education. The written notice should include:
  - a.) A statement of intent to close and the general rationale;
  - b.) An estimated timeline for the closure, the anticipated final termination date, and the approximate number of students currently enrolled; and
  - c.) Disclosure of any preliminary discussions or plans with other institutions that may offer the potential for articulation.
2. The DHE will work in consultation with the Office of the Attorney General to safeguard student, employee, and consumer protections and to ensure compliance with other state and federal laws.

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<sup>1</sup> Any institution, other than institutions within the public system of higher education as set forth in M.G.L. c. 15A, § 5, that offers or seeks to offer courses for credit or courses leading to an academic degree in Massachusetts (e.g. non-profit, for profit, religious, corporate, etc.).

## **PART II: NOTICE OF CLOSURE**

3. Institutional leadership must maintain ongoing and close communication with DHE staff members throughout the duration of the closing process. This includes, but is not limited to, forwarding copies of all communications to students, former students, alumni, and the media regarding the closure.
4. The closing institution must complete the Independent Institution Notice of Closure template. DHE staff members are available to support a closing institution by responding to questions and providing technical assistance as needed and requested. A closing institution must submit one hard copy (which can be a copy on a flash drive) and one electronic copy in MS Word format of the Independent Institution Notice of Closure to [awilliams@bhe.mass.edu](mailto:awilliams@bhe.mass.edu).
5. A closing institution must include a check for the \$500.00 closing fee for administrative costs per statute with its completed Notice of Closure. See 610 CMR 2.06(b)(f). The check should be made out to the Massachusetts Department of Higher Education Licensing Fee Trust Fund.

**Institution:**

**Proposed Closure:**

**Independent Institution Notice of Closure - Submission Template**

BHE regulations require closing institutions to notify the Board “as far as possible in advance” of intentions to close, to follow the appropriate procedures, such as responding to information requests, and to work with the Board in organizing educational transfer opportunities “to safeguard the needs of students”. See 610 CMR 2.07(3)(f)(2).

Review guidelines prior to submitting materials. Required information should be typed directly into form rows. Boxes will expand. Submit one hard copy to Massachusetts Department of Higher Education Legal Division inclusive of a copy on flash drive. Submit one electronic copy in MS Word format to [awilliams@bhe.mass.edu](mailto:awilliams@bhe.mass.edu).

**Institution Name:**  
**Institution Address:**  
**Main Campus Location:**  
**Additional Campus Locations:**  
**(if applicable) Headquarters Location:**

**Is the institutional closure fee of \$500 included? Yes No (please circle)**

**Date of Trustee Board Vote to Confirm Closure:**

**Date [Letter of Intent \(attach copy\)](#) submitted to Commissioner:**

**President Name and Title:**

**Phone Number:                      Email:**

**Chief Academic Officer (CAO) Name and Title:**

**Chief Financial Officer (CFO) Name and Title:**

**CAO Phone Number:                      Email:**

**CFO Phone Number:                      Email:**

**Has the President, CAO, and CFO reviewed this petition? Yes No (please circle)**

**A. Statement of Institutional Closure**

Provide detailed rationale for the closure.

Provide an anticipated closure date.

Identify the campus location(s) that is/are closing in the state of Massachusetts. Indicate if other campus locations will remain open and in what states.

**Institution:**

**Proposed Closure:**

## **B. Teach-Out Plan and Academic Integrity**

**1. Teach Out.** Describe the teach-out plan for each currently operational program leading up to the final closure date.

**2. Transfer Agreements.** It is the DHE's expectation that the institution presents students with appropriate options during the teach-out period. To that end, the DHE highly recommends at least 1-2 opportunities for students to transfer to an alternative institution. Describe transfer or articulation agreements with other institutions that may be proposed for students. Explain the anticipated transferability of program participants' credits to other institutions. ([attach agreements](#))

## **C. Student Data and Student Services**

**1. Students.** Provide enrollment numbers by program, average credits earned, average credits remaining, and anticipated student completion and graduation dates. This information shall be reported to the DHE in a quarterly status report. [See attachment A below.](#)

**2. Student Services.** Describe the services that will be provided to students during the teach out period, leading up to the subsequent closure of the institution; including but not limited to career services, counseling and health services, financial aid, bursar, academic supports, Veterans Education Services, Residential Life, Library, etc. Please provide a timeline for the winding down of these services by department/service area. Explain how this information will be communicated to students.

