

University of North Carolina Board of Governors Overview of Higher Ed Regulatory Responsibilities

OVERVIEW

In 1971, the General Assembly abolished the State Board of Higher Education and merged many of its functions into the Board of Governors. Since then, in addition to overseeing the University of North Carolina System, the Board of Governors performs most of North Carolina's higher education regulatory requirements. Although states' systems of higher education vary, it is not unusual for the same entity that oversees a state's public system of higher education to also perform this role.

This paper provides an overview of three of those roles: state authorization of non-public and out-of-state degree granting activity (often referred to as "licensure"), state approval of institutions to participate in GI Bill funding, and the state's participation in the State Authorization and Reciprocity Agreement (SARA), an interstate compact governing distance education.

None of these operate on state-appropriated funds. State authorization operations are funded through fees paid by the licensed out-of-state and non-public institutions. The GI Bill approval process is funded through a contract with the federal Department of Veterans Affairs (VA). SARA oversight is funded through SARA participation fees.

STATE AUTHORIZATION

- The Board of Governors has a statutory responsibility to license or declare exempt private and out-of-state degree-granting institutions operating in North Carolina.
- This function is required by state statute (G.S. § 116-15) and by the federal Higher Education Act of 1965 (the HEA). State authorization is also required for institutions to participate in SARA (the interstate compact allowing for distance education across state lines), SEVP (the Department of Homeland Security program allowing for exchange students), for participation in GI Bill and Federal Student Aid funding, and for accreditation.
- Under the HEA, states are one part of a regulatory triad that also includes Federal Student Aid (FSA) and accreditors. When evaluating institutions, states generally focus on students, FSA focuses on the federal budget and accreditors focus on academic quality. However, in most cases, an institution may choose whether to participate in FSA funding and whether to become accredited. By contrast, in all states, authorization or licensure is a legal requirement.
- The Board delegated to staff decisions regarding *exemption* from licensure. Exemption is based on (1) the program being religious in nature, (2) the institution having been in operation prior to 1972, or (3) the program only operating in the state as allowed by SARA, which includes a limited exemption for programs operating on military bases.
- Interaction with the Board
 - Licensure requires compliance with fifteen standards found in G.S. § 116-15 and its implementing regulations found in Section 400.4 of the UNC Policy Manual. These regulations are controlled by the Board, and staff anticipates proposing reforms this academic year. The standards encompass matters ranging from academic quality to financial solvency to truthfulness in representations made to students.

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- Teams of subject matter experts review applications for individual programs. Staff send the team's findings, along with other concerns, to the institution. The institution responds by confirming that it will make the reforms required by the findings or by stating why it believes it is in compliance with the standards despite the findings.
- Staff prepare a recommendation to the Educational Planning, Policy, and Programs Committee based on the team's report and the institution's response.
- Generally, staff only present positive recommendations to the committee. Institutions usually withdraw their application if the staff recommendation would be negative.
- Additional Responsibilities of State Authorization Staff
 - In addition to receiving and reviewing applications for new programs, staff:
 - Implements a follow-up review program for previously licensed programs;
 - Reviews changes-in-ownership of institutions which have licensed programs;
 - Investigates, and acts on student complaints regarding licensed institutions;
 - When an institution closes, ensures student records are transferred to the state archives and the institution's tuition bond is correctly processed; and
 - Coordinates with other state and federal agencies regarding licensed institutions

APPROVAL OF INSTITUTIONS TO PARTICIPATE IN GI BILL FUNDING

- The GI Bill is predicated on a state-federal partnership. States are responsible for certifying to the VA whether institutions located within their borders meet the federal GI Bill participation requirements. States have designated "Approving Agencies" to do so, and these Approving Agencies are funded by the VA.
- The North Carolina State Approving Agency (NCSAA) reports through System Office Academic Affairs to the Board Committee for Educational Planning, Policies, and Programs.
- The NCSAA is responsible for conducting approximately 50 compliance visits each year to participating institutions, along with adjudicating new applications and working closely with the VA to mitigate danger from high-risk and potentially fraudulent institutions.
- The NCSAA's work is particularly sensitive, because if it approves a course of study that the VA later determines should not have been approved, then in many cases the VA considers the tuition and fee payments it made to be a debt owed by the student, rather than by the institution.
- The Board does not interact on a regular basis with the NCSAA. Program approvals, disapprovals, and revocations are handled at the staff level.

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STATE AUTHORIZATION RECIPROcity AGREEMENT

- North Carolina is a member of the State Authorization Reciprocity Agreement (SARA). SARA is an interstate compact among all states except California. Under its terms, if a member state certifies that one of its institutions meets SARA requirements, then the other member states consider the institution to be authorized to deliver distance education and certain nonpermanent instruction (e.g., clinical rotations for nursing programs, externships/internships, field trips).
- To participate in SARA, an institution must (1) be located in a SARA jurisdiction (currently any state other than California), and (2) the institution's home state must certify that it meets SARA eligibility requirements, which include financial solvency metrics and some consumer protection mechanisms.
- If an institution is ineligible for SARA or chooses not to participate, it may go through a state's ordinary state authorization procedures.
- The state agency responsible for making that certification is known as the state's "portal entity." In North Carolina, the SEAA is the portal entity. In addition to the SEAA's general affiliation with the UNC System, a UNC System staff person sits on the advisory board for the portal entity.
- Fifteen UNC System schools are approved for participation in SARA.
- SARA has faced criticism from some consumer advocates who believe it keeps states from protecting their own citizens. For example, if an out-of-state SARA institution defrauds a resident of North Carolina, there is no North Carolina entity with direct oversight of that institution. Instead, the North Carolina resident would be required to file a complaint with the portal entity of the institution's home state or pursue legal remedies. However, SARA is widely used across all higher education sectors, and many more students are in programs offered through SARA by non-profit or public institutions than proprietary institutions.