

Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 12—Interstate Reciprocity

PROPOSED RULE

6 CSR 10-12.010 State Authorization Reciprocity Agreement

PURPOSE: This rule sets forth the standards and procedures through which schools may be approved to participate in the State Authorization Reciprocity Agreement and that students enrolling in SARA schools have financial and educational safeguards as provided in the rule.

(1) Definitions.

(A) “Accredited” means holding institutional accreditation by name as a U.S.-based institution from an accreditor recognized by the U.S. Department of Education.

(B) “Approve” or “Approval” in the context of an institutional application to operate under SARA means a written statement by a home state that an institution meets the standards required by SARA and is eligible to operate under SARA.

(C) “Authorized” means holding a current valid charter, license or other written document issued by a state, the federal government or a recognized Indian tribe, granting the named entity the authority to issue degrees and operate within a state or jurisdiction.

(D) “Charter” means a document bearing the word Charter issued by proper governmental authority that name a college or university as a degree-granting institution authorized to operate under the laws of the issuing jurisdiction.

(E) “Clinical” means a supervised field experience through which students earn academic credit through observation, treatment, and interaction with actual patients.

(F) “Complaint” means a formal assertion in writing that the terms of this agreement, or of laws, standards or regulations incorporated by this agreement, are being violated by a person, institution, state, agency or other organization or entity operating under the terms of this agreement.

(G) “C-RAC Guidelines” or “C-RAC” refers to the *Interregional Guidelines for the Evaluation of Distance Education Programs (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.

(H) “Credits” means numeric descriptors of completion of academic work applicable toward a degree, including the Carnegie unit system and competency units.

(I) “Degree” means an award conferred at the associate level or higher by an institution as official recognition for the successful completion of a program of studies.

(J) “Distance education” means 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.

(K) “Faculty” means a professional individual employed by or contracting with an institution primarily to teach, conduct research or provide related professional education services.

(L) “Home state” means a member state where the institution holds its legal domicile for purposes of accreditation. To operate under SARA an institution must have a single home state.

(M) “Host state” means a member state in which an institution operates under the terms of this agreement, other than the home state.

(N) “Hybrid” means an educational program or course that includes both face-to-face and distance education. Also known by the name “blended” and, sometimes, other terms.

(O) “Institution” means a degree-granting postsecondary entity holding recognized accreditation for purposes of participation in SARA.

(P) “Internship” means a supervised field experience through which students earn academic credit and practical experience through training, observation, and interaction with employees and customers in an ongoing organizational or business setting. The term “internship” may be interchangeable with “externship” based on state or institutional definitions.

(Q) “Member state” means any state, district or territory that has joined a SARA agreement through a regional compact.

(R) “Non-degree award” means a formal postsecondary award that does not carry the designation of Associate degree or higher.

(S) “Operate” means activities conducted by an institution in support of offering distance education degree or non-degree courses or programs in a state, including but not limited to instruction, marketing, recruiting, tutoring, field experiences and other student support services.

(T) “Physical presence” means a measure by which a state defines the status of an educational institution’s presence within the state. An institution or an institution’s program meeting one or more of the criteria for physical presence must meet the non-SARA requirements to operate legally in the State of Missouri.

1. Physical presence includes--

A. A physical location for groups of five or more students to receive synchronous or asynchronous instruction;

B. A requirement for students to meet in a location for instructional purposes more than twice per quarter or semester for a total of more than six contact or clock hours;

C. Administrative office spaces for instructional and non-instructional staff;

D. A physical site on behalf of an institution from which prospective students may receive information regarding enrollment or students may receive support services;

E. Short courses that require more than 20 contact hours; or

F. A mailing address or phone exchange within the state.

2. An institution is not considered to have a physical presence and therefore eligible for purposes of participation in SARA if it only

A. Advertises via print, billboard, mail, or electronic media;

B. Offers courses of programs on military bases and enrollment is restricted to federal employees and their family members;

C. Maintains a server, router, or similar device in a facility that otherwise would not constitute a physical presence;

D. Employs faculty or other academic personnel who reside in the state;

E. Holds proctored exams at a Missouri location on behalf of the institution;

F. Recruits for a distance education program;

G. Participates in a consortia agreement to offer academic programs among SARA institutions and approved by each participating institution;

H. Has a contractual arrangement with the home or host state; or

I. Offers students educational field experiences or limited supervised field experiences in Missouri. Field experiences originating from campus-based programs are considered distance education for the purposes of participation in SARA if they place fewer than ten students per program cohort and do not involve multi-year contracts between the institution and a location within the host state.