**3. Financial Aid.** Confirm that financial aid eligibility and institutional scholarship aid will continue during the teach-out period. Explain how this will be communicated to students.

**4. Student Veterans.** Please provide a list of GI Bill beneficiaries currently enrolled at your institution in the state of Massachusetts.

## **D. Administration**

**1. Faculty and Staff.** Please provide the current number of full-time faculty, the number of part-time faculty, the number of full-time support staff, the number of part-time support staff. This information shall be reported to the DHE in a quarterly status report.

**2. Employee Reduction Plan.** Provide a staffing timeline by semester/quarter that includes anticipated reductions for both faculty and administrative staff, noting that employee/student ratios should remain constant during the teach-out period. [See attachment B below.](#)

## **E. Communication & Records**

*. BHE regulations require an institution's publications to be "comprehensive, accurate, unambiguous and up-to-date in presentation of the institution's mission, policies, resources, general environment, instructional offerings and other services. As a general guide, the institution's publications available to applicants and students should provide full, accurate and current information...." 610 CMR 2.07(3)(g)(1).*

**1. Current Communication** Describe any publications, communications and public disclosures and their location (e.g., institution's website, email communications, etc.) regarding the closure. Attach any specific communications that the institution has sent and anticipates sending to students, faculty, staff, and alumni regarding the proposed teach-out, closure, and potential transfer and articulation arrangements.

**Institution:**

**Proposed Closure:**

**2. Future Communication.** The institution shall send to the DHE, copies of all communications sent to students, former students, alumni, and media regarding the closure during the teach-out period.

**3. Records.** Provide specific information regarding how and where student records will be maintained, including the name, address, and contact information. Describe how this information will be communicated to current and former students.

**F. FISCAL**

**1. Refund Policy.** *BHE regulations require institutions to have refund policies, which are fair, equitable and available publicly. See 610 CMR 2.07(3)(e)(4).*

Provide the institution's refund policy and describe student eligibility for refunds during the teach-out period. How will this information be communicated to students?

**2. Physical Resources.** Indicate how courses and programs will continue to be supported by adequate physical resources during the teach-out period, including but not limited to instructional space, library assets, electronic databases, and the general campus environment.

**3. Fiscal Resources.** Provide a statement attesting to the fact that sufficient resources are available to support the described plan in sections A-F. Provide a budget indicating that the organization will have sufficient resources to support the obligations set-forth above throughout the teach-out period

**CEO/President Signature**

*By signing below, I understand and attest that all the foregoing statements are true and accurate. I agree to abide by the terms of the teach-out plan and all other applicable laws, regulations, and accreditation standards throughout the teach-out period.*

<b>Signature:</b>		<b>Date:</b>	
<b>Print Name:</b>			

Institution:

Proposed Closure:

**Attachment A: QUARTERLY STUDENT ENROLLMENT BY PROGRAM – SAMPLE**

<b>Program with CIP Code</b>	<b># of students currently enrolled</b>	<b>Average Credits Earned</b>	<b>Average Credits Remaining for Program Completion</b>	<b>Expected Graduation Date</b>
Example: BS Graphic Communications 500499B	8	81.1	8.9	6/28/2008
	14	68.8	21.2	9/27/2008
Example: Visual Arts	20	80.9	9.2	6/28/2008
	11	69.5	20.5	9/27/2008

**Institution:**

**Proposed Closure:**

**Attachment B: QUARTERLY REPORT OF EMPLOYEES BY PROGRAM/FUNCTIONAL AREA**

<b>Semester/Quarter &amp;Year</b>	<b>Program/Functional Area</b>	<b>Number of Fulltime Faculty</b>	<b>Number of Part-time Faculty</b>	<b>Number of Administrative Staff</b>

**QUARTERLY PROGRAM TEACH OUT / TRANSITION PROJECTIONS**

	<b>Teach Out Year 1</b>	<b>Transfer Year 1</b>	<b>Year 2 Teach Out</b>	<b>Year 2 Transfer</b>	<b>Year 3 Transfer</b>
Full Time					
Part Time					
Totals					

**APPENDICES TO BE ATTACHED**

Letter of Intent  
Communications to Students  
Massachusetts GI Bill Beneficiaries



