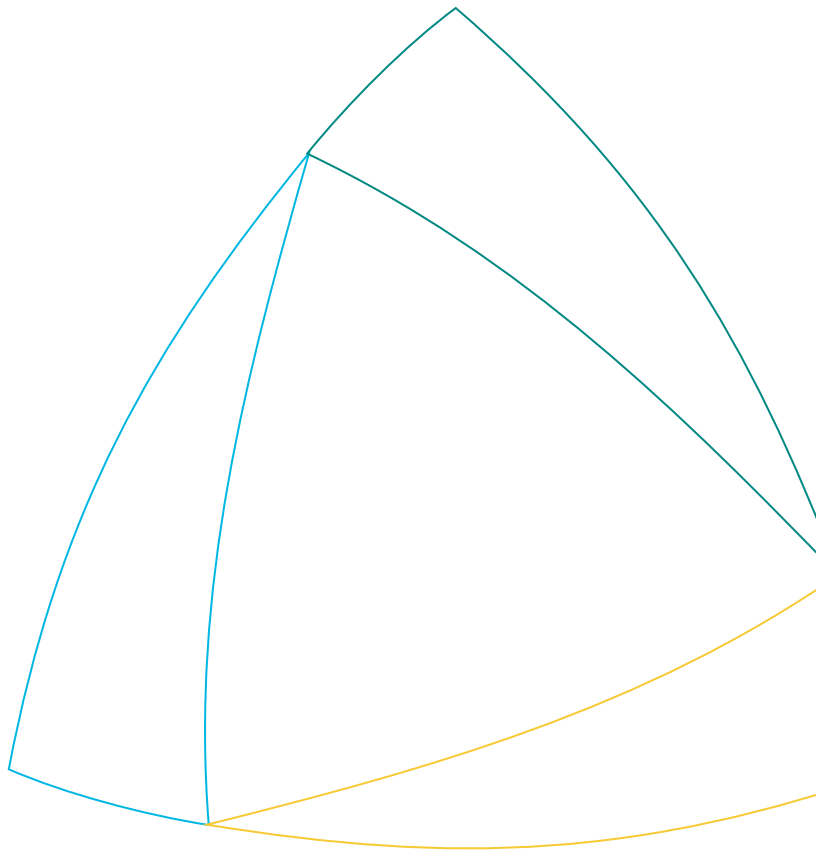# SHEEO

IMPROVING STATE AUTHORIZATION:

THE STATE ROLE IN ENSURING QUALITY AND CONSUMER PROTECTION IN HIGHER EDUCATION

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ACKNOWLEDGMENTS

TABLE OF CONTENTS

EXECUTIVE SUMMARY

A renewed level of interest in and scrutiny of public accountability of higher education has recently been fueled by a wave of institutional closures; the proliferation of distance education providers and programs; changes in education technology; questions regarding quality, student learning, and the effectiveness of institutional accreditation; and efforts to spur innovation and create on-ramps for new and different education providers. While much of the attention has focused on the role of accreditors and the federal government, the central actors in the higher education public accountability space are the states.

The foundational function of the state is the approval of an entity to establish itself as a postsecondary institution. Most often referred to as state authorization, it is the first formal act in the legal operation of an institution and often serves as the foundation upon which other quality assurance functions are built (like accreditation). We posit that it is time for states to reconsider and reconceptualize how they develop and implement a state authorization process aimed at meeting the needs of its students as well as the strategic goals of the state. This is particularly true given the proliferation of new providers, distance education, alternative credentials, and new technologies. We argue that states should consider the following questions regarding their authorization process:

- What role is the authorization process supposed to play, and is it playing it?
- When was the last time the process was evaluated and reconsidered?
- How does the process relate to the state's larger goals for higher education?
- Given the state's interest in quality education and consumer protection, to what extent is its authorization process advancing those goals, and what can be done to improve the authorization process to better advance those goals?
- How can state authorization better reinforce the triad and other state efforts around consumer protection and quality assurance and improvement?

To help states consider how they might improve their authorization processes, we make a number of recommendations:

- Increase the capacity of authorization offices;
- Improve the mechanisms for measuring and improving quality in state authorization;
- Strengthen the consumer protections in state authorization;
- Update the review of institutional finances in state authorization;
- Avoid regulatory capture and ensure independence of state authorizing boards and offices;
- Advance research on state authorization;
- Develop a shared understanding of the importance, role, and purpose of state authorization; and
- Connect authorization to the state's larger quality assurance and improvement efforts.

The central motivating premise for this white paper is that a renewed state interest in assuring institutional quality and appropriate consumer protections is needed, and the place to start is with improved state authorization.

INTRODUCTION

A renewed level of interest in and scrutiny of public accountability of higher education has recently been fueled by a wave of institutional closures (including campuses, *The Chronicle of Higher Education* found over 200 closures in 2018 alone[1]); the proliferation of distance education providers and programs; changes in education technology; questions regarding quality, student learning, and the effectiveness of institutional accreditation; and efforts to spur innovation and create on-ramps for new and different education providers. While much of the attention has been focused on the role of accreditors and the federal government, the central actors in the higher education public accountability space are the states. The state's preeminent role in higher education is appropriate because, under the reserved powers clause of the Tenth Amendment to the U.S. Constitution, the provision of education is a responsibility of the states. Given this delegation of authority, states have the responsibility and authority over the postsecondary institutions enrolling students within their respective borders. Therefore, any discussion of public accountability for higher education must include and focus on the state role.

The foundational function of the state is the approval of an entity to establish itself as a postsecondary institution. Most often referred to as state authorization,[2] it is the first formal act in the legal operation of an institution and often serves as the foundation upon which other quality assurance functions are built (like accreditation).[3] Every postsecondary institution must be authorized or chartered by their respective state to offer legally recognized degrees and credentials. As part of this process, states act to ensure that proposed postsecondary education providers have the capacity to accomplish their educational mission and goals and that students will be well served. They do this through the collection of data, information, and assurances. This must occur whether or not an institution is accredited or authorized by the U.S. Department of Education (USED) to participate in Title IV financial aid programs. The responsibilities of states do not end after initial approval. By requiring reauthorization or renewal of education providers, states may serve a continuous accountability and quality assurance role. The establishment—and continuous approval process—places tremendous responsibility on the state to assure that new and existing institutions are capable of meeting their educational missions and are operating in the best interests of their students and the state.

Those working in state authorization have had to contend with an increasingly anti-regulatory environment as well as reduced resources with which to carry out their state obligations. These challenges have arisen even though there is a greater need to ensure all students receive a high-quality postsecondary education in a rapidly evolving landscape. As postsecondary credentials increasingly become a prerequisite for participation in the modern workforce, growing numbers of students, especially those from traditionally underrepresented populations, will be enrolling in postsecondary institutions. These institutions are becoming more diverse in their student profiles, and there is a proliferation of new and different education providers offering alternative credentials to meet the needs of their students and the workforce. Some new providers are choosing to forego Title IV aid and thus operate outside of the regulatory framework. Even among traditional institutions, many nonprofit and for-profit institutions are struggling financially as student

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1. See here: https://www.chronicle.com/interactives/college-closures#id=all_all_2018
2. It is also referred to as state institutional certification, licensure, or approval.
3. Each of the major institutional accreditors requires institutions to have state authorization before they can be eligible for accreditation.

demographics and preferences change. Distance education providers and programs continue to proliferate as changes in education technology make these opportunities easier to create and market.

To help address the current and future challenges facing the higher education sector, states must collectively develop a shared understanding of the role and purpose of state authorization. State authorization needs to be universally understood as a quality assurance and consumer protection function. There are currently significant differences in state policies, procedures, and resources. In some states, authorization is viewed as a critical quality assurance and student protection function; however, in other states, it appears that authorization functions more as a registry of new and existing institutions. Until these disparities are addressed, bad actors may continue to operate to the detriment of our students, states, and workforce needs.

In that regard, states should not cede their legal responsibilities to accreditors, the USED, or any other actor. In fact, the processes by which they carry out their authorization functions should be comprehensively examined and strengthened. This exploration of ways authorization may be improved is, therefore, a matter of significant importance. In this white paper, we discuss the history and evolution of state authorization along with common approaches and criticisms, and then offer recommendations for how state authorization might be reformed to better protect students and ensure and improve quality in higher education.[4]

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4. This study relied on reviews of state authorizer websites, reviews of authorization documents and forms, a literature review, an emailed query of state authorizers, analysis of previous SHEEO surveys of state authorizers, and discussions with experts.

