

# Why SARA is a Bad Deal for California's Online College Students

Online education can be a good option for some students, but companies running online “colleges” also have among the worst records of misleading marketing and low-value programs.<sup>1</sup> In recent years California has strengthened consumer protections for students enrolling at for-profit colleges,<sup>2</sup> but these apply only to students attending colleges with a physical presence in California. Regardless of where their program is located, all California students should enjoy the same consumer protections.

However, UC President Janet Napolitano and the other leaders of California's public colleges are headed in the opposite direction, *joining forces with for-profit colleges to enact a race-to-the-bottom formula for oversight of online education*. California's public universities are proposing a massive, nationwide scheme, in which every state would agree not to enforce their laws against schools based in any other state. **This guarantees that the worst online companies will locate in the states with the least oversight**, which leaves California's online students easy targets and potential victims.

The proposed deal is called the State Authorization Reciprocity Agreement, or SARA. And while there are ways to design reciprocity agreements that would protect consumers and benefit public universities, **the current version of SARA will end up benefitting the worst for-profit colleges and harming their students.**

## **SARA makes it impossible for California to take action against a fraudulent out-of-state online school.**

As currently drafted, SARA ties every school across the country – public, nonprofit, and for-profit – together in one agreement, with no way for a state to apply its requirements to a problem school without causing a breach of the entire agreement. For example, if a company based in Nevada is abusing California's online students, and if Nevada's authorities are not adequately responding, *California's only option would be to go nuclear*: California withdrawing completely from SARA for all schools. Because of the implications of a sudden withdrawal for the nonprofit, UC, CSU, and community college systems, it is inconceivable that California would ever withdraw. As a result, the Nevada school would be untouchable from California, and California's students would be left unprotected.

## **SARA gives all the power to the online education companies.**

Under California law, a student with a complaint about an in-state for-profit school has the option of seeking help directly from the California consumer protection agency, a right that is particularly important when a school may be misleading or defrauding a student. Under the current SARA agreement, however, the company is in the driver's seat: “Complaints must follow *the institution's customary resolution procedure* prior to being referred to the state” (emphasis added).<sup>3</sup> Then, the institution reports to its home state agency (not California if it is out-of-state) whether the complaint has been “resolved” or needs further attention by the agency. While the distant state may assist with complaint resolution, only the home state has the authority to make the final decision on how to resolve the complaint.<sup>4</sup>

### **PROTECTIONS CALIFORNIA STUDENTS CURRENTLY HAVE UNDER STATE LAW**

- Institutions are required to disclose the salaries of their actual graduates, instead of general salaries in the field.
- Job placement rates must include only graduates employed “in the field” in which they studied.
- Institutions are required to disclose the rate at which their borrowers default on their loans, an indication of whether the borrowers' investment in a school will be worthwhile, along with information about the schools' accreditation and limits thereof.
- Students can obtain reimbursements for economic losses due to sudden school or program closures from the Student Tuition Recovery Fund.
- Students are entitled to 100% refund if they cancel before the first day of class, and private student loan refunds in the event they withdraw before 60% of the term is completed.
- The Bureau for Private Postsecondary Education oversees for-profit institutions in CA, and students have the right to file complaints with the agency.

Worse still, the current SARA provisions actively displace all higher education standards and laws for out-of-state students, even in the school's home state. States cannot export or apply stronger standards or consumer protections, meaning that **even if the home state has stronger protections or standards than SARA, it cannot apply them to online courses conducted across state lines.**

## **SARA has no school removal mechanisms for the distant state.**

Under SARA, only the institution's home state has the ability to approve/deny/remove its participation in SARA. A distant state has no power to deny the school participation in SARA, even if the school is violating SARA standards or the consumer protections in the distant state. Thus, while California may request that a distant state and remove an institution violating California law from SARA, the final decision rests with the distant state. In essence, by joining SARA, California would be waiving its sovereignty to decide which out-of-state online schools may do business within its borders.

If a home state refuses to take an action requested by a distant state, the distant state may ask the group that administers SARA to review whether the home state has failed to comply with SARA's (vague) standards. If the SARA group determines that the home state is not abiding by SARA, it could eject the state from SARA. If the SARA group determines that the home state is abiding by SARA, the only other solution for the distant state is the even more unlikely nuclear option: withdrawing from SARA, and thereby **removing ALL California schools from SARA**. In this event, California's schools would be subject to the higher education oversight laws of all other states where they do business.

