

WELCOME 

Helping Prospective SARA Institutions Tighten Up their Complaint Process

- ▶ Please Note: Audio will be broadcast through the speakers on your computer. If you are having trouble hearing the audio or need assistance contact ReadyTalk at 800-843-9166.
- ▶ The webcast will be 90 minutes in length with at least 30 minutes available for responding to questions.
- ▶ An archive of the webinar will be available on the MHEC website and partner organization websites. See <http://www.mhec.org/sara-webinars>.

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Helping Prospective SARA Institutions Tighten Up their Complaint Processes

October 15, 2014
An M-SARA Webinar

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**Thank you for collaborating with the
Midwestern Higher Education Compact!**

 Indiana Commission for Higher Education
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 **NCHEMS**
National Center for Higher Education Management Systems



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Structure of the Webinar 

Total Webinar Time = 90 minutes

- Part I:** Introduction, Anatomy of a complaint
- Part II:** Anatomy of an institutional complaint process
- Part III:** Anatomy of a state complaint process
- Part IV:** Compliance requirements (Title IV and DoD)
- Part V:** The SARA complaint process
- Part VI:** Questions and Answers (30 Min.)



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Structure of the Webinar 

- ▶ All of us will be responding to “chat” questions during the webinar to the degree possible
- ▶ We will follow up with answers to questions we don’t address today, probably by 10/24/14
- ▶ The PowerPoint presentation will be recorded and posted to the website and we will follow up the webinar by sending you a copy of it



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PART I:

Introduction and the Anatomy of a Complaint

Jenny Parks and Sara Appel



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Introduction:

Questions from Institutional Staff

- ▶ Why is this so important?
- ▶ Why is there so much talk about complaint processes recently?
- ▶ We have a complaint process. Why do we need to review and revisit it?



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**Introduction:
Context for the Webinar** 

Increasingly student-oriented policies and practices in the higher education universe and marketplace

Ex: College Scorecards

<http://www.whitehouse.gov/issues/education/higher-education/college-score-card>



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**Introduction:
Context for the Webinar** 

Rise of for-profit institutions (the good and the not-so-good) and an increase in complaints and institutional closures

Ex: Corinthian closures



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**Introduction:
Context for the Webinar** 

State (AGs) and USDE are focusing on consumer protection and complaint processing

Ex: Platforms, Class-Action Suits, Investigations, EO 13607



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Introduction:
Context for the Webinar

General rise in compliance requirements from USDE with the reauthorization of the Higher Education Act (Title IX, Cleary Act, FERPA) and a trend toward heftier penalties for non-compliance

Ex: Program Integrity Rules, 10/29/10

<https://www.federalregister.gov/articles/2010/10/29/2010-26531/program-integrity-issues>



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Introduction:
Context for the Webinar

New modalities and student populations create more opportunities for misunderstandings, mis-steps and mistakes; better complaint procedures can help with these situations



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Anatomy of a Complaint

**Complaints
v.
Concerns**



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Anatomy of a Complaint A Complaint...



- ▶ An expression of dissatisfaction concerning the provision of a program of study or related academic or administrative service, when the complainant has drawn attention to it and is not satisfied with the response
- ▶ Alleges that an institution or one of its actors has violated institutional policies, accreditor policies, federal or state laws, best practices or any other agreements joined by the institution



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A compliant complaint ...



Besides the obvious information that needs to be collected to process a student complaint, there are some essential assertions that need to be included:

- ▶ Direct the student to go through the institutional complaint process before pursuing other paths.
- ▶ Let students know what kinds of complaints can and cannot be reviewed.
- ▶ Complaints cannot be anonymous (*exceptions: certain complaints about sexual harassment and assault, misbehavior toward minors, but these generally go to the campus police and/or local law enforcement*)
- ▶ Have a statute of limitation.
- ▶ Provide an estimated timeframe for a response.



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Anatomy of a Complaint A Concern...