THE HISTORY OF THE STATE REGULATORY ROLE[5]

Prior to the modern era, state higher education regulation had relatively little impact on postsecondary institutions. Private institutions were largely seen as accountable because of their religious or charitable affiliations. Nevertheless, each institution was chartered by its respective government (the Crown, the colony, or the state) and, as stated in the introduction, the granting of the authority to offer degrees has been the prerogative of the state since the founding of this country. However, increased state interest began with the founding of the first public colleges and universities in the late 1700s and early 1800s and grew with the expansion of public higher education. Federal action also motivated increased state attention and action. In 1952, the Veterans' Readjustment Assistant Act (Korean G.I. Bill) coincided with the rise of for-profit colleges and the introduction of accreditors as crucial actors in the regulatory process. In response to heightened concerns about fraud and abuse, accreditation was codified as a prerequisite to receiving G.I. Bill funds.

With the enactment of the Higher Education Act of 1965 (HEA), the federal government formally defined what is now known as the 'regulatory triad.' In order to be eligible for the new Title IV funds available under the HEA, institutions must be accountable to three entities: the federal Department of Education, which ensures compliance with Title IV; the state government, which authorizes the college to operate (a role that actually involves three forms of oversight that vary significantly: state operation of institutions, nonprofit control, and for-profit control); and the accreditor, which certifies the educational quality of the college. The rapid growth in the number of proprietary institutions in the 1980s resulted in a greater need for state oversight and more applications for state authorizers, but the rigor of these processes remained fractured across different states. With the role of the federal government limited and the role of state authorizers vague and varied, accreditors served as the primary gatekeepers – and scapegoats – in evaluating institutions of higher education.

In the 1992 reauthorization of the Higher Education Act, Congress sought to strengthen the state role in the regulatory triad. A bill was introduced which would have required each state to create a state postsecondary review entity (SPRE) and included federal funding to pay for the enhanced role in state oversight. The SPREs were meant to be state offices that would work with the USED and identify problematic institutions. The bill was eventually amended to broaden the power of SPREs and was voted down, and no further efforts were made under the 1992 reauthorization to clarify the role of states in the regulatory triad.

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5. For additional discussion of the history of the state role in higher education and state authorization specifically, please see:

    Contreras, A. (2009). *The Legal Basis for Degree Granting Authority in the United States*. Oregon Student Assistance Commission.

    Contreras, A. (2013). *College and State: Resources and Philosophies*. CraneDance Publications.

    Contreras, A.L., Thompson, S.J., Poulin, R., & Dowd, C. (2017). *State Authorization of Colleges and Universities: A Handbook for Institutions and Agencies*. Boulder, CO: WICHE Cooperative for Educational Technologies.

    Kelly, A.P., James, K.J., & Columbus, R. (2015). *Inputs, outcomes, quality assurance: A closer look at state oversight of higher education*. Washington, DC: American Enterprise Institute.

    Harnisch, T., Nassirian, B., Saddler, A., & Coleman, A. (2016). *Enhancing State Authorization: The Need for Action by States as Stewards of Higher Education Performance. State-Federal Partnerships in Postsecondary Education*. Denver, CO: Education Commission of the States.

    New America, (n.d.) State Authorization for Online Programs. Retrieved from: https://s3.amazonaws.com/newamericadotorg/documents/State_Authorization_Issue_Paper.pdf

In 2010, the Department of Education (USED) established minimum expectations for what qualifies as a college's authorization by a state. Beyond that, the state role has not been revisited by the federal government, except for the USED's efforts around regulating distance education.[6] The 2010 regulations were never fully enforced before being vacated by the courts on technical grounds. However, they did build institutional awareness of the challenges in securing state authorization for distance education and secured institutional support for the further development of the State Authorization Reciprocity Agreement (SARA) in 2013.[7] SARA[8] certifies that basic quality standards are met by participating institutions, and reciprocates state authorization for distance education and a limited list of other educational activities (e.g., marketing, in-person short courses, test proctoring) in the state. SARA-member states recognize each participating institution's home state authorization to offer distance education courses. If an institution conducts activities not covered by the SARA agreement (e.g., purchasing a building within the state, offering programs leading to professional licensure), then SARA does not apply, and the institution is subject to the authorization requirements of that state.[9] (We discuss SARA in greater detail in the next section.)

USED held another negotiated rulemaking session in 2014 and released a final rule in 2016 which would require Title IV-participating institutions to be authorized in every state where they enrolled students in distance-education or correspondence courses. Institutions of higher education could meet the requirement through participation in a state authorization reciprocity agreement (like SARA). USED also clarified that the reciprocity agreement could not prohibit any of the states in the agreement from enforcing their own regulations or laws, whether general consumer protection laws or specific higher-education provisions. However, implementation of the rule has been delayed by USED and is subject to legal action.[10]

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6. The current state authorization regulatory process from the Office of Management and Budget (OMB) is available here: https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201904&RIN=1840-AD36

7. The effort to create SARA actually preceded the 2010 federal rule. The effort was motivated by the growth in distance education and the variability of state authorizing rules for distance education providers. However, the 2010 rule greatly accelerated the effort and motivated states to join.

8. When we are specifically referring to the actual agreement or agreements, we will use the acronym "SARA," and when we are referring to the national association that manages the reciprocity agreements, we will use the acronym for the organization's name, "NC-SARA" (the National Council for State Authorization Reciprocity Agreements).

9. For more information about the activities covered by SARA, please see the National Council for State Authorization Reciprocity Agreements Manual available here: https://www.nc-sara.org/files/docs/NC-SARA_Manual.pdf.

10. For more discussion of the regulatory history of state authorization see: https://s3.amazonaws.com/newamericadotorg/documents/State_Authorization_Issue_Paper.pdf

THE STATE OF STATE AUTHORIZATION TODAY

For the sake of simplicity and clarity, the current issues in the regulatory role of the state may be divided into three primary categories:

1. the initial authorization of new in-state institutions and distance education providers not participating in SARA;

2. the reauthorization and continuous accountability of previously authorized institutions; and

3. the authorization of out-of-state institutions via reciprocity agreement.

The following section reviews the landscape of state authorization within these three themes.

INITIAL AUTHORIZATION OF NEW IN-STATE INSTITUTIONS AND DISTANCE EDUCATION PROVIDERS NOT PARTICIPATING IN SARA

Assessing the differences in initial authorization requirements across states is a complex task. A 2012 SHEEO survey of higher education agencies identified 70 authorizing agencies across the 50 states and Washington, D.C. In the majority of states (34), one agency acts as authorizer. Fifteen states employ two agencies for this role, and two states employ three agencies. The agencies are often housed within the traditional SHEEO agency (33 states); however, others are housed in states' regulatory affairs agencies, the secretaries of state offices, business affairs offices, and other locations. States with multiple authorizers typically separate the authorization of degree-granting from non-degree-granting institutions, and different standards are applied for these two groups of institutions. Furthermore, many states have different application requirements depending on institution type (e.g., degree-granting vs. non-degree, for-profit vs. nonprofit, public vs. private, distance education vs. in-person).

In general, a new institution seeking to operate in a state will begin by completing an application requested by a multi-member board or state agency. The components of these applications vary state to state, but *Table 1* provides a list of common information that institutions are required to provide in this stage. In 19 states, the review of this application is accompanied by a mandatory on-site inspection. While some states have only one class of authorization, others designate an institution's authorization status as probationary, provisional, or full. Provisional authorization is typically offered to institutions that are not yet accredited in states where accreditation is required for full authorization. Institutions may be placed in probationary status in some states if they receive sanctions from their accreditor or another government agency. In most states, authorization status is regularly renewed, and institutions must submit various outcome metrics as a measure of their success (discussed in greater detail in the next section).