# NEW ENGLAND BOARD OF HIGHER EDUCATION

45 Temple Place, Boston, Massachusetts 02111-1305 • Phone 617.357.9620 • Fax 617.338.1577 • www.nebhe.org

June 15, 2017

The Honorable Maura T. Healey  
Attorney General of Massachusetts  
One Ashburton Place  
Boston, MA 02108

Re: State Authorization Reciprocity Agreement (SARA)

Dear Attorney General Healey:

I have reviewed the Final Version of the Memorandum of Understanding Between the Office of the Attorney General (AGO) and the Department of Higher Education (DHE) and have also discussed it with NC-SARA. If the AGO agrees, as is set forth in that Memorandum of Understanding, to accept SARA-related institutional disclosures as an alternative to the affirmative disclosures required of for-profit schools and occupational programs under 940 CMR 31.05, that will remove any concerns that Massachusetts is enforcing state specific standards in violation of the SARA Policy and Operations Manual. NC-SARA and NEBHE understand and agree that 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, will remain in effect and enforceable by the AGO should Massachusetts apply to and join SARA.

Please let me know if you have questions. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Sandra J. Doran".

Sandra J. Doran  
Director, New England State Authorization  
Reciprocity Agreement (SARA)

CC: James A. Peyser, Secretary of Education  
Carlos E. Santiago, Commissioner of Higher Education



# NEW ENGLAND BOARD OF HIGHER EDUCATION

45 Temple Place, Boston, Massachusetts 02111-1305 ♦ Phone 617.357.9620 ♦ Fax 617.338.1577 ♦ www.nebhe.org

September 15, 2017

The Honorable Maura T. Healey  
Attorney General of Massachusetts  
One Ashburton Place  
Boston, MA 02108

James Peyser, Secretary  
Massachusetts Executive Office of Education  
One Ashburton Place  
Boston, MA 02108

Carlos Santiago, Commissioner  
Massachusetts Department of Higher Education  
One Ashburton Place  
Boston, MA 02108

Christopher Gabrieli, Chair  
Massachusetts Board of Higher Education  
One Ashburton Place  
Boston, MA 02108

Re: State Authorization Reciprocity Agreement (SARA)

Dear General, Secretary, Commissioner and Chair:

I have reviewed your August 21, 2017 letter to Secretary Betsy DeVos and I am aware of your concerns regarding the August 11, 2017 letter from Paul Lingenfelter, Chair, NC-SARA Board, to Hilary Malawer, Assistant General Counsel at the U.S. Department of Education (the “Department”) regarding the Department’s amendments to the state authorization sections of the Institutional Eligibility regulations (the “August 11 Letter”).

I write to clarify that the August 11 Letter was not meant to suggest that the Department should allow a state authorization reciprocity agreement to undermine the authority of Massachusetts or any other state to enforce its consumer protection laws against all or a subgroup of participating educational institutions. Rather, the purpose was to urge the Department to clarify language in 34 CFR Section 600.2 that has been less than clear and is creating confusion among those impacted by it.



# NEW ENGLAND BOARD OF HIGHER EDUCATION

45 Temple Place, Boston, Massachusetts 02111-1305 ♦ Phone 617.357.9620 ♦ Fax 617.338.1577 ♦ www.nebhe.org

The New England Board of Higher Education and NC-SARA remain committed to working with member states to resolve any inconsistencies between a joining state's statutes and regulations, both existing and future, and the terms and conditions of the membership agreement. I noted in my June 15, 2017 letter to General Healey that:

*If the AGO agrees, as is set forth in that Final Version of the Memorandum of Understanding Between the Office of the Attorney General (AGO) and the Department of Higher Education (DHE), to accept SARA-related institutional disclosures as an alternative to the affirmative disclosures required of for-profit schools and occupational programs under 940 CMR 31.05, that will remove any concerns that Massachusetts is enforcing state specific standards in violation of the SARA Policy and Operations Manual. NC-SARA and NEBHE understand and agree that 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, will remain in effect and enforceable by the AGO should Massachusetts apply to and join SARA.*

The New England Board of Higher Education and NC-SARA repeat and stand by the above representations made in my June 15, 2017 letter. NEBHE and NC-SARA will continue to honor this agreement regardless of whether 34 CFR Section 600.2 is amended.

