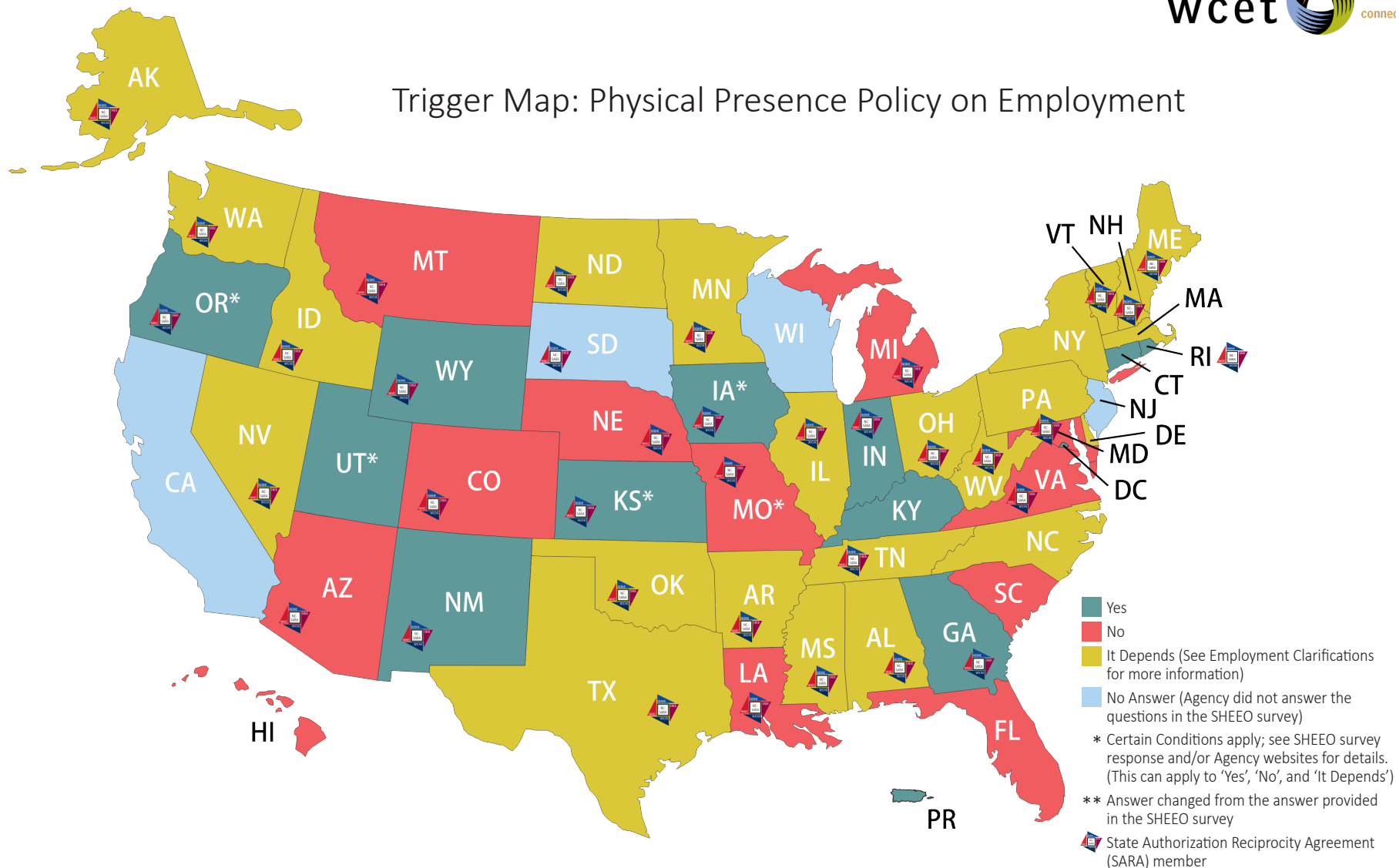


## Trigger Map: Physical Presence Policy on Employment



### Does Employment Trigger Physical Presence?

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

“Employing full-time faculty in the state to provide instruction via distance education programs to students in the state”; “What about adjunct faculty”

“Employing full-time faculty in the state to provide instruction via distance education programs solely to students outside the state”; “What about adjunct faculty”

“Employing mentors, tutors, or preceptors in the state to aid students, who are residents of the state, on an individual basis”

The trigger map is colored 'Yes' or 'No' if the answer to all three questions was the same when the agencies completed the survey. 'It Depends' is used when a state answered one of the employment questions are varied. Details are provided in the chart under Employment Clarifications.