TABLE 1:

COMMON METRICS REQUESTED IN INITIAL AUTHORIZATION APPLICATION

ACADEMICS & RESOURCES	LICENSURE & GOVERNANCE	CONSUMER PROTECTION [11]
Instructor qualifications Facility/equipment descriptions Mission & vision Curricula Credit-hour requirements Student support services Course catalog Student handbook Tuition and fee schedule Admission requirements Graduation requirements	Governing board or organizational structure Advertising, marketing, and recruiting practices Articles of incorporation Accreditation information Licenses from other boards, agencies, or commissions Business licenses	Student grievance policies Tuition recovery fund[12] School closure/teach-out plan Surety bond Audited financial statements Multi-year budget/financial projections Tuition refund policy Student record procedures

However, the process described above differs in rigor from state to state. For example, in South Dakota, the secretary of state is responsible for postsecondary authorization, and there is no board or dedicated office for this purpose. The application to operate as a postsecondary institution is fairly straightforward: https://sdsos.gov/general-information/assets/FormApplicationPostsecondary.pdf, and requires no information pertaining to instructor qualifications, curricula, advertising or recruiting practices, or facility descriptions. Neither a surety bond or tuition recovery fund is required for authorization, nor is a teach-out plan in case of school closure. However, South Dakota requires that an institution is accredited by a USED-recognized accrediting agency. Alternatively, an institution may be authorized without accreditation if it is affiliated with an accredited institution and the accredited institution is responsible for awarding academic credit and educational credentials to the students enrolled at the unaccredited institution and if it maintains the student transcripts.

Further, as of July 2018, institutions must now submit annual renewal applications in South Dakota. These applications are identical to the initial authorization application: https://sdsos.gov/general-information/assets/FormRenewalPostsecondary.pdf. Institutions are not asked to provide any indicators of student success (graduation/completion rates, student loan default rates, job placement rates).

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11. Tuition relief funds, surety bonds, and tuition refund policies are fairly common, and each serves a critical consumer protection function. Tuition relief funds and surety bonds serve similar functions. If a school were to close, if legal action were taken, or some other event were to happen where the school was required to refund students' tuition, the fund or bond is meant to ensure that the school has adequate resources to do so. Tuition refund policies establish when and what share of students' tuition will be refunded if, for example, the student needs to withdrawal from school. For example, an institution might refund 100% prior to enrollment. But for post enrollment, a share of the tuition that is proportional to the share of the program that has been completed up to 50% of the program may be refunded. In most cases, institutions are able to retain a reasonably priced administrative fee (for example, one that is less than 15% of tuition and fees charged to students).

12. Tuition recovery funds are also referred to as student protection funds.

In contrast, the authorization process in the state of Ohio is much more rigorous.[13] New in-state institutions seeking initial authorization are required to submit verification or information regarding such items as: accreditation; mission statement; organizational and governance structure; student support services; curriculum; assessment and evaluation procedures; business and strategic plans; student records procedures; faculty appointment processes, program faculty, and faculty qualifications; grievance policies for students and staff; gender, cultural, and ethnic demographics of students and staff; internal evaluation instruments; library resources; program and course approval processes; and complete descriptions of facilities and financial status. In addition, for every academic program they intend to offer, an institution must submit a lengthy application detailing the program and its: admission policies; organizational structure; credit transfer policies; curriculum and program sequence; course offerings; intended assessment of program and student success; faculty qualifications and plans for further professional development; and expected enrollments and budget. Ohio also mandates on-site inspections and conducts authorization renewal annually. Institutions must submit graduation rates, job placement rates, and advertising practices each year. The rigor in most state processes falls somewhere between South Dakota's and Ohio's.

Another example of the complex authorization environment is accreditation and the role it plays as a requirement for state authorization. Ambiguity and variation in the rigor of state regulation have left most of the quality assurance responsibilities to accreditors. If a state does not require an institution to be accredited in order to be authorized, the state may be the sole arbiter of educational quality for institutions that operate there. This fact makes authorization of these institutions critical, especially in states that do not require many other measures of quality. F*igure 1* shows the variation in accreditation requirements across states.[14]

FIGURE 1:
ACCREDITATION REQUIREMENTS BY STATE

Accreditation not required

Accreditation required for degree-granting institutions only

Accreditation required for degree-granting and non-degree-granting institutions

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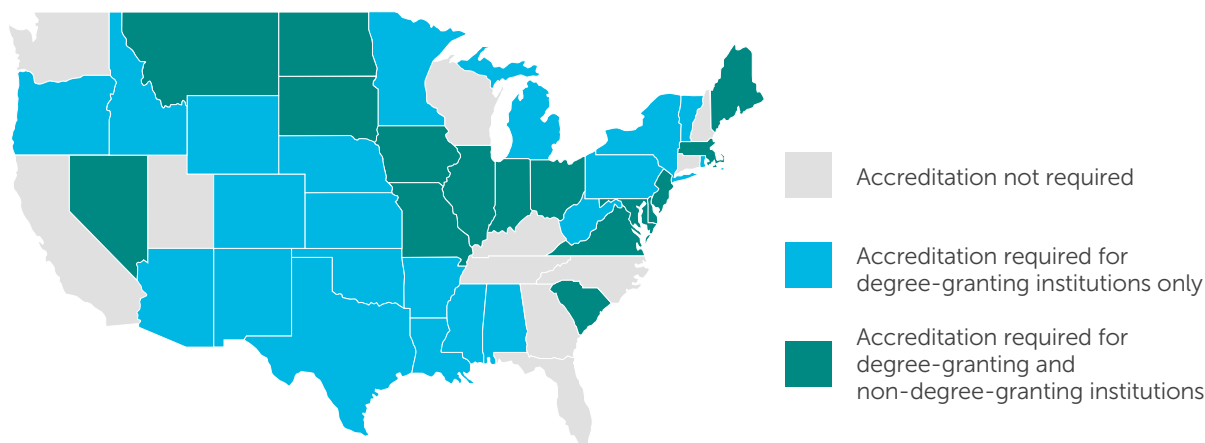
13. More information on Ohio's processes is available here: https://scr.ohio.gov/InformationforSchools/NewSchoolApplicationProcess.aspx

Here: https://www.ohiohighered.org/academic-program-approval

Here: https://www.ohiohighered.org/sites/default/files/ODHE_SARA%20Application_Attachment_1.14.19.docx

And here: https://www.ohiohighered.org/sites/ohiohighered.org/files/uploads/program-approval/Academic-Program-Review-Guidelines_070516.pdf

14. NC-SARA requires distance education providers to be accredited by a USED-recognized accreditor. Also, where more than one authorizer exists in a state, the requirements may vary by authorizer. Finally, states may have new requirements regarding accreditation that are not reflected in our data and therefore in this map.

However, there are still further complexities in this requirement. Eight states (Arizona, Colorado, Illinois, New Mexico, Ohio, Rhode Island, Texas, and Washington) require accreditation, but not as a *prerequisite* to authorization. These states authorize unaccredited institutions conditional on their progress toward accreditation within a certain time period. Another five states (Maine, Massachusetts, Missouri, South Carolina, and Vermont) only require accreditation for institutions based in other states, while in-state institutions are not required to be accredited. Finally, institutions which participate in SARA are required to be accredited, so an institution authorized in any state through this agreement should have accreditation.

Variation in the requirement of accreditation may not be as crucial in states with rigorous authorization processes for quality assurance and consumer protection. But how many states have such processes? *Tables 2* and *3* show the number of state authorizing agencies (out of 70) that require different types of educational quality metrics or consumer protection provisions.[15] Again, the specificity of these requirements varies by state and by authorizer. Of the 12 authorizers with a student-faculty ratio requirement, some require an explicit minimum while others require that the ratio be "sufficient" or "reasonable." Similarly, surety bond requirements range from just $10,000 to over $500,000, and only about half of the authorizers requiring refund policies specify minimum standards for the policies.

TABLE 2:
STATE AUTHORIZERS REQUIRING EDUCATIONAL QUALITY METRICS

FACULTY QUALIFICATIONS	STUDENT FACULTY RATIOS	FACILITY STANDARDS	LIBRARY RESOURCES	GENERAL EDUCATION REQUIREMENTS	CREDIT/ CLOCK HOUR MINIMUM
61	12	64	48	23	47

TABLE 3:
STATE AUTHORIZERS REQUIRING CONSUMER PROTECTION PROVISIONS[16]

REFUND POLICY	SURETY BONDS	STUDENT PROTECTION FUND[17]	CONSUMER COMPLAINT PROCEDURE
62	50	23	70

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15. Source: Kelly, A.P., James, K.J., & Columbus, R. (2015). *Inputs, outcomes, quality assurance: A closer look at state oversight of higher education.* Washington, DC: American Enterprise Institute.