Please let me know if you have questions or concerns. Thank you.

Sincerely,

Sandra J. Doran  
Director, New England State Authorization  
Reciprocity Agreement (SARA)

**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.

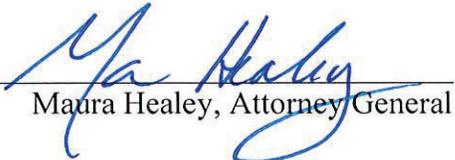
#### **V. Waiver**

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

## 610 CMR: BOARD OF HIGHER EDUCATION

### 610 CMR 12.00: OPERATION OF MASSACHUSETTS DEGREE-GRANTING INSTITUTIONS UNDER THE STATE AUTHORIZATION RECIPROCITY AGREEMENT (SARA)

#### Section

- 12.01: Scope and Purpose
- 12.02: Definitions
- 12.03: Institutional Eligibility Requirements for SARA
- 12.04: Initial Application for Approval to Operate under SARA
- 12.05: Application for Renewal of Approval to Operate under SARA
- 12.06: Loss of Eligibility and Removal
- 12.07: Complaints
- 12.08: Fees
- 12.09: Withdrawal
- 12.10: Non-SARA Reciprocity Agreements

#### 12.01: Scope and Purpose

(1) 610 CMR 12.00 governs the entry of the Commonwealth into the State Authorization Reciprocity Agreement (SARA), a higher education interstate reciprocity agreement that permits institutions of higher education in Massachusetts to offer distance education programs in other participating states without needing to obtain degree-granting authorization separately from each state and that, in return, permits duly authorized institutions of higher education in other participating states to offer distance education programs to Massachusetts students without needing to obtain degree-granting authority from the Commonwealth pursuant to 610 CMR 2.00: *Degree-granting Regulations for Independent Institutions of Higher Education* and consistent with 34 CFR Part 600. 610 CMR 12.00 establishes minimum standards for Massachusetts institutions that voluntarily apply to join SARA and sets forth the requirements for initial institutional applications, renewals, removals, and consumer complaints.

(2) 610 CMR 12.00 does not affect the existing obligations of in-state institutions to seek and obtain institutional and programmatic reviews and approvals for degree-granting programs from the Board for all programs, including distance and online programs, as set forth in 610 CMR 2.00: *Degree-granting Regulations for Independent Institutions of Higher Education*. 610 CMR 12.00 does not affect the existing jurisdictional exemptions from 610 CMR 2.00 for in-state institutions chartered prior to 1943 that are authorized by the legislature or state constitution to offer degree programs and confer post-secondary degrees in Massachusetts; except that such institutions which seek to offer distance education programs under SARA shall be subject to 610 CMR 12.00 for the purpose of SARA participation. It also does not apply to:

- (a) out-of-state institutions that are not members of SARA which seek to offer distance education to Massachusetts residents; and
- (b) out-of-state institutions that are not members of SARA which establish a physical presence in Massachusetts pursuant to the Department's physical presence policy and/or regulations.

#### 12.02: Definitions

As used in 610 CMR 12.00:

Accreditation. Accreditation as a U.S.-based institution from an accreditor recognized by the U.S. Department of Education.

Board. The Board of Higher Education, a state agency established pursuant to applicable provisions of M.G.L. c. 15A.

Commissioner. The chief executive and administrative officer of the Department of Higher Education and the Board of Higher Education, pursuant to M.G.L. c. 15A, § 6.

## 610 CMR: BOARD OF HIGHER EDUCATION

12.02: continued

Complaint. A formal written submission to the Department asserting that the terms and policies of SARA, the laws, standards, or regulations incorporated by SARA, and/or the provisions of 610 CMR 12.00 are being violated by a person, institution, state, agency, or other organization or entity operating under SARA.

C-RAC Guidelines. *The Interregional Guidelines for the Evaluation of Distance Education (Online Learning)* for best practices in postsecondary distance education developed by leading practitioners of distance education and adopted by the Council of Regional Accrediting Commissions (C-RAC) in 2011.

Department. The Department of Higher Education, a state agency established pursuant to applicable provisions of M.G.L. c. 15A, § 6 and which shall serve as the portal entity for SARA in Massachusetts.