The Employment Triggers for Physical Presence generally has to do with whether an institution is employing faculty in the state to provide instruction. There is a distinction between faculty employed to teach students solely outside of the state in some states. In some states, if even one of the students is in the state, physical presence may be triggered.

### **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.

**Faculty** means a professional individual employed by or contracted with an institution primarily to teach, conduct research or provide related professional education services.

**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 Employment "Having faculty, adjunct faculty, mentors, tutors, or other academic personnel residing in a member state (the presence of instructional faculty in a state, when those faculty teach entirely via distance-education and never meet their students in person, does not establish physical presence for purposes of this agreement." Please see Section 5 of the SARA Policies and Standards for additional information.

### **Important Things to Know About Employment as a Trigger:**

Connecticut: The definition of physical presence is under review as part of the revision of state regulations.

A few states do not consider employment activities to be deemed a triggers as all activities are regulated by the state. At the current time, these states are AL, AR, and GA.

## Methodology/Disclaimer

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 facilitate determining 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 below 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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WCET's Connect, Learn, and Advance agenda,  
and how to join WCET.

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

State (SARA States in blue font)	Does Employment Trigger Physical Presence?	Employment Clarifications	Authorizing Agencies	Date of Last Revision to SHEEO Survey
<b>AK</b>	It Depends	Yes: FT Faculty; No: Adjunct Faculty; No: Mentors/Tutors/Preceptors	Alaska Commission on Postsecondary Education	5/11/15
<b>AL</b>	It Depends	ACHE – No: FT and Adjunct Faculty; No Answer: Mentors/Tutors/Preceptors ADPEOPSLD – Did not answer survey. OASE – Did not answer survey. <i>This state does not consider activities to be deemed a trigger as all activities are regulated by the state.**</i>	Alabama Commission on Higher Education; Alabama Department of Postsecondary Education Office of Private School Licensing Division; Office of Alabama Secretary of State	7/28/14; 7/25/2014; no revisions
<b>AR</b>	It Depends	ADHE – No: FT and Adjunct Faculty; No: Mentors/Tutors/Preceptors ASBPCE – Yes: FT and Adjunct Faculty unless all students are outside the state; Yes: Mentors/Tutors/Preceptors <i>This state does not consider activities to be deemed a trigger as all activities are regulated by the state.**</i>	Arkansas Department of Higher Education; 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; Division of Private Occupational Schools	4/30/14/; 4/30/14
<b>CT</b>	No	The definition of physical presence is under review as part of the revision of state regulations.	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>	It Depends	No: FT and Adjunct Faculty; Yes: Mentors/Tutors/Preceptors	Delaware Department of Education	6/23/14
<b>FL</b>	No		Commission for Independent Education Florida Department of Education	4/3/15
<b>GA</b>	Yes	Yes: FT and Adjunct Faculty, unless all of the students are outside of the state; Yes: Mentors/Tutors/Preceptors; the answer is based on the establishment of an in-state address and/or phone number, each of which is a “presence” criteria. <i>This state does not consider activities to be deemed a trigger as all activities are regulated by the state.**</i>	(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>	It Depends	No: FT and Adjunct Faculty, as long as no face-to-face interaction occurs with students; Yes: Mentors/Tutors/Preceptors. Testing monitors are OK, but any part of actual teaching, instruction (like tutoring and preceptors) would trigger physical presence. This would be no different than face-to-face meetings with faculty members.	Idaho State Board of Education	5/12/2015
<b>IL</b>	It Depends	No: FT and Adjunct Faculty; Yes: Mentors/Tutors/Preceptors. Operating authority would likely be required depending on the nature of the contracting.	Illinois Board of Higher Education	4/30/14
<b>IA*</b>	Yes	Yes for distance education, whether the preceptor is paid or unpaid.	Iowa College Student Aid Commission	5/6/14
<b>IN</b>	Yes**	CHE – No: FT and Adjunct Faculty; No: Mentors/Tutors/Preceptors IDWD – Yes: FT Faculty unless all students are outside the state; Yes: Adjunct Faculty; Yes: Mentors/Tutors/Preceptors	Indiana Commission for Higher Education (CHE); Indiana Department of Workforce Development	4/24/14/ 4/30/14