16. See footnote 11 for definitions and descriptions of tuition refund policies, surety bonds, and student protection funds.

17. Student protection funds are also referred to as tuition recovery funds.

REAUTHORIZATION & RENEWAL

The responsibilities of state authorizers are not limited to the initial authorization of an institution. States also play a continuous accountability role in the regulatory triad. Just as initial authorization processes vary widely, so too do the processes of authorization renewal or revocation. Seven states do not require regular reauthorization or exempt some types of institutions from regular reauthorization. The frequency with which institutions must renew their authorization varies by state, and it also varies within a state based on the type of institution. Typically, in-state institutions are authorized for longer time periods, while out-of-state institutions are required to renew their authorization more frequently. Most reauthorization approvals hinge on maintenance of accreditation and fiscal viability; fewer states assess student outcomes during the renewal process.

Table 4 shows the number of state authorizers (out of 70) that require the reporting of various postsecondary outcome measures.[18] Thirty-six of the 70 state authorizing agencies do not require any measure of student outcomes to be reported in the reauthorization process. Of the 44 agencies that do, only 31 require a measure beyond graduation rates. Despite the rising concern over delinquency and default rates and debt-to-income ratios, few states are considering the return on investment for students when reauthorizing institutions to operate in their state. Although job placement and wage data are burdensome to acquire and do not always present a complete picture, student debt and loan repayment outcomes are more accessible and are increasingly important measures for ensuring consumer protection.

TABLE 4:
STATE AUTHORIZERS REQUIRING STUDENT OUTCOME METRICS

GRADUATION RATES	JOB PLACEMENT RATES	RETENTION RATES	COHORT DEFAULT RATES	WAGE DATA
43	28	10	4	3

THE AUTHORIZATION OF OUT-OF-STATE DISTANCE EDUCATION INSTITUTIONS VIA RECIPROCITY AGREEMENT

As previously stated, the Obama Administration's 2010 attempt to strengthen regulation of distance education built institutional awareness of the issue and strengthened institutional support for the development of SARA. The USED called for online postsecondary providers to be authorized in every state in which they operated (defined as any state where a student is located). Because of the complex and variable requirements from one state to another, this regulation added to the pressure on multistate institutions, and those seeking to enter new states, to quickly come into compliance. In response, the National Council for State Authorization Reciprocity Agreements (NC-SARA) was developed to manage reciprocity agreements across states. Participation in SARA allows an institution providing distance education and other permitted activities to have its home-state authorization recognized by all SARA-member states from which it enrolls students. For example, the Colorado State University-Global Campus (CSU-Global) is an online institution based in Colorado. CSU-Global obtained authorization from the state of Colorado to operate and enroll students residing in Colorado and went through the established SARA authorization process. Since Colorado is a member of SARA and because CSU-Global paid to participate in

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18. Source: Kelly, A.P., James, K.J., & Columbus, R. (2015). *Inputs, outcomes, quality assurance: A closer look at state oversight of higher education.* Washington, DC: American Enterprise Institute.

SARA, CSU-Global was able to have its authorization recognized by all other SARA-member states without having to obtain authorization from each state individually. Participation in SARA does not exempt an out-of-state institution that conducts activities not covered by SARA (e.g., buying a building, conducting face-to-face courses of more than twenty clock hours) or a new brick-and-mortar institution from that state's codified authorization process.

NC-SARA is a voluntary nonprofit association governed by a national board with a central office. However, implementation of SARA is managed by the four regional higher education compacts (Western Interstate Commission for Higher Education [WICHE], New England Board of Higher Education [NEBHE], Midwestern Higher Education Compact [MHEC], and Southern Regional Education Board [SREB]). The regional compacts hold periodic conversations or official meetings with their participating states where they discuss problematic institutions, share information and professional development, consider and vote on state renewals (each participating state comes up for renewal every two years), among other items. This approach ensures greater oversight, professionalism, standardization of state authorization, and coordinated identification of problem institutions than previously existed. SARA institutions must reapply to their authorizing state each year, and institutions that fail to meet SARA standards are not allowed to continue to participate. Additionally, states reapply for membership every two years.[19]

As of June 2019, 49 states (all but California), the District of Columbia, Puerto Rico and the U.S. Virgin Islands are members of SARA. More than 1,970 institutions participate. In almost every case, states have joined SARA through legislation passed by the state legislatures and signed by the governors. The rapid expansion is evidence of the need for something like SARA given the potential burden on distance education providers of seeking authorization in every state where a student is located. SARA alleviates that burden and allows certain colleges, including smaller community colleges and regional four-year public institutions, who otherwise may not be able to undergo the administrative burden of seeking multiple authorizations, to participate in distance education.

Beyond creating efficiencies for distance education providers, NC-SARA also has created, for the first time, baseline standards for authorization. Among those standards are items meant to address what it means to provide a quality education from a distance. In order to make this assessment, NC-SARA adopted the Council of Regional Accrediting Commission's (C-RAC) Interregional Guidelines for the Evaluation of Distance Education. The list of 55 items includes, for example, that "Plans for expanding online learning demonstrate the institution's capacity to assure an appropriate level of quality," and that the institution "ensures the rigor of the offerings and the quality of the instruction." Institutional mission, resources, curricular design, student support services, and other areas are also addressed. NC-SARA requires that the institution's president or chief academic officer affirm institutional compliance with the items, regardless of the type of accreditation (regional or national) held by the institution. However, the ability of the authorizing agency to verify compliance and ensure ongoing application of the guidelines is limited. Since the guidelines are more qualitative than quantitative, their effectiveness in ensuring quality would be

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19. For additional discussion of the NC-SARA and its strengths see:

Hill, M. (2018). *Comments on Failing U – a report recently issued by the Children's Advocacy Institute.* Boulder, CO: NC-SARA. https://www.nc-sara.org/content/comments-failing-u-%E2%80%93-report-recently-issued-children%E2%80%99s-advocacy-institute

Hill, M. (2018). *Improving Access and Cutting Red Tape: How SARA Is Reducing Bureaucratic Hurdles to Distance Education.* Toronto, CA: The Evolllution. https://evolllution.com/revenue-streams/distance_online_learning/improving-access-and-cutting-red-tape-how-sara-is-reducing-bureaucratic-hurdles-to-distance-education

in their interpretation and implementation. Nevertheless, these guidelines have the advantage of being externally agreed upon indicators of quality that are applied at the point of authorization in the 49 SARA states.

Further, NC-SARA mandates that all SARA-participating institutions have USED-recognized accreditation at the time of authorization. This not only provides another critical quality assurance mechanism but is also an example of the desire among those who created SARA to use all three elements of the triad and not to create duplicate processes. Additionally, NC-SARA established additional reporting requirements, standards, and expectations for the authorization of distance education providers, which are outlined and explained in the NC-SARA manual (see here for the actual application form).[20] These include the use of the USED's Institutional Financial Responsibility Composite Score and enrollment figures, among other items. Finally, NC-SARA requires that each SARA-member state has a student complaint policy. The NC-SARA website documents, by institution name, the number and disposition of student complaints against participating institutions that were not resolved at the institution level and that have been appealed by the student to the relevant state's SARA officials.

However, NC-SARA is not without its critics.[21] Among the criticisms commonly put forth are that the strength of the reciprocity process depends on the strength of each individual authorizer. Authorizers who fail to verify the assurances provided by institutions or properly enforce the standards of NC-SARA may allow bad actors into the association who are then automatically authorized in all member states. Critics fear that this feature may allow bad actor institutions to shop for the most lenient state for authorization. Critics further argue that authorizers, under SARA, have limited ability to conduct up-front quality and consumer protection checks and verifications. Critics also argue that NC-SARA does not include enough consumer protection provisions such as tuition refund and cancellation policies and that it does not allow states to apply their own higher education laws and policies.