Distance Learning or Distance Education. Instruction offered by any means where the student and faculty member are in separate physical locations. It includes, but is not limited to, online, interactive video, or correspondence courses or programs. It does not include intrastate distance education activity.

Home State. The SARA member state in which an institution holds its legal domicile.

IPEDS. The Integrated Postsecondary Education Data System, the federal postsecondary education data collection program.

Legal Domicile. The state in which the institution's principal campus holds its institutional accreditation and, if applicable, its Federal Office of Postsecondary Education Identifier (OPEID) number.

Member State. Any state, commonwealth, district, or territory of the United States that is a participant in good standing in SARA.

National Council for SARA or NC-SARA. The National Council for State Authorization Reciprocity Agreements, the central coordinating body for SARA participation.

New England Board of Higher Education or NEBHE. The regional compact as established in the SARA Policy and Operations Manual that administers SARA for Massachusetts.

Operating Under SARA. Offering distance education courses or programs in a state other than Massachusetts under the purview of SARA, pursuant to 610 CMR 12.00 and the requirements of the *SARA Policy and Operations Manual*.

Portal Entity. The single entity designated by the Commonwealth to serve as the interstate point of contact for institutional applications, questions, complaints, and other communications relating to a reciprocity agreement.

Postsecondary Institution or Institution. An institution of higher education located within Massachusetts legally authorized to award degrees at the associate level or above.

Reciprocity Agreement. A voluntary agreement that establishes reciprocity between willing states for approval of postsecondary educational services delivered by distance learning beyond state boundaries and that is consistent with the requirements set forth in 34 CFR Part 600.

State Authorization Reciprocity Agreement or SARA. The state authorization reciprocity agreement or the voluntary program which implements reciprocity agreements among states, districts, or territories, institutions, and NC-SARA.

SARA Policy and Operations Manual. Version 16.3 of the document adopted and periodically updated by NC-SARA to administer the voluntary regional approach to state oversight of distance education.

12.03: Institutional Eligibility Requirements for SARA

- (1) To be eligible for approval to operate under SARA, a Massachusetts institution shall:
- (a) be legally domiciled in Massachusetts;
  - (b) be authorized by the Board or, for institutions chartered prior to 1943, authorized by the Massachusetts legislature or state constitution to offer degree programs in Massachusetts and confer post-secondary degrees in Massachusetts;
  - (c) be in compliance with the requirements of 610 CMR 2.00: *Degree-granting Regulations for Independent Institutions of Higher Education*, where applicable;
  - (d) meet and agree to comply with the C-RAC Guidelines;
  - (e) possess and maintain institutional accreditation from an accrediting body recognized by the U.S. Secretary of Education;
  - (f) for non-public institutions only, demonstrate financial stability and responsibility by meeting the following criteria:
    1. for federal Title IV participating institutions, having an institutional federal financial responsibility score of at least 1.5 (or 1.0 with justification acceptable to the Commissioner in his or her sole discretion);
    2. in the event that an institution does not participate in federal Title IV financial aid and therefore has no federal responsibility rating, providing sufficient financial evidence to the Department to allow the calculation of this rating using the federal rules; or
    3. for institutions owned by a corporate parent, in accord with current U.S. Department of Education policies and procedures, providing the financial score for the corporate parent and said score being at least 1.5 (or 1.0 with justification acceptable to the Commissioner in his or her sole discretion).
  - (g) agree to be bound by and comply with the current version of the *SARA Policy and Operations Manual* and to be responsible for the actions of any third-party providers used by the institution to engage in operations under SARA;
  - (h) make its SARA-related complaint policies and procedures readily available to students by posting them on its website and distributing copies to students upon enrollment, and inform students that they may appeal SARA-related complaints to the Department after exhausting the institution's own complaint resolution procedures;
  - (i) agree to provide the Department with any information requested that is relevant to a student's complaint, including data, to the extent permitted by applicable law, in order to assist the Department with resolving the student complaint;
  - (j) upon submission of an initial or renewal application, pay to the Department the state fees as required by 610 CMR 12.08 and as set forth in Board policy;
  - (k) pay an annual SARA participation fee to NC-SARA as required by the *SARA Policy and Operations Manual*; and
  - (l) report any other information required by the *SARA Policy and Operations Manual*, the Department, and/or 610 CMR 12.03 that may enable the Department to determine the suitability of the institution's operation under SARA.
- (2) For any course or program potentially leading to professional licensure or certification, an institution must notify, in writing, all students and potential students in said program whether or not the course or program meets requirements for licensure or certification in the state where the student resides. If, after making a reasonable effort, an institution is unable to determine whether the course or program meets licensure or certification requirements in the state where the student resides, the institution must notify, in writing, all students and potential students that it cannot confirm that the course or program meets the licensure or certification requirements of the state where the student resides; provide students and potential students with current contact information for applicable licensing boards; and advise students and potential students to determine whether the course or program meets state licensure or certification requirements.
- (3) An institution seeking initial approval or renewal of its approval to operate under SARA must notify the Department of any adverse actions by its accreditor or of any negative changes to its accreditation status within 30 days of the institution's knowledge of said adverse action or negative change.

