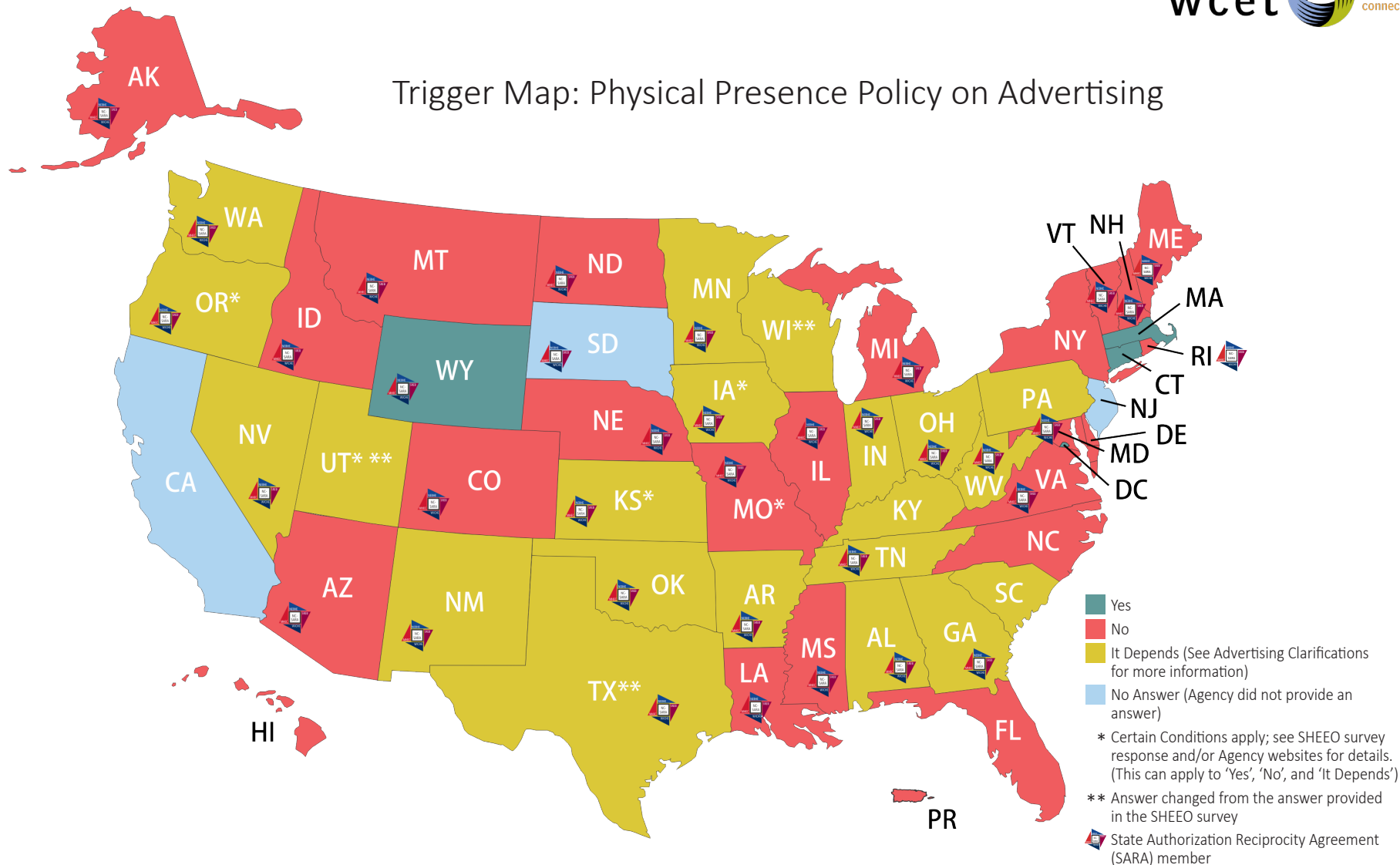


## Trigger Map: Physical Presence Policy on Advertising



### Does Advertising Trigger Physical Presence?

The Advertising section in the SHEEO State Authorization Survey includes the following:

“Advertising in local media sources that are largely viewed by residents of the state”

“Advertising in national media sources that can be accessed by residents of the state”

The trigger map is colored ‘Yes’ or ‘No’ if the answer to both questions was the same when the agencies completed the survey. ‘It Depends’ is used when a state answered one of the advertising questions ‘Yes’ and the other one ‘No’. Details are provided in the chart under Advertising Clarification.