Further, critics have advocated for NC-SARA to acknowledge that colleges operating under for-profit control warrant a higher level of scrutiny. Some critics have argued that for-profit institutions should be precluded from participation in NC-SARA due to their lack of oversight by public appointees or financially disinterested trustees. Additionally, critics argue that the C-RAC guidelines are merely a list of checkboxes that lack clarity, detail, or measurable standards. They further argue that there is no verification required regarding the extent to which institutions are

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20. National Council for State Authorization Reciprocity Agreements. (2019). *State Authorization Reciprocity Agreements Manual: Version 19.1.* Boulder, CO: Author. https://www.nc-sara.org/files/docs/NC-SARA_Manual.pdf

National Council for State Authorization Reciprocity Agreements. (2019). *Application and approval form for institutional participation in SARA.* Boulder, CO: Author. https://www.nc-sara.org/files/docs/InstitutionalApplication_032119.pdf

21. For a discussion of proposed limitations of SARA see:

Children's Advocacy Institute (2018). *Failing U: Do state laws protect our veterans and other students from for-profit postsecondary predators?* San Diego, CA: Author. http://www.caichildlaw.org/Misc/Failing_U.pdf

Perry, A. & Cochrane, D. (2018). *Going the Distance: Consumer Protection for Students Who Attend College Online.* Oakland, CA: The Institutes for College Access and Success. https://ticas.org/content/pub/going-distance

Public Advocates (2018). *Why SARA is a Bad Deal for California's Online College Students.* San Francisco, CA: Author. https://www.publicadvocates.org/wp-content/uploads/2016/04/sara_in_ca_factsheet.pdf

Shireman, R. & Mattes, M. (2018). *Comments of The Century Foundation's Senior Fellow Robert Shireman and Policy Associate Margaret Mattes Regarding The Authorization of New York's Postsecondary Institutions to Participate in the State Authorization Reciprocity Agreement and the Approval of Out-of-State Postsecondary Institutions for Distance Learning.* Washington, DC: The Century Foundation. https://s3-us-west-2.amazonaws.com/production.tcf.org/app/uploads/2016/06/17174318/Shireman-Mattes-Comments-Re-SARA-1.pdf

complying with the C-RAC guidelines (only affirmation by the institution's CEO). Finally, critics have argued that the NC-SARA governing board (referred to as the steering committee) has too high a concentration of institutional members. They believe that because NC-SARA's membership is the states, state agency personnel should comprise the majority of the committee members (some have argued that institutions should not be on the board at all). For a response to some of these criticisms, please see here.[22]

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22. Hill, M. (2018). *Comments on Failing U – a report recently issued by the Children's Advocacy Institute.* Boulder, CO: NC-SARA. https://www.nc-sara.org/content/comments-failing-u-%E2%80%93-report-recently-issued-children%E2%80%99s-advocacy-institute

CRITICISMS OF STATE AUTHORIZATION AND RECOMMENDATIONS

The state has a variety of interests regarding postsecondary education, but the quality of the education students receive is one of the most critical. Most of the positive outcomes associated with a postsecondary education depend on the quality of the postsecondary institutions and the instruction they provide.[23] The authorization process, if approached appropriately, ensures that approved institutions help advance the state's interest in monitoring and assuring the quality of its postsecondary institutions. However, state authorization has come under significant criticism.[24] Common criticisms include: the process of authorization operates as a legacy of bygone eras that has not been updated to reflect current state needs; the process is divorced from other state quality improvement and assurance processes, other state higher education policies, and larger state goals; there is too much variability in what is required across states; authorization operates as a bureaucratic procedure without a larger strategic purpose; states do not collect the types of information and assurances necessary to properly assess institutional capacity and quality; states do not properly ensure consumer protections through the authorization process; and, in some cases, authorization is too burdensome for institutions, especially those operating in multiple states.

We posit that it is time for states to reconsider and reconceptualize how they develop and implement a state authorization process aimed at meeting the needs of its students as well as the strategic goals of the state. This is particularly true given the proliferation of new providers, distance education, alternative credentials, and new technologies. States should consider the following questions regarding their authorization process:

- What role is the process supposed to play, and is it playing it?
- When was the last time the process was evaluated and reconsidered?
- How does authorization relate to the state's larger goals for higher education?
- Given the state's interest in quality education and consumer protection, to what extent is its authorization process advancing those goals, and what can be done to improve the authorization process to better advance those goals?
- How can state authorization better reinforce the triad and other state efforts around consumer protection and quality assurance and improvement?

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23. See *Education Pays*: https://trends.collegeboard.org/education-pays

24. For discussions of some of the limitations and criticisms of state authorization see:

    Children's Advocacy Institute (2018). *Failing U: Do state laws protect our veterans and other students from for-profit postsecondary predators?* San Diego, CA: Author. http://www.caichildlaw.org/Misc/Failing_U.pdf

    Harnisch, T., Nassirian, B., Saddler, A., & Coleman, A. (2016). *Enhancing State Authorization: The Need for Action by States as Stewards of Higher Education Performance. State-Federal Partnerships in Postsecondary Education.* Denver, CO: Education Commission of the States. http://www.ecs.org/wp-content/uploads/ECS_FundingReports_HarnischNassirianSaddlerColeman_F.pdf

    Kelly, A.P., James, K.J., & Columbus, R. (2015). *Inputs, outcomes, quality assurance: A closer look at state oversight of higher education.* Washington, DC: American Enterprise Institute. http://www.aei.org/publication/inputs-outcomes-quality-assurance-a-closer-look-at-state-oversight-of-higher-education

To help states improve their authorization processes, we provide several recommendations for consideration by state authorizers and those associated with state authorization.[25] Later, we provide a more comprehensive listing of potential authorization considerations (see *Appendix A*). We recognize that each state's history (with state authorization), culture, resources, postsecondary institution ecosystem, demography, and economy will and do impact how it approaches state authorization. Therefore, we offer these recommendations with the hope that they will be applied within each state's unique context, and that they are used to improve their individual processes. We understand that the end result will still be 50 somewhat unique yet, hopefully, improved approaches.

INCREASE THE CAPACITY OF AUTHORIZATION OFFICES

Perhaps one of the biggest hinderances to quality state authorization practices is the limited capacity of the authorizing offices. A strategy to ameliorate these deficiencies should include increased resources for more highly-trained and knowledgeable staff to carry out these critical functions. Meeting these responsibilities should be a strategic priority of state leadership, and should include increased financial support of the offices. The state authorization functions should not be an afterthought or an added set of responsibilities for current personnel who already possess a full set of duties. Many of the concerns about state authorization, including criticisms of NC-SARA, could be adequately addressed if each state gave its authorization responsibilities the attention and priority status that are now required—given the constantly developing, multifaceted, higher education landscape. Carrying out these functions requires that each state ensure its authorizing entities have the necessary resources to develop suitably robust processes and procedures, properly follow and apply those processes and procedures, and enforce and verify their requirements.

Of particular concern is the staffing of the authorizing offices. Understaffed offices cannot give applications the necessary attention, and staff lacking adequate training and knowledge will not be equipped to develop proper authorization requirements, understand the broader role and purpose of state authorization and higher education generally, or make informed and proper interpretations of institutional applications and information.[26] Authorizers must conduct legal, financial, and educational assessments. Each of these areas represents a unique professional skill set. Ideally, authorizers have their own legal staff (at least one FTE). However, if that is not possible, they should have access to designated attorneys who are obligated to devote the necessary time to the authorization work. Authorizers likewise need accounting/financial staff with the necessary skills and qualifications to review student financial aid data, institutional accounting practices,

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25. For additional ideas and recommendations see:

Contreras, A. (2013). *College and State: Resources and Philosophies.* CraneDance Publications.

Contreras, A.L., Thompson, S.J., Poulin, R., & Dowd, C. (2017). *State Authorization of Colleges and Universities: A Handbook for Institutions and Agencies.* Boulder, CO: WICHE Cooperative for Educational Technologies.

Kelly, A.P., James, K.J., & Columbus, R. (2015). *Inputs, outcomes, quality assurance: A closer look at state oversight of higher education.* Washington, DC: American Enterprise Institute.

