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## Commonwealth of Virginia Policy on the Reciprocal Authorization of Distance Education and Related Activities

Adopted: July 22, 2014

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- I. Pursuant to Code of Virginia § 23-9.14:3, Code of Virginia § 23-276 (esp. § 23-276.3), and Virginia Administrative Code 8VAC40-31 (esp. 8VAC40-31-290), this policy describes authorities, responsibilities, perquisites, and obligations that pertain to SCHEV, Virginia in-state institutions, and out-of-state institutions according to terms of the State Authorization Reciprocity Agreement (SARA) as administered by the Southern Regional Education Board (SREB) and the National Council on State Authorization Reciprocity Agreements (NC-SARA). The purpose of SARA is to afford an efficient system for institutions offering distance education to receive authorization from states other than their home state, by placing the responsibility for regulation, quality assurance, and student protection on the institution's home state. To that end, and in accord with its authority under Code of Virginia § 23-9.14:3, SCHEV pledges:
- to oversee the participation of eligible Virginia institutions in SARA according to all applicable standards of quality and student protection; and
  - to respect the authorization and oversight provided by the home states of out of state members of SARA, and to allow such institutions to operate in Virginia according to the terms of SARA.
- II. The Director of SCHEV is authorized to act on behalf of the Commonwealth of Virginia, its higher education institutions, and the students of its institutions in all matters related to Virginia's participation in SARA, including—but not necessarily limited to—any regional or national agreements and processes established by SREB and/or NC-SARA. The authority of the Director shall include—but not necessarily be limited to—the following functions and activities:
- to apply for Virginia to be a member of SARA, through procedures established by SREB;
  - to establish administrative processes necessary for SCHEV to satisfy terms of Virginia's membership in SARA;
  - to delegate to SCHEV staff whatever responsibilities, obligations, or authorities s/he judges necessary for the administration of Virginia's participation in SARA;

- to set fees to be paid by Virginia SARA institutions to cover direct and indirect costs incurred by SCHEV in the administration of SARA;
- to establish the State Reciprocity Advisory Council (SRAC), composed of a representative from each Virginia SARA institution, and to consult with it on all aspects of Virginia’s participation in SARA; and
- to make revisions to this policy that may be necessary to maintain Virginia’s participation in SARA in good standing, and to report such revisions to Council as “Delegated Items.” (Any revisions that would significantly alter the terms of this policy, and/or require other changes to Virginia regulation or law, shall be approved by Council action.)

III. Membership in SARA for Virginia institutions.

SCHEV shall be responsible for approving Virginia institutions for membership in SARA, and overseeing their ongoing compliance with terms of membership.

- A. Eligibility. In order to be eligible to apply to SCHEV for SARA membership, an institution must
- be accredited as a degree-granting institution of higher education by an accreditor recognized by the U.S. Department of Education (USED);
  - be authorized to operate in Virginia as an in-state institution; and
  - if not a public institution, document a composite score of at least 1.5 out of 3.0 on the USED financial stability scale.

Any institution not satisfying all three of the above conditions shall be deemed ineligible to apply to SCHEV for SARA membership.

- B. Approvability. In addition to basic eligibility criteria listed above, in order to be approved for SARA membership, each applicant institution must document to SCHEV in accord with guidelines developed for the purpose by NC-SARA, SREB, and/or SCHEV:
- that the institution accepts and adheres to the *Interregional Guidelines for the Evaluation of Distance Education (Online Learning)* adopted by the Council of Regional Accrediting Commissions;
  - that the institution has an appropriate student complaint resolution process, which includes acceptance of SCHEV oversight in resolving complaints from students taking distance education under the aegis of SARA; and
  - that the institution understands and accepts the scope of authorization provided under SARA according to the NC-SARA document *State Authorization Reciprocity Agreements—Policies and Standards.*
- C. A Virginia SARA institution found to be non-compliant with one or more terms of SARA membership will be notified by SCHEV staff and given opportunity to come into compliance. Repeated and/or chronic instances of non-compliance shall

result in removal of the institution from SARA. Such removal shall be accomplished by action of Council, and shall not be subject to further appeal.

IV. Authorization and Privileges/Obligations of Out of State Institutions Operating in Virginia under the aegis of SARA.

A. In accord with its authority under above-cited sections of the Code of Virginia and Virginia Administrative Code, SCHEV grants to SARA institutions from other states the ability to engage in the following activities within the Commonwealth of Virginia without triggering physical presence or otherwise necessitating certification to operate in Virginia, subject to the exception described in IV.B below:

- i. Offering “a short course or seminar [that] takes no more than 20 classroom hours. Class meetings during a full-term course do not trigger physical presence if the instructor and students physically meet together for no more than two meetings, totaling less than six hours.” (NC-SARA *Policies and Standards* document, page 7, dated February 10, 2014)
- ii. The following list of activities excerpted from the NC-SARA *Policies and Standards* document (page 11, dated February 10, 2014):
  - a. *Offering courses to individuals via distance education in ways that do not require students to gather physically in groups...;*
  - b. *Advertising to students whether through print, billboard, direct mail, internet, radio, television or other medium;*
  - c. *Offering distance education courses on a military base if enrollment in such courses is limited to federal employees and family members;*
  - d. *Maintaining a server, router or similar electronic service device housed in a facility that otherwise would not constitute physical presence (the presence of a server or similar pass-through switching device does not by itself constitute the offering of a course or program in that state);*
  - e. *Having faculty, adjunct faculty, mentors, tutors, or other academic personnel residing in a member state (the presence of instructional faculty in a state, when those faculty teach entirely via distance-education and never meet their students in person, does not establish physical presence for purposes of this agreement);*
  - f. *Holding proctored exams on behalf of the institution in the host state;*
  - g. *Having contractual arrangements in the home or host state.*
  - h. *Offering educational field experiences for students, including an educational field trip arranged for a group of students that are normally in residence at an institution in another state;*
  - i. *Operating limited supervised field experiences. For purposes of this agreement, interstate supervised field experiences originating from campus-based programs in a member state are considered to be distance education and not to establish physical presence if they:*

- A. *place fewer than ten students from each program in a member state who are physically present simultaneously at a single facility or site in a host state, and*
  - B. *do not involve any multi-year contract between a sending institution and a field site.*
  
- B. The enablements described in IV.A above are not intended to, and do not in fact, supersede, override, or otherwise replace any regulation or provision of law that may apply to any licensure-qualifying programs in the Commonwealth of Virginia. Any SARA institution from another state intending to offer programming to residents of Virginia in a licensure-qualifying discipline is responsible for determining with the relevant board or agency its requirements for operating in Virginia. In the case of conflict, requirements of any such Virginia board or agency shall take precedence over any and all enablements delineated in IV.A above.