

**TOPIC: RECOMMEND APPROVAL OF REVISIONS TO CCHE POLICY I,  
PART T: STUDENT COMPLAINTS**

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**I. SUMMARY**

This item recommends the Commission approve the attached revised version of CCHE Policy I, Part T: Student Complaints. These proposed changes are required for the State of Colorado to participate in the State Authorization and Reciprocity Agreement (SARA).

**II. BACKGROUND**

The following information is excerpted from the website of Western Interstate Commission for Higher Education (WICHE), which administers the State Authorization Reciprocity Agreement (SARA) in the western region of the United States:

SARA is an initiative designed to safeguard distance-learning students and provide them with greater access to online courses, as well as to protect state and institutional interests. SARA provides an affordable, consistent, transparent way for accredited, degree-granting institutions to achieve authorization to provide education beyond the state in which they are based. Participating institutions will be authorized by their home state, eliminating the need for them to obtain individual approvals in all of the states where they serve students. It has been developed through the ongoing efforts and collaborations of several groups, including the Council of State Governments and the Presidents' Forum, two groups that initially proposed a reciprocal, interstate approach to authorization; and WICHE and the three other regional higher education compacts that worked with regional steering committees to draft a comprehensive reciprocity agreement. Participation in the reciprocity agreement is entirely voluntary for states and for institutions. Over time SARA will deliver much more than cost savings. It will streamline the state authorization process and make regulatory mechanisms more consistent. And most importantly, it will expand access for students to a variety of education options, including distance courses and degree programs. More information is available at [www.wiche.edu/sara](http://www.wiche.edu/sara).

### **III. STAFF ANALYSIS**

The Colorado Attorney General's Office confirmed that the following statute gives the Commission authority to enter into a reciprocity agreement that will allow it, and the department acting as its staff, to recognize the signatory states' authorization of accredited public and private institutions that operate in their states to offer educational services beyond state boundaries:

*§23-2-103.1(4): The commission may negotiate and enter into interstate reciprocity agreements with other states if, in the judgment of the commission, the agreements do not obligate a private college or university or seminary or religious training institution to comply with standards or requirements that exceed the standards and requirements specified in this article and the agreements will assist in accomplishing the purposes of this article.*

The following changes to the current policy are required by WICHE for Colorado to be able to participate in SARA. Participation in SARA is completely voluntary and these changes will affect only those public and private institutions that choose to participate. Specific changes from the current policy to this revised version are as follows:

1. The only changes made to this version of the policy since it was brought to the Commission at its March 14, 2014 meeting are the insertions of clarifying language from Regis University to sections 3.03.05 and 4.05.02.
2. Section 1.00 clarifies that institutions have sole authority over complaints about grades and actions related to student conduct policies.
3. Section 2.01 clarifies that Colorado public institutions offering online education to residents of other states and that are participants in SARA are held accountable to SARA requirements and those complaints are subject to investigation by the Department. In the case of SARA related student complaints, final resolution rests with the Department for purposes of adjudication and enforcement.
4. Section 2.02 clarifies that private institutions whose main campus or accredited, degree-granting authority is located in Colorado and offer online education to residents of other states and that participate in SARA are held accountable to SARA requirements and those complaints are subject to investigation by the Department. In the case of SARA related student complaints, final resolution rests with the Department for purposes of adjudication and enforcement.
5. Section 3.03.07 defines SARA and directs those interested to WICHE's website for more information.
6. Section 4.05.03 clarifies that private institutions have a responsibility to investigate complaints violating the requirements set forth in section 5.00 of the policy, for the purposes of SARA.

7. Section 5.00 lists the six consumer protection items related to online instruction that are required by WICHE. The last of the six items are known as “C-RAC Guidelines,” which are guidelines for distance education. It should be noted that the C-RAC guidelines are also North Central Association guidelines, so an institution that is accredited by the Higher Learning Commission is already held to these requirements.

A copy of the revised policy showing track changes can be found in Appendix A. The proposed, revised policy is in line with statute and other CCHE policies. It has been vetted with department staff, Student Affairs Council, Academic Council and other appropriate campus representatives, and private and public out-of-state institutions authorized under the Degree Authorization Act. It should be noted that the added language is required by WICHE and institutions were not given the opportunity to edit that language. However, participation in SARA is voluntary and these changes, if approved, will not affect those institutions that choose not to participate.