Harnisch, T., Nassirian, B., Saddler, A., & Coleman, A. (2016). *Enhancing State Authorization: The Need for Action by States as Stewards of Higher Education Performance. State-Federal Partnerships in Postsecondary Education.* Denver, CO: Education Commission of the States.

26. SHEEO previously recommended that authorizers have one FTE staff for every 25 institutions (assuming annual renewal of institutions). It is not clear how this ratio was developed but it seems reasonable. See: SHEEO (1991). *Methods and effectiveness of state licensing of proprietary schools.* Boulder, CO: SHEEO. https://files.eric.ed.gov/fulltext/ED337111.pdf

audited financial statements, audit reports, and other relevant financial information. Additionally, authorizers need education specialists on staff who understand higher education, who have a background in professional/applied education, and who can properly assess the quality of the curriculum and training programs. Authorizers must have investigative/field staff who conduct site visits, investigate complaints, and maintain ongoing relationships with the institutions.

To ensure proper staffing, and that the staff have the resources to conduct proper authorization, the offices will require budgets that reflect these expanded requirements. This can be accomplished through larger state appropriations and/or the collection of adequate initial application fees and renewal fees. State appropriations provide stable funding and reveal a commitment on the part of the state to the role and importance of authorization. Fees may also serve as a supplement to annual state appropriations. States should ensure that authorizers are able to retain, or have returned to them, an adequate share of the fees collected in order to ensure the offices have the necessary resources to do their job. Currently, some states charge no fee or fees as small as $100. Other states collect fees of several thousand dollars (one state's fees can reach as much as $15,000). States often index fees to the enrollment at the institutions or gross tuition revenue (or a combination) or they use simple flat fees. The collection of fees, especially larger fees, may help provide for adequate office resources and may also serve as another test of institutional capacity. If an institution cannot pay a reasonable fee, then it may not have adequate resources to operate.

IMPROVE MECHANISMS FOR MEASURING AND IMPROVING QUALITY

A central focus of the authorization process ought to be quality assurance and improvement. There are several ways authorization can be oriented to achieve this outcome. For example, at the time of initial authorization, authorizers could collect student outcomes plans, proposed measures, and associated goals. At the time of renewal, authorizers could then collect the actual outcomes related to the goals using the proposed metrics. For existing institutions with a track record (institutions that have operated in other states and institutions coming up for renewal), authorizers could collect standardized student outcomes data. Examples include graduation rates,[27] completions, student licensure/certification success rates, job placement rates, and loan repayment and default rates, among other metrics (see *Appendix A*). Whenever possible, the student outcomes data ought to be disaggregated by race/ethnicity and low-income status. While assessments of quality have often been associated with accreditors, their use of data and outcomes measures is extremely variable and, in some cases, sparse or nearly nonexistent.[28] Therefore, it would be helpful, and much needed, for state authorizers to collect and focus on data and measures relevant to quality assessments.

States may want to consider making participation in the state postsecondary student unit record data system a part of the authorization process. Requiring institutions that are seeking authorization or renewal to develop agreements for regular submissions to the state postsecondary data system would ensure the collection of consistent data elements and outcomes measures for all institutions. Moreover, states could match the student-level data with other state data, such

27. The traditional USED graduation rate was severely limited. States may consider using the new USED outcome measures: https://nces.ed.gov/ipeds/use-the-data/survey-components/11/outcome-measures

28. Arnold, N., Voight, M., Morales, J., & Coleman, A. (2019). *Informing Improvement: Recommendations for Enhancing Accreditor Data-Use to Promote Student Success and Equity.* Washington, DC: Institute for Higher Education Policy. http://www.ihep.org/sites/default/files/uploads/docs/pubs/ihep_informing_improvement_full.pdf

as unemployment insurance wage records, to collect improved job placement and earnings data that do not rely on alumni surveys.[29] State agencies in 46 states currently link or plan to link postsecondary data to workforce data; however, most states do not currently include private institutions in these linkages.[30]

States should also consider requiring institutions to certify that programs leading to state licensure or certification actually meet the state licensure/certification requirements. For existing institutions and those seeking renewal, states could also collect any state certification or licensure exam pass rates for the institution's graduates. Further, states ought to carefully track student time to credential. It is critical that students complete their programs in a timely fashion. Prolonged programs may be a sign that an institution is simply keeping students enrolled to collect additional tuition and fees. Site visits to brick-and-mortar in-state institutions provide a unique level of accountability and depth of assessment that are not possible from a distance. Finally, states could establish a requirement that institutions have accreditation from a USED-approved accreditor and, if they do not, place them on provisional authorization for a predetermined period of time during which the institutions either earn accreditation or they lose authorization. However, states also need to develop processes to consider new providers of alternative credentials who do not seek accreditation or access to federal student financial aid and therefore operate outside of the traditional regulatory triad. These entities operate boot camps, badging services, and the like, and are often for-profit entities that should require regulation and authorization in order to ensure some level of quality and consumer protection.

STRENGTHEN CONSUMER PROTECTION

A central responsibility of the state is consumer protection. The authorization process can bolster its ability to carry out this function by requiring certain data points, processes, and assurances, which will ensure that the interests of its citizenry are fundamentally protected. The most effective consumer protection is the assurance of high-quality, well-resourced institutions. However, states should also ensure that students are protected in the event of something going wrong. For example, states, through the institution authorization process, could establish standards for and require such things as:

- a student complaint process that includes due process and student recourse;

- policies that limit the use of mandatory pre-dispute arbitration and other barriers to student complaints;

- a risk-weighted investigation process that is responsive to student complaints, outcomes measurements, financial indicators, and other warning signs;

29. For more information about benefits of integrating non-public institutions into state postsecondary data systems, please see:

    Mata, C. & Weeden, D. (2018). *Communities of practice: Integrating independent institutions in postsecondary data systems.* SHEEO. Retrieved from: https://postsecondarydata.sheeo.org/wp-content/uploads/2018/11/COP_IntegratingIndependentInst_FINAL_ June2018.pdf.

30. Whitfield, C., Armstrong, J., & Weeden, D. (2016). *Strong Foundations 2018: The State of State Postsecondary Data Systems.* State Higher Education Executive Officers Association. https://postsecondarydata.sheeo.org/wp-content/uploads/2019/04/SHEEO_ StrongFoundations_18.pdf

- teach-out plans at the time of authorization (versus waiting until closure is likely or happening—precipitous closures make such delayed requirements ineffective);[31]

- tuition refund policies;

- tuition relief funds;

- surety bonds of a reasonable amount; and

- records retention policies and agreements.

States also should have their own state-level tuition-refund fund as well as a loan cancellation policy (if applicable); student complaint process; records retention policy, process, and capacity; and a policy and process for responding to institutional closures. Authorizers should also be able to levy fines and penalties. Certainly, authorizers ought to be able to deny and revoke authorization; however, they should also be able to levy other specific and preliminary fines and penalties for an assortment of violations. While not specific to state authorization alone, consumer protections would be significantly improved with better communication and data sharing among the members of the triad.

UPDATE REVIEW OF FINANCES

States generally require institutions seeking authorization to provide finance-related information and data. For new institutions, states may ask for a proposed budget as well as current resources on hand. For existing institutions and those seeking renewal, authorizers ought to require the annual submission of audited financial statements and any additional financial information they need to measure the financial viability of the institutions and to ensure they are operating in accordance with relevant laws and regulations. Authorizers should examine institutional revenues (including government student aid as a share of total revenue), and institutional expenditures, including their advertising budget as a percentage of total expenditures, instructional expenses as a percentage of total expenditures, and reinvestment of gross revenues to support educational and student support purposes and programs. NC-SARA and a number of states ask for the USED's Financial Responsibility Composite Score (FRCS). This is a helpful data point because of its use by the USED; however, it has been widely criticized and is generally dated (two to three years old). SHEEO has proposed a number of additional metrics that avoid the limitations of the FRCS and that, if tracked over time, may provide for clear trajectories of an institution's financial viability.[32] These metrics include the composite financial index and its associated ratios, the liquidity ratio, and basic measures regarding revenue, expenditures, and enrollments, all tracked over time[33]

31. Teach-out plans are different from teach-out agreements. A plan is simply that, an articulation of how the institution would proceed in the event a teach-out was needed. A teach-out agreement is a formal legal agreement with a specific provider or providers. A teach-out agreement would be required and created when a closure is happening.

