



# HOW STATES CAN HELP STUDENTS HARMED BY HIGHER EDUCATION FRAUD

## APPENDIX B

### Distance Education and Student Protection Fund Eligibility

Most student protection fund (SPF) laws were drafted before the emergence of online education and the [Uniform State Authorization Reciprocity Agreement \(NC-SARA\)](#). This is a reciprocity agreement among states. In the agreement, the member states—all states, except California—agree that they will automatically approve a nationally accredited school that exclusively offers distance education and lacks an in-state physical presence whenever the school is approved by the member state where the school is legally domiciled and accredited. NC-SARA prohibits member states from imposing their higher education consumer protection laws against out-of-state schools approved through NC-SARA.<sup>1</sup> It also prohibits them from charging fees to those schools, including SPF fees.<sup>2</sup> Only the home state where the school is legally domiciled may charge SPF fees to NC-SARA schools.<sup>3</sup>

This chart identifies which states provide SPF eligibility to private for-profit and nonprofit school students who enroll in programs taught exclusively through distance education. For most of the exceptions, unless otherwise noted, please refer to Appendix A of this report for citations.

1. See Robyn Smith, Nat'l Consumer Law Center, *Ensuring Educational Integrity: 10 Steps to Improve State Oversight of For-Profit Schools* (June 2014).
2. See Nat'l Council for State Authorization Reciprocity Agreements, *State Authorization Reciprocity Agreements Manual* §§ 1(19) at 11 & 3.6 at 29 (Ver. 20.3 Nov. 13, 2020).
3. The NC-SARA manual only requires states to have “laws, regulations, policies and/or processes in place to deal with the unanticipated closures of an institution and . . . make every reasonable effort to assure that students receive the services for which they have paid or reasonable financial compensation for those not received[, which] may include tuition assurance funds, surety bonds, teach-out provisions or other practices deemed sufficient to protect consumers.” *Id.* § 2.5(h) at 16.

## Which Distance Education Students Are Eligible For Relief From SPF Funds?

State	OUT-OF-STATE SCHOOLS Distance Education Schools that Lack a Physical Presence		IN-STATE SCHOOLS Distance Education Schools with a Physical Presence	
	In-state Students of NC-SARA Schools?	In-state Students of Schools that are not NC-SARA Schools?	In-state Students?	Out-of-state Students?
AZ	N	N <sup>4</sup>	Y, except students of schools that are accredited by regional or specialized accrediting agency	N <sup>5</sup>
AR	N	Y, <sup>6</sup> except students of degree-granting schools	Y, except students of degree-granting schools	N <sup>7</sup>
CA	Y	Y, <sup>8</sup> except students of schools accredited by the Western Association of Schools and Colleges (WASC)	Y, except students of schools accredited by WASC	N
CT	N	Y, <sup>9</sup> except students of degree-granting schools	Y, except students of degree-granting schools	N <sup>10</sup>
FL	N	Y, <sup>11</sup> except students of degree-granting schools	Y, except students of degree-granting schools	N <sup>12</sup>
GA	N	Y <sup>13</sup>	Y	Y <sup>14</sup>
IN	N	Y, <sup>15</sup> except students of nonprofit degree-granting schools	Y, except students of out-of-state nonprofit schools and regionally accredited, privately endowed schools with their principal campus in Indiana that grant 2- or 4-year degrees	Y, <sup>16</sup> except students of out-of-state nonprofit schools and regionally accredited, privately endowed schools with their principal campus in Indiana that grant 2- or 4-year degrees

4. Ariz. Rev. Stat. Ann. § 32-3001(5) (definition of “operate” requires physical presence in Ariz.).

5. *Id.* § 32-3075(B) (non-residents enrolled in “distance learning instruction” not eligible).

6. See [Arkansas’s responses](#) to survey from Nat’l Council for State Authorization Reciprocity Agreements, Question 4A1.

7. Ark. Code Ann. § 6-51-607 (schools only pay into SPF for Ark. residents).

8. Cal. Educ Code § 94801.5.

9. Conn. Gen. Stat. §§ 10a-22a(1) (law applies to any private occupational school “offering or advertising vocational instruction” in Conn.). See also, [Connecticut’s responses](#) to survey from Nat’l Counsel for State Authorization Reciprocity Agreements, Question 4A1.

10. *Id.* § 10a-22u(1) (“distance learning and correspondence schools” only pay into SPF for Conn. residents).

