

CHAPTER 6N-1
POSTSECONDARY RECIPROCAL DISTANCE EDUCATION COORDINATING COUNCIL

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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) "Investigation" means any governmental action taken by an agency under the authority of the State of Florida.

(7) "Member institution" means a postsecondary educational institution approved by the Council to participate in a reciprocity agreement.

(8) "National Council for State Authorization Reciprocity Agreement" or "NC-SARA" means the national organization that administers the State Authorization Reciprocity Agreement.

(9) "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.

(10) "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 10-17-17, Amended 5-5-20.

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 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-11910>), effective May 2020. This form is incorporated by reference and may be obtained without cost from the Council's website at www.flrules.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 Rule 6N-1.006, F.A.C.

(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 Rule 6N-1.003, F.A.C., do not apply; and,

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

Rulemaking Authority 1000.35(10) FS. Law Implemented 1000.35(3), (5)-(7) FS. History—New 10-17-17, Amended 5-5-20.

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 also meets one of the following:

(a) The Institution is on provisional or probationary status or the equivalent with its institutional Accrediting Agency;

(b) The Institution is currently required by the U.S. Department of Education to post a letter of credit or is under a cash management agreement with the U.S. Department of Education (Such institutions must still have a Federal Financial Responsibility Composite Score of 1.0 or above.);

(c) The Institution has a Federal Financial Responsibility Composite Score between 1.0 and 1.5;

(d) 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;

(e) The Institution is the subject of a current investigation by its Home State relating to the institution's academic quality, financial stability or student consumer protection;

(f) However, a third-party action such as a private lawsuit or news story does not by itself establish a government investigation. If such a third-party event results in an investigation by a government agency as set forth in subsections d and e above, these subsections become applicable. Lawsuits by government entities are considered to have resulted from a governmental investigation and can be the basis of a determination of Provisional Status.

(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 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) Provisional status of an institution between renewal periods. The Council may place an institution on provisional status at any time if the institution is subject to any conditions set forth in subsection (1) of this rule or if the institution's financial composite score falls between a 1.0 and 1.5.

(4) 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 Rule 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 direct that the institution cease enrollments of students under the reciprocity agreement and:

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.
- (5) 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 10-17-17, Amended 9-18-18, 5-5-20.

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 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-11911>), effective May 2020. This form is incorporated by reference and may be obtained without cost from the Council's website at [www.flrules.org](http://www.flrules.org/Gateway/reference.asp?No=Ref-11911) 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) If a private institution, audited financial statement shall accompany the renewal application. The financial statement must show the financial responsibility score in accordance with paragraph 6N-1.002(2)(b), F.A.C.

(4) 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 10-17-17, Amended 9-18-18, 5-5-20.

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 a FL-SARA Fee Transmittal Form to the Council on Form 1002 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-13307>), effective July 2021. This form is incorporated by reference and may be obtained without cost from the Council's website at [www.flrules.org](http://www.flrules.org/Gateway/reference.asp?No=Ref-13307) 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. Fees are based on the student data reported to the Integrated Postsecondary Education Data System (IPEDS) annually. An Institution that does not report to IPEDS is authorized to utilize its most recent actual full-time equivalent enrollment to determine the appropriate fee.

(a) For institutions with fewer than 2,500 full-time equivalent enrollment, the annual, nonrefundable fee due to the Council is \$1,250.

(b) For institutions with between 2,500 and 9,999 full-time equivalent enrollment, the annual, nonrefundable fee due to the Council is \$2,750.

(c) For institutions with 10,000 or more full-time equivalent enrollment, the annual, nonrefundable fee due to the Council is \$4,250.

(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 10-17-17, Amended 9-18-18, 7-14-21.

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 Rule 6N-1.002, F.A.C.

Rulemaking Authority 1000.35(10) FS. Law Implemented 1000.35(3), (6)-(7) FS. History—New 10-17-17.

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 Rule 6N-1.003, F.A.C., permit the institution to participate in Florida's reciprocity agreement on provisional status, subject to the requirements of Rule 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 10-17-17.

6N-1.008 Appeals.