### **EXAMPLES:**

- Corinthian Colleges: SARA applies to all accredited degree-granting institutions. It would have covered Corinthian College's online schools, which are located in Florida and Arizona. Recently, the California Attorney General and the Department of Education found that the Corinthian falsified the job placement rate for many of the online programs offered through its Florida school.<sup>5</sup>
- EDMC and ITT Education Services: Both schools are in trouble. EDMC just agreed to a \$100 million settlement with the Department of Education, the State of California, and many other states for engaging in illegal recruiting practices.<sup>6</sup> ITT Tech's financial status is being closely monitored by the Department of Education and has been sued by the Consumer Financial Protection Bureau for unfair and deceptive business practices.<sup>7</sup> Both of their online schools are headquartered out of state<sup>8</sup> and would be exempted from California's student protections by SARA.

### **California has the opportunity to make a difference.**

Unfortunately, many states are signing onto SARA without understanding that they are leaving many for-profit students unprotected. California has a reputation for leading the country in enacting needed and wise consumer protection legislation. This is an opportunity for California to lead the nation and decline to join SARA until it is revised to maintain California's right to protect its citizens from for-profit school fraud.

The organization that is responsible for drafting SARA could revise the agreement to be more balanced between the interests of students, states, and schools. California is a large state where many schools want to do business, and if California takes a strong stand on this position it could lead to nationwide change that will benefit both consumers and states nationwide.

<sup>1</sup> U.S. Senate, Health, Educ., Labor and Pensions Comm., *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, S. Rpt. 112-37 at 5, 13 *I'm not sure you need these page cites for the broad claim you're making* (July 30, 2012); see also, Adam Rust, "I Feel Like I Was Set Up to Fail": Inside a For-Profit College Nightmare," [www.Salon.com](http://www.Salon.com) (Jan. 25, 2014) (detailing story of California student who enrolled in online courses at Everest University Online (owned by Corinthian Colleges) and Art Institute of Pittsburg (owned by EDMC)). See also National Consumer Law Center, *Ensuring Educational Integrity: 10 Steps to Improve State Oversight of For-Profit schools*, (June 2014).

<sup>2</sup> AB 2296 (Block) in 2012 and AB 1247 (Liu) in 2014.

<sup>3</sup> SARA agreement available at [www.wiche.edu/info/SARA/SARA\\_Institutional\\_Application.pdf](http://www.wiche.edu/info/SARA/SARA_Institutional_Application.pdf) (last accessed Dec. 6, 2015).

<sup>4</sup> National Council for State Authorization Reciprocity Agreements, "State Authorization Reciprocity Agreements Policies and Standards" at 4(2)(c) (July 10, 2015), available at [www.wiche.edu/sara/documentation](http://www.wiche.edu/sara/documentation).

<sup>5</sup> Michael Stratford, "More Findings Against Corinthian," [InsideHigherEd.com](http://InsideHigherEd.com) (Nov. 18, 2015).

<sup>6</sup> US Department of Justice, "For-Profit College Company to Pay \$95.5 Million to Settle Claims of Illegal Recruiting, Consumer Fraud and Other Violations" (Nov. 16, 2015), available at <http://www.justice.gov/opa/pr/profit-college-company-pay-955-million-settle-claims-illegal-recruiting-consumer-fraud-and>.

<sup>7</sup> Paul Fain, "Closer Watch on ITT," [InsideHigherEd.com](http://InsideHigherEd.com) (Oct. 20, 2015), available at <https://www.insidehighered.com/news/2015/10/20/education-department-steps-its-scrutiny-itt-tech>

<sup>8</sup> See [www.aionline.edu](http://www.aionline.edu) (stating that EDMC Art Institute of Pittsburg Online is based in Pittsburgh, PA); [www.itt-tech.edu/onlineprograms](http://www.itt-tech.edu/onlineprograms) and [www.dwc.edu/onlineprograms](http://www.dwc.edu/onlineprograms) (ITT Education Services online programs are based in Carmel, IN).