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May 2025 State Authorization Updates & Information [1]

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Last month, Washington Governor Bob Ferguson signed House Bill 1279 (HB 1279), which extends state-level consumer protections to residents enrolled in online programs offered by out-of-state institutions and serves as a direct challenge to the current framework of the State Authorization Reciprocity Agreement (SARA). This action by Washington highlights a growing tension between the desire for streamlined interstate educational offerings and the need for robust consumer protections. Should more states follow Washington's lead, institutions like ours may face increased regulatory complexity, potentially impacting the scalability and accessibility of online programs.

Understanding HB 1279 and Its Objectives

HB1279 is Washington's effort to address the state's concerns that SARA's existing policies may limit a state's ability to enforce its consumer protection standards on out-of-state institutions, potentially leaving students vulnerable to deceptive practices. The legislation, which you can review here [3], mandates that out-of-state institutions enrolling Washington residents in online education must comply with Washington's consumer protection laws, regardless of their home state's regulations. The law also gives NC-SARA (and any other reciprocity agreement) until July 2028 to amend its policies to align with Washington's consumer protection standards. Should NC-SARA fail to do so, Washington may reconsider its participation in SARA. These agreements must preserve the Washington Student Achievement Council's (WSAC) authority to investigate complaints, enforce standards, and maintain surety bond requirements.

The consumer protection standards that Washington will enforce on institutions like ours who may be enrolling WA students in our courses and programs shouldn't sound too unusual to any one who has been following similar conversations and arguments from the SARA Policy Modification process and federal negotiated rulemaking over the last few years. Essentially, we will have to comply with the same consumer protection standards as colleges and universities in Washington including:

- **Compliance with Washington's Minimum Standards**:Out-of-state degree-granting institutions must adhere to the Washington Student Achievement Council's (WSAC) established minimum standards. These standards encompass degree granting, educational quality, financial stability, and the prohibition of unfair business practices. Institutions must be accredited, have applied for accreditation, or have received a waiver or exemption from WSAC.
- **Maintenance of Surety Bonds or Equivalent Security**: Institutions may be required to maintain an approved surety bond or equivalent security deposit with WSAC. This financial assurance is intended to protect students in cases of institutional closure or

misconduct.
- **Expanded Complaint and Enforcement Authority**: Washington residents can file complaints with WSAC for losses due to unfair business practices, including misrepresentation of programs, accreditation, job placement statistics, or financial obligations. WSAC is authorized to investigate such complaints, issue subpoenas, conduct hearings, and enforce compliance, including ordering restitution.
- **Non-Delegation of Oversight Responsibilities**: WSAC retains full authority to oversee and enforce compliance with these standards. This authority cannot be delegated to other states, even if the institution is authorized elsewhere.

Potential Impact on Our Institutions

Colorado's participation in SARA allows its institutions to offer online programs to students in other member states without obtaining separate authorization from each state. However, Washington's HB 1279 introduces new complexities:

- **Compliance Requirements:** Even if we're approved to participate in SARA, Washington is asserting independent authority to enforce its own consumer protection laws. This means:
    - We may need to register separately with WSAC.
    - We might be required to demonstrate financial stability, educational quality, and accurate public disclosures—beyond what SARA currently requires.
- **Operational Adjustments:** Washington now has expanded enforcement power:
    - WSAC can investigate complaints from students, issue subpoenas, hold hearings, and order restitution.
    - Complaints might be triggered by marketing claims, tuition/fee disclosures, job placement representations, or program outcomes. Even if our institutions are acting in good faith, our marketing or recruiting strategies aimed at WA students will be under closer scrutiny.
    - WSAC may require institutions to maintain a surety bond or equivalent security to protect student tuition if your institution were to close or fail to deliver on promises. This is an additional financial and administrative burden that is not currently required under SARA.
        - While in most cases public colleges and universities are exempt from surety bond requirements, especially when dealing with state-level regulatory bodies, the langauge is still something to be aware of in case WSAC chooses to apply it more broadly.
- **Strategic Planning:** The law states that by July 2028, WA will not honor any reciprocity agreement that limits its enforcement authority (e.g., NC-SARA's restrictions on state-by-state complaint investigation). This introduces uncertainty:
    - Will our SARA participation still protect us from duplicative approval processes?
    - Will Washington start requiring standalone authorization for institutions whoa are in good standing with SARA?
    - If compliance becomes burdensome or unclear, some institutions may choose to limit recruitment or enrollment of WA students, reducing our reach in that market.
    - What will other states do in light of the new law? There is the possibility of other states enacting similar legislation could lead to us to having to develop more robust compliance frameworks to navigate a patchwork of state-specific requirements.

What do we need to do right now?

Stay Informed: Monitor WSAC’s implementation guidance as it is developed. Monitor legislative developments in other states that could affect interstate online education.

Evaluate Compliance Strategies: I have noted before about playing out a scenario like this, so hopefully you know what data you should be looking at/for. How many students do you have in WA (credit & noncredit, single classes and fulltime enrollment)? Assess current policies and procedures to ensure they can accommodate varying state consumer protection laws. Review your public-facing materials and disclosures for compliance and ensure accurate and transparent consumer disclosures - being at a public university will not exempt us from oversight on recruitment or marketing practices.

Engage in Dialogue: Participate in discussions with policymakers, educational consortia, and

accreditation bodies to advocate for balanced approaches that protect students while supporting institutional flexibility.

As much as I hate to say it, I do not think this will be the last of these we see this year. The landscape of online education and consumer protection will continues to evolve, and we must remain agile and proactive in addressing emerging regulatory challenges to continue providing quality education to our students wherever they may be.

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