(U) “Portal agency” means the single agency designated by each SARA member state to serve as the interstate point of contact for SARA questions, complaints and other communications. The Missouri Department of Higher Education is the portal agency for the State of Missouri.

(V) “Regional compact” means the New England Board of Higher Education, Midwestern Higher Education Compact, Southern Regional Education Board or Western Interstate Commission for Higher Education. The Midwestern Higher Education Compact is the regional compact to which Missouri is a signatory.

(W) “SARA” means the State Authorization Reciprocity Agreement, which is an agreement among member states, districts and territories that establishes comparable national standards for interstate offering of postsecondary distance education courses and programs.

(X) “State” means any state, commonwealth, district, or organized territory of the United States.

(Y) “Supervised field experience” means a student learning experience under the oversight of a supervisor, mentor, faculty member or other qualified professional, located in the host state, who has a direct or indirect reporting responsibility to the institution where the student is enrolled, whether or not credit is granted. Examples include practica, student teaching or internships. Independent off-campus study by individual students not engaged in a supervised field experience does not constitute a physical presence of a postsecondary institution in a SARA member state.

(2) Responsibilities of the Missouri Department of Higher Education (MDHE).

(A) Consistent with M-SARA requirements, MDHE shall—

1. Serve as the primary point of contact for Missouri institutions participating in SARA for any issues that may arise between the institution and other SARA member states;

2. Serve as the point of contact for all other SARA member states and their agencies for questions about SARA within Missouri;

3. Determine whether a Missouri institution is eligible for participation in SARA, and lead any investigations regarding whether an institution is in compliance with SARA rules and policies; and

4. Serve as the contact point for complaints about any institutions in the state that are operating under SARA.

(B) MDHE will require each Missouri applicant institution to apply for state approval using the standard SARA institutional application including the agreement to operate under the C-RAC guidelines.

(C) MDHE will review applications for renewal of approval to participate in SARA on an annual basis.

(D) MDHE will recommend, and the Coordinating Board for Higher Education (CBHE) will approve, an annual fee schedule that provides sufficient funds to cover the administrative costs for oversight of SARA.

(E) MDHE will verify institutional accreditation by an accrediting body recognized by the U.S. Department of Education. Such accreditation is considered by MDHE to be sufficient initial evidence of academic quality for approving institutions for participation in SARA.

(F) MDHE will accept applications from accredited degree-granting institutions of all sectors. Applications are approved based on the same criteria regardless of sector.

(G) For non-public institutions, MDHE will accept an institutional federal financial responsibility rating of 1.5 or above as sufficient evidence of financial stability to qualify for participation in SARA.

(H) In the event an institution does not participate in federal Title IV financial aid, and therefore has no federal financial responsibility rating, MDHE will calculate this rating before allowing an institution to participate in SARA.

1. For an institution with a financial responsibility rating of 1.0 to 1.4, MDHE will consider the institution for participation in SARA if the institution provides one of the following:

A. A performance bond or irrevocable letter of credit in an amount equivalent to the unearned tuition of SARA students, or

B. Evidence and commitment of sufficient financial resources available to the institution to meet the above requirement.

2. MDHE will not consider an initial or renewal application for participation in SARA from an institution with a financial responsibility rating less than 1.0.

(I) In the event of an unanticipated closure or natural disaster impacting a campus, MDHE will work with the institution to develop and approve a plan for the protection of student records. All Missouri institutions participating in SARA must agree to provide a comprehensive plan for providing students with opportunities to complete their education program and for preservation of student records upon request from the MDHE.

(3) Institutional Responsibilities.

(A) Missouri institutions seeking participation in SARA must hold proper authorization from Missouri to offer postsecondary education, hold accreditation from an accrediting association recognized by the U.S. Department of Education, and maintain minimally accepted financial responsibility scores. (See Responsibilities of MDHE)

(B) Any Missouri institution operating under SARA that offers courses or programs potentially leading to professional licensure must keep all students and potential students informed as to whether such offerings actually meet state licensing requirements. An email dedicated solely to this purpose and sent to the student's best known e-mail address meets this requirement. The institution should use other means to notify the student if needed. SARA eligibility of the course or program offered will result for failure to provide proper notice in one of the two ways listed below.

1. The institution will notify the applicant or student in writing that the institution has determined the course or program meets the requirements for professional licensure in the state where the applicant or student resides, or

2. The institution will notify the applicant or student in writing that the institution cannot confirm the course or program meets requirements for professional licensure in the student's state. The institution must provide the student with current contact information for any applicable licensing boards and advise the student to determine whether the program meets requirements for licensure in the state where the student resides. Such contact information may include but is not limited to the current, active website of the applicable licensing board.