- ▶ A matter of interest or importance to someone that doesn't affect the quality of a student's learning opportunities
- ▶ Does not allege an action that violates any institutional policies, accreditor policies, federal or state laws, best practices or any other agreements joined by the institution



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Types of Complaints



- ▶ **Academic**
 - Grades
 - Advising
 - Transfer of credits
- ▶ **Non-academic**
 - Conduct
 - Discrimination (ADA, Title IX)
 - Payments and Financial Aid



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PART II:

Anatomy of an Institutional Complaint Process

Sara Appel



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Anatomy of an Institutional Complaint Process



Typical complaints and where they go

- **Academic:** Instructor → Department Chair → Dean of Academic Affairs
- **Against other students:** Assistant Dean/Dean of Students/Ombudsman → Investigation → Dean of Students (Against athletes may have a different but similar process)
- **Faculty and staff:** Office of Equity and Diversity Issues



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Anatomy of an Institutional Complaint Process



Recommendations and Best Practices

- Has a single point of contact initially
- Has only one layer of links/clicks to contacts and forms
- Provides a description of the whole process, its levels and layers, its timeline, and how and when a student can appeal
- Provides a written/e-mail response for receipt of complaint and for every step of the process, including conclusion of process
- Provides links to written processes and policies used by folks dealing with the complaint (handbook, code of conduct, etc.)
- Sometimes provides for an ombudsman (Dean of Students, Student Affairs)



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Anatomy of an Institutional Complaint Process



Recommendations and Best Practices

- Allows for unusual processes and unanticipated sorts of complaints
- Advises about avenues outside the institution, including the right to an attorney
- Has clear statutes of limitations (2, 3, 4, 5 years...)
- Explains the differences between different kinds of complaints and the paths that they follow in the process, including those that go to another agency (provides links to those agencies)
- Provides disclaimer/releases about open records and FERPA laws
- Allows/provides for a mediation process
- Reviewed and updated on a regular basis which is based upon written institutional policies and procedures regarding the development and maintenance of complaint procedures. *(Federally mandated).*



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Anatomy of an Institutional Complaint Process



Recommendations and Best Practices

- Does not allow anonymous complaints
- Is the same for all students (no differentiation between on-line and residential, in-state and out-of-state, graduate and undergraduate, etc.)
- Allows a complaint about an institutional policy itself
- Is appropriate in scope; does not define allowable complaints too narrowly or too broadly
- All releases (FERPA, Open Records, SARA, etc. are embedded in the signature or authorization required for submission for the complaint)
- List of complaint processes in all the other states *(Federally mandated; 34 CFR 668.43(b))*
- **Is easy for a student to find and understand!!!!**



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Anatomy of an Institutional Complaint Process: Examples



Example: Ombuds Office

Central Michigan University

<https://www.cmich.edu/ess/ombuds/pages/default.aspx>



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Anatomy of an Institutional Complaint Process: Examples



Columbia College - high tech

<https://web.ccis.edu/Offices/InstitutionalCompliance/approvals-by-st.aspx>



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Anatomy of an Institutional Complaint Process: Examples



The University of Toledo - low tech

<http://www.utoledo.edu/dl/main/complaint.html>



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Anatomy of an Institutional Complaint Process: Examples 

Samples available WCET Website:

<http://wcet.wiche.edu/advance/state-authorization-samples>



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PART III: 

Anatomy of a State Complaint Process

Marianne Boeke



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The State Complaint Process 

Requiring each state to have a complaint process was part of the big "federal announcement" back on October 29, 2010.

Requirements for States - State licensure and approval agencies need to:

- ▶ Approve institutions to "operate" in the state according to their own regulations, if any.
- ▶ Upon request of the US ED, provide a list of institutions approved to operate in the state by name.
- ▶ **Maintain a third-party process to review and address complaints from students attending institutions approved to operate in that state.**

Under the U.S. Department of Education, Program Integrity Issues; Final Rule, 75 Fed. Reg. 66832, 66833
<http://www.gpo.gov/fdsys/pkg/FR-2010-10-29/pdf/2010-26531.pdf>



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The State Complaint Process

More specifically[600.9(a)]:

To maintain the State's role in student consumer protection ... A state must have a process, applicable to all institutions except tribal and federal institutions, to review and address complaints directly or through referrals.

This process is known as the "State Complaint Process."