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

State (SARA States in blue font)	Does Employment Trigger Physical Presence?	Employment Clarifications	Authorizing Agencies	Date of Last Revision to SHEEO Survey
<b>KS*</b>	Yes		Kansas Board of Regents	5/7/14
<b>KY</b>	Yes		(Kentucky) Commission on Proprietary Education; Kentucky Council on Postsecondary Education	Did not answer SHEEO survey; 4/25/14
<b>LA</b>	No		Louisiana Board of Regents	5/7/14
<b>MA</b>	It Depends**	DHE – No: FT and Adjunct Faculty; Yes: Mentors/Tutors/Preceptors MDPLOPOSE – The agency did not answer questions.	Massachusetts Department of Higher Education (DHE); Massachusetts Division of Professional Licensure Office of Private Occupational School Education	6/30/15; 9/2/2014
<b>MD</b>	No		Maryland Higher Education Commission	3/17/15
<b>ME</b>	It Depends**		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	No: FT and Adjunct Faculty; Yes: Mentors/Tutors/Preceptors	Minnesota Office of Higher Education	4/28/14
<b>MO*</b>	No	Generally no, as long as the contact with the faculty person occurs through non-Missouri addresses and institutional contacts.	Missouri Department of Higher Education	6/27/14
<b>MS</b>	It Depends	MCCA – No: FT and Adjunct Faculty; No: Mentors/Tutors/Preceptors CPSCR – Yes: FT and Adjunct Faculty; Yes: Mentors/Tutors/Preceptors	Mississippi Commission on College Accreditation; Commission on Proprietary School and College Registration	4/28/14; 8/20/14
<b>MT</b>	No		Montana University System Office of the Commissioner of Higher Education	5/29/14
<b>NC</b>	It Depends	UNCBG – Yes: FT and Adjunct Faculty**; Yes: Mentors/Tutors/ Preceptors OPSSNCCCS – The agency did not answer the questions.	The University of North Carolina Board of Governors; Office of Proprietary School Services North Carolina Community College System	3/25/15; 4/28/14
<b>ND</b>	It Depends	NDUS – No: FT and Adjunct Faculty; No: Mentors/Tutors/Preceptors NDDCTE – No: FT Faculty (as long as all students are outside the state); Yes: Adjunct Faculty; Yes Mentors/Tutors/Preceptors	North Dakota University System; North Dakota Department of Career and Technical Education	6/17/14; 5/13/14
<b>NE</b>	No	NCCPE – No: FT and Adjunct Faculty; No: Mentors/Tutors/Preceptors as long as they are not providing instruction. NDEPPCS – The agency did not answer the questions.	Nebraska’s Coordinating Commission for Postsecondary Education; Nebraska Department of Education Private Postsecondary Career Schools	5/8/14; 5/8/14
<b>NH</b>	It Depends**	No: FT and Adjunct Faculty; Yes: Mentors/Tutors/Preceptors	New Hampshire Department of Education Division of Higher Education - Higher Education Commission	5/2/14
<b>NJ</b>	No**		New Jersey Secretary of Higher Education; The Center for Occupational Employment Information (COEI), New Jersey Department of Labor and Workforce Development	3/25/15; 4/29/14
<b>NM</b>	Yes		New Mexico Higher Education Department	5/1/14
<b>NV</b>	It Depends	No; FT and Adjunct Faculty; Yes: Mentors/Tutors/Preceptors	Nevada Commission on Postsecondary Education	3/16/15
<b>NY</b>	It Depends	OCUE – No: FT and Adjunct Faculty; Yes: Mentors/Tutors/Preceptors BPSSNYSED – The agency did not answer the questions.	(New York) Office of College and University Evaluation; Bureau of Proprietary School Supervision New York State Education Department	5/12/15; 4/29/14
<b>OH</b>	It Depends	ODHE – No: FT and Adjunct Faculty; Yes: Mentors/Tutors/Preceptors, depends on the nature of activity taking place in such meetings. OSBCCS – No: FT and Adjunct Faculty; No: Mentors/Tutors/Preceptors	Ohio Department of Higher Education**; Ohio State Board of Career Colleges and Schools	3/17/15; 4/29/14
<b>OK</b>	It Depends	OSRHE – No: FT and Adjunct Faculty as long as all students are outside the state.** Yes: Mentors/Tutors/Preceptors OBPS – The agency did not answer the questions. OBCTE – No: FT and Adjunct Faculty; No: Mentors/Tutors/Preceptors	Oklahoma State Regents for Higher Education; The Oklahoma Board of Private Schools; Oklahoma Board of Career and Technology Education	5/9/14; 4/29/14; 4/29/14