#### **V. STAFF RECOMMENDATION**

**Staff recommends the Commission approve the revisions in Appendix A to CCHE Policy I, T: Student Complaint Policy.**

#### **STATUTORY AUTHORITY**

C.R.S. 23-2-103.1 Commission – department – duties – limitation - reciprocity

(1) The commission shall:

(a) Establish procedures for authorizing, reauthorizing, and revoking the authorization of private colleges and universities and seminaries and religious training institutions in accordance with the provisions of this article, including but not limited to procedures by which an institution may apply for authorization or reauthorization and the procedures the department shall follow in reviewing applications and making recommendations to the commission;

(b) Grant or deny authorizations, renew authorizations, and revoke authorizations pursuant to [sections 23-2-103.3](#) and [23-2-103.4](#);

(c) Establish the types and amounts of fees that a private college or university or seminary or religious training institution shall pay as required in [section 23-2-104.5](#); and

(d) Establish policies to require private colleges and universities and seminaries and religious training institutions to submit to the department, upon request, data that is

directly related to student enrollment and degree completion and, if applicable, student financial aid and educator preparation programs as described in [section 23-1-121](#). The director of the commission and an employee of the department of higher education shall not divulge or make known in any way data for individual students or personnel, except in accordance with judicial order or as otherwise provided by law. A person who violates this paragraph (d) commits a class 1 misdemeanor and shall be punished as provided in [section 18-1.3-501, C.R.S.](#), and shall be removed or dismissed from public service on the grounds of malfeasance in office.

(2) The department shall administer the provisions of this article in accordance with the provisions of this article and the policies, guidelines, and procedures adopted by the commission for the administration of this article. To administer this article, the department shall have, but need not be limited to, the following duties:

(a) Recommending that the commission grant, deny, revoke, or renew an authorization to operate a private college or university or seminary or religious training institution;

(b) Maintaining a list of the private colleges and universities and seminaries and religious training institutions that have authorizations on file with the department; and

(c) Establishing and maintaining a process in accordance with [section 23-2-104](#) for reviewing and appropriately acting on a complaint concerning a private college or university or seminary or religious training institution operating in this state, including enforcing applicable state laws if the complaint is based on a claim of deceptive trade practice.

(3) The commission and the department are not authorized to regulate the operations of, including but not limited to the content of courses provided by, a private college or university or seminary or religious training institution except to the extent expressly set forth in this article.

(4) The commission may negotiate and enter into interstate reciprocity agreements with other states if, in the judgment of the commission, the agreements do not obligate a private college or university or seminary or religious training institution to comply with standards or requirements that exceed the standards and requirements specified in this article and the agreements will assist in accomplishing the purposes of this article.

## **APPENDICES**

Appendix A: Proposed Revisions to CCHE Policy I, T: Student Complaint Policy

## Appendix A

### SECTION I

#### PART T STUDENT COMPLAINT POLICY

##### **1.00 Introduction**

The role of the Colorado Commission on Higher Education, and the Colorado Department of Higher Education acting as its staff, is to act as an ombudsman and advise students on how to follow the policies and procedures for resolving complaints at the institution where they are or were enrolled. In almost every instance, the institution where the student is or was enrolled will determine appropriate action for both the student and the institution. Such decisions by the institution are binding and most often are not subject to further appeal to the Department. Institutions have sole authority over complaints about grades and actions related to student conduct policies. This policy applies to students at public and private institutions of higher education. This policy mandates that each public and private institution define and implement complaint and appeals processes to investigate student complaints and appeals in a fair and expeditious manner. For both public and private institutions that elect to participate in the State Authorization Reciprocity Agreement (SARA), the Department has authority to ensure that participating public and private institutions follow policies and standards for online students outside of Colorado, outlined below in Section 5.00.

##### **2.00 Statutory Authority**

Pursuant to Article 34, Title 24, C.R.S., complaints of discrimination based on race, color, religion, creed, national origin, ancestry, sex, physical or mental disability, sexual orientation (incl. transgender status), marital status, and retaliation for engaging in protected activity should be filed with the Colorado Department of Regulatory Agencies (DORA), Division of Civil Rights at [www.dora.state.co.us/civil-rights](http://www.dora.state.co.us/civil-rights). Also, in cases where the student filing the complaint is also an employee of the institution of higher education and the complaint involves the employer-employee relationship, this may trigger state or federal Whistleblower legislation and will be referred to the Colorado Attorney General's Office and any appropriate federal agency. Similarly, if the student complaint involves disclosures of fraud; violations of laws, regulations, or ethical standards; or misuse of funds in the context of a college- or university- administered federal grant, this may also trigger federal Whistleblower legislation and the Department may report this violation to the grantor.

## 2.01 Public Institutions of Higher Education

Several sections in statute outline how the public higher education system should be designed to function for the benefit of students who are residents of Colorado. These statutory requirements include (but are not limited to) ensuring that the design of degree programs offer the maximum range of opportunities and assistance to students to complete their courses of study and obtain their degrees in a reasonable amount of time [§23-1-108(13) C.R.S.]; ensuring fair policies for students who transfer coursework between degree programs or between public institutions [§23-5-122 C.R.S.]; and ensuring the requirements in the Student Bill of Rights [§23-1-125 C.R.S.].

