

STATE BOARD OF EDUCATION
Consent Item
September 13, 2017

SUBJECT: Approval of New Rules for the Postsecondary Reciprocal Distance Education Coordinating Council

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Sections 1000.35(3)(j), (10), Florida Statutes (Chapter 2017-87, Laws of Florida)

EXECUTIVE SUMMARY

The Postsecondary Reciprocal Distance Education Coordinating Council (Council) was established by the legislature in 2017. Its function is to administer Florida's participation in a reciprocity agreement with other states for the delivery of postsecondary distance education. The Commissioner of Education serves as the Council's chair. Its additional members are the Chancellor of the State University System, the Chancellor of the Florida College System, the executive director of the Commission for Independent Education, and the president of the Independent Colleges and Universities of Florida.

One of the Council's functions is to recommend rules to the State Board of Education for approval. On August 3, at a public meeting, the Council approved the attached rules. The proposed rules are necessary in order for Florida to join the entity that administers a reciprocity agreement among 47 states.

The proposed rules govern Florida institutions' participation in distance education through NC-SARA's agreement. The rules provide for an institution's application to participate; criteria for the Council's approval of that application; annual renewals of the Council's approval; requirements of the institution's participation; and establishes fees associated with these activities. Participation in NC-SARA's reciprocity agreement will enable a Florida institution to deliver distance education to students residing in any of the 47 other member states without seeking separate authorization from the other states.

Supporting Documentation Included: Proposed Rules 6N-1.001, Definition of Terms; 6N-1.002, Approval of In-State Institutions to Participate in NC-SARA; 6N-1.003, Provisional Approval; 6N-1.004, Annual Renewal of Approval of In-State Institutions to Participate in Florida's reciprocity agreement; 6N-1.005, Annual Fees for In-State Institutions to Participate in Florida's reciprocity agreement; 6N-1.006, Student Complaints Against In-State Member Institutions; and 6N-1.007, Termination of an In-State Institution's Participation in Florida's reciprocity agreement. Form 1000, Application and Approval Form for Institutional Participation in SARA; Form 1001, Renewal Application for Institutional Participation in SARA; and Form 1002, FL-SARA Fee Transmittal Form (under separate cover)

Facilitator: Morgan Champion, Director, Postsecondary Reciprocal Distance Education

6N-1.001 Definition of Terms

Terms used in these rules are defined in Section 1000.35, F.S.

- (1) “Accredited” means holding institutional accreditation by name as a U.S.-based institution from an accreditor recognized by the U.S. Department of Education.
- (2) “Council” means the Postsecondary Reciprocal Distance Education Coordinating Council.
- (3) “C-RAC guidelines” mean the Interregional Guidelines for the Evaluation of Distance Education adopted by the Council of Regional Accrediting Commissions.
- (4) “Distance Education” means instruction offered by any means where the student and faculty member are in separate physical locations, including, but not limited to, online, interactive video, or correspondence courses or programs.
- (5) “In-State institution” means an institution of higher education that holds its legal domicile in the State.
- (6) “Member institution” means a postsecondary educational institution approved by the Council to participate in a reciprocity agreement.
- (7) “National Council for State Authorization Reciprocity Agreement” or “NC-SARA” means the national organization that administers the State Authorization Reciprocity Agreement.
- (8) “State Authorization Reciprocity Agreement” or “SARA” means the agreement specifying procedures and conditions for reciprocal recognition of institutions approved to provide distance education by states that are members of NC-SARA.
- (9) “Student” means the recipient or intended recipient of postsecondary educational activities as provided under the State Authorization Reciprocity Agreement.

Rulemaking Authority 1000.35(10), FS. Law Implemented 1000.35(3), (5)-(7), FS. History–New

6N-1.002 Approval of In-State Institutions to Participate in NC-SARA

- (1) An in-State institution seeking approval to participate in SARA shall submit an application to the Council on Form 1000, Application and Approval Form for Institutional Participation in SARA (DOS link), effective October 2017. This form is incorporated by reference and may be obtained without cost from the Council’s website at www.flara.org or by writing to the Commission for Independent Education at 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400.

