

Section 4. Consumer Protection

4.1 Applicability

Provisions of the *SARA Manual* including those for consumer protection and the resolution of complaints, apply to interstate distance education offered by participating SARA institutions to students in other SARA states. Only those complaints resulting from distance education courses offered by participating institutions to students in other SARA states come under the terms of the agreement. Complaints about a SARA institution's in-state operations are to be resolved under the state's provisions, not those of SARA.

4.2 Role of Home State

SARA consumer protection provisions require the home state, through its SARA "portal" entity, to investigate and resolve allegations of dishonest or fraudulent activity by a provider, including the provision of false or misleading information.

4.3 Examples of Consumer Protection Issues

Examples of issues that may arise in regard to alleged fraudulent activity or more general complaints include, but are not limited to:

- a. Veracity of recruitment and marketing materials;
- b. Accuracy of job placement data;
- c. Accuracy of information about tuition, fees and financial aid;
- d. Complete and accurate admission requirements for courses and programs;
- e. Accuracy of information about the institution's accreditation and/or any programmatic/specialized accreditation held by the institution's programs;
- f. Accuracy of information about whether course work meets any relevant professional licensing requirements or the requirements of specialized accrediting bodies;
- g. Accuracy of information about whether the institution's course work will transfer to other institutions; and
- h. Operation of distance education programs consistent with practices expected by institutional accreditors (and, if applicable, programmatic/specialized accreditors) and/or the C-RAC *Guidelines* for distance education.

4.4 Responsibilities for resolving complaints. Initial responsibility for the investigation and resolution of complaints resides with the institution against which the complaint is made. Further consideration and resolution, if necessary, is the responsibility of the SARA portal entity, and other responsible agencies of the institution's home state (see the following section: Complaint Resolution Processes).

The portal entity is responsible for staffing the investigation and resolution of complaints that are not resolved at the institutional level. (The portal entity may enlist the assistance of other responsible entities in the state in carrying out the work of complaint resolution.)

Institutions operating under SARA shall provide their and SARA's complaint resolution policies and procedures to all students taking courses under SARA provisions.

EXPLANATORY NOTES

N1 - If a home state does not currently handle investigations and consumer protection for all of its distance education providers, will the home state need to start doing that?

Yes. SARA centralizes primary responsibility for problem-solving in the home state, therefore the home state needs to be prepared to handle a larger volume of communication and issues for its domiciled providers, even as its work with providers based in other states decreases. See federal rules for possible additional requirements.

N2 - Is the state portal entity ultimately responsible for ensuring that a valid complaint results in proper redress?

Yes. Although the portal entity can delegate responsibility to investigate and resolve such complaints to another government agency (e.g., a Board of Regents) or to a special body created to handle SARA complaints for a group of institutions, SARA requires that the portal entity have and retain the function of hearing any appeals from decisions made by other agencies. The portal entity cannot merely have advisory powers; it must have the formal authority to provide final resolution of complaints and ultimately to remove any institution, public or private, from the state's list of SARA-eligible providers if that institution fails to abide by SARA policies and standards.

N3 - If a state joins SARA, does the state give up its ability to investigate misrepresentation, fraud or other illegal activity by colleges based in other states?

No. A state retains the ability to use any of its *general-purpose* criminal or consumer protection laws against a college that violates those laws. What the state gives up is the ability to apply to SARA institutions laws specifically directed at colleges offering distance-education activity into the state; such oversight is centralized by SARA policy in the college's home state.

N4 - If a student signs an arbitration clause with an institution requiring that the student resolve complaints solely through that method, does that prevent a student from bringing a complaint to SARA?

No. Arbitration agreements generally do not pertain to SARA policy issues. Disputes between students and institutions are to be resolved by the portal entity or through other means. A student may, however, bring to SARA any issue that potentially involves a violation of SARA standards or policies. Institutions that choose to operate under SARA accept a student's right to bring complaints about violation of SARA standards and policies through the SARA process.