12.03: continued

(4) An institution seeking initial approval or renewal of its approval to operate under SARA must notify the Department, within 30 days of the institution's knowledge of said investigation or adverse action, of any of the circumstances that could lead to provisional status set forth in 610 CMR 12.05(5)(c).

(5) An institution seeking initial approval or renewal of its approval to operate under SARA must notify the Department of any changes in its federal financial responsibility score, in the federal financial responsibility score of its corporate parent, or, for an institution that does not participate in Title IV financial aid, in its financial status that would result in its federal financial responsibility score being less than 1.5 within 30 days of the institution's knowledge of said changes.

(6) Institutions approved to operate under SARA pursuant to 610 CMR 12.04 must maintain eligibility requirements throughout the participation period. Any institution that fails to maintain eligibility under these requirements may lose its eligibility to operate under SARA and be removed by the Board pursuant to 610 CMR 12.06.

12.04: Initial Application for Approval to Operate under SARA

(1) The Department shall be the SARA portal entity for the Commonwealth and shall provide the services required to implement SARA.

(2) An institution meeting the eligibility requirements set forth in 610 CMR 12.03 may apply to the Department for approval to operate under SARA. The Department shall make application forms available on its website.

(3) An institution should submit its complete application, along with the fee required by 610 CMR 12.08 and set forth in Board policy, to the Department. The Department will conduct an initial review of the application for completeness. All incomplete applications will be returned to the institution along with the remitted fee. No action aside from a review for completeness will be taken on an institution's application until it is deemed by the Department to be complete and the required fee has been processed.

(4) All properly submitted and complete applications will be reviewed by the Department to determine whether the institution meets the eligibility requirements set forth in 610 CMR 12.03 and whether the institution is in compliance with the *SARA Policy and Operations Manual*, Version 16.3.

(5) At the conclusion of the Department's review of an institution's application, the Department shall take one of the following actions:

(a) Approval. The Department shall approve all institutions that meet the requirements set forth in 610 CMR 12.03. The term of approval shall be one year from the date of notification of approval and may be renewed annually thereafter pursuant to 610 CMR 12.05. Upon approval by the Department to operate under SARA, the institution will be sent an electronic link to make payment to NC-SARA, and the Department will notify NC-SARA when an institution has completed the application process.

(b) Disapproval. The Department shall disapprove all institutions that do not meet one or more of the requirements set forth in 610 CMR 12.03. If an institution's application to operate under SARA is not approved, the Department will provide the institution with a written explanation of such disapproval. The institution may appeal any disapproval to the Commissioner or his or her designee in a timeframe and manner to be prescribed by the Commissioner and it may submit additional information in support of its position. An institution that has been disapproved is not prohibited from reapplying to the Department for approval to operate under SARA.

(c) Provisional Approval. The Department may, at its discretion, provisionally approve institutions for participation in SARA in any of the following circumstances:

1. If the institution is on probationary status or the equivalent with its institutional accrediting association;

## 12.04: continued

2. If the institution is currently using a letter of credit or is under a cash management agreement with the U.S. Department of Education;
3. If the institution is the subject of a publicly announced investigation by a government agency, and the investigation is related to the institution's academic quality, financial stability or student consumer protection; or
4. If the institution is the subject of a current investigation by an entity in the Commonwealth related to the institution's academic quality, financial stability or student consumer protection.

An institution admitted to or renewed for SARA participation in provisional status will be subject to the oversight measures that the Department deems necessary for purposes of ensuring SARA requirements are met regarding program quality, financial stability and consumer protection. The length of the provisional status of an institution shall be determined by the Department and may not exceed one year.