(2) The Council shall, upon receipt of an in-State institution's complete application to participate in NC-SARA, approve the application if:

(a) The applicant is an in-State institution authorized to operate in Florida pursuant to law;

(b) If a private institution, an audited financial statement showing the financial responsibility composite score;

(c) The applicant is accredited;

(d) The institution, if it participates in federal Title IV financial aid, and has a federal financial responsibility rating of at least 1.5; or has a federal financial responsibility composite score of 1.0 to 1.5, and the Council has determined, upon examination of additional financial information, that either the institution has sufficient financial strength for state authorization or that the score between 1.0 and 1.5 results from an accounting error or the misapplication of General Accepted Accounting Standards in calculating the score. This alternative shall only be available for two (2) consecutive years. An institution whose composite score remains below 1.5 for three (3) years or longer shall no longer be eligible for participation in SARA;

(e) The institution, if it does not participate in federal Title IV financial aid, would, in the determination of the Council, have a federal financial responsibility rating of at least 1.5, or, with justification deemed acceptable by the Council, at least 1.0; and

(f) The institution makes its state authorization-related complaint policies and procedures readily available to students, and informs students that they may appeal state authorization-related complaints to the Council pursuant to this rule.

(g) For any course or program potentially leading to professional licensure: the institution notifies students and potential students that the course or program meets the licensing requirements of the state where the students or potential students reside; or the institution notifies students and potential students that it cannot confirm whether the course or program meets the licensing requirements of the state where the students or potential students reside, provides students and potential students with current contact information for applicable licensing boards, and advises students and potential students to determine whether the course or program meets state licensing requirements;

(h) The provisional approval criteria in 6N-1.003, F.A.C., do not apply; and

(i) The applicant has paid the fee required in 6N-1.005, F.A.C.

Rulemaking Authority 1000.35(10), FS. Law Implemented 1000.35(3), (5)-(7), FS. History--New

6N-1.003 Provisional Approval

(1) The Council shall, upon receipt of an in-State institution's complete application to participate in SARA, approve the institution to participate in SARA on a provisional status if the institution meets the requirements of this rule chapter, but:

(a) Is on probationary status or the equivalent with its institutional accrediting association;

(b) Uses a letter of credit or is under a cash management agreement with the U.S. Department of Education;

(c) 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

(d) Is the subject of an investigation by the State related to the institution's academic quality, financial stability, or student consumer protection.

(2) Terms and Length of Provisional Status.

(a) An in-State institution approved to participate in SARA on provisional status shall meet any requirements the Council deems necessary, including enrollment limits, to ensure state authorization standards are met regarding program quality, financial stability, and consumer protection.

(b) The length of the provisional status of an in-State institution approved to participate in SARA shall be determined by the Council and may not exceed one (1) year.

(3) Application for Removal of Provisional Status.

(a) If an in-State institution approved to participate in SARA on provisional status no longer meets the provisional status criteria set forth in subsection (1) of this rule, it may submit a written request to the Council for removal of its provisional status designation and approval as a SARA member institution.

(b) The Council shall grant the request if the criteria justifying provisional status no longer apply, and if the institution meets the requirements of 6N-1.002, F.A.C.

(c) If the Council determines that an in-State institution approved to participate in SARA on provisional status no longer meets the requirements of their provisional approval or fails to gain full approval by the deadline established by the Council, the Council shall:

1. Terminate the institution's reciprocity agreement; or

2. Allow the institution a grace period of twelve (12) months to come into compliance with the reciprocity

agreement standards.

(4) In any 3-year period, the Council may grant an institution only one (1) grace period in which to correct non-compliance under this rule.

Rulemaking Authority 1000.35(10), FS. Law Implemented 1000.35(3), (6)-(7), FS. History--New

6N-1.004 Annual Renewal of Approval of In-State Institutions to Participate in Florida's Reciprocity agreement

(1) An in-State institution shall apply to the Council annually on Form 1001, Renewal Application for Institutional Participation in SARA (DOS link), effective October 2017. This form is incorporated by reference and may be obtained without cost from the Council's website at www.flara.org or by writing to the Commission for Independent Education at 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400.

(2) The Council shall approve the renewal application if the in-State institution continues to meet the requirements set forth in this rule chapter.

(3) An in-State institution approved to participate in SARA on provisional status may not renew its provisional status.