4.5 Process for Resolving Complaints

- a. Complaints against an institution operating under SARA go first through the institution's own procedures for resolution of grievances.
- b. Complaints regarding student grades or student conduct violations are governed entirely by institutional policy and the laws of the SARA institution's home state.
- c. If a person bringing a complaint is not satisfied with the outcome of the institutional process for handling complaints, the complaint (except for complaints about grades or student conduct violations) may be appealed, within two years of the incident about which the complaint is made, to the SARA portal entity in the home state of the institution against which the complaint has been lodged. That entity shall notify the SARA portal entity for the state in which the student is located of receipt of that appealed complaint. The resolution of the complaint by the institution's home state

SARA portal entity, through its SARA complaint resolution process, will be final, except for complaints that fall under the provisions of (g), below.

- d. While the final resolution of the complaint rests with the SARA portal entity in the home state of the institution against which the complaint has been lodged, the portal entity in the complainant's location state may assist as needed. The final disposition of a complaint resolved by the Home State shall be communicated to the portal entity in the state where the student lived at the time of the incident leading to the complaint, if known to the institution's Home State.
- e. While final resolution of complaints (for purposes of adjudication of the complaint and enforcement of any resultant remedies or redress) resides in certain cases with institutions (complaints about grades or student conduct violations), or more generally with the relevant institution's home state SARA portal entity (all other complaints), the regional compact(s) administering SARA may consider a disputed complaint as a "case file" if concerns are raised against a participating state with regard to whether that state is abiding by *SARA Policies and Standards*. The regional compact may review such complaints in determining whether a state under its purview is abiding by the SARA standards. Similarly, a complaint "case file" may also be reviewed by NC-SARA in considering whether a regional compact is ensuring that its member states are abiding by the SARA standards required for their participation in the agreement.
- f. SARA portal entities shall report quarterly to NC-SARA the number and disposition of complaints that are not resolved at the institutional level. Such data will create transparency and can be used in determining whether a regional compact is ensuring that its SARA member states and those states' institutions are abiding by the standards required for participation in the agreement.
- g. Nothing in *SARA Policies and Standards* precludes a state from using its laws of general application to pursue action against an institution that violates those laws.

4.6 Oversight of complaint investigation. Complaints handled under SARA must comply with procedures established in federal rules. Investigation of a SARA-related complaint against an institution requires that a state board, agency or entity outside the institution's immediate management be available to handle complaints that are not resolved within the institution. A system board responsible for more than one separately accredited institution may serve this role under SARA provisions. A board responsible for only one accredited institution, or which lacks enforcement authority over an institution, cannot serve as the SARA external oversight agency for such an institution. In such circumstances, the institution's home-state SARA portal entity may serve that function.

4.7 Incorporation and use of C-RAC Guidelines

Consumer protection within SARA, in addition to dealing with alleged fraudulent activity, also provides for the investigation and resolution of complaints that an institution is operating a course or program contrary to practices set forth in the *C-RAC Guidelines* in such a way that a student is harmed. (The *Interregional Guidelines for the Evaluation of Distance Education [Online Learning]* are referred to as "*C-RAC Guidelines*" in this document). *C-RAC Guidelines* adopted by the Council of Regional Accrediting Commissions

are incorporated in the requirements of SARA as standards. States that join SARA need to base their oversight of SARA activity and their investigative actions on the following expectations.⁶ The president or chief academic officer of each institution participating in SARA (whether accredited by a “regional” or other recognized accreditor) shall attest that their institution meets and agrees to comply with the following C-RAC provisions.

- 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 the 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.

EXPLANATORY NOTES

N1 - Is the requirement under SARA that a state have a complaint process for all of its institutions something that SARA invented?

No. The requirement that states have such a complaint process is found in 34 CFR 600.9(a)(1) (as amended in 2010).

⁶ The complete C-RAC framework and examples of good practices shall be made a part of the institutional application process. The numbering system used in this section is retained from the C-RAC framework.