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

State (SARA States in blue font)	Does Employment Trigger Physical Presence?	Employment Clarifications	Authorizing Agencies	Date of Last Revision to SHEEO Survey
<b>OR*</b>	No	ODA – No Answer for FT and Adjunct Faculty; Yes: Mentors/Tutors/ Preceptors ODEPCSO – Yes: FT and Adjunct Faculty; Yes: Mentors/Tutors/ Preceptors	(Oregon) Department of Education Private and Career Schools Office; Office of Degree Authorization	9/4/14; 5/5/15
<b>PA</b>	It Depends	No: FT and Adjunct Faculty; Yes: Mentors/Tutors/Preceptors	Pennsylvania Department of Education	5/22/14
<b>RI</b>	It Depends**	Yes, if meeting face-to-face.	Rhode Island Office of Higher Education	5/13/14
<b>SC</b>	No		South Carolina Commission on Higher Education	10/21/14
<b>SD</b>	No Answer	The agency did not answer the questions.	South Dakota Secretary of State's Office (solely a filing agency)	2/9/15
<b>TN</b>	It Depends	No: FT and Adjunct Faculty if the instructor is leading a distance education course from his or her residence in the state; Yes: Mentors/ Tutors/Preceptors	Tennessee Higher Education Commission Division of Postsecondary School Authorization (DPSA)	2/6/15
<b>TX</b>	It Depends	THECB – No: FT and Adjunct Faculty; Yes: Mentors/Tutors/Preceptors if there is any face-to-face contact. TWC – Yes: FT Faculty; Yes: Adjunct Faculty unless all students are outside the state; Yes: Mentors/Tutors/Preceptors	Texas Higher Education Coordinating Board; Texas Workforce Commission	6/6/14; 5/2/14
<b>UT*</b>	Yes		Utah Division of Consumer Protection	5/29/14
<b>VA</b>	No		State Council of Higher Education for Virginia (agency name) Private and Out-of-State Postsecondary Education (unit name)	5/8/14
<b>VT</b>	It Depends	No: FT and Adjunct Faculty; Yes: Mentors/Tutors/Preceptors	Vermont State Board of Education through the Vermont Agency of Education	3/17/15
<b>WA</b>	It Depends	WWTECB – No: FT Faculty and Adjunct Faculty; Yes: Mentors/Tutors/ Preceptors WSAC – No: FT Faculty and Adjunct Faculty; Yes: Mentors/Tutors/ Preceptors	Washington Workforce Training and Education Coordinating Board; Washington Student Achievement Council	10/21/14; 4/30/14
<b>WI</b>	No Answer	The agency did not answer any of the questions.	Wisconsin Educational Approval Board	4/30/14
<b>WV</b>	It Depends	WVCCTCE – No: FT Faculty and Adjunct Faculty; Yes: Mentors/Tutors/ Preceptors WVHEPC – No: FT Faculty and Adjunct Faculty; Yes: Mentors/Tutors/ Preceptors	West Virginia Council for Community and Technical College Education; 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>	Yes		The Puerto Rico Council on Education	3/16/15

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