The State Complaint Process

The USDOE allows for different ways for a state to approach the state complaint process – but there are certain guiding principles:

- ▶ The State must have a process to review and appropriately act in a timely manner on complaints concerning an institution.
- ▶ The State has the final authority to resolve complaints and enforce applicable State law and regulations.

“We believe that students, their families, and the public should have a process to lodge complaints that is independent of an institution.”

Under the U.S. Department of Education, Program Integrity Issues; Final Rule, 75 Fed. Reg. 66832, 66833
<http://www.gpo.gov/fdsys/pkg/FR-2010-10-29/pdf/2010-26531.pdf>



The State Complaint Process

What might a State Complaint Process look like?

A state agency may ask for the following:

- ▶ Name of Student (or Complaint)
- ▶ Complainant Address /Phone Number
- ▶ Name of Institution / Location of the Institution (City)
- ▶ Dates of Attendance
- ▶ A full description of the problem and any other documentation that will support your claim such as enrollment agreements, correspondence, etc.

This information should be able to be sent via mail, email, or fax – and that address/number should be easily found on the web page.



The State Complaint Process

An Office of the **Attorney General** may:

- ▶ Provide a phone number to call or on online process to file.
- ▶ Ask for a full description of the problem and any other documentation that will support your claim.

This information should be able to be sent via mail, email, or fax – and that address/number should be easily found on the web page.

For a complete list of state's complaint process, please see: State Higher Education Executive Officers (SHEEO) <http://www.sheeo.org/sites/default/files/Complain%20Process%20Links%202012-2012.pdf>



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The State Complaint Process

A student must first exhaust the complaint/grievance procedures established by the institution!



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The State Complaint Process

- ▶ **Wasn't this all struck down by the courts?**
 - No. Only 34 CFR 600.9(c) the distance education portion of the U.S. Department of Education's state authorization regulations was vacated by the United States District Court for the District of Columbia, the complaint process portion of the regulation is still in place.
- ▶ **So What State Authorization Regulation Deadline is the Department Delaying?**
 - Although the regulations were to go into effect July 1, 2011, USDOE stayed enforcement until July 1, 2013, and then again delayed enforcement until **July 1, 2015**.
 - Why? Because USDOE recognized that some states would not have sufficient authorization and/or complaint review processes in place by the original deadline.

<http://wceblog.wordpress.com/2014/06/26/pause-on-state-auth/>



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The State Complaint Process

- ▶ **If a state doesn't have a complaint process I don't need to do anything, right? Not so fast!**
 - If a state agency does not have a complaint process an institution may request a one-year extension from the appropriate state agency. Each institution is responsible for obtaining its own extension.
 - It is the responsibility of each institution to have the exemption or the web link in place.
- ▶ Remember... the institutional deadline was **July 1, 2011** and has not been extended!



The State Complaint Process

Final Thoughts:

- ▶ The latest extension for the **state** complaint process is July 2015.
- ▶ Although the burden of the state complaint process is on the states, the lack of compliance impacts the institution.
- ▶ The state complaint process is not intended to replace the institutional process but to make sure students have a place to go after the institution process is exhausted without resolution (if needed).
- ▶ List of Student Complaint Information by State and Agency:
<http://www.sheeo.org/sites/default/files/Complaint%20Process%20Links%2012-2012.pdf>



Anatomy of an Institutional Complaint Process

Example of Best Practice - Low Tech
 North Dakota
<https://www.ndus.edu/system/state-authorization/>




Anatomy of an Institutional Complaint Process



Example of Best Practice - High Tech Indiana

<http://www.in.gov/che/2744.htm>



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PART IV:



Compliance requirements (Title IV and DoD)

* Don't forget accreditors!! Ex: HLC's requirements: <http://policy.ncahlc.org/Requirements-for-Affiliation/obligations-of-affiliation.html>

Jenny Parks and Linda Dammer



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Title IV Complaint Process Requirements



- ▶ Federal Rules are not very specific for institutional complaint processes.
- ▶ Institutions must provide a process for on-line and out-of-state students as well as for on-the-ground and in-state students
- ▶ Institutions must provide a list of all the state level complaint agencies in other states where the institution has current and prospective students

