

To: U.S. Department of Education, Members of the Program Integrity and Institutional Quality Committee, 2024 Negotiated Rulemaking
From: Philip Martin and Jessie Hernandez-Reyes, The Education Trust
CC: Magin Misael Sanchez, Negotiator for Civil Rights Organizations and Consumer Advocates (Alternate)
Date: January 26, 2024

To the U.S. Department of Education and Negotiators,

Please see below a set of recommendations developed by Ed Trust, for integrating an explicit focus on students of color in the accreditation regulations under review in the negotiated rulemaking process.

We urge you to integrate these recommendations, which are consistent with the Biden Administration's 2021 and 2023 executive orders on advancing racial equity, into the accreditation issue paper before the February meeting on program integrity and institutional quality.

On January 20, 2021, President Biden signed [Executive Order 13985](#), which stated, in part:

Our Nation deserves an ambitious whole-of-government equity agenda that matches the scale of the opportunities and challenges that we face...The Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality... Many Federal datasets are not disaggregated by race, ethnicity, gender, disability, income, veteran status, or other key demographic variables. This lack of data has cascading effects and impedes efforts to measure and advance equity. A first step to promoting equity in Government action is to gather the data necessary to inform that effort.

On February 16, 2023, President Biden signed follow-on [Executive Order 14091](#), which stated, in part:

[M]embers of underserved communities — many of whom have endured generations of discrimination and disinvestment — still confront significant barriers to realizing the full promise of our great Nation, and the Federal Government has a responsibility to remove these barriers. It is imperative to reject the narrow, cramped view of American opportunity as a zero-sum game. When any person or community is denied freedom, dignity, and prosperity, our entire Nation is held back. But when we lift each other up, we are all lifted up. Therefore, my Administration must take additional action across the Federal Government — in collaboration with civil society, the private sector, and State and local government — to continue the work begun with Executive Order 13985 to combat discrimination and advance equal opportunity, including by redressing unfair disparities and removing barriers to Government programs and services. Achieving racial equity and support for underserved communities is not a one-time project. It must be a multi-generational commitment, and it must remain the responsibility of agencies across the Federal Government. It therefore continues to be the policy of my Administration to advance an ambitious, whole-of-government approach to racial equity and support for underserved communities and to continuously embed equity into all aspects of Federal decision-making.

We applaud the Administration's commitment and subsequent recommitment to advancing "an ambitious, whole-of-government approach to racial equity and support for underserved communities" that includes "people of color and others who have been historically underserved, marginalized, and

adversely affected by persistent poverty and inequality,” and we urge you to use this negotiated rulemaking process to follow through on these commitments.

Recommendations for advancing racial equity via accreditation regulations developed by Jessie Hernandez-Reyes, EdTrust.

- In relation to § 602.16, accreditation and pre-accreditation standards for accreditation agencies, we recommend that the Department include in the definition of (a)(1)(i), which requires an accreditation agency to have standards for institution or program success with respect to student achievement, the consideration of –
 - publicly available data on college completion and retention rates by full-time and part-time student status, including disaggregated data on these measures by student race/ethnicity as collected through Integrated Postsecondary Education Data System (IPEDS) surveys to participate in Title IV;
 - publicly available data on the percentage of students at an institution or in a program receiving financial aid assistance and median total debt and repayment rates as provided by the U.S. Department of Education’s College Scorecard, including disaggregated data on financial aid assistance as provided through the newly enacted FAFSA Simplification Act; and
 - publicly available data on current student discrimination cases within postsecondary institutions and programs due to student race and nation origin under the Office of Civil Rights, and past cases of discrimination by race and national origin as outlined by the Office of Civil Rights’ [pending cases search tool](#) and [recent resolution search tool](#), respectively.

- In terms of the Department’s intention to create a risk-based review process for reviewing and approving accreditation agencies, we recommend that the Department consider the following factors to assess “risk” –
 - High annual net price, overall or for low-income students;
 - Low annual completion rates overall, including as disaggregated by Pell Grant recipient status, race/ethnicity, and incarceration status for institutions that offer prison in education programs;
 - Low annual retention rates or high annual dropout rates overall, including as disaggregated by Pell Grant recipient status, race/ethnicity, and incarceration status for institutions that offer prison in education programs;
 - Volume of pending Office of Civil Rights investigations of discrimination by race and national origin; and
 - Volume of reported campus hate crimes by race, ethnicity, and national origin per annual Clery Act data.

- In relation to § 602.23(c), accreditation agency complaints, we recommend that the Department update its regulations to require that accreditation agencies –
 - May not refuse to accept a complaint against an accredited or pre-accredited institution or program if the complaint does not identify the complainant or specify a particular accreditation standard that was infringed upon;

- Explanation: students who submit a complaint to an accreditation agency based on discrimination by race/ethnicity by their institution/program may not feel comfortable providing their identity given fear of retaliation and may be unfamiliar with the accreditation standard that corresponds to their complaint.
- Provide clear timelines for the complaint review process, including timely notification to the complainant regarding the status of the complaint submitted; and
- Provide confidentiality to complainants, providing complainants the ability to elect to keep their personally identifiable information confidential from the institution or program that is the subject of the complaint.

Public Comment to the U.S. Department of Education Program Integrity and Institutional Quality Committee on Improving Student Success for Students of Color by Jessie Hernandez-Reyes, EdTrust, January 11, 2024.

Good afternoon,

My name is Jessie Hernandez-Reyes. I'm a senior policy analyst for higher education at The Education Trust. We work to dismantle racial and economic barriers in the U.S. education system, from preschool through college.

I'm also a first-generation college graduate and proud Mexican American.

I'm here to urge the Department to center the experiences and outcomes of students of color and students from low-income backgrounds throughout the rulemaking process.

This week, a diverse group of former students has shared how accredited colleges scammed them into spending down their federal student aid and GI Bill benefits while leaving them with no credential, or a worthless one.

The public deserves regulations that hold institutions and accreditors accountable and prevent them from harming students in the first place.

In addition, while students of color are nearly half of all undergraduates, accredited colleges often have persistently low college completion rates for these students. At college results dot org, we use federal data to shine a spotlight on these disparities, which are a sign of a broken system.

This lack of institutional effectiveness and accountability is a huge problem for the U.S. workforce. Fewer than 1/3 of Black adults and only 1/5 of Latino adults hold an associate degree or higher.

Federally-recognized accreditors and colleges are responsible for student achievement and support, and they're falling short. One reason is negative campus climate.

I spent a year talking to students of color at colleges around the country. Students recounted hostile treatment by peers and college staff, expressed uncertainty about where and how to report incidents of discrimination, and shared feelings of isolation, stress, and exclusion due to these experiences. These stories confirm research on the importance of belonging for student success.

The Department should require accreditors to consider – for both institutional reviews against standards and ongoing risk assessment – retention and completion rates disaggregated by race/ethnicity and Pell

Grant status; debt and repayment rates; processes and outcomes of campus climate reviews; and Office of Civil Rights discrimination data.

Accreditors should also review retention and completion rates for incarcerated students attending higher education in prison programs and ensure incarcerated students are not duped into training for jobs they will not be eligible to take.

Lastly, The Department should ensure student complaints to accreditation agencies are not refused for being incorrectly or anonymously filed. Accreditors should err on the side of hearing students' concerns and should adhere to swift timelines for addressing complaints.

Thank you.