Colorado public institutions that choose to participate in SARA and are offering online education to residents of other states are held accountable to SARA requirements and those complaints are subject to investigation by the Department [§23-2-103.1(4)]. In the case of SARA related student complaints, final resolution rests with the state for purposes of adjudication and enforcement. The requirements of SARA are listed in section 5.00.

## 2.02 Private Institutions of Higher Education

In the case of non-public institutions, the Department is authorized to investigate complaints based on claims of deceptive trade practice as described in §23-2-104(4) C.R.S. and listed in Section 4.05 below. The Department shall not have authority to consider complaints that infringe on the academic freedom, religious freedom, or question the curriculum content of a private college or university, religious training institutions, or seminary, except where the state has that authority, such as with educator preparation programs (§23-1-121, C.R.S.) and voluntary participation in gtPathways [§23-1-125(5), C.R.S.].

Private institutions that choose to participate in SARA and whose main campus or accredited, degree-granting authority is located in Colorado and offer online education to residents of other states are held accountable to SARA requirements and those complaints are subject to investigation by the Department [§23-2-103.1(4)]. In the case of SARA related student complaints, final resolution rests with the state for purposes of adjudication and enforcement. The requirements of SARA are listed in section 5.00.

### 3.00 Goals and Definitions

- 3.01 The goal of the Commission’s Student Complaint Policy for students in public institutions of higher education is to help students understand their rights under Colorado law described in section 2.01 and to advise students on how to follow their institution’s policies and procedures.
- 3.02 The goal of the Commission’s Student Complaint Policy for students in private institutions of higher education is to help students understand their rights under Colorado law described in section 2.02, to advise students on how to follow their institution’s policies and procedures, and to uphold statutory goals that prohibit deceptive trade practice.
- 3.03 Terminology
- 3.03.01 The “Commission” means the Colorado Commission on Higher Education.
- 3.03.02 The “Department” means the Colorado Department of Higher Education, which acts as the staff for the Commission.
- 3.03.03 “Ombudsman” means a person who advises and attempts to help resolve complaints and problems, as between students and a university.
- 3.03.04 The “Institution” means the public, private non-profit, or private for-profit college or university where the student is or was enrolled.
- 3.03.05 A “student complaint” is a grievance filed in writing or online at an institution of higher education, according to the policies of the institution of higher education where the student is or was enrolled, or at the Colorado Department of Higher Education. A grievable offense is any alleged action which violates one of the areas of statute requirements in sections 2.01 and 2.02 of this policy. It should be noted that for complaints that do not involve one of the statutes described in sections 2.01 and 2.02, in almost every instance the institution where the student is enrolled will determine appropriate action for both the student and the institution. Such decisions by the institution are binding and most often are not subject to further appeal to the Commission.

- 3.03.06 A “whistleblower” is a person, usually an employee in a government agency or private enterprise, who makes a report to the public or to those in authority, of mismanagement, corruption, illegality, or some other wrongdoing.

3.03.07 State Authorization and Reciprocity Agreement (SARA) is an interstate agreement governing distance education laws for both public and private colleges and is administered through the Western Interstate Commission for Higher Education. For more information, see <http://www.wiche.edu/sara/>.

#### **4.00 Responsibilities Pertaining to Student Complaints**

##### 4.01 Responsibilities of the Student

- 4.01.01 To follow the institution’s complaints and appeals procedures within the institution’s required timeframe first and exhaust all opportunities for resolution at the institution. In the case of private institutions, “If a former student files a complaint, he or she must do so within two years after discontinuing enrollment at the institution,” per 23-2-104(2)(a), C.R.S.
- 4.01.02 After exhausting all opportunities for resolution at the institution, to file a written complaint with the Department online at <http://highered.colorado.gov/Academics/Complaints/default.html> or via US mail or e-mail and describes: (a) the basis for the complaint; (b) the institution’s complaints and appeals process that was followed; and (c) the institution’s final decision (including copies of documentation); and (d) the desired resolution.
- 4.01.03 To give the Department written permission to communicate with the institution regarding the complaint, as well as written permission to review any personally-identifiable student education records which may pertain to the subject of the complaint.
- 4.01.04 To be clear about what the complaint is and what resolution is sought.
- 4.01.05 To provide the Department with all requested documentation.

4.02 Responsibilities of the Department

- 4.02.01 To advise students on how to follow the policies and procedures for resolving complaints at the institution where they are or were enrolled.
- 4.02.02 To help students understand their rights under Colorado law.
- 4.02.03 To modify state policies and request that institutions review, and if necessary, modify their policies to try and prevent student problems.
- 4.02.04 To publicize its complaint policy and to promote the publication of all institutions' complaint and appeal policies.