## Definitions:

**Authorized** means holding a current valid charter, license, or other written document issued by a state, the federal government, or a recognized Indian tribe, granting the named entity the authority to issue degrees and operate within a state or jurisdiction.

**Distance Education (DE)** means instruction offered by any means where the student and faculty member are in separate physical locations. It includes, but is not limited to, online, interactive video, or correspondence courses or programs.

**Operate** means activities conducted by an institution in support of offering distance education degree or non-degree courses or programs in a state including, but not limited to, instruction, marketing, recruiting, tutoring, field experience, and other student support services.

**Physical Presence** means a measure by which a state defines the status of an educational institution's presence within the state.

*Source of definitions:* NC-SARA State Authorization Reciprocity Agreements Policies and Standards, May 13, 2015.

## Impact of SARA on State Authorization Requirements:

A State Authorization Reciprocity Agreement (SARA) is an agreement among its member states, districts, and U.S. territories that establishes comparable national standards for interstate offering of postsecondary distance-education courses and programs. A condition of SARA membership includes that the state agrees that it will not impose on an institution operating under SARA from another state any requirements, standards, fees, or procedures other than those set forth in SARA policies and rules. SARA has established its own uniform standard for physical presence vs. distance education. For purposes of participation in SARA, this standard applies, but it does not affect the application of existing state laws to colleges that choose to operate outside of SARA or which are based in states that are not SARA members.

All SARA states have agreed to the following statement with regard to advertising: "An institution does not have physical presence, and is therefore covered by SARA in SARA member states, if it is only advertising to students whether through print, billboard, direct mail, internet, radio, television, or other medium." Please see Section 5 of the SARA Policies and Standards for additional information.

## Important Things to Know About Advertising

The Advertising Trigger for Physical Presence generally has to do with whether an institution is specifically targeting residents of a state with their online programs. This can include direct mail, billboards, local TV, radio, or newspaper, and unsolicited emails. Generally, local advertising is viewed as more intrusive and targeted than national advertising by most state agencies. However there are some states where national advertising triggers physical presence.

## Methodology

This trigger map was developed using the information reported by the state agencies to the State Higher Education Executive Officers association (SHEEO). State surveys were reviewed in June, 2015, and all data was accurately documented at that time. The date of the last revision provided by the agency is documented to easily determine whether the agency for a given state has made any changes since the data was accessed. WCET has updated the information in cases where the survey responses are known to no longer be valid. In those cases the answers in the table are marked with \*\*. The website for each state agency should always be the most current source of information about state authorization requirements. WCET is not responsible for decisions made by members based on this map. It is recommended that you check with the authorizing agencies in each state to answer any questions you might have about their policies and regulations.

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Contact [wcetinfo@wiche.edu](mailto:wcetinfo@wiche.edu) for information about  
WCET's Connect, Learn, and Advance agenda,  
and how to join WCET.