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Title IV Complaint Process Requirements



Helpful Link for Questions about Federal requirements for institutional complaint processes:

<http://www2.ed.gov/policy/highered/reg/hea/rulemaking/2009/sa.html#complaints>

<http://ifap.ed.gov/dpclletters/GEN1404.html>

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Department of Defense Process Requirements: Context



- ▶ Executive Order 13607
Principles of Excellence, April 27, 2012
<http://www.whitehouse.gov/the-press-office/2012/04/27/executive-order-establishing-principles-excellence-educational-institutions>
- ▶ Voluntary Education partnership Memorandum of Understanding (MOU)
<http://www.dodmou.com/>



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Department of Defense Process Requirements: Context




The screenshot shows the Department of Defense (DoD) Voluntary Education Partnership Memorandum of Understanding (MOU) website. It includes a navigation bar with links for Home, DoD 1322.25, Institution Login, Participating Institutions, Contact Us, and FAQ. A search bar is also present. The main content area features a 'Welcome' message, a 'Latest News' section with an article about the DoD MOU application process, and an 'Application for DoD MOU' section. A red arrow points to the 'Application for DoD MOU' section.

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Department of Defense Process Requirements 

Takes you to this website, which is the centralized military post secondary education complaint system.



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Department of Defense Process Requirements 

According to the website, "You may submit a complaint if your school is failing to follow the [Principles of Excellence](#).... The types of complaints DoD will review include the following:"

- Recruiting and marketing practices
- Accreditation
- Financial issues (for example, tuition and fee charges)
- Student loans
- Post-graduation job opportunities
- Change in degree plan and requirements
- Quality of education
- Grade policy
- Release of transcripts
- Transfer of credits
- Refund or collection issues
- Other

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Department of Defense Process Requirements 

An explanation of the process is located at this link:

http://vm2.srca.net/dodmou/Documents/Resources/Documents/PECS%20LAUNCH_EMAIL%20TO%20SCHOOLS_STUDENTS_FINAL.pdf

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Department of Defense Process Requirements



DoD complaint system may be used by students who are:

- ▶ Active Military Service Members
- ▶ Veterans
- ▶ Eligible Family Members of both above



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Department of Defense Process Requirements



DoD complaint system may be used as a primary or a secondary complaint system (after an institutional and/or state process has been resolved).

- ▶ Active Military Service Members
- ▶ Veterans
- ▶ Eligible Family Members of both above



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Department of Defense Process Requirements



Recommendations for best Practice

DoD POC (Point of Contact) should be someone intimately connected to the institution's main complaint process



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Department of Defense Process Requirements

Example of Best Practice and the interaction of an institutional complaint process with the DoD process

- ▶ Which comes first?
- ▶ FERPA disclosures
- ▶ Communicating between various entities
- ▶ Closing the loop
- ▶ Recommend link to DoD process on institutional complaint process/website



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PART V:

The SARA Complaint Process

Alan Contreras



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The student complaint process under SARA

- ▶ Must be easy to access by student and link to the SARA state-level complaint process.
- ▶ All complaints must first exhaust the institution's internal complaint resolution processes.
- ▶ The SARA complaint process only applies to interstate offerings by SARA participant institutions. It does *not* replace any complaint processes required by state or federal law that are applicable to in-state activity or non-SARA interstate activity.
- ▶ States can always still use their general-purpose consumer protection statute to deal with fraud cases, false advertising, etc.



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The student complaint process under SARA



- ▶ Must close with an affirmation statement allowing the State Portal Agency to share information with the institution in question in order to complete the investigation.
- ▶ The affirmation must also allow sharing of information with the SPA of the student's home state, the regional compact, and NC-SARA.
- ▶ There must be appropriate language to allow record sharing under FERPA as well.



