

## **FINAL ACCREDITATION AND STATE AUTHORIZATION REGULATIONS**

### **Summary**

The Department of Education is publishing final regulations relating to the accreditation of institutions of higher education, as well as State authorization requirements for distance education. These regulations resulted from a consensus agreement by a diverse rulemaking panel earlier this year. The Department subsequently received approximately 200 comments from the public and, in response, made several clarifying changes to the proposed regulations to ensure they are as clear and straightforward as possible. Following publication, the regulations will take effect July 1, 2020, with the exception of a few provisions relating to the recognition of accrediting agencies, which will take effect July 1, 2021, in order to allow for a transition to new recognition timelines in the regulations.

### **Accreditation Reform**

The final regulations restore States, accreditors, and the Department their proper places in the postsecondary regulatory triad and affirm the autonomy of accreditors to provide mission-based quality assurance reviews of their member institutions. Moving away from one-size-fits-all standards, these regulations recognize that the strength of American higher education is the diversity of its institutions, including schools with religious missions, which means that no single set of standards or requirements can determine each institution's contributions. In addition, these regulations empower accreditors to act early when an institution is at risk for closure and to hold institutions to higher levels of accountability, while still allowing institutions to take the necessary corrective actions. When an institution must close, these regulations authorize accreditors to act earlier to require teach-out plans and to approve teach-out agreements in order to increase the number of options available to students.

The rules enable accreditors to update their standards to meet the needs of today's students and institutions, to support innovation at institutions with strong outcomes, and to provide opportunities for experimentation in controlled and carefully monitored environments. They also clarify that traditional faculty-led decision-making models are not the only models acceptable for approving new programs and curricula at institutions of higher education and that employers must play a more prominent role in reviewing program quality and working with institutions to identify needed curriculum updates.

Finally, as distinctions between regional and national accreditors are artificial, the Department hold all accreditors to the same standards. Under these rules, the Department recognizes accreditors based on the following three categories: 1) institutional accreditors, 2) programmatic accreditors, and 3) specialized accreditors, which are programmatic accreditors that also accredit single-program institutions. No institution should be beholden to a particular accreditor simply because it is located in a particular State. For students and institutions, geography will no longer be destiny.

### **Need for this Regulatory Reform**

Accreditors are independent membership organizations that determine which institutions or programs meet a clear set of quality standards. Approval by an accreditor recognized by the Department enables an institution to participate in federal funding programs, including title IV programs. Over time, however, the Department has become increasingly prescriptive regarding accreditor standards and practices and, in encouraging one-size-fits-all assessment standards, has diminished the importance of institutional mission in evaluating institutional outcomes and contributions and stifled innovation.

Those institutions that have set the standards in many aspects of higher education, including accreditation, have not done enough to serve the increasingly diverse population of college and

university students who have limited options. The current system too often favors results that are largely the result of an institution's admissions practices. Additionally, fears about potential unintended consequences of educational innovation have left the accreditation process biased toward the status quo. Under the current regulations, conformity may be critical to a successful accreditation review, but it will not enable institutions to meet the changing needs of students or the workforce. We need to create pathways for new approaches to education, and we must enable institutions to be more responsive to the needs of their students and communities in order to maintain the relevance of the programs they offer.

Over time, the role of the accreditor has been expanded as States and the Department have pushed more of their own regulatory oversight work onto accreditors. Accreditors have been asked to do more, without improved results. It is important to reaffirm the role that each member of the regulatory triad plays in overseeing higher education quality and integrity. Each member of the triad must work to reduce the focus on bureaucratic paperwork requirements so that accreditors can focus their time and resources on what matters most to students – the opportunities an institution provides both inside and outside of the classroom.

Finally, employers have become increasingly frustrated by the growing gap between what students are learning in college and what skills are needed to succeed in the workforce, and, in many instances, an inflexible accreditation system has been blamed for the lack of institutional responsiveness. Students who are depending upon higher education to succeed in entering or advancing in the workforce often face unnecessary obstacles that require them to start over or repeat courses as they are trying to advance, simply because one institution refuses to accept credits earned at another institution out of routine practice. Meanwhile, the Department is concerned about the growing practice of elevating the level of the credential required to satisfy occupational licensure requirements.

The status quo has not benefited students, has not facilitated innovation, and has not reduced college costs. In order to ensure that all Americans find a pathway to a rewarding career and lifelong learning, reforms to the accreditation system are critical.