32. Tandberg, D.A. (2018). *Monitoring the financial health and risk of colleges and universities: Recommendations for SHEEO agencies.* Boulder, CO: State Higher Education Executive Officers Association. http://sheeorg.wpengine.com/wp-content/uploads/2019/03/SHEEO_HealthRiskWP.pdf

33. States may also want to consider using the new financial events that schools must now report to USED. New USED regulations also prompt expedited re-calculation of Financial Responsibility Composite Score based on certain triggers: https://ifap.ed.gov/eannouncements/030719GuidConcernProv2016BorrowerDefensetoRypmtRegs.html

AVOID REGULATORY CAPTURE AND ENSURE INDEPENDENCE OF STATE AUTHORIZING BOARDS AND OFFICES

It is important that authorization boards and offices operate in the best interests of the state and function independently of the entities they are established to regulate. Regulatory capture refers to instances where a regulatory agency that was created to act in the public interest is instead operating to advance the interests of the very group it is charged with regulating (the dominating interest 'captures' the regulating agency). Boards that are dominated by institutional interests or representatives are susceptible to regulatory capture and may not operate in the best interests of the state. Boards and offices should have sufficient autonomy and operate under strict conflict of interest provisions. Few states currently prohibit regulatory capture. This may be corrected via state statute by specifically prohibiting the inclusion or limiting the number of institutional representatives on authorizing boards and by outlawing gifts from institutional representatives and other exchanges that could influence board members and agency staff. States may also consider requiring consumer advocate representation on authorizing boards. (Few states currently do this.)

Authorizing offices and boards should likewise have a degree of independence from lawmakers. Undue political influence will hinder their independence and make objective assessments impossible. States ought to have laws and procedures that shield authorizers from political interference. Board members should also be appointed to staggered terms and terms that are long enough to outlast governors' terms. Appointments by the governor ought to require confirmation by the legislature.

ADVANCE RESEARCH ON STATE AUTHORIZATION

There is no empirical research that we are aware of regarding the effectiveness and impacts of different approaches to state authorization. One could imagine a measure of authorization rigor or stringency. With such a scale, researchers could examine whether and to what extent authorization stringency impacts a number of outcomes such as the rate and likelihood of institution approvals, number of student complaints, student completions and graduation rates, likelihood of accreditation and loss of accreditation, and the likelihood and rate of institutional closures, among other outcomes. Similar studies could be undertaken using specific authorization requirements. Further, qualitative studies of the authorization process from the perspective of the authorizers and the institutions would be helpful. Finally, more in-depth landscape and process studies, using surveys, interviews, or document analysis, would help researchers and practitioners understand what is currently being done and identify potential best practices.

DEVELOP A SHARED UNDERSTANDING OF THE IMPORTANCE, ROLE, AND PURPOSE OF STATE AUTHORIZATION

States must collectively develop a shared understanding of the role and purpose of state authorization. State authorization needs to be universally understood as a quality assurance and consumer protection function. However, for some states, it appears that authorization functions more as a registry of new and existing institutions. In others, state authorization is viewed as a critical quality assurance and student protection function. NC-SARA has moved states in the direction of a shared understanding of the importance of state authorization; however, further work is needed. There remains significant variance in state policies, procedures, and resources. Until these are addressed, bad actors may seek authorization in the states with the least rigorous requirements and practices.

CONNECT AUTHORIZATION TO THE STATE'S LARGER QUALITY ASSURANCE AND IMPROVEMENT EFFORTS

In a recent white paper, SHEEO and the National Association of System Heads argued that states need to better engage in quality assurance and improvement efforts.[34] Central to this effort is the need to develop a shared understanding of what quality in higher education means; better articulate what the state role is in postsecondary quality; identify best practices in quality assurance; treat equity as a central quality consideration; and invest in data, tools, and people to engage in quality assurance and improvement efforts. The authors also argue that a state's institutional authorization efforts ought to be aligned with its larger quality efforts. The state's understandings, definitions, and measures of quality should be apparent in its authorization process. State leaders should consider authorization as a key tool in their quality efforts, and as they seek to improve those efforts, they should consider changes to their authorization processes.

Further, the authors argued, that states, the USED, and accreditors should work together in a more cooperative fashion. In fact, significant efficiencies could be created around the collection of information and data related to educational quality. Through the sharing of such data, the burden on institutions could be lessened.

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34. Tandberg, D.A. & Martin, R.R. (2019). *Quality assurance and improvement in higher education: The role of the states.* Boulder, CO: State Higher Education Executive Officers Association. https://sheeo.org/wp-content/uploads/2019/05/SHEEO_QualityAssurance.pdf

CONCLUSION

In *Appendix A* we include a list of potential metrics, assurances, practices, and information that authorizers may collect or require of institutions. Some of the items are more applicable to brick-and-mortar institutions, and others are more appropriate for distance education institutions. Some items are directed at new institutions seeking authorization for the first time. Other items would only apply to existing institutions that have a track record or are going up for renewal. Finally, there are other items, not included in *Appendix A*, that authorizers may want to collect. Our list is not exhaustive.

We do not feel that authorizers ought to require each and every item listed in *Appendix A*. Rather, we offer these as options for states to consider as they reevaluate their processes and seek to better orient those processes toward the states' goals, institutional quality, student outcomes, and consumer protections. It is critical that states do not develop overly burdensome processes that prohibit new providers and stifle innovation. In that regard, states may want to examine their current authorization processes and requirements to determine if any elements are anachronistic or unnecessary. Those that no longer serve a useful purpose may be eliminated. This will allow states to focus only on those processes and requirements that advance the states' goals, consumer protection, student outcomes, and quality assurance and improvement. As technology and educational practices continue to evolve, states may want to consider establishing a regular review of their authorization requirements to ensure the overall process remains current and efficient.

State authorization must serve as a robust check on new and existing institutional actors in order to ensure that every student receives a quality education. Primary authority and responsibility lie with the state. The state determines whether an institution may operate and under what conditions, and may grant such approval independent of the USED and accreditors. States are the first and foundational actor in the triad. Given today's environment of new and different education actors, the proliferation of distance education providers and programs, a rising wave of institutional closures, and public scrutiny of higher education, a renewed state interest in assuring institutional quality and appropriate consumer protections is needed, and the place to start is with improved state authorization.

APPENDIX A

POTENTIAL METRICS, ASSURANCES, REQUIREMENTS, INFORMATION, AND ACTIONS FOR CONSIDERATION[35]

ACADEMIC QUALITY	
Accreditation (earned or under way)	Demonstrates an institution meets accreditation standards for academic quality. Should only recognize USED-recognized accreditors.
Admissions requirements	Ensures students being admitted have the prerequisites to be successful once admitted.
Certification and evidence that programs meet related/relevant state licensure/certification requirements	Programs that require state licensure or certification should be verified to meet state requirements prior to initial authorization.
Completions	A count of students earning credentials; should be disaggregated by program.
Council of Regional Accrediting Commission's (C-RAC) Interregional Guidelines for the Evaluation of Distance Education	Established guidelines for quality evaluations of distance education programs.
Course catalog	Provides a review of all courses and ensures alignment with faculty and mission and standards of quality.
Credit hour requirements	The credit hours required to earn a credential; should be in line with academic standards such as 120 credit hours for a bachelor's degree.
Faculty professional development processes and practices	Ensures that the institution engages in improvement practices that may benefit students.
Financial aid information	Ensures financial aid practices are legitimate and sustainable.
Graduate earnings data	Provides a measure of value added and can be benchmarked with earnings data for high school graduates; should be disaggregated by program.

35. Again, we are not suggesting that a state implement all of these. Instead, this is a suite of options from which a state may want to select. Student outcomes measures should be disaggregated by race/ethnicity, gender, and income.