- (1) Section 1000.35 F.S. exempts Council decisions from Chapter 120 F.S. Therefore, parties seeking administrative review of proposed agency action by the Council shall follow the rules outlined herein.
- (2) The Council shall issue a Notice of Action to institutions for proposed council action to be taken against the institution seeking approval to participate in the State Authorization Reciprocity Agreement "SARA". The Notice of Action shall state the grounds upon which the Council's proposed action is based and state that the institution has the right to appeal the proposed council action. The Notice of Action shall be sent to the institution by certified mail, return receipt requested.

(3) The following council actions taken against the institution are appealable:

- (a) A denial of an application for initial participation;
- (b) A denial of an application for renewal of participation;
- (c) A denial of an institution's claim for reimbursement; or,
- (d) A claim against an institution for remittance of a payment;

(4) The institution shall have ten (10) days to appeal the Council action from the date the institution receives the Notice of Action.

(5) A request for appeal shall:

- (a) Be in writing;
- (b) Include the date the institution received the Notice of Action;
- (c) Include the name, address, any email address, any facsimile number, and telephone number of the institution;
- (d) Clearly identify the action being appealed;
- (e) Include a concise statement of the facts alleged, including the specific facts the institution contends warrant reversal or

modification of the Council's proposed action;

(f) A statement of the specific rules or statutes, if any, the institution contends require reversal or modification of the Council's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes;

(g) Include a statement of the relief sought by the institution;

(h) Include a copy of the Notice of Action issued; and,

(i) State whether a hearing or a review of written documentation is desired. If a hearing is not specifically requested, the appeal shall be by review of written documentation.

(6) The institution can request to review any information upon which the action was based.

(7) The institution may submit additional written documentation for review by the hearing officer either with the request for appeal or within seven (7) days of the date the institution submitted the request for appeal. The Council has seven (7) days from the date the Council received the request for appeal to submit written documentation to the designated hearing officer. Any written documentation received after the seven-day deadline will not be considered for review.

(8) The request for appeal and all written documentation should be submitted to the Council as indicated in the Notice of Action.

(9) If a hearing is requested, it shall be held within fourteen (14) days of the date the Council received the request for appeal, unless otherwise agreed to by both parties. At no time shall the hearing be held prior to the date the hearing officer receives written documentation from both parties. Failure to provide written documentation does not affect the validity of the appeal from a judgment or order. The institution shall be provided with at least five (5) days' written notice, sent via certified mail, return receipt requested, of the time and place of the hearing.

(a) The institution may represent itself or retain legal counsel. Failure of the institution's representative to appear at a scheduled hearing shall constitute the waiver of the right to a personal appearance before the hearing officer.

(b) A council attorney shall attend the hearing to respond to the institution's testimony and written documentation and to answer questions from the hearing officer.

(10) The hearing officer shall be appointed by the Council director and approved by the Council chair and shall:

(a) Be a Department of Education employee; and,

(b) Independent of the original decision-making process that led to the proposed Council action.

(11) The Council shall record the hearing through an audio or video recording device at the Council's expense.

(12) Within five (5) days after the hearing, or within five (5) days after receipt of written documentation from both parties if no hearing is held, the hearing officer shall issue a Final Determination based on a full review of the information provided by both parties, and on applicable Florida State Board of Education Rules and Florida Statutes. The Final Determination shall be sent to the institution via certified mail, return receipt requested.

(13) The Florida Rules of Civil Procedure will control time computation under this rule.

(14) The actions of the Council remain in effect during the appeal process. During any such appeal the institution's status as a SARA participating (or non-participating) institution remains unchanged.

(15) The determination made by the Department of Education's hearing officer is the final administrative determination afforded to the institution.

(16) Any party adversely affected by the determination is entitled to seek judicial review pursuant to Rule 9.110(a)(2) of the Florida Rules of Appellate Procedure, which must be initiated by filing a Notice of Appeal with the Department's Clerk. A copy shall be provided to the Director of the Council at Commission for Independent Education, 325 West Gaines Street, Suite 1414, Tallahassee, FL 32399, within thirty (30) days of the date of the determination. A copy of the Notice of Appeal, accompanied by the prescribed filing fee, must be filed with the Clerk of the District Court of Appeal in the district where the institution is located or the First District Court of Appeal at 2000 Drayton Drive, Tallahassee, Florida 32399.

Rulemaking Authority 1000.35(10) FS. Law Implemented 1000.35(3), (6)-(7) FS. History—New 12-22-20.