# SARA States: Detailed List of Answers, Advertising Physical Presence Triggers

| State<br>(SARA States<br>in blue font) | Does Advertising<br>Trigger Physical<br>Presence? | Advertising Clarifications   | Authorizing Agencies   | Date of Last Revision<br>to SHEEO Survey |
|--|---|--|--|--|
| <b>AK</b>                              | No  | There are limitations on advertising and solicitation.   | Alaska Commission on Postsecondary Education   | 5/11/15                                  |
| <b>AL</b>                              | Yes**   | Local Media: Yes; National Media: Yes  | Alabama Commission on Higher Education;<br>Alabama Department of Postsecondary Education Office of Private<br>School Licensing Division;<br>Office of Alabama Secretary of State | 7/28/14; 7/25/2014;<br>no revisions      |
| <b>AR</b>                              | It Depends  | Local Media: Yes; National Media: No   | Arkansas Department of Higher Education;<br>Arkansas State Board of Private Career Education   | 5/9/14; 4/30/14                          |
| <b>AZ</b>                              | No  |  | Arizona State Board for Private Postsecondary Education  | 6/11/14                                  |
| <b>CA</b>                              | No**  |  | California Bureau for Private Postsecondary Education  | 3/31/15                                  |
| <b>CO</b>                              | No  |  | Colorado Department of Higher Education;<br>Division of Private Occupational Schools   | 4/30/14/; 4/30/14                        |
| <b>CT</b>                              | No  |  | The (Connecticut) Office of Higher Education   | 4/30/14                                  |
| <b>DC</b>                              | Yes   |  | (District of Columbia) Education Licensure Commission  | 2/19/15                                  |
| <b>DE</b>                              | Yes**   |  | Delaware Department of Education   | 6/23/14                                  |
| <b>FL</b>                              | Yes**   |  | Commission for Independent Education Florida Department<br>of Education  | 4/3/15                                   |
| <b>GA</b>                              | It Depends  | Local Media: Yes; National Media: No   | (Georgia) Nonpublic Postsecondary Education Commission   | 11/18/14                                 |
| <b>HI</b>                              | No  |  | Hawai'i Post-Secondary Education Authorization Program (HPEAP)   | 5/7/2014                                 |
| <b>ID</b>                              | No  |  | Idaho State Board of Education   | 5/12/2015                                |
| <b>IL</b>                              | No  |  | Illinois Board of Higher Education   | 4/30/14                                  |
| <b>IA*</b>                             | It Depends  | Local Media: Yes; National Media: No. The issue is solicitation of a<br>course, not physical presence. | Iowa College Student Aid Commission  | 5/6/14                                   |
| <b>IN</b>                              | It Depends  | Local Media: Yes; National Media: No   | Indiana Commission for Higher Education (CHE);<br>Indiana Department of Workforce Development  | 4/24/14/ 4/30/14                         |
| <b>KS*</b>                             | It Depends  |  | Kansas Board of Regents  | 5/7/14                                   |
| <b>KY</b>                              | It Depends  |  | (Kentucky) Commission on Proprietary Education;<br>Kentucky Council on Postsecondary Education   | NA; 4/25/14                              |
| <b>LA</b>                              | No  |  | Louisiana Board of Regents   | 5/7/14                                   |
| <b>MA</b>                              | Yes   | Systematic and targeted advertising may trigger the need for<br>approval.                              | Massachusetts Department of Higher Education (DHE);<br>Massachusetts Division of Professional Licensure Office of<br>Private Occupational School Education                       | 6/30/15; 9/2/2014                        |
| <b>MD</b>                              | No  |  | Maryland Higher Education Commission   | 3/17/15                                  |
| <b>ME</b>                              | No  |  | Maine Department of Higher Education   | 4/2/15                                   |
| <b>MI</b>                              | No  |  | Michigan Department of Licensing and Regulatory Affairs  | 5/28/14                                  |
| <b>MN</b>                              | It Depends  | Local Media: Yes; National Media: No   | Minnesota Office of Higher Education   | 4/28/14                                  |
| <b>MO*</b>                             | No  |  | Missouri Department of Higher Education  | 6/27/14                                  |
| <b>MS</b>                              | No  |  | Mississippi Commission on College Accreditation;<br>Commission on Proprietary School and College Registration  | 4/28/14; 8/20/14                         |
| <b>MT</b>                              | Yes**   |  | Montana University System Office of the Commissioner of<br>Higher Education  | 5/29/14                                  |

\*Certain conditions apply; see SHEEO Survey response and/or Agency websites for details. \*\*Denotes content that has been updated from SHEEO survey response.