### **Major policies**

The final regulations will:

- Eliminate geography to determine an accreditor's scope of recognition and clarify that institutional mission, rather than geographic location, should guide the quality assessment of an institution and its programs.
- Affirm that accreditors must respect the mission of an institution of higher education that relies upon religious tenets, beliefs, or teachings.
- Encourage institutions to evaluate the merit of transfer credits and prior learning assessment more fairly to reduce the need for students to take – and pay for – the same classes twice.
- Allow accreditors to establish different methods of monitoring institutional success, based on the mission of the institution and the goals of its students.
- Provide flexibility for accreditors to support innovation in higher education, recognizing that innovation has inherent risk, and monitoring the innovation carefully to intervene when student success is at risk.
- Engage employers more directly in the evaluation of program quality and allow for institutional decision-making models that give employers a more prominent role in recommending program or curriculum updates.

- Provide opportunities for accreditors to increase standards for accountability, while also providing an appropriate amount of time for institutions to make the changes needed to meet those standards.
- Allow accreditors to take earlier action when institutions are struggling to require teach-out plans and permitting accreditors to permit teach-out agreements before a school announces its closure.
- Reduce credential inflation, especially in programs that lead to a State license, to allow low-income students the opportunity to pursue those occupations and to ensure that the cost of qualifying for work does not exceed a graduate's likely earnings.
- Reduce the time and complexity associated with approving an accreditor's application for initial or renewal of recognition.

### **State Authorization**

Along with the Department and accreditors, States have an important role to play in ensuring institutional quality and consumer protections; however, increasing mobility among students, coupled with the expansion of educational opportunity through distance learning, have created new challenges for States hoping to ensure that institutions properly serve their residents. The Department earlier sought to expand regulatory requirements for distance education providers to require them to meet the requirements not only of the State in which the institution is located, but also the State in which the student is located while they do some or all of their learning. These rules have added costly new reporting requirements. Although the regulations also added protections to students enrolled in distance learning programs, they did nothing to protect students who crossed State lines to enroll at a ground-based campus. These final rules expand important consumer protections to students while narrowing bureaucratic reporting requirements and eliminating unfunded mandates.

The final regulations simplify the complex State authorization requirements for distance education and correspondence courses offered by institutions. The rules allow colleges and universities to focus their resources on the students rather than complex regulatory requirements and costly fees. Finally, the rules respect States, ensuring that they maintain the discretion to align policies and to enter into cooperative agreements with other States. In response to public comment, the Department provided further clarity that States participating in a State authorization reciprocity agreement may still enforce their own general-purpose State laws and regulations outside of the State authorization of distance education.

### **Need for this Regulatory Reform**

The final regulations reduce some of the ambiguity of the earlier regulations, eliminate unfunded mandates on States to develop specialized complaint processes for distance learning students, and more clearly define how an institution is to determine which State standards it must meet for a given student. Moreover, the rules expand the protections earlier afforded only to distance learning students by requiring all institutions to notify a student whether programs that lead to licensure will qualify a student to sit for the exam or be licensed in a given State. Unlike the earlier regulations, the final rules do not force institutions to remain current about the licensure requirements of each State – an increasingly challenging proposition given the growth in occupational licensure – but instead would require an institution to provide students with information about the States for which the institution has made such a determination. The final regulations strike a better balance between the need to provide consumer information and the need to reduce the administrative costs associated with higher education. The Department also eliminated mandates upon States imposed by prior regulations.

## **Major policies**

The final regulations will:

- Make clear that an institution must identify the State in which a student is “located” and, therefore, the State in which the institution must have authorization.
- More clearly define State authorization reciprocity agreements and reaffirm that they meet the requirements of the State authorization regulations for States that elect to participate in them.
- Expand consumer protections for students who are enrolled in programs that lead to occupational licensure, including those enrolled in ground-based courses or programs.
- Reduce the disclosures that institutions must provide students to reduce the cost and burden of distributing them and increasing the chances that students will consider them.
- Eliminate requirements for States to establish new or separate consumer complaint processes for students enrolled in distance learning programs, while providing other options to ensure consumer protection.
- Enable institutions to determine the States for which it will determine occupational licensing requirements, while requiring institutions to report that information accurately to students.
- Enable students to continue their education, even if work or military service requires them to move to a new State, and to allow students to complete internships with potential future employers, without adding new State licensing fees to their institutions.