

HOUSE BILL 127

By Brooks H

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 7, to enact the "State Authorization Reciprocity Agreement Act."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 7, is amended by adding Sections 2 through 8 of this act as a new part.

SECTION 2. This part shall be known and may be cited as the "State Authorization Reciprocity Agreement Act."

SECTION 3. The purpose of this part is to authorize the state's participation in a state authorization reciprocity agreement relative to postsecondary distance education.

SECTION 4. As used in this part:

- (1) "Commission" means the Tennessee higher education commission;
- (2) "Complaint" means a complaint or grievance against a Tennessee SARA institution filed by a non-Tennessee student residing in a member state other than Tennessee and whose complaint is relative to a distance education course or program offered by a Tennessee SARA institution;
- (3) "Institution" means an accredited postsecondary degree-granting school, college, university, or other organization;
- (4) "Member state" means a United States state, territory, or district currently approved to participate in the state authorization reciprocity agreement;
- (5) "NC-SARA" means the National Council for State Authorization Reciprocity Agreements;

(6) “Non-Tennessee SARA institution” means an institution approved by a member state other than Tennessee for participation in SARA;

(7) “Portal agency” means the single agency designated by Tennessee to serve as the interstate point of contact for SARA questions, complaints, and other communications;

(8) “State authorization reciprocity agreement” or “SARA” means the agreement overseen by the National Council for SARA and administered by the Southern Regional Education Board;

(9) “SREB” means the Southern Regional Education Board; and

(10) “Tennessee SARA institution” means an institution approved by the commission for participation in SARA.

SECTION 5. The commission is authorized to:

(1) Enter into the interstate reciprocity agreement known as SARA, or any successor organization, which serves the purpose of approving institutions in Tennessee to participate in SARA;

(2) Serve as the portal agency for SARA;

(3) Act in accordance with the terms of the state authorization reciprocity agreement with regard to any member state, Tennessee SARA institution, or non-Tennessee SARA institution;

(4) Provide appropriate staff support as necessary to facilitate institution application, approval, and reporting in accordance with NC-SARA and SREB guidelines and policies;

(5) Provide appropriate staff support as necessary to facilitate complaint determination and resolution under Section 7;

(6) Promulgate rules and policies as necessary or appropriate for the conduct of its work and the implementation of this part, which rules shall have the force of law; and

(7) Exercise other powers and duties implied but not enumerated in this section that are in conformity with this part and, in the judgment of the commission, are determined necessary in order to carry out the intent of this part.

SECTION 6.

(a) The commission is authorized to annually collect fees from each Tennessee SARA institution, based on full-time enrollment and commensurate with the costs of administering SARA, except that the fees shall be limited as follows:

(1) Initial application and subsequent annual renewal fees shall not exceed, by dollar amount, the respective individual institution fees assessed by NC-SARA or any successor organization; and

(2) In the event that NC-SARA determines to waive or terminate the assessment of fees for participating institutions, then the fee applicable to Tennessee SARA institutions shall be the same as those fees assessed in the prior fiscal year.

(b) All fees collected pursuant to this part shall be deposited in the state treasury and credited to a dedicated commission account.

(c) The fees to be collected by the commission shall accompany an application for voluntary participation in SARA and the annual renewal as a participating institution.

(d) Any reports generated in compliance with NC-SARA shall be similarly submitted to participating Tennessee SARA institutions for informational purposes.

SECTION 7.

(a) As applicable to Tennessee SARA institutions, complaint investigation and resolution under this part shall be limited to those complaints:

(1) Filed by a non-Tennessee student residing in a member state other than Tennessee and whose complaint is relative to a distance education course or program offered by a Tennessee SARA institution; and

(2) Concerning a subject matter under the provisions of the State Authorization Reciprocity Agreement and associated provisions as determined by NC-SARA and the SREB.

(b) A complaint filed with the commission shall be in writing and shall set forth the grounds for the complaint, explain any steps taken to exhaust the Tennessee SARA institution grievance process, identify the basis for the commission's jurisdiction under SARA, include any relevant documents, and contain other information that is required by the commission.

(c) The commission shall refer any complaint initiated by a non-Tennessee student residing in a member state other than Tennessee and whose complaint is relative to a distance education course or program offered by a Tennessee SARA institution established, operated, and governed by this state to the board of trustees of the University of Tennessee or the board of regents, or the appropriate staff, as applicable. The applicable system board shall appropriately investigate and determine a final resolution to the complaint in accordance with applicable policies.

(d) The commission shall initially refer any complaint initiated by a non-Tennessee student residing in a member state other than Tennessee and whose complaint is relative to a distance education course or program offered by a Tennessee SARA institution not established, operated, and governed by this state to the Tennessee SARA institution indicated in the complaint.

(e)

(1) In the event that a complaint initiated by a non-Tennessee student residing in a member state other than Tennessee and whose complaint is relative to a distance education course or program offered by a Tennessee SARA institution not established, operated, and governed by this state cannot be resolved through the existing complaint or grievance policies at the Tennessee SARA institution, then the commission shall request a copy of the complaint investigation file and any other related documents from the Tennessee SARA institution for further review.

(2) The commission may request from the complainant or the Tennessee SARA institution answers in writing to questions propounded by the commission. The answers shall be provided within fourteen (14) days of the request.

(3) The commission may, at its discretion, attempt to effectuate a settlement. In the event that a settlement is neither sought nor reached, commission staff shall recommend a resolution of the complaint to the executive director.

(4) In the event that a settlement is not reached or a party to the complaint disagrees with the determination of the executive director, the party may request a hearing before the commission. Upon receiving a request for hearing, the commission shall consider the request in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(5) If, upon all the evidence at a hearing, it is found that a Tennessee SARA institution has engaged in or is engaging in any act or practice contrary to SARA, this part, or the rules promulgated under this part, subject to the requirements of the Uniform Administrative Procedures Act, the commission may take such actions necessary to prevent the act or practice from continuing. If the

commission finds that the complainant suffered loss or damage as a result of the act or practice, the commission, subject to the Uniform Administrative Procedures Act, may award the complainant full or partial restitution for the damage or loss.

(f) The commission shall also have the authority to assist or refer any Tennessee resident with a grievance against a non-Tennessee SARA institution to the appropriate agency in the other state, to follow up on the outcome of the grievance, and to assist the other state with the investigation and resolution.

(g) Apart from any rights or remedies created by this part, nothing in this part is intended to limit or restrict, or to create or expand, any right that any person may have under any existing common law or statute to seek any legal, equitable, or administrative remedy.

SECTION 8.

(a) Institutions in Tennessee that offer distance education may apply to the commission for approval to participate in SARA as a Tennessee SARA institution.

(b) The commission may commence an action to revoke a Tennessee SARA institution's approval as a participating SARA institution if it is determined that the institution is no longer in compliance with the state authorization reciprocity agreement.

(c) A Tennessee SARA institution may, on thirty (30) days' notice to the commission, withdraw its approval as a Tennessee SARA institution, after which the institution shall no longer be considered a participating institution for the purposes of this chapter.

(d) A withdrawing Tennessee SARA institution shall forfeit any fees previously collected by the commission for the purposes of initial authorization or annual renewal as a participating Tennessee SARA institution.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.