

Date: January 17, 2024

To: U.S. Department of Education

From: Erika Linden and Scott Dolan, Private-Nonprofit Institutions of Higher Education

Re: Issue Paper 5— Accreditation

The Department of Education has proposed modifications to 34 C.F.R. § 602.22, Substantive Change and other reporting requirements, that is looking to revise substantive change requirements to focus on areas of greatest risk. The department notes that the changes in this section are focused on “ensur[ing] consistency and quality across institutions and are an important guardrail to protect students from significant changes that may impact an institution’s resources and capacity.”

We are particularly concerned with the proposed change to regulations detailed in §602.22(c), which would require an accrediting agency to conduct visits at **ALL** additional physical locations approved under paragraphs under paragraphs (a)(1)(ii)(KH) and (LI).

Rationale

We recognize the important need for the department to have the ability to assess any changes that may impact institutional capacity and resources and thereby students; however, we think that a shift from a representative sample of locations to ALL locations could create an undue logistical burden and cost on institutions without furthering the department’s goal of ensuring quality and identifying and mitigating risk to students.

This is particularly true given the recent experience, and relative success, of virtual accreditation site visits conducted during the pandemic. We would ask for further clarification from the department about how and what types of information collected during a site visit would return the appropriate benefits given that the scope of the substantive change review is on the following: 1) academic control; 2) adequate faculty, facilities, resources, and academic/student support systems; 3) financial stability; and 4) long-range planning. Aside from facilities, we see marginal benefit from conducting a site visit to a location, and would ask for more information about the concerns of the department.

We see two potential unintended consequences of this proposed change: increased cost of delivery that ultimately gets passed on to the student or institutions foregoing offering face-to-face instruction in different locations.

Additionally, as currently defined an “additional location” is a site where 50% of an academic program is offered, which could be a relatively low threshold. For example, an institution that offers 50% of one 18-credit hour certificate (9 credits in total) at one of their additional locations would be subject to a site visit under the new regulations. This might comprise a miniscule percentage of the overall institutional resources and capacity. Similarly, an institution that serves 20,000 students overall might have an additional location that serves less than 25.

Furthermore, the geographic distribution of additional locations can vary dramatically from one institution to the next. Not all additional locations operate equally or pose the same risk. For one institution, an additional location might be within a few miles of the main campus. For another, additional locations might be located throughout the country or even abroad. As a potential middle ground compromise, we ask that accreditors continue to have discretion to select a representative sample of additional locations for institutions that have not been placed on probation or equivalent status in the last three years.

Finally, for colleges and universities that offer academic programming on U.S. military installations within the United States and overseas, these proposed changes to the regulation would not only be expensive, but would limit the flexibility of institutions to respond to the needs of the Department of Defense. For example, given force deployments to Poland and Slovakia, the Department of Defense has requested the University of Maryland Global campus establish new teaching sites in these countries. Given the low threshold for a site becoming an additional location, requiring an accreditor to conduct a visit would limit academic programming being offered in a timely fashion. There is also the consideration of sending accreditation visitors to locations near active combat zones and the administrative issues in getting access to some bases.

Proposed redline language

§602.22(a)(ii)(K):

Add the following new sentence after §602.22(a)(ii)(K):

"The site visit requirements of paragraph (K) shall not apply to any United States Department of Defense military installation."

Add the following new sentence after §602.22(a)(ii)(L):

"The site visit requirements of paragraph (L) shall not apply to any United States Department of Defense military installation."

§602.22(c):

Current Proposal:

(~~ce~~) The agency must have an effective mechanism for conducting, at reasonable intervals, visits to all ~~representative sample of~~ additional **physical** locations approved under paragraphs (a)(1)(ii)(~~KH~~) and (~~LI~~) of this section.

Revised Proposal:

(~~ce~~) The agency must have an effective mechanism for conducting, at reasonable intervals, visits to all ~~representative sample of~~ additional **physical** locations approved under paragraphs (a)(1)(ii)(~~KH~~) and (~~LI~~) of this section. **Site visits for all additional locations would be required if the institution had been placed on probation or equivalent status or has been subject to negative action by the agency over the last three years.**

Add the following new sentence at the end of §602.22(c):

"Notwithstanding the foregoing, this requirement shall not apply to any United States Department of Defense military installation."