ACADEMIC QUALITY

Graduation rates	A measure of the portion of students who graduate; provides a measure of quality in that higher rates should be an indication if students are receiving the support needed to complete. The new USED outcomes measures are a good example: https://nces.ed.gov/ipeds/use-the-data/survey-components/11/outcomes-measures
Graduation requirements	Should be aligned with academic standards at other institutions, and adequately prepare students for the credential being earned.
Licenses from other boards, agencies, or commissions	Another external assessment of quality.
Loan default rates	The percent of students who default on student loans within a specified period of time after entering repayment; often measured through cohort default rates.
Loan repayment	The portion of students repaying student loans provides an indicator of whether students are finding jobs that enable them to repay loans.
Program evaluation processes	Documented processes for how programs will be evaluated and discontinued.
Retention and progression rates	Measures of student progress and intermediate success.
Student evaluation processes	Documented processes for how students will be evaluated.
Student handbook	Outlines students' rights and responsibilities.
Student job placement rates	The percent of students employed in jobs in their field can be an indicator of education quality as institutions with high placement rates are likely adequately preparing their students for the workforce.
Student outcomes and learning goals	Documented learning goals for students; should be collected by program.
Student outcomes and learning metrics	Identified metrics to evaluate the learning goals outlined above.
Student outcomes and learning performance	Documented processes to assess student learning and performance.
Student success rates on state professional licensure/ certification exams	The percent of students passing licensure exams can help evaluate the quality of education students are receiving. Low rates are likely an indicator of poor quality.
Student support services	Documents the services students should expect to receive.

ACADEMIC QUALITY

Student to faculty ratio	The number of students to faculty members helps ensure an institution has enough faculty to serve students.
Time to credential	An important measure of quality, success, and consumer protection. Students ought to be completing their programs in a reasonable amount of time to ensure they are not spending too much and are getting what they pay for.
Tuition and fee schedule	Accounts for all charges for which students will be subjected.

ACADEMIC RESOURCES

Adequacy/qualifications of faculty	Faculty need to have the qualifications and training to provide the educational opportunities in the mission and course catalog.
Classroom and lab resources and capacity	A review of academic facilities to ensure they align with and meet program needs.
Curriculum	Should be aligned with state and accreditation requirements.
Faculty vitae	Provides confirmation faculty have the necessary credentials and experience.

CAPITAL RESOURCES

Appropriate materials and equipment for the educational mission of the organization	Institutions need to have the appropriate equipment and materials to educate students according to thier missions and programs being offered. For example, if an institution is providing a welding certificate, it needs to have the necessary welding equipment to train students.
Compliance with safety codes (e.g., fire codes)	Education providers should provide certificates of compliance with application materials.
Conduct on-site visits for brick-and-mortar institutions (including unannounced visits)	Ensure education providers have submitted accurate information on capital resources and capacities.
Suitable space	Ensures appropriate space to serve enrollment projections and provide the educational opportunities outlined in application materials.

CONSUMER PROTECTION

Advertising and recruitment practices	Monitor various types of media for advertising. Review to ensure students are not being misled or recruited through dishonest practices. Engage in "shopper" checks by clicking on ads to monitor recruiter claims and practices.
Arrangement for the permanent preservation of student records	An agreement that articulates how and where student records will be stored and transferred if an institution closes.
Cancellation policies	These policies outline the processes and procedures institutions will follow in the event of a course or program cancellation.
Investigation process and policies	Risk-weighted investigation process that is responsive to student complaints, outcomes measurements, financial indicators and other warning signs. Protects student and state interests while maximizing authorizing office resources.
Student complaint process with due process, and recourse policies and protections	A documented process to address student complaints that is accessible to the student and actionable. Institutions should be required to track cancellations and report them to the state. State may also want to discourage mandatory pre-dispute arbitration.
Student enrollment agreements	Review student enrollment agreements to ensure that they are fair and clear and that they adhere to all state and federal laws and policies. They should describe the cancellation, tuition refund, and complaint policies and processes.
Surety bond	Amount of money set aside to compensate students if an institution closes; should be large enough to fairly compensate all students.
Teach-out plans	A plan to ensure students are treated fairly as they finish programs of study in the event of an institutional closure.
Tuition recovery funds	Require institutions to reserve a portion of tuition in a fund that will be used to refund students if an institution closes.
Tuition refund policies	Sometimes referred to as trial period policies, students should receive refunds in a proportional manner to the amount of time they were enrolled. States should establish minimum refund standards.

FINANCES	
Audited financial statements	Provides detailed financial information to assess the fiscal health of institutions.
Cash on hand	Ensures education providers have the resources to operate.
Financial viability metrics (See: SHEEO's white paper for more information)	These metrics can help identify financially struggling institutions before they reach the point of imminent closure.
Projected revenue	Ensures education providers have the resources to operate under expected future conditions.
Proposed or current budget	Provides a review of expected revenue and ensures allocations are in line with institutional mission.
Ratio of academic expenditures to total expenditures	Evaluates the importance an institution places on its instructional mission; higher allocations to academic and instruction may lead to better outcomes.
Projected revenue	Ensures education providers have the resources to operate under expected future conditions.
Proposed or current budget	Provides a review of expected revenue and ensures allocations are in line with institutional mission.
Ratio of academic expenditures to total expenditures	Evaluates the importance an institution places on its instructional mission; higher allocations to academic and instruction may lead to better outcomes.
Revenue per FTE	Measure of revenue per full-time equivalent student enrollment can be benchmarked to similar types of institutions.
Share of revenue from tuition	Measures the extent to which an institution is tuition dependent.
Share of tuition revenue from public resources	Public resources would include state and federal financial aid. This would serve as a measure of the extent to which an institution is dependent on public resources for its operations (similar to the federal 90/10 rule.)
Total revenue	Can be benchmarked to similar types of institutions and tracked over time.
USED's Financial Responsibility Composite Score	Useful because it is used by the USED. States may also want to consider using the new financial events that schools must now report to USED. New USED regulations also prompt expedited recalculation of Financial Responsibility Composite Score based on certain triggers: https://ifap.ed.gov/eannouncements/030719GuidConcernProv2016BorrowerDefenseto RypmtRegs.html

GENERAL	
Articles of incorporation	Often filed with secretary of state, these articles document the formal creation of corporation and should be obtained before seeking state authorization.
Demonstration of market need	Provides an assessment of an education provider's ability to sustain future enrollment and meet state needs.
Vision and mission	Should be educationally oriented, student-focused, and serve the public good of the state.

MANAGEMENT AND ORGANIZATION	
Institution governance and board membership	Ensures that the institution is appropriately governed. Board members should be required to provide financial interest disclosures.
Leadership compensation schemes	Compensation schemes would include annual pay, benefits, other forms of compensation (house, car, deferred compensation, etc.), and incentive pay (the specific incentives ought to be identified).
Leadership qualifications	Ensures that those leading the institution are suitably qualified to do so.
Management structure	Demonstrates the capacity to fulfill its mission and appropriately serve students.
Organizational chart and ownership structure	Should be aligned with the mission and demonstrate adequate capacity to offer educational programs. All investors and private equity firms with financial stakes in schools of more than 5% of equity or equivalent in securitized debt should be identified.

APPENDIX B

EXAMPLES OF AUTHORIZATION WEBSITES/FORMS

Alaska:
https://acpe.alaska.gov/Institutional-Authorization

Colorado:
https://highered.colorado.gov/dpos

Massachusetts:
http://www.mass.edu/forinstitutions/academic/independentnewdegrees.asp

Minnesota:
http://www.ohe.state.mn.us/mPg.cfm?pageID=205

Nebraska:
https://cdn.education.ne.gov/wp-content/uploads/2017/10/Rule41_2016.pdf

New Hampshire:
https://www.education.nh.gov/highered/colleges/index.htm

New York:
http://www.acces.nysed.gov/bpss/applications-and-instructions-licensed-private-career-schools

North Dakota:
http://www.nd.gov/cte/private-post-inst/docs/CareerSchoolApplication.pdf

Ohio:
https://scr.ohio.gov/InformationforSchools/NewSchoolApplicationProcess.aspx

South Dakota:
https://sdsos.gov/general-information/postsecondary-education/Application.aspx

Tennessee:
https://www.tn.gov/thec/bureaus/student-aid-and-compliance/postsecondary-state-authorization.html

Washington:
http://www.wtb.wa.gov/PCS_StartingASchool.asp

Wisconsin:
https://dsps.wi.gov/Pages/Programs/EducationalApproval/Default.aspx

APPENDIX C

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