(C) In order to maintain approval, an institution must agree to:

1. Abide by the *Interregional Guidelines for the Evaluation of Distance Education* adopted by the Council of Regional Accrediting Commissions, as summarized below:

A. Online learning is appropriate to the institution's mission and purposes.

B. The institution's plans for developing, sustaining, and, if appropriate, expanding online learning offerings are integrated into its regular planning and evaluation processes.

C. Online learning is incorporated into the institution's systems of governance and academic oversight.

D. Curricula for the institution's online learning offerings are coherent, cohesive, and comparable in academic rigor to programs offered in traditional instructional formats.

E. The institution evaluates the effectiveness of its online learning offerings, including the extent to which the online learning goals are achieved, and uses the results of its evaluations to enhance the attainment of the goals.

F. Faculty responsible for delivering the online learning curricula and evaluating students' success in achieving the online learning goals are appropriately qualified and effectively supported.

G. The institution provides effective student and academic services to support students enrolled in online learning offerings.

H. The institution provides sufficient resources to support and, if appropriate, expand its online learning offerings.

I. The institution assures the integrity of its online offerings.

2. Be responsible for the actions of any third-party providers used by the institution to engage in operations under SARA.

3. Notify MDHE of any negative changes to its accreditation status or financial stability.

4. Provide data necessary to monitor SARA activities, as determined by MDHE.

5. Submit annual participation fees as appropriate to NC-SARA and MDHE.

6. Make the institution and MDHE's complaint resolution policies readily available to applicants and students for coursework under SARA provisions. Readily available in this context means published as part of the institution's catalog or student handbook and/or published on the institution's website.

7. Work with MDHE to resolve any complaints arising from its students in SARA states and to abide by decisions of MDHE. Complaints must follow the institution's customary resolution procedure prior to being referred to MDHE under SARA procedures. Under SARA, MDHE will not accept complaints more than two years after the incident, complaints regarding grade appeals, or appeals related to student conduct violations. Complaints concerning criminal misconduct should be filed directly with local law enforcement authorities. Complaints relating to violations of Federal law should be filed directly with the Federal agency having jurisdiction over the matter in question (e.g., complaints regarding federal financial aid should be filed with the U.S. Department of Education).

8. Agree, in cases where the institution cannot fully deliver the instruction for which a student has contracted, to provide a reasonable alternative, as determined by MDHE, for delivering the instruction or reasonable financial compensation, as determined by MDHE, for the education the student did not receive.

(4) Complaint Process.

(A) If MDHE receives a complaint about a Missouri institution, the complainant will be contacted by MDHE staff (Academic Affairs or Proprietary School Certification, as appropriate) to determine if the complainant has exhausted the grievance process at the institution.

(B) If the institutional grievance process has been completed, MDHE will provide appropriate forms to file a formal complaint against the institution. If the complainant has not utilized the institutional remedies available, the individual will be directed to contact the institution to seek resolution.

(C) The formal complaint must be submitted in writing using the form provided by MDHE. The complaint may be mailed or faxed and must include supporting materials as well as documentation verifying institutional remedies have been exhausted. MDHE staff will acknowledge receipt of the formal complaint in writing.

(D) SARA-related complaints that fall within the jurisdiction of the department will be investigated and resolved as appropriate by the relevant unit of MDHE. SARA applies solely to those complaints resulting from distance education courses offered by participating institutions to students in other SARA states. It does not apply to distance education activity inside Missouri or to on-ground campuses. Complaints concerning criminal misconduct will be referred to local law enforcement authorities. Complaints relating to violations of Federal law will be referred to the Federal agency having jurisdiction over the matter in question.

(E) Institutions will provide a response to the complaint within 10 working days of official notification by MDHE.

(F) All parties to the complaint will be notified of its resolution by mail.

(G) MDHE will keep a log of all complaints, record the date received, the name of the complainant, the institution against which the complaint is made, a brief description of the complaint and the date and nature of its disposition.

AUTHORITY: section 173.030, RSMo 2014. Original rule file November 25, 2014.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately one hundred twelve thousand five hundred dollars (\$112,500) annually in the aggregate.

PRIVATE COST: This proposed rule will cost private entities approximately ninety-nine thousand dollars (\$99,000) annually in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Higher Education, Attn. : Laura Vedenhaupt, PO Box 1469, Jefferson City, MO 65102, or by faxing comments to (573) 751-6635. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*