**Revisions to 602.17 Application of Standards in Reaching Accreditation Decisions**

Description: These changes seek to harmonize the proposed academic freedom standards in § 602.17 with the requirement that recognized accreditors and the U.S. Department of Education respect accreditors and institutions with religious missions.

Submitter: AD Motzen, representing legal assistance organizations, consumer advocates, and civil rights organizations that represent students or borrowers.

Rationale: The Department's proposed § 602.17 would impose new requirements on accreditors and institutions regarding academic freedom. The new requirements may preclude institutions and accreditors with a religious mission from adopting policies consistent with and in furtherance of their missions. The HEA requires recognized accreditors – and, by extension, the Department – to "respect the stated mission of the institution of higher education, including religious missions." 20 U.S.C. § 1099b(a)(4). The Religious Freedom Restoration Act precludes the Department from imposing substantial burdens on the exercise of religion without a sufficiently compelling rationale (i.e., one that could survive strict scrutiny review). 42 U.S.C. § 2000bb-1.

Below are three alternatives, each of which is designed to clarify that nothing in § 602.17 precludes institutions with a religious mission from appropriately carrying out that mission. Clarity is important for accreditors, institutions, and the public.

Changes are to the AIM Draft Regulations Version 2.0 Updated 05112026.pdf. Changes are highlighted in green. Additions underlined. Deletions are ~~strikethrough~~.

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**Alternative 1:**

§ 602.17(c): For purposes of this section, academic freedom –

(1) Means the freedom of faculty to:

(i) conduct research, publish their findings, and teach without undue interference and engage in discussion of any matter germane to the subject of the course being taught; and

(ii) speak and write as citizens, provided that such activities are lawful and comply with applicable institutional rules and policies, and that faculty do not represent their views as those of the institution.

(2) Does not include the freedom to introduce, or solicit discussion of, material that is not germane to the subject of the course being taught.

(3) Nothing in this section or this definition shall be construed to prohibit:

(i) institutions or accrediting agencies from adopting and enforcing policies reasonably designed to promote intellectual diversity, the exposure of students

to a range of scholarly viewpoints, or the balanced presentation of competing perspectives, so long as such policies do not infringe the core protections of academic freedom described in this section.

(ii) institutions or accrediting agencies with a religious mission from adopting and enforcing policies designed to support and enhance their religious mission as they define it, including, without limitation, prescribing requirements for teaching, research, and advocacy.

**Alternative 2:**

**§ 602.17(a)(3)(iii):** Maintains academic freedom protections that are clearly articulated and applied consistently to faculty regardless of appointment classification, race or other immutable characteristics, viewpoint, or ideology except that nothing in this paragraph requires an accrediting agency with a religious mission to be neutral with respect to viewpoints, and nothing in this paragraph requires an accrediting agency to treat as a deficiency an institution's viewpoints, policies, or practices that are consistent with the institution's sincerely held religious mission or affiliation.

**§ 602.17(a)(3)(v)**: In the case of public institutions, fulfills their obligations under the First Amendment to the Constitution of the United States. The agency should similarly evaluate any private institutions that, through their institutional policies, guarantee the same or similar protections for students or faculty except that nothing in this paragraph requires an accrediting agency with a religious mission to be neutral with respect to viewpoints, and nothing in this paragraph requires an accrediting agency to treat as a deficiency an institution's viewpoints, policies, or practices that are consistent with the institution's sincerely held religious mission or affiliation.

**§ 602.17(b)(3)(iii):** In the case of a private institution, policies, that if established, guarantee the same or similar protections as those described subsections (i) and (ii) above; except that nothing in this paragraph requires an accrediting agency with a religious mission to be neutral with respect to viewpoints, and nothing in this paragraph requires an accrediting agency to treat as a deficiency an institution's viewpoints, policies, or practices that are consistent with the institution's sincerely held religious mission or affiliation.

**§ 602.17(l)**: The agency's accreditation standards, policies and enforcement practices must not restrict public institutions from fulfilling their obligations under the First Amendment to the Constitution of the United States. These standards similarly also must not restrict any private institutions that, through their institutional policies guarantee the same or similar protections for students or faculty, except that nothing in this paragraph requires an accrediting agency with a religious mission to be neutral with respect to viewpoints, and nothing in this paragraph requires an accrediting agency to treat as a deficiency an institution's viewpoints, policies, or practices that are consistent with the institution's sincerely held religious mission or affiliation.

**Alternative 3:**

**§ 602.17(a)(3)(iii):** Maintains academic freedom protections that are clearly articulated and applied consistently to faculty regardless of appointment classification, race or other immutable characteristics, viewpoint, or ideology; provided, however, that institutions or accrediting agencies with a religious mission may adopt and enforce academic freedom policies designed to support and enhance their religious mission as they define it, including, without limitation, prescribing requirements for teaching, research, and advocacy.

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