During or at the end of the provisional status period, if an institution approved to operate under SARA in provisional status is no longer subject to any of the conditions listed above, it may apply in writing to the Commissioner to remove its provisional status designation. The Commissioner or his or her designee shall grant the application if the criteria justifying provisional status no longer apply.

During or at the end of the provisional status period, if the Commissioner determines that the institution approved to operate under SARA in provisional status does not meet the requirements of SARA, the Department will disallow any further enrollments under SARA, notify the institution, NEBHE, and NC-SARA, and remove the institution from SARA participation. The Department will allow any students enrolled in the institution under SARA at the time of the finding of noncompliance a period of six months from the date the Department notifies the institution of its ineligibility in which to conclude their work at the institution.

The Commissioner may, in his or her sole discretion, allow the institution a period of time not to exceed 12 months from the date of his or her determination that the institution in provisional status does not meet the requirements of SARA in which to come into compliance with SARA standards under the supervision of the Department. Only one such grace period is allowed in any three-year period.

12.05: Application for Renewal of Approval to Operate under SARA

(1) Approval for participation in SARA is valid for one year from the date of notification of the Board's approval of an institution's initial or renewal application. An institution is required to annually submit an application for renewal of participation in SARA.

(2) An institution will receive a reminder that it must submit an application for renewal of its approval to operate under SARA 90 days prior to the expiration of its existing term of approval.

(3) An institution applying for renewal must submit its complete application, along with the fee required by 610 CMR 12.08 and set forth in Board policy, to the Department no later than 60 days prior to the expiration of its existing term of approval. The Department shall make renewal application forms available on its website. An institution should submit its renewal application, along with the fee required by 610 CMR 12.08 and set forth in Board policy, to the Department.

If an institution does not submit its application 60 days prior to the expiration of its existing term of approval, the Commissioner may charge the institution a late fee in the amount of \$25.00 per day for up to 60 days, until the expiration of the existing term of approval.

No action will be taken on an institution's renewal application until it is deemed by the Department to be complete and all required fees have been processed.

(4) All properly submitted and complete renewal applications will be reviewed by the Department to determine whether the institution continues to meet the eligibility requirements set forth in 610 CMR 12.03 and whether the institution is in compliance with the *SARA Policy and Operations Manual*, including a review of the history of complaints received regarding an institution and its compliance with the requirements of 610 CMR 2.00: *Degree-granting Regulations for Independent Institutions of Higher Education*, if applicable. Following its review, the Department will make a determination on the renewal of an institution's approval to operate under SARA consistent with the procedures set forth in 610 CMR 12.04(5).

## 610 CMR: BOARD OF HIGHER EDUCATION

### 12.05: continued

(5) If an institution knows that it will not be applying for renewal to operate under SARA, it should provide the Department with written notice to that effect 30 days prior to the expiration of its approval to operate under SARA.

(6) An institution that does not apply for renewal prior to the expiration of its approval is no longer approved to operate under SARA and may reapply to the Department for approval no earlier than 180 days from the date of the expiration of its approval.

### 12.06: Loss of Eligibility and Removal

The Department may revoke an institution's approval to operate under SARA if it makes a finding that the institution is no longer eligible, that the institution is not in compliance with the *SARA Policy and Operations Manual*, or that the institution otherwise fails to meet the requirements of 610 CMR 12.00. The Department shall notify an institution of the revocation in writing. An institution may appeal a revocation of its approval to operate under SARA to the Commissioner or his or her designee in a timeframe and manner prescribed by the Commissioner. It may submit additional information in support of its position, and it may request that a public hearing on its removal from SARA be held.

### 12.07: Complaints

(1) 610 CMR 12.07 applies only to complaints which pertain to distance education provided by institutions approved by the Board to operate under SARA to students residing in other states pursuant to SARA. Complaints about a SARA institution's in-state operations, including intrastate distance education, are to be resolved pursuant to 610 CMR 2.00: *Degree-granting Regulations for Independent Institutions of Higher Education Standards*, where applicable, or otherwise in accordance with the institution's policies.

