

APPROVED

March 13, 2024

Melissa Bealon

Board Secretary Melissa Bealon

Item #E-4

March 13, 2024

**PROPOSED AMENDMENTS TO RULES: HIGHER EDUCATION DISTANCE LEARNING
AND INTERSTATE RECIPROCITY**

Submitted for: Action.

Summary: This item seeks final Board approval of amendments to the rules to administer the Higher Education Distance Learning Act (P.A. 98-792). The Higher Education Distance Learning Act makes provision for Illinois participation in the State Authorization Reciprocity Agreement (SARA), a national compact of states that, together, provide regulation and consumer protection for students enrolled in online higher education programs. The system of interstate reciprocity established by the National Council for State Authorization Reciprocity Agreement (NC-SARA) allows willing postsecondary institutions in member states to participate on a voluntary basis. Under the system, institutions participate through their “home state” and agree to be regulated by the home state. The Board serves as the lead agency in coordinating interstate reciprocity for distance learning among participating institutions in Illinois. The administrative rules for implementing SARA in Illinois, (23 Ill. Adm. Code 1033) were approved by the Board at the August 11, 2015, meeting. The objectives of the proposed amendment to the administrative rules are to better align with changes to the NC-SARA Policy Manual and to strengthen the State’s oversight functions in SARA review process to enhance consumer protection. The Illinois Administrative Procedures Act specifies a three-step process for the proposal and adoption of administrative rules: (1) initial Board approval; (2) a publication and public notice period including a period for review by the staff and members of the legislative Joint Committee on Administrative Rules; and (3) final adoption by the Board.

Action Requested: That the Board adopt the final, proposed rulemaking amending the rules for administration of the Higher Education Distance Learning and Interstate Reciprocity (23 Ill. Adm. Code 1033) attached as Exhibit A.

STATE OF ILLINOIS
BOARD OF HIGHER EDUCATION

**PROPOSED AMENDMENTS TO RULES: HIGHER EDUCATION DISTANCE LEARNING
AND INTERSTATE RECIPROCITY**

This item requests adoption of the final, proposed rulemaking amending the rules to administer the Higher Education Distance Learning Act (P.A. 98-792). The Act authorizes the Illinois Board of Higher Education (IBHE or the Board) to participate in a system of interstate reciprocity to coordinate regulation in the expanding field of online or distance learning.

The system of interstate reciprocity established by the National Council for State Authorization Reciprocity Agreement (NC-SARA) allows willing postsecondary institutions in member states to participate in such agreement on a voluntary basis. Under the system, institutions participate through their “home state” and agree to be regulated by the home state. The NC-SARA and the statute establish minimum requirements and provide a coordinated method of regulating distance learning programs. The system applies only to online/distance learning programs.

The objectives of the proposed amendment to the administrative rules are to better align with updates to the NC-SARA Policy Manual and to strengthen the State’s oversight functions in the SARA review process to enhance consumer protection. The NC-SARA board approved the implementation of an institutional appeal process under policy 2.2 and required all SARA member states to develop and implement a process to internally resolve appeals from institutions for which they deny initial participation or renewal of participation in SARA. With this proposed amendment to the rules, IBHE will be in alignment with this NC-SARA institutional appeals requirement. In addition, this proposed amendment to rules includes some requirements to strengthen consumer protection, including criteria for allowing institutions to participate under provisional approval and eligibility requirements for institutions not participating in Title IV of the Higher Education Act of 1965 (PL 89-329).

Major proposed amendments to 23 Ill. Adm. Code 1033 include:

- Inclusion of a process for institutional appeal to allow institutions that Board staff removes from SARA participation or denies initial participation to appeal the decision.
- Addition of criterion for institutions applying for initial or renewal participation in SARA to participate on a provisional approval status.
- Specification of criteria for eligibility to participate in SARA for institutions that do not participate in Title IV of the Higher Education Act of 1965 (PL 89-329).
- Provision of guidance for calculating estimated unearned tuition revenue from distance education students for institutions submitting an irrevocable letter of credit from a bank or other similar financial institution.

Staff Recommendation

Staff recommends the adoption of the following resolution:

The Illinois Board of Higher Education hereby adopts the proposed rulemaking and amends the rules for the Higher Education Distance Learning and Interstate Reciprocity (23 Ill. Adm. Code 1033) as detailed in the attached document.