| State<br>(SARA States<br>in blue font) | Does Advertising<br>Trigger Physical<br>Presence? | Advertising Clarifications  | Authorizing Agencies  | Date of Last Revision<br>to SHEEO Survey |
|--|---|---|---|--|
| <b>NC</b>                              | No  |   | The University of North Carolina Board of Governors;<br>Office of Proprietary School Services North Carolina<br>Community College System                            | 3/25/15; 4/28/14                         |
| <b>ND</b>                              | No  |   | North Dakota University System;<br>North Dakota Department of Career and Technical Education  | 6/17/14; 5/13/14                         |
| <b>NE</b>                              | No  |   | Nebraska's Coordinating Commission for Postsecondary Education;<br>Nebraska Department of Education Private Postsecondary<br>Career Schools                         | 5/8/14; 5/8/14                           |
| <b>NH</b>                              | No  |   | New Hampshire Department of Education Division of Higher<br>Education-Higher Education Commission   | 5/2/14                                   |
| <b>NJ</b>                              | No**  | However the agency requests that institutions contact them if they<br>will do significant advertising.                                    | New Jersey Secretary of Higher Education;<br>The Center for Occupational Employment Information (COEI),<br>New Jersey Department of Labor and Workforce Development | 3/25/15; 4/29/14                         |
| <b>NM</b>                              | It Depends  | Local Media: Yes; National Media: No  | New Mexico Higher Education Department  | 5/1/14                                   |
| <b>NV</b>                              | It Depends  | Local Media: Yes; National Media: No  | Nevada Commission on Postsecondary Education  | 3/16/15                                  |
| <b>NY</b>                              | No  |   | (New York) Office of College and University Evaluation;<br>Bureau of Proprietary School Supervision New York State<br>Education Department                          | 5/12/15; 4/29/14                         |
| <b>OH</b>                              | It Depends  | Local Media: Yes for For-Profit IHEs soliciting students for programs at<br>or above the bachelor's level: National Media: No             | Ohio Department of Higher Education**;<br>Ohio State Board of Career Colleges and Schools   | 3/17/15; 4/29/14                         |
| <b>OK</b>                              | It Depends  | Local Media: No; National Media: No unless OK residents are<br>mentioned specifically, then Yes   | Oklahoma State Regents for Higher Education;<br>The Oklahoma Board of Private Schools;<br>Oklahoma Board of Career and Technology Education                         | 5/9/14; 4/29/14;<br>4/29/14              |
| <b>OR*</b>                             | It Depends  | Local Media: Yes; National Media: No  | (Oregon) Department of Education Private and Career Schools Office;<br>Office of Degree Authorization   | 9/4/14; 5/5/15                           |
| <b>PA</b>                              | It Depends  | Local Media: Yes; National Media: No  | Pennsylvania Department of Education  | 5/22/14                                  |
| <b>RI</b>                              | No  |   | Rhode Island Office of Higher Education   | 5/13/14                                  |
| <b>SC</b>                              | It Depends  | Local Media: Yes; National Media: No  | South Carolina Commission on Higher Education   | 10/21/14                                 |
| <b>SD</b>                              | No**  |   | South Dakota Secretary of State's Office (solely a filing agency)   | 2/9/15                                   |
| <b>TN</b>                              | It Depends  | Local Media: Yes; National Media: No  | Tennessee Higher Education Commission Division of Postsecondary<br>School Authorization (DPSA)  | 2/6/15                                   |
| <b>TX</b>                              | It Depends**                                      | Local Media: Yes; National Media: No. The two agencies answered<br>Local Media differently. See THECB website for additional information. | Texas Higher Education Coordinating Board;<br>Texas Workforce Commission  | 6/6/14; 5/2/14                           |
| <b>UT*</b>                             | It Depends**                                      | Local Media: No Answer; National Media: No  | Utah Division of Consumer Protection  | 5/29/14                                  |
| <b>VA</b>                              | No  |   | State Council of Higher Education for Virginia (agency name) Private<br>and Out-of-State Postsecondary Education (unit name)  | 5/8/14                                   |
| <b>VT</b>                              | No  |   | Vermont State Board of Education through the Vermont<br>Agency of Education   | 3/17/15                                  |
| <b>WA</b>                              | It Depends  | Local Media: Yes; National Media: No  | Washington Workforce Training and Education Coordinating Board;<br>Washington Student Achievement Council   | 10/21/14; 4/30/14                        |
| <b>WI</b>                              | It Depends**                                      | Institutions with online programs must obtain approval. See<br>regulations for additional detail.   | Wisconsin Educational Approval Board  | 4/30/14                                  |
| <b>WV</b>                              | It Depends  | Local Media: Yes; National Media: No  | West Virginia Council for Community and Technical College Education;<br>West Virginia Higher Education Policy Commission  | 4/30/14; 4/30/14                         |
| <b>WY</b>                              | Yes   |   | Wyoming Department of Education   | 5/2/14                                   |
| <b>Puerto Rico</b>                     | No  |   | The Puerto Rico Council on Education  | 3/16/15                                  |

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