

# State Authorization and How it Affects SRU Students



I've never heard of  
"State Authorization"  
—What is it exactly?

State Authorization is a legal and regulatory term that applies to a university's compliance with individual statutes, regulations and rules in each state in which it serves students. Postsecondary institutions are required to seek individual authorization to deliver or facilitate educational services, programs or activities from each state in which they operate or have a physical presence.

Authorization is a  
two-sided issue:

1. The Commonwealth of Pennsylvania issues authorization to other institutions that wish to market, operate, enroll or otherwise engage in education-related activities in Pennsylvania.
2. Individual institutions must seek authorization from each state they wish to operate in and are individually responsible for all aspects of seeking authorization and maintaining compliance with state regulations.

## What is the relationship between state authorization, online and distance education?

The Department of Education released regulatory language in 2010 regarding online and distance education, state authorization and institutional compliance.

The regulation seeks to protect higher education student consumers and impacts institutional eligibility regarding certain programs, such as Title IV and VA funding. The regulations hold each institution responsible for compliance, rather than state or other systems. Slippery Rock University, rather than the Commonwealth of Pennsylvania or Pennsylvania State System of Higher Education, is responsible and accountable for state authorization.

Online and distance education places increased focus on students as consumers. Prior to the involvement of the Department of Education, states required postsecondary institutions to be authorized within their states before operating; however, many institutions were not actively pursuing authorization, particularly as the landscape of higher education evolved with emerging technologies.

## Is it possible that we will have to deny students based on which states they physically reside in?

Yes. Some states make the regulatory process prohibitively complex or expensive. A 2014 survey of institutions, conducted by partners, WICHE Collaboration for Educational Technologies, the Midwestern State Authorization Reciprocity Agreement, and University Professional & Continuing Education Association, revealed that many institutions would likely no longer accept students from certain states due to regulatory concerns.

The State Authorization Regulation Chapter 34 § 600.9 (c): If an institution is offering postsecondary education through distance or correspondence education to students in a state in which it is not physically located or in which it is otherwise subject to state jurisdiction as determined by the state, the institution must meet any state requirements for it to be legally offering postsecondary distance or correspondence education in that state. An institution must be able to document to the secretary the state's approval upon request.



## How does this affect my department?

While the original federal regulation is not being enforced, the Department of Education is actively working on distance education state authorization requirements and has indicated they will be a key issue this 2015 session.

More importantly, the DOE's focus on state authorization generated a new awareness in higher education that many institutions were operating in other states without authorization. Individual state requirements pre-date the Department of Education's regulation; states expect institutions to comply with their regulations. Regardless of the outcome of federal regulations, Slippery Rock University must seek authorization and remain compliant in all states in which it operates.

SRU must make a good faith effort to seek appropriate authorizations and have documentation of these efforts. To do this, we must have a strong understanding of our activities in each state. **There is no better resource available than the departments themselves. They are the experts**—they know where they are recruiting, what their students are doing, and what their online and distance education courses require.

Departments know whether their students are required to have proctored tests and where internships and practicums are taking place. The departments are best positioned to help us determine in which states SRU is currently operating.

“Decisions about how to proceed (where to apply; denying students access) will involve institution-wide strategic choices that must be made by or must have the full support of [an institution's] leaders.”

—WCET's “10 Steps You Can Take to Begin the State Authorization Process”



## Why don't we just seek authorization in every state?

Fee structures associated with authorization vary from \$0-\$20,000 or more. Some states do not have a flat fee structure and instead base authorization costs on the number and type of programs an institution wants to offer. Some states require annual renewal, whereas others grant indefinite renewal as long as our activities within the state do not change.

SRU's current strategy for State Authorization compliance is first to determine where we are currently operating and then identify where we would like to operate. Once SRU has identified these states, and gathered information regarding our activity in each state, SRU will begin seeking authorization (or exemption) as appropriate.

SRU's initial actions will focus on states where it operates, bordering states, as well as states where there is a low or no cost for authorization.



What does it mean to “operate” in a state, especially if we are only doing online delivery?

This is the golden question. Each state defines what it means to operate differently. For example, some states only require authorization if you operate a physical location associated with the institution in that state. For other states, simply enrolling a resident in an online class is considered “operating” in that state.

Many states (but not all) determine the need for authorization based on physical presence, but all states define physical presence differently. Common physical presence “triggers” that would require SRU to seek authorization in a state include:

- Offering distance education courses that include field experience (such as internships or clinical practicums)
- Advertising in local media
- Employing proctors or instructors within that state
- Housing administrative or instructional spaces
- Participating in direct recruiting activities with residents of that state

## Are there exemptions to the State Authorization requirements?

Some states offer exemptions, but SRU can only determine its eligibility if it has an accurate and current understanding of our out-of-state activities, including marketing, recruitment, advertising, field placements and other factors.

## What about students who now live in PA but are considered residents of other states?

Students who retain their official residency in other states, but currently reside in Pennsylvania, are considered to fall under Pennsylvania's own provisions.

## What kind of information do we need from your department?

Staff will be meeting with departments to gather a better understanding of their instructional activities and student demographics. Initial information gathering will be conducted via email or phone. Staff may then follow up with individual departments to gain additional information regarding any activities that may trigger the need for authorization.

Some state regulators require submission of program-specific information, including course descriptions, curriculum, syllabi, partnering sites for field placements, projected annual enrollments and faculty profiles.

Staff are also working with various other divisions to gather data related to student residency and online enrollment as well as SRU's marketing and recruitment efforts. Together with information from academic departments, staff will create an inventory of our institution's out-of-state activities.

## What is SARA?

The President's Forum, Council of State Governments and the Commission on Regulation of Postsecondary Distance Education all worked on "model" versions of the **State Authorization Reciprocity Agreement**. Through reciprocity, an institution authorized under SARA in its home state would be considered authorized in all other SARA states. With support from Lumina and the Gates Foundation, the regional higher education compacts (WICHE, SREB, MHEC and NEBHE) are implementing SARA. As of December 2015, 36 states have been accepted into SARA. Pennsylvania is not one of them, but has introduced SARA enabling legislation.



## What other considerations should we keep in mind?

Programs of study that typically require additional licensure to practice in the field may require SRU to gain programmatic authorization within a state before we are authorized to serve residents. Additionally, these programs may need to review their curriculum to determine if it aligns with licensure requirements in other states. If a department's program does not fit licensure requirements in another state, we should refrain from enrolling students from that state.

The most common fields listed by states as requiring programmatic approval/licensure are nursing, social work, psychology and education. Some states list engineering and allied health programs, as well.

As SRU continues to develop and launch new online programs and course offerings, collaborations between departments, instructional design teams, and coordinators will help us identify potential authorization triggers while maintaining our good faith compliance efforts and growing our programs.



Who can answer questions I have regarding State Authorization and my department's activities, or help me learn more about State Authorization?

Samantha Kelly

333 ATSH

samantha.kelly@sru.edu

724.738.2149

Where can I find more information about State Authorization?

WICHE Cooperative for Educational Technologies:  
<http://wcet.wiche.edu/learn/issues/state-authorization>

State Higher Education Executive Officers Association:  
<http://sheeo.org/projects/state-authorization-postsecondary-education>

U.S. Department of Education:  
<http://www2.ed.gov/about/offices/list/ope/policy.html>