



Overhauling Rules for Higher Ed

The Education Department's proposals for upcoming negotiated rule-making process would narrow the responsibilities of accreditors and modify federal definitions for credit hour and distance education.

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In a package of highly detailed proposals set to be released today, Education Secretary Betsy DeVos [delivers on a promise](#) to limit the authority and scope of higher education accreditors, the organizations that serve as gatekeepers for federal student aid.

The Trump administration [wants to clarify](#) that the Education Department -- and not accreditors -- is responsible for enforcing federal student aid rules, and would give the agencies more latitude to approve and encourage innovative programs, particularly ones featuring online or competency-based education. The proposals, which *Inside Higher Ed* obtained (see box) and which are set to be released today, would lower the bar new accrediting agencies would have to clear for federal approval and give colleges more latitude to make changes without their accretor's permission.

However, the department also wants to restrict the scope of regional accreditors and to blur the distinction between those organizations and national accrediting bodies, which historically have tended to attract fewer selective or established colleges. And it would add new requirements that accreditors seek input from employers on their standards.

Education Department's Proposals for Rule-Making Session

[Accreditation](#) and [summary](#)

[Institutional eligibility](#) and [summary](#)

[Religious inclusion](#) and [summary](#)

[TEACH Grants](#) [summary](#)

The proposals will be the focus of a multipart regulatory process known as negotiated rule making that begins later this month. As written, the proposals largely reinforce the widespread perception that DeVos's agency plans to use rule making to roll back regulations governing higher education, including many issued by the Obama administration. Negotiated rule making is designed to gather feedback from a range of stakeholders, but the department's agenda is so broad that few expect negotiators to reach consensus on the proposals.

As part of its goal of deferring more academic oversight to accreditors, the department is seeking to modify federal definitions for the credit-hour standard, correspondence courses, distance education and for required faculty member interactions with students in online programs. Accreditors and colleges in some cases would set those definitions, under the department's supervision.

Consumer advocates were alarmed by what they read in the proposals as the documents circulated over the weekend. Some said the Trump administration's attempt to deregulate and defer to accreditors would eliminate key student and taxpayer protections. The resulting lack of adequate "guardrails" could give rise to fraudulent or low-quality education providers, they said.

Some accreditation and online education experts, including negotiators tapped by the department, said they were generally pleased with the tone of the proposals, which they said were mostly student focused and could spur discussion over reasonable ways to encourage emerging models -- particularly self-paced and subscription models in online education.

But experts also worried that too much deference would be given to accreditors, such as with proposals to drop federal definitions of distance learning or the credit hour, which in turn could lead to confusion and lack of standardization. And one raised concerns that the changes would water down standards for which programs and providers can receive federal student aid. In addition, some wondered if the department would be able to achieve many of its goals, particularly ones that could require congressional action.

The proposals included few surprises, said Julie Peller, executive director of Higher Learning Advocates. The Trump administration has been clear about its intentions to create more space for innovation and to drop rules for accreditors,

she said. Even so, Peller said the proposals are concerning because they fail to adequately address the federal role in quality control.

"They haven't quite figured out how to balance [the innovation and deregulation push] with the conversation around quality and outcomes," said Peller, a former Democratic staffer on the House education committee.

In addition to attempting to overhaul the role of accreditors, the department's proposals seek to:

- Drop the credit-hour definition, which the Obama administration issued in 2010 to curb credit inflation. In its place the department would let accreditors and colleges -- many of which have long complained about the rule -- determine how to evaluate a student's academic progress.
- Remove the current 50 percent cap on the outsourcing of academic programs to a nonaccredited provider through a partnership with a college, potentially allowing a college to outsource an entire academic program.
- Reverse an Obama-era initiative aimed at toughening rules that require online programs to show that they are approved to operate in every state where they enroll students.
- Modify rules for faculty interaction with students by allowing accreditors to define who qualifies as an instructor in college-level courses and removing the department's role in reviewing the standard.
- Provide extended access to federal aid funds for closing institutions as they administer teach-out plans that allow students to complete their degrees.
- Eliminate remaining restrictions on religious colleges' participation in student aid programs like the federal work-study program. (Students at religious institutions can take part in those programs now although there are some limits on colleges.) And the department proposes allowing TEACH Grant recipients, who are required to work for several years in low-income schools after graduating college, to work for private schools that serve low-income students.

The documents feature the most detailed ideas put forward by department officials on innovation and accreditation since they announced plans last summer to revamp current rules. Diane Auer Jones, the department's principal deputy under secretary, said in an interview last July with *Inside Higher Ed* that accreditation is "right at the crux of almost everything you do in higher ed."

Reflecting Changes in Higher Education

The backdrop to the Education Department's latest regulatory overhaul is the growth in recent years of online education and competency-based education.