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The student complaint process under SARA



Examples of types of complaints that might rise to the state portal agency if unresolved:

- ▶ recruiting/marketing practices
- ▶ professional licensure program disclosures and disclaimers
- ▶ violation of C-RAC guidelines



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The student complaint process under SARA



Examples of types of complaints that go through an alternate process or which cannot rise above the institutional level under SARA:

- ▶ Title IV/Student Financial Aid complaint: USDE
- ▶ Grade disputes: stay at institution
- ▶ Student conduct disputes: stay at institution
- ▶ Disability accommodations/compliance: OCR
- ▶ Racial or gender discrimination: OCR



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The student complaint process under SARA



▶ **When is the SARA Complaint Process Used?**
(after the institutional process has been exhausted)

Student's State	Institution's State	Applicable Process
Non-SARA	Non-SARA	State's process
Non-SARA	SARA	State's process
SARA	Non-SARA	State's process
SARA	SARA *SARA institution *On-line program	SARA Process



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The student complaint process under SARA



How is the SARA process different from the regular state process?

- ▶ Not much different if the SPA is the same agency that handles complaints/appeals under the regular/traditional/default system
- ▶ Going beyond/above the SPA, appeals go to the regional SARA steering committee
- ▶ Number, types, and outcomes of SARA complaints are reported to NC-SARA



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The student complaint process under SARA



Sample Complaint Scenario: Traditional System (1 of 2)

- ▶ Nebraska student complains against/to Indiana institution regarding claims about job placement rates claimed during recruitment process
- ▶ Student grieves through institutional process and is not satisfied
- ▶ Student lodges complaint with Indiana state process (*if s/he can figure out the right place to go to complain- might go straight to someone else in Nebraska, who might/might not know best path to take from there*)
- ▶ Indiana CHE pursues complaint as CHE and resolves but student is not satisfied



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The student complaint process under SARA 

Sample Complaint Scenario: Traditional System (2 of 2)

- ▶ Student contacts AG in Nebraska and/or Indiana
 - Which jurisdiction is it?
 - Are there resources to pursue the institution?
 - Is this an agency priority?
 - Do the laws of the state allow such a suit and, again, which state has jurisdiction?
 - What are the laws, regulations and resources concerning possible refunds and other remedies?
- ▶ Student hires private counsel...can become a **BIG MESS**
- ▶ Takes a lot of time, work, and money on the part of the student



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The student complaint process under SARA 

Sample Complaint Scenario: SARA System (1 of 2)

- ▶ Nebraska student complains against and to Indiana institution re claims about job placement rates during recruitment process
- ▶ Student grieves through institutional process and is not satisfied

******Process changes here******

- ▶ Student lodges complaint with Indiana SARA process *because it is abundantly clear on the institutional website where and how to do this*
- ▶ Indiana CHE pursues complaint as the SPA and resolves the complaint, in communication with the SPA of the student's state (In this case, Nebraska); however, a state joining SARA has agreed to follow the higher education processes and laws of the state where the institution is located



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Wrap-Up: Questions 

- ▶ What does my institution need to do, for what reasons, and by when?
- ▶ What is acceptable and what are the best practices?
- ▶ What are the risks of non-compliance?



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Wrap-Up: Guidance



- ▶ Review and make compliant all complaint processes with special instructions for out of state on-line students, both in and out of SARA (*the former is required by USDE and the latter is required for SARA participation*)
- ▶ There are many good examples out there; ask your state regulators; WCET website
- ▶ Federal, State, and individual legal repercussions (*new federal rules due in Spring 2015; state laws are changing all the time*); institutional reputation and student satisfaction could decrease; SARA membership is dependent upon a compliant complaint process.



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PART VI:

Questions and Answers

Everyone



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HELPFUL LINKS



- ▶ Program Integrity Rules
<http://www.gpo.gov/fdsys/pkg/FR-2010-10-29/pdf/2010-27395.pdf>
- ▶ DoD (has complaint process requirements)
http://www.militaryonesource.mil/voluntary-education?content_id=274604

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More Information on SARA?



- ▶ NC-SARA website: www.nc-sara.org
- ▶ Regional Education Compacts:
 - MHEC - <http://www.mhec.org/sara>
 - NEBHE - <http://www.nebhe.org/programs-overview/sara/overview/>
 - SREB - www.sreb.org/sara
 - WICHE - <http://www.wiche.edu/sara>