Rulemaking Authority 1000.35(10), FS. Law Implemented 1000.35(3), (6)-(7), FS. History--New

6N-1.005 Annual Fees for In-State Institutions to Participate in Florida's Reciprocity Agreement

(1) An in-State institution shall pay annually the application and renewal fees set forth in this rule including fees to the Council and fees to NC-SARA. The institution shall submit shall submit a FL-SARA Fee Transmittal Form to the Council on Form 1002 (DOS link), effective October 2017. This form is incorporated by reference and may be obtained without cost from the Council's website at www.flara.org or by writing to the Commission for Independent Education at 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400.

(2) Fees to the Council.

(a) For institutions with fewer than 2,500 full-time equivalent enrollment, the annual, nonrefundable fee due to the Council is \$1,500.

(b) For institutions with between 2,500 and 9,999 full-time equivalent enrollment, the annual, nonrefundable fee due to the Council is \$3,000.

(c) For institutions with 10,000 or more full-time equivalent enrollment, the annual, nonrefundable fee due to the Council is \$4,500.

(3) Fees to NC-SARA. Fees due annually to NC-SARA to participate in SARA are prescribed by the National Reciprocity Agreement. Fees paid by institutions to NC-SARA are independent of and in addition to those due to the Council under subsection (2) of this rule. Failure to pay fees to the NC-SARA shall render the institution's approval in Florida null and void.

Rulemaking Authority 1000.35(10), FS. Law Implemented 1000.35(3), (5)-(7), FS. History--New

6N-1.006 Student Complaints Against In-State Member Institutions

(1) A student who receives distance education from an in-State member institution may, after the student has exhausted the institution's procedures for the resolution of grievances, and within two (2) years of the incident about which the complaint is made, file a written complaint to the Council, which shall include:

(a) Institution name;

(b) Type of student;

(c) Enrollment dates;

(d) Program Credential;

(e) Program Name;

(f) Student Name;

(g) Address;

(h) Phone;

(i) Email;

(j) Description of complaint;

(k) Description of resolution the complainant is seeking; and

(l) The complaint may be made alleging that the institution:

1. Has engaged in dishonest or fraudulent activity; or

2. Has operated a course or a program contrary to practices set forth in the C-RAC guidelines in a way that has harmed the student.

(2) A student is authorized under this rule to complain that the institution provided false or misleading:

(a) Recruitment or marketing materials;

(b) Job placement data;

(c) Information about tuition, fees, or financial aid;

(d) Information about admission requirements;

(e) Information about the institution's accreditation;

(f) Information about whether course work meets relevant professional licensing requirements or the requirements of specialized accrediting bodies; or

(g) Information about the transferability of course work to other institutions.

(3) The Council shall send a copy of a complaint received under subsection (2) of this rule to the institution that is the subject of the complaint.

(4) Within thirty (30) days of the date that the Council sends a copy of a complaint received under subsection (3) of this rule to an institution, the institution shall provide a written response addressing all of the allegations and the institutions resolution thereof.

(5) Within thirty (30) days of the date the Council reviews the institution's response under subsection (4) of this rule, or if the Council receives no response under subsection (2) of this rule, the Council shall issue a notice to the institution containing:

(a) The Council's findings regarding the complaint;

(b) The actions that the institution shall take, if any, to comply with the requirements set forth in this rule; and

(c) The consequences of failing to take the actions prescribed by the Council, which may include the termination of the institution's participation in the reciprocity agreement outlined in 6N-1.002 of this rule.

Rulemaking Authority 1000.35(10), FS. Law Implemented 1000.35(3), (6)-(7), FS. History--New

6N-1.007 Termination of an In-State Institution's Participation in Florida's Reciprocity Agreement

(1) If the Council finds that an in-State member institution fails to meet the requirements of this rule chapter, the Council may:

(a) Issue a notice of deficiencies to the institution; or

(b) If the institution meets the requirements of 6N-1.003, F.A.C., permit the institution to participate in Florida's reciprocity agreement on provisional status, subject to the requirements of 6N-1.003, F.A.C.

(2) Within twenty (20) days of receipt of the notice of deficiencies, the institution shall respond in writing to the Council, setting forth the institution's objections to the Council's findings.

(3) Within twenty (20) days of review of the institution's written response to the notice of deficiencies, or if the Council receives no written response, the Council shall issue a decision on whether to terminate the institution's participation in Florida's reciprocity agreement.

Rulemaking Authority 1000.35(10), FS. Law Implemented 1000.35(3), (6)-(7), FS. History--New