(2) A student who receives SARA distance education from an institution approved by the Board to operate under SARA may, after exhausting the institution's procedures for resolution of grievances, file a written complaint regarding the institution with the Department. The Department shall make complaint forms available on its website: [www.mass.edu](http://www.mass.edu).

(3) The Department shall review and attempt to resolve complaints which pertain to SARA distance education provided by institutions approved by the Board to operate under SARA as follows:

(a) The Department shall send a copy of the complaint to the institution that is the subject of the complaint;

(b) Within 30 days of the date that the Department sends a copy of the complaint to the institution, the institution must provide a written response to the student and the Department;

(c) Within 30 days of the date the Department received the institution's response, or if the Department receives no response, the Commissioner or his or her designee shall issue a notice to the institution containing the Commissioner's findings regarding the complaint; any corrective actions that the institution shall take to comply with the requirements of this regulation; and that, should the institution fail to take those corrective actions, the complaint shall be referred to the Office of the Attorney General for review and, if the Office of the Attorney General deems it appropriate, enforcement action.

(d) The Department may review and consider an institution's history of complaints received under this section and under 610 CMR 2.00: *Degree-granting Regulations for Independent Institutions of Higher Education* to determine if an institution's application should be denied, if an institution's renewal application should be denied, if an institution should be moved to provisional status, or if an institution should be disapproved to operate under SARA.

(e) Nothing in 610 CMR 12.07 precludes the Commonwealth, including the Office of the Attorney General, from simultaneously enforcing its laws and regulations, including laws of consumer protection and fraud prevention, such as 940 CMR 31.00: *For-profit and Occupational Schools*, against an institution approved by the Department to operate under SARA.

## 610 CMR: BOARD OF HIGHER EDUCATION

### 12.08: Fees

- (1) Massachusetts institutions seeking approval to operate under SARA shall be subject to annual fees to be paid to the Department to obtain and/or maintain their participation in SARA. The Department annual fee is separate from and in addition to the annual fee charged by NC-SARA.
- (2) The annual fee schedule shall be established by the Board through policy and shall be periodically reviewed and revised as needed. Factors that the Board may take into account in setting fee levels may include, but not be limited to: the number of Massachusetts institutions participating in SARA; the full-time equivalent enrollment at institutions as reported to IPEDS; the cost to the Commonwealth to administer SARA; distance learning revenue; and industry norms, such as average fees charged by similarly situated SARA states.
- (3) All fees required under these regulations shall be paid to the Board's Licensing Fee Trust Fund and shall be used solely for the purposes of the Licensing Fee Trust Fund.
- (4) The annual fees for approval to operate under SARA shall be due upon an institution's submission of an application for initial approval (pursuant to 610 CMR 12.04) or an application for renewal (pursuant to 610 CMR 12.05). Applications, both initial and renewal, will not be reviewed by the Department until the required fee has been processed.
- (5) In addition to the fees required by 610 CMR 12.08(1) and set forth in Board policy, institutions that have been approved by the Department to participate in SARA shall be subject to the annual fees required by NC-SARA as provided in the *SARA Policy and Operations Manual*. All institutions, regardless of the Department's fee schedule, must remit fees to NC-SARA.
- (6) If the Department disapproves an institution's application, the institution will be eligible for a partial refund of its annual fee, minus an amount to be determined by the Board which represents the costs to the Department for application review. If NC-SARA disapproves an institution's application after the Department has approved it, no refund will be made.
- (7) No refund shall be made to an institution that is removed from eligibility pursuant to 610 CMR 12.06 during an approval period.

### 12.09: Withdrawal

- (1) Should Massachusetts withdraw from SARA, the Department will notify all SARA participating institutions in Massachusetts of the Commonwealth's changed status.
- (2) An institution operating under SARA through Massachusetts may continue to do so until the conclusion of its current academic term or 90 days after the date of receipt of notice of withdrawal, whichever is later, but not to exceed six months from the date the withdrawal notice was received by the NEBHE.

### 12.10: Non-SARA Reciprocity Agreements

Nothing in this regulation shall preclude the Commonwealth from pursuing and entering into any other reciprocity agreement with any other state, commonwealth, district, or territory, including those states, commonwealths, districts, or territories that are not members of SARA.

## REGULATORY AUTHORITY

610 CMR 12.00: M.G.L. c. 15A, § 9; M.G.L. c. 69, § 31A; and M.G.L. c. 15A, § 41.