

**DEPARTMENT OF EDUCATION****34 CFR Parts 600, 602, and 668****[Docket ID ED-2026-OPE-1042]****RIN 1840-AD82**

**Accreditation, Innovation, and Modernization: The Secretary's
Recognition of Accrediting Agencies; Institutional Eligibility
Under the Higher Education Act of 1965, as Amended; Student
Assistance General Provisions**

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final rule.

SUMMARY: The Department revises the existing accrediting agency recognition regulations to implement the directives set forth in Executive Order 14279, Reforming Accreditation to Strengthen Higher Education, and other Administration priorities, align the regulations more closely with statute, and reduce regulatory burden.

DATES: This final rule is effective July 1, 2027.

Implementation dates: For the implementation dates of the regulatory provisions, see the *Implementation Date of These Regulations* of this document.

FOR FURTHER INFORMATION CONTACT: For further information related to recognition of accrediting agencies, Elizabeth Daggett, Director, Accreditation Group, Office of Postsecondary Education, Telephone: (202) 453-7615. Email:

elizabeth.daggett@ed.gov. For all other information related to this document, Aaron Washington, Office of Postsecondary Education, Telephone: (202) 987-0911. Email: aaron.washington@ed.gov.

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SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

1. Summary of Major Provisions

2. Summary of Costs and Benefits

II. Purpose of this Regulatory Action

III. Background

IV. Implementation Date of These Regulations

V. Authority for the Regulatory Action

VI. Analysis of Public Comments and Changes

VII. Regulatory Impact Analysis

1. Regulatory Planning and Review Including Regulatory Impact Analysis

a. Need for Regulatory Action

b. Summary of Comments and Changes From the NPRM

c. Discussion of Costs, Benefits, and Transfers

d. Accounting Statement

e. Alternatives Considered

2. Regulatory Flexibility Act

3. Paperwork Reduction Act of 1995

4. Congressional Review Act

Intergovernmental Review

Assessment of Education Impact

Federalism

I. Executive Summary

The Secretary of Education recognizes accrediting agencies under existing regulations at 34 CFR Part 602 to ensure that agencies are reliable authorities regarding the quality of education or training offered by the institutions or programs they accredit for the purposes of the Higher Education Act of 1965, as amended (HEA), or for other Federal purposes.

Recognized institutional accrediting agencies serve as key gatekeepers in determining which institutions may participate in the Federal student aid programs, which currently provide more than \$100 billion in Pell Grants and Federal student loans annually. To ensure that the Department only recognizes those accrediting agencies focused on high-quality, valuable education for students, we are realigning the regulations for recognition of accrediting agencies to have a greater focus on student achievement and ensure programs provide a high-quality, high-value education.

The final rule removes unnecessary requirements on agencies and the institutions or programs they accredit. These regulations eliminate requirements not required by statute, including the "two-year rule" for initial recognition of

agencies, prescriptive site visit mandates, unnecessary documentation requirements, and rigid, overly long processing and procedural timelines.

These commonsense regulations also address the barriers that limit institutions from adopting practices that advance credential and degree completion and spur new models of education. They also remove existing regulatory barriers impeding institutions' ability to change accrediting agencies or work with more than one accrediting agency, while agencies will have more flexibility to apply certain standards that meet the needs of their accredited institutions and programs.

The final rule also introduces a new review framework for better oversight of key institutional accrediting agencies that serve as the primary gatekeepers for the Federal student aid programs, and whose potential failures pose the greatest risk to taxpayers.

Additionally, to reduce administrative costs that are negatively impacting college affordability, the final rule requires recognized accrediting agencies to apply their standards in ways that minimize institutional administrative burden, avoid duplicative reporting, and support the implementation of lower-cost, higher-value educational models. These changes also will shift the focus of institutions toward more cost-effective practices for staffing, facilities, student services, and program design.

The final rule promotes greater integrity in decision making by recognized accrediting agencies and eliminate previous regulatory exceptions that pose potential conflicts of interest. The final rule also eliminates geographic-scope distinctions for institutional accrediting agencies and make other anticompetitive behavior a negative factor in consideration of agency recognition.

The final rule reinforces the existing legal, constitutional, civil rights, and consumer protection obligations already required of recognized accrediting agencies and the institutions and programs that they accredit. For example, under the final rule, accrediting agencies recognized by the Secretary must ensure that the institutions and programs they accredit have and apply policies consistent with all Federal and State laws and respond appropriately to findings of noncompliance by competent authorities. The final rule also prevents recognized accrediting agencies from applying standards that direct accredited institutions and programs to violate such laws. New student outcome and program-level performance expectations for the applications of agency standards will focus both accrediting agencies and institutions on important objective measures of student and institution performance such as course completion, licensure pass rates, and economic returns.

Further, the final rule addresses the persistent and costly issues with transfer of credit policies that have burdened

students. These regulations reduce the likelihood that students will be required to undertake duplicative coursework and incur additional tuition charges that are not necessary. Although institutions will continue to have latitude to deny transfer of credit based on the credit failing to meet the receiving institutions' standards, institutions will have to explain those standards and provide written reasoning to the student for such denial. These regulations also require greater transparency before a student decides to transfer to another institution, so he or she can have a full understanding of the scope and cost of transferring to that institution.

Taken together, this student-oriented final rule realigns the Secretary's recognition of accrediting agencies with a high-quality, high-value education that is free from unlawful discrimination and other violations of Federal law.

1. Summary of Major Provisions

These final regulations:

- Amend § 600.11 to make it less burdensome for institutions that are changing accrediting agencies or wish to utilize more than one accrediting agency.
- Amend § 602.2 to require the Department to provide public notice on its accreditation website if the Secretary denies continued recognition to a previously recognized agency, or if the Secretary limits, suspends, or terminates the agency's recognition before the end of its recognition period.

