13 KAR 4:010. State Authorization Reciprocity Agreement.

RELATES TO: KRS 164.020(23),164.945, 164.946, 164.947, 164.992, 165A.320-165A.450

STATUTORY AUTHORITY: KRS 164.540(3)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.540(3) authorizes the Council on Postsecondary Education to promulgate an administrative regulation to enter into the State Authorization Reciprocity Agreement, which establishes uniform national standards for interstate offerings of postsecondary distance education and authorizes postsecondary educational institutions meeting those standards located in member states or territories to provide distance education to residents of other member states. KRS 164.540(3) also authorizes the council to serve as the lead or portal agency on behalf of the Commonwealth's public and private postsecondary institutions seeking to offer distance education in member states. This administrative regulation establishes the mechanism by which Kentucky institutions may join the State Authorization Reciprocity Agreement and sets forth the process by which non-resident students can file complaints against Kentucky member institutions.

Section 1. Definitions.

(1) "Commission" means the Kentucky Commission on Proprietary Education.

(2) "Council" means the Kentucky Council on Postsecondary Education.

(3) "Degree" means an award conferred at the associate level or higher by an institution as official recognition for the successful completion of a program of studies.

(4) "Institution" means a Kentucky degree-granting postsecondary entity.

(5) "NC-SARA" means the National Council for State Authorization Reciprocity Agreements.

(6) "President" means the President of the Kentucky Council on Postsecondary Education.

(7) "State Authorization Reciprocity Agreement," or "SARA," means the agreement among member states, districts, and U.S. territories that establishes comparable national standards for interstate offering of degrees through distance education and authorizes institutions meeting those standards located in member states or territories to provide distance education to residents of other member states.

Section 2. Initial Application Procedures.

(1) To participate in SARA, an institution shall submit the following items to the president for review and action:

(a) The current NC-SARA Application and Approval Form for Institutional Participation in SARA, in electronic format; and

(b) The fees due to the Council, in accordance with Section 6 of this administrative regulation.

(2) The application referenced in subsection (1)(a) of this section may be found online at www.nc-sara.org.

Section 3. Renewal Application Procedures.

(1) To continue participating in SARA, an institution shall submit the following items to the president for review and action at least sixty (60) days before the anniversary date of the institution's initial approval:

(a) The current NC-SARA Application for Institutional Renewal to Participate in SARA, in electronic format; and

(b) The fees due to the council, in accordance with Section 6 of this administrative regulation.

(2) The application referenced in subsection (1)(a) of this section may be found online at www.nc-sara.org.

Section 4. Standards for Approval. To participate in SARA, an institution shall:

(1) Maintain authorization to operate in Kentucky through one (1) of the following:

(a) Creation by Kentucky Revised Statutes;

(b) Licensure by the council; or

(c) Licensure by the commission; and

(2) Meet the current minimum requirements to participate in SARA.

Section 5. Consumer Complaints.

(1) After first exhausting the institution's internal procedure for complaint resolution, a non-resident student may file a complaint against the institution for failure to comply with any SARA standard within two (2) years of the incident about which the complaint is made.

(2) To be considered, a complaint shall be submitted by the student in writing and include:

(a) The name, address, email address, and phone number of the student;

(b) The name of the institution;

(c) The location of the institution;

(d) The dates of attendance;

(e) An explanation of the steps taken to exhaust the institution's grievance process;

(f) A full description of the issue and any relevant documentation supporting the complaint; and

(g) The desired resolution of the complaint.

(3) Complaints regarding student grades or student conduct violations shall not be considered.

(4) The president shall forward the complaint by email to the institution and require a written response no later than thirty (30) days from the date of transmittal.

(5) After review of information and materials provided by the student and the institution, the president may request additional information from either party.

(6) After review of all relevant information and materials, the president shall facilitate a resolution of the complaint. The relief provided the student, if any, shall be commensurate with the circumstances.

(7) Resolution of a complaint by the president shall be final, except in instances where the subject matter of the complaint may violate any other applicable laws.

(8) The president shall provide to the executive director of the commission, for reference purposes, a copy of:

(a) Any complaint initiated against an institution licensed by the commission;

(b) The resolution; and

(c) Any related materials.

Section 6. Fees. The council shall charge an initial and annual renewal fee to institutions based on all enrolled full-time equivalent students, which shall be due at the time of application. Applications shall not be reviewed without receipt of fee payment. Failure to pay a fee on or before the date of application shall be sufficient grounds for denial of an application. Fees shall be in addition to any fees charged by NC-SARA and shall be in accordance with the following schedule:

(1) Under 2,500 full-time equivalent students – $4,500;

(2) 2,500 full-time equivalent students – 9,999 – $7,500; or

(3) 10,000 or more full-time equivalent students – $10,500.

Section 7. Appeals. An institution denied approval for an initial or renewal application may request an appeal of that decision in accordance with the terms of this subsection.

(1) The institution shall notify the president of the intent to appeal the decision within seven (7) days of the receipt of the notice of denial.

(2) The president shall request that the Office of Administrative Hearings appoint a hearing officer who shall conduct an administrative hearing consistent with the provisions of KRS 13B.005-13B.170.

(3) The appeal shall be presented in writing no later than thirty (30) days following the receipt of notification of intent to appeal.

(4) The appeals officer shall review findings of fact, consider testimony, draw conclusions, and formulate a recommendation consistent with the facts and this administrative regulation.

(5) Upon completion, the report of the appeals officer shall be forwarded to the institution and to the president.

(6) Within thirty (30) working days of receiving the report of the appeals officer, the president shall either uphold the decision or approve the application.

(43 Ky.R. 833, 1163; eff. 1-30-2017; 1913, 2458, 2597; eff. 6-30-2020; 47 Ky.R. 1805, 2572; eff. 8-31-2021.)