4.03 Responsibilities of the Governing Board of a Public Institution of Higher Education

- 4.03.01 To ensure that its institution(s) complies with state law and policy regarding appeals, including the intent for students to have a timely and fair hearing.
- 4.03.02 To adopt student complaint and appeal procedures for its institution(s).

4.04 Responsibilities of the Public Institution of Higher Education

- 4.04.01 To investigate student complaints in a timely and unbiased manner.
- 4.04.02 To publish its complaint and appeal procedures in prominent student publications, including, but not limited to the course catalog, student handbook, and its website.

4.05 Responsibilities of the Private Institution of Higher Education

- 4.05.01 To investigate student complaints or appeals in a timely and unbiased manner.
- 4.05.02 To investigate student complaints filed with the Department that allege an institution violated one of the requirements set forth in section 2.02 of this policy. ~~claims of deceptive trade practice only~~  
Pursuant to §23-2-104(4), C.R.S. it is deceptive trade practice for:

- a. An institution or agent to make or cause to be made any statement or representation, oral, written, or visual, in connection with the offering of educational services if the institution or agent knows or reasonably should have known the statement or representation to be materially false, substantially inaccurate or materially misleading;
- b. An institution or agent to represent falsely or to deceptively conceal, directly or by implication, through the use of a trade or business name the fact that an institution is a school;
- c. An institution or agent to adopt a name, trade name, or trademark that represents falsely, directly or by implication, the quality, scope, nature, size, or integrity of the institution or its educational services;
- d. An institution or agent to intentionally and materially represent falsely, directly or by implication, that students who successfully complete a course or program of instruction may transfer the credits earned to any institution of higher education;
- e. An institution or agent to intentionally and materially represent falsely, directly or by implication, in its advertising or promotional materials or in any other manner, the size, location, facilities, or equipment of the institution, the number or educational experience qualifications of its faculty, the extent or nature of any accreditation received from any accrediting agency or association;
- f. An institution or agent to provide prospective students with any testimonials, endorsements, or other information that may materially mislead or deceive prospective students or the public regarding current practices of the institution;
- g. An agent representing an out-of-state school to represent, directly or by implication, that the school is authorized by the state of Colorado or approved or accredited by an accrediting agency or body when the institution has not been authorized, approved or accredited; and
- \_\_\_\_\_h. An institution to designate or refer to its sales representatives by titles that imply the sales representatives have training in academic counseling or advising if they do not.

4.05.03 To investigate complaints violating the requirements set forth in section 5.00 of this policy, for the purposes of SARA.

4.05.04 To publish its complaint and appeal procedures, where to file a complaint with the Colorado Department of Higher Education, contact information for the institution's accrediting agency in prominent student publications, including, but not limited to the course catalog, student handbook, and on its website.

### **5.00 State Authorization and Reciprocity Agreement (SARA) Requirements**

5.01 Consumer protection under SARA means that the home state and any other necessary parties will investigate and resolve claims of any dishonest or fraudulent activity by any provider, including giving false or misleading information to a student. Consumer protection also includes investigating and resolving complaints that an institution is operating a course or program contrary to practices as set forth in the Interregional Guidelines for the Evaluation of Distance Education (C-RAC) guidelines in such a way that a student is harmed. Examples of issues that may arise include, but are not limited to:

5.01.01 Veracity of recruitment and marketing materials;

5.01.02 Accuracy of job placement data;

5.01.03 Accuracy of information about tuition, fees and financial aid;

5.01.04 Complete and correct admission requirements for courses and programs;

5.01.05 Accuracy of information about whether course work meets professional licensing requirements, in SARA Policies and Standards;

5.01.06 Operation of distance education programs consistent with practices expected by institutional and, if applicable, programmatic accreditors, and the C-RAC guidelines for distance education.

5.02 Specifically, the C-RAC guidelines to which participating public and private institutions will be held accountable include:

5.02.01 Online learning is appropriate to the institution's mission and purposes.

5.02.02 The institution's plans for developing, sustaining, and, if appropriate, expanding online learning offerings are integrated into its regular planning and evaluation processes;

5.02.03 Online learning is incorporated into the institution's systems of governance and academic oversight;

5.02.04 Curricula for the institution's online learning offerings are coherent, cohesive, and comparable in academic rigor to programs offered in traditional instructional formats;

5.02.05 The institution evaluates the effectiveness of its online learning offerings, including the extent to which the online learning goals are achieved, and uses the results of its evaluations to enhance the attainment of the goals;

5.02.06 Faculty responsible for delivering the online learning curricula and evaluating the students' success in achieving the online learning goals are appropriately qualified and effectively supported;

5.02.07 The institution provides effective student and academic services to support students enrolled in online learning offerings;

5.02.08 The institution provides sufficient resources to support and, if appropriate, expand its online learning offerings; and

5.02.09 The institution assures the integrity of its online offerings.