

From: Jessica Morales, Negotiator for Students or Borrowers [Primary]
To: 2024 Negotiated Rulemaking
Program Integrity and Institutional Quality Committee
Date: February 8, 2024
Re: Changes of Accrediting Agencies

Changes of Accrediting Agencies

I appreciate the Department's proposal to ensure that when institutions change accrediting agencies, or pick up an additional accreditor, they are doing so for appropriate reasons and not simply to evade accountability. This is particularly important in light of efforts by state legislators in recent years to force public institutions to change accrediting agencies, a form of political retaliation against accrediting agencies that undermines the independence and responsibilities of accreditors.

I have proposed several changes to the text the Department proposed in § 600.11 to further strengthen the Department's assessment of whether an institution has reasonable cause to make the change. I also propose incorporating a new requirement into § 602.14 establishing the requirements that agencies must follow to ensure they maintain a voluntary membership. As the Department acknowledged in its Session One issue paper, "forced switching undermines a key pillar of the Federal triad, hinders accreditation's ability to foster continuous improvement and hold institutions accountable, and places unnecessary costs on institutions which can be passed on to students." The Department sought feedback as to how to define a voluntary membership, as required by the HEA, and I hope this provides some additional insights.

NOTE: Red text is Department-proposed text; yellow highlighted text is Department-proposed text that is new to Session Two. Negotiator proposals appear in blue highlighted text.

§ 600.11 Special rules regarding institutional accreditation or preaccreditation.

(a) Change of accrediting agencies.

(1) For purposes of §§ 600.4(a)(5)(i), 600.5(a)(6), and 600.6(a)(5)(i), the Secretary does not recognize the accreditation or preaccreditation of an otherwise eligible institution if that institution is in the process of changing its accrediting agency, unless the institution provides the following to the Secretary and receives approval:

(i) All materials related to its prior accreditation or preaccreditation.

(ii) Materials demonstrating reasonable cause for changing its accrediting agency. The Secretary will not determine such cause to be reasonable if the institution—

(A) Has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months, unless such withdrawal, revocation, or termination has been rescinded by the same accrediting agency; ~~or~~

(B) Has been subject to a probation or equivalent, show cause order, or suspension order during the preceding 24 months; ~~or~~

~~(C) Has changed accrediting agencies and has not yet completed two full accreditation cycles with its current accrediting agency; or~~

~~(D) Has been directed to select a particular accrediting agency or from a set of particular accrediting agencies by a party other than the institution.~~

~~(iii) Agreement to maintain its current accreditation until it completes its full cycle and remains in good standing.~~

(b) Multiple accreditation.

~~(1) The Secretary does not recognize the accreditation or preaccreditation of an otherwise eligible institution if that institution is accredited or preaccredited as an institution by more than one accrediting agency, unless the institution—~~

~~(i) Provides to each such accrediting agency and the Secretary the reasons for that multiple accreditation or preaccreditation;~~

~~(ii) Demonstrates to the Secretary reasonable cause for that multiple accreditation or preaccreditation; and~~

~~(i) The Secretary determines the institution's cause for multiple accreditation to be reasonable unless the institution—~~

~~(A) Has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months, unless such withdrawal, revocation, or termination has been rescinded by the same accrediting agency; or~~

~~(B) Has been subject to a probation or equivalent, show cause order, or suspension order during the preceding 24 months.~~

~~(ii) Notwithstanding paragraphs (b)(2)(i)(A) and (B) of this section, the Secretary may determine the institution's cause for seeking multiple accreditation or preaccreditation to be reasonable if the institution's primary interest in seeking multiple accreditation is based on that agency's geographic area, program-area focus, or mission; and~~

(iii) Designates to the Secretary which agency's accreditation or preaccreditation the institution uses to establish its eligibility under this part.

(2) The Secretary determines the institution's cause for multiple accreditation to be reasonable unless the institution—

(i) Has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months, unless such withdrawal, revocation, or termination has been rescinded by the same accrediting agency; or

(ii) Has been subject to a probation or equivalent, show cause order, or suspension order during the preceding 24 months.

(3) Notwithstanding paragraph (b)(2) of this section, the Secretary may determine the institution's cause for seeking multiple accreditation or preaccreditation to be reasonable if the institution's primary interest in seeking multiple accreditation is based on that agency's geographic area, program-area focus, or mission, provided the institution has not been directed to select a particular accrediting agency or from a set of particular accrediting agencies by a party other than the institution.

§ 602.14 Purpose and organization.

(a) The Secretary recognizes only the following four categories of accrediting agencies:

(1) A State agency that—

(i) Has as a principal purpose the accrediting of institutions, programs, or both; and

(ii) Has been listed by the Secretary as a nationally recognized accrediting agency on or before October 1, 1991.

(2) An accrediting agency that—

(i) Has a voluntary membership of institutions;

(ii) Has as a principal purpose the accrediting of institutions and that accreditation is used to provide a link to Federal HEA programs in accordance with § 602.10; and

(iii) Satisfies the “separate and independent” requirements in paragraph (b) of this section.

(3) An accrediting agency that—

(i) Has a voluntary membership; and

(ii) Has as its principal purpose the accrediting of institutions or programs, and the accreditation it offers is used to provide a link to non-HEA Federal programs in accordance with §602.10.

(4) An accrediting agency that, for purposes of determining eligibility for title IV, HEA programs—

(i)

(A) Has a voluntary membership of individuals participating in a profession; or

(B) Has as its principal purpose the accrediting of programs within institutions that are accredited by another nationally recognized accrediting agency; and

(ii) Satisfies the “separate and independent” requirements in paragraph (b) of this section or obtains a waiver of those requirements under paragraph (d) of this section.

(b) For purposes of this section, an agency must ensure it has a “voluntary membership” by--

(1) Ensuring all institutions seeking approval by the agency are doing so at their discretion;

(2) Ensuring no institution seeking approval by the agency has been directed to select the agency by a party other than the institution; and

(3) If an institution seeking approval by the agency had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months, or was subject to a probation or equivalent action, show cause order, or suspension order during the preceding 24 months, whether the institution is changing accreditors or seeking multiple accreditation in order to avoid such sanctions.

(c) For purposes of this section, “separate and independent” means that—

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From: Emmett Blaney, Negotiator for Students or Borrowers [Alternate]
Jessica Morales, Negotiator for Students or Borrowers [Primary]

Title IV Credit Balances for Books and Supplies

We support the Department's language requiring automatic textbook billing to occur on an opt-in basis. However, we share the concerns raised by several negotiators about students receiving their course materials in time for the start of their courses. In particular, we want to ensure that students are able to receive their Title IV credit balances quickly enough to obtain their books and supplies at the start of the term. Below, we have proposed language that would require institutions to disburse federal financial aid dollars at the start of the term to students who are owed a credit balance and who need the funds to obtain their books and supplies.

§ 668.164(h)(1) - Title IV, HEA credit balances

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(h) Title IV, HEA credit balances.

(1) A title IV, HEA credit balance occurs whenever the amount of title IV, HEA program funds **and any other Federal or non-Federal funds, including but not limited to scholarships, grants, or private loans,** credited to a student's ledger account for a payment period exceeds the amount assessed the student for allowable charges associated with that payment period as provided under paragraph (c) of this section. **For a student or parent who meets the conditions in subparagraph (l), the institution must provide the credit balance by the earlier of 14 days after disbursement or the seventh day of the payment period.**

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