11. Fla. Stat. Ann. § 1005.06(h).

12. Fla. Admin. Code Ann. r. 6E-4.005 (schools pay into SPF based only on income from Florida students).

13. Ga. Code Ann. §§ 20-3-250.2(26), 20-3-250.27(c)(1) (law covers institutions “operating” in state; operating defined to include offering distance education).

14. *Id.* §§ 20-3-250.2(11.1), 20-3-250.27 (schools pay into SPF funds based on gross tuition, including for non-Georgia students; out-of-state residents not excluded from eligibility).

15. Ind. Code §§ 21-18.5-2-12(a) (law applies to degree-granting institutions that provide “instructional or educational services or training whether onsite, online, or through any combination of these or other modalities . . . .”); 21-18.5-6-2 (a person may “not do business . . . in Indiana” as a degree-granting institution unless authorized, no physical presence requirement in statute); 21-4.1-21-9 (law applies to non-degree granting institutions “doing business in Indiana by offering to the public, for a tuition, fee, or charge, instructional or education services or training . . . in the recipient’s home, at a designated location, or by mail . . . .”; no physical presence requirement in statute).

16. *Id.* §§ 21-18.5-6-20; 22-4.1-21-35 (eligibility not limited to Indiana residents).

## Which Distance Education Students Are Eligible For Relief From SPF Funds? (cont.)

State	OUT-OF-STATE SCHOOLS Distance Education Schools that Lack a Physical Presence		IN-STATE SCHOOLS Distance Education Schools with a Physical Presence	
	In-state Students of NC-SARA Schools?	In-state Students of Schools that are not NC-SARA Schools?	In-state Students?	Out-of-state Students?
KY	N	N <sup>17</sup>	Y, except students of schools granting baccalaureate degrees or higher	N <sup>18</sup>
LA	N	Y, <sup>19</sup> except students of schools exclusively granting baccalaureate degrees or higher	Y, except students of schools exclusively granting baccalaureate degrees or higher	Y, <sup>20</sup> except students of schools exclusively granting baccalaureate degrees or higher
MD	N	Y, <sup>21</sup> except students of degree-granting schools	Y, except students of degree-granting schools	N <sup>22</sup>
NE	N	Y, <sup>23</sup> except students of nonprofit schools offering baccalaureate degrees or higher	Y, except students of nonprofit schools offering baccalaureate degrees or higher	Y, <sup>24</sup> except students of nonprofit schools offering baccalaureate degrees or higher
NV	N	N <sup>25</sup>	Y	Y <sup>26</sup>
NY	N	Y, <sup>27</sup> except students of degree-granting schools	Y, except students of degree-granting schools	Y, <sup>28</sup> except students of degree-granting schools
NC	N	N <sup>29</sup>	Y, except students of degree-granting schools and nonprofit non-degree granting schools	N <sup>30</sup>

17. Ky. Rev. Stat. Ann. §§ 165A.360(a), 165A.450.

18. *Id.* § 165A.450(a) (only Kentucky residents eligible).

19. La. Rev. Stat. Ann. § 17:3141.2. See also, [Louisiana's response](#) to survey from Nat'l Council for State Authorization Reciprocity Agreements, Question 4A1.

20. La. Rev. Stat. Ann. § 17:3141.16 (eligibility not limited to Louisiana residents).

21. Md. Code Ann., Educ., § 11-203(d)(1)(ii).

22. Md. Regs. Code tit. 13B, § 02.06.02 (eligibility limited to Maryland residents).

23. Neb. Rev. Stat. §§ 85-2403(9)(a), 85-1603(17) (law applies to school which “offers a course of study or instruction for which tuition is charged”).

24. *Id.* §§ 85-1657, 85-2426 (eligibility not limited to Nebraska residents).

25. Nev. Rev. Stat. § 394.091 (defining “operate” as requiring a physical presence in Nevada).

26. *Id.* (eligibility not limited to Nevada residents).

27. NY Educ. Law §§ 5001(1), 5007 (law applies to school “which charges tuition or fees related to instruction and which is not exempted”).

28. *Id.* § 5007 (eligibility not limited to New York residents).