Even as many national for-profit chains have closed their doors as part of a dramatic decline of that sector, higher education institutions on the whole have pursued enrollment growth through new online offerings.

Accreditors, meanwhile, have faced building pressure from lawmakers in recent years to provide tougher accountability for the colleges under their purview.

Those demands reflect perceived oversight failures by accreditors in the collapse of for-profit chains like Corinthian Colleges and ITT Technical Institute as well as the increasing focus by policy makers and regulators on student outcomes. For many congressional Democrats, the role of accreditors is even more important under the Trump administration because they see the Education Department taking a lax approach to its oversight role.

But DeVos and top advisers like Jones believe too much has been put on the plate of accreditors. And they say the scrutiny of accreditors' decisions has made those organizations wary of approving promising new programs, such as competency-based ones.

In addition to narrowing the role of accreditors while deferring to them on key definitions, the department wants to elevate the role of national accrediting agencies and dial back the relative clout of regional accreditors. Some national accreditors are well respected. But the **recently restored** Accrediting Council for Independent Colleges and Schools, a national agency the Obama administration terminated due to its failed oversight of Corinthian and ITT, remains controversial and seems likely to continue to draw scrutiny from oversight-minded Democrats in Congress.

"The department further believes some regional agencies have abused the current distinction to push a false narrative that the department considers regional accreditation to be superior to national accreditation," according to the proposals. "Many institutions have denied well-qualified students attending nationally accredited institutions the opportunity to transfer credits, attend graduate programs and enjoy other benefits that should rightfully belong to all students attending institutions with recognized accreditation."

To prod regional accreditors to be more regional in their focus, the department is seeking to require that they oversee institutions in three to 10 states. That would be a major shake-up for some of the agencies, particularly the Higher Learning Commission, which accredits institutions in 19 states.

The department also is seeking a bigger role for employers in accreditation, encouraging the agencies to seek employers' input on their standards and on "alternative governance models" for career and vocational education programs. In addition, the proposals would eliminate accreditor timelines for bringing sanctioned colleges into compliance, a change an observer said could alter the impact of sanctions.

Colleges should retain the power to decide which transfer credits to honor, the department said. But it seeks guidance from negotiators on how to "disallow institutions from categorically denying credits from national accreditors if the courses completed by the student are in alignment with those offered by the accepting institution."

Some observers, however, were skeptical that the department would make much headway in its credit-transfer push or broader goal of giving a boost to national accreditors. Congress would need to make some of the more substantial changes, they said. The rule-making discussion might help increase awareness about the potential for national accreditors. But Peller said the conversation about that distinction is an old one that doesn't do too much for students.

In addition, even some accreditors worry that the department's punting of definitions back to the agencies could do more to create confusion than help spur innovation.

Defining College Credit

The department has been open about its plans to do away with the credit-hour rule, which has been on the books for nearly a decade but remains a target of complaints from colleges. Jones last summer said the rule "probably interferes with innovation almost more than anything."

The standard issued in 2010 defines an hour of academic credit as one hour of classroom instruction and two hours of out-of-class work. The Obama administration's issuing of the rule followed an inspector general report that found accreditors had failed to hold colleges to any standard for instructional time. The

result was that students were in some cases quickly exhausting their eligibility for federal aid without real payoffs.

The department's proposal would let colleges and their accreditors use alternatives like direct assessment to determine students' progress. Direct assessment is an aggressive form of competency-based education that does not rely on the credit-hour standard and allows students to progress at their own pace. The department still is seeking to require, however, that each academic semester or trimester include 30 hours of instruction.

Skeptics of deregulation have warned that lifting the cap -- currently 50 percent -- for the amount of a program that can be offered by alternative providers would basically provide a back door to federal student aid money for entities that have never gone through the accreditation process. Coding boot camps often are cited as possible beneficiaries of this change. And the proposal to extend access to federal aid for closed institutions likely will be seen as pouring good money after bad by the department's critics.

The upcoming rule-making process is so expansive that the department has added multiple subcommittees addressing distance learning, TEACH Grants and the role of faith-based institutions. Negotiated rule-making rarely includes more than one subcommittee requiring that kind of narrow expertise.

The department's release of proposed regulatory language ahead of the first meeting is also a departure from the typical process. Usually, specific regulatory language is only introduced after preliminary discussions by negotiators.

https://www.insidehighered.com/news/2019/01/07/trump-administration-wants-flexibility-accreditors-and-encourage-alternative?utm_source=Inside+Higher+Ed&utm_campaign=ff722c5768-DNU_2019_COPY_01&utm_medium=email&utm_term=0_1fcbc04421-ff722c5768-198467257&mc_cid=ff722c5768&mc_eid=0c2028f1a2