29. N.C. Gen. Stat. § 115D-87(2) (law applies only to schools with physical presence in North Carolina).

30. SPF payments are calculated based on upon “annual gross revenue generated in-state.” N.C. Gen. Stat. § 115D-95.1.

## Which Distance Education Students Are Eligible For Relief From SPF Funds? (cont.)

State	OUT-OF-STATE SCHOOLS Distance Education Schools that Lack a Physical Presence		IN-STATE SCHOOLS Distance Education Schools with a Physical Presence	
	In-state Students of NC-SARA Schools?	In-state Students of Schools that are not NC-SARA Schools?	In-state Students?	Out-of-state Students?
OH	N	N <sup>31</sup>	Y, except students of certain accredited for-profit schools that grant baccalaureate or higher degrees and students of nonprofit schools that offer instruction in broad specific areas defined by statute	Y, <sup>32</sup> except students of certain accredited for-profit schools that grant baccalaureate or higher degrees and students of nonprofit schools that offer instruction in broad specific areas defined by statute
OR	N	Y, <sup>33</sup> except students of degree-granting schools	Y, except students of degree-granting schools	N, unless student attended a non-degree-granting school and is not eligible for relief from another state's SPF <sup>34</sup>
TN	N	N <sup>35</sup>	Y, except students of some nonprofit accredited schools	N, unless students are Tenn. residents and attend a location of a licensed school outside of Tenn., <sup>36</sup> except for students of some accredited schools
TX	N	Y, <sup>37</sup> except students of schools that are accredited, award degrees, and are physically located in and approved by another state <sup>38</sup> and students of degree-granting programs	Y, except students of degree-granting programs	Y, <sup>39</sup> except students of schools that are accredited, award degrees, and are physically located in and approved by another state and students of degree-granting programs

31. See [Ohio's responses](#) to survey from Nat'l Council for State Authorization Reciprocity Agreements, Question 4A1.

32. Statute does not limit eligibility to Ohio residents; Ohio Rev. Code Ann. § 3332.082.

33. Or. Rev. Stat. § 345.030(3) ("A person may not open, conduct or do business as a career school in this state without obtaining a license . . ."). See also [Oregon's responses](#) to survey from Nat'l Council for State Authorization Reciprocity Agreements, Question 4A3.

34. Or. Admin. R. 715-045-0029.

35. Tenn. Code Ann. § 49-7-2003(17) ("To operate' an educational institution . . . means to establish, keep or maintain any facility or location in this state where, from or through which education is offered or given or educational credentials are offered or granted . . .").

36. *Id.* § 49-7-2018(a)(1) (intended to cover "students who reside in Tennessee or attend an authorized location with a Tennessee address"); see also [Tennessee Higher Educ. Commission \(THEC\) Division of Postsecondary State Authorization \(DPSA\) Tennessee Tuition Guaranty Fund \(TGF\) Claim Application](#) (a student is eligible "only when the closing institution is authorized by THEC and (1) a student attended a physical location of the school in Tennessee or (2) a student is a Tennessee resident and attended a location of the institution outside of Tennessee.").

37. Tex. Educ. Code Ann. § 132.001(1)(A) ("Career school or college' . . . means any business enterprise operated for a profit or on a nonprofit basis that maintains a physical place of business or solicits business within this state . . . , and . . . at which place of business such a course or courses of instruction . . . are available through classroom instruction or by distance education . . .").

38. *Id.* § 132.001(1)(B).

39. *Id.* §§ 132.001(1), 132.2415 (eligibility not limited to Texas residents; applies to out-of-state non-degree granting schools).

## Which Distance Education Students Are Eligible For Relief From SPF Funds? (cont.)

State	OUT-OF-STATE SCHOOLS Distance Education Schools that Lack a Physical Presence		IN-STATE SCHOOLS Distance Education Schools with a Physical Presence	
	In-state Students of NC-SARA Schools?	In-state Students of Schools that are not NC-SARA Schools?	In-state Students?	Out-of-state Students?
WA	N	Y, <sup>40</sup> except students of some accredited degree-granting schools	Y, except students of some accredited degree-granting schools	N, <sup>41</sup> except students of some degree-granting schools <sup>42</sup>
WI	N	Y <sup>43</sup>	Y, except some accredited non-profit schools	Y, <sup>44</sup> except students of some accredited nonprofit schools

40. Wash. Admin. Code § 250-61-145(3)(b) (non-exempt degree granting institutions); Wash. Rev. Code § 28C.10.020(12) (applicable to non-degree-granting institutions, "'To operate' means to establish, keep or maintain any facility or location where, from, or through which education is offered or educational credentials are offered . . .").

41. Wash. Rev. Code § 28C.10.082 (SPF relief may only be provided to Wash. residents).

42. Wash. Rev. Code §§ 28B.85.230, 288.85.240 (eligibility not limited to Wash. residents).

43. Wis. Stat. § 440.52(1)(e)(9).

44. *Id.* § 440.52(10)(c)(4) (eligibility not limited to Wisconsin residents).