- Amend §602.3 to define and use the term "institution" in these regulations instead of "institution of higher education" which is defined in the HEA, and elsewhere in the Department's regulations, referring to a narrower subset of institutions, and to add a definition for "related, associated, or affiliated trade association."
- Amend §602.10 to clarify that the Secretary's recognition extends only to those accrediting agencies whose institutions or programs actively participate in a Federal program.
- Amend §602.11 to require accrediting agencies to clearly describe the scope of their accrediting activities and remove geographic restrictions that restrict institutions and programs from choosing an accrediting agency.
- Amend §602.12 to remove references to geographic areas and geographic constraints and require review of contractions of scope. Additionally, amend the regulations to clarify the policies and capacity an accrediting agency must have to seek initial recognition, and eliminates the "two-year rule" for initial recognition.
- Unreserve and amend §602.13 to specify that an accrediting agency's recognition by the Department does not provide any immunity from antitrust laws.
- Amend §602.14 to strengthen the fiscal and administrative criteria an accrediting agency must meet to prove it is

fully separate and independent from any related, associated, or affiliated trade or membership organization.

- Amend §602.15 to require accrediting agencies to administer their standards, policies, and procedures in a manner that minimizes unnecessary compliance costs and administrative burdens on accredited institutions, as well as require agencies to maintain appropriate conflict of interest controls and policies.
- Amend §602.16 to codify that an agency may establish additional lawful accreditation standards that are consistent with ensuring institutional or programmatic quality and integrity as it deems appropriate.
- Amend §602.17 to clarify expectations for reviewing student achievement and faculty related policies, including academic freedom and intellectual diversity. Additionally, add new requirements regarding institutional cost-benefit analyses, institutional flexibility and mission, program length review, and safeguards against misrepresentation.
- Amend §602.18 to require that accrediting agency decisions be neutral with respect to viewpoint and ideology, except for agencies with a religious mission.
- Amend §602.20 to provide guidance to accrediting agencies on how to structure their arbitration procedures and remove overly prescriptive requirements.
- Amend §602.21 to remove overly prescriptive review requirements.

- Amend § 602.22 to refine the list of changes requiring agency approval, add prison education programs as a defined substantive change, and remove outdated and overly prescriptive requirements.
- Amend § 602.23 to require accrediting agencies to ensure institutions comply with all applicable Federal and State laws and remove overly prescriptive requirements.
- Amend § 602.24 to strengthen accrediting agencies' oversight of institutional changes, expand requirements for teach-out planning, including transcript access, and increase transparency and support for students when institutions face disruptions.
- Amend § 602.24 to establish clearer, fairer rules for credit transfer by defining consistent criteria, prohibiting discriminatory denials, requiring acceptance of comparable credits, and providing students with an appeals process.
- Amend § 602.25 to remove overly prescriptive requirements for demonstrating due process.
- Amend § 602.26 to update and modernize the required content of agency notices and better align these requirements with contemporary methods of disclosure and allow temporary continuation of eligibility for title IV, HEA funds for institutions to exhaust all due process options.
- Amend § 602.27 to require agencies to update the Department's website on a regular, timely basis to display

the current accreditation status of all institutions and programs.

- Amend § 602.28 to broaden the circumstances under which an accrediting agency must re-evaluate an institution or program following negative actions by other authorities.
- Amend § 602.30 to modernize how accrediting agencies submit applications and reports to the Department.
- Amend § 602.32 and split into two sections: § 602.31 and § 602.32.
- Amend § 602.31 to modernize and streamline the procedures accrediting agencies must follow when submitting applications for initial or renewed recognition.
- Amend § 602.32 to modernize and clarify the processes used to review an accrediting agency's expansion or contraction of scope, compliance report, and increase in headcount enrollment.
- Amend § 602.33 to modernize and streamline the procedures for review of agencies during the period of recognition, including the review of monitoring reports.
- Amend § 602.34 to require the National Advisory Committee on Institutional Quality and Integrity (NACIQI or Advisory Committee) to review applications for contractions of scope, and for accrediting agencies to post public notice of upcoming NACIQI reviews.
- Amend §§ 602.35, 602.36, and 602.37 to update cross references.

- Amend § 668.43 to require transfer of credit disclosures and direct applicable written notices to students.

2. Summary of Costs and Benefits

As further detailed in the Regulatory Impact Analysis (RIA), the final rule includes numerous provisions that may impact students, institutions, accrediting agencies, and the Federal government. Specifically, the final rule includes provisions related to transfer of credit policies, which may benefit students by making it easier for students to transfer credits to continue their postsecondary enrollment at a new institution. Students will likely benefit from these changes by spending less time and money retaking courses that failed to transfer, whereas institutions may experience costs due to the suspected foregone tuition revenue from transfer students.

The final rule also encourages accrediting agencies to include new criteria that evaluate program and institutional outcomes. This may impose new costs on accrediting agencies, which may need to develop such criteria, and on institutions, which may need to implement changes to meet such criteria. Furthermore, the final rule will remove several barriers for new accrediting agencies to emerge and obtain Department recognition, which may ultimately benefit accrediting agencies through the reduction in administrative burden to gain initial recognition and maintain recognition. Additionally, the final rule would also require accrediting agencies to adopt several new policies and procedures that aim to increase college

affordability and innovation, while also putting downward pressure on credential inflation. Students may benefit from these provisions if the changes result in more affordable and flexible educational opportunities.

As noted in the RIA, the Department does not estimate a significant net budget impact on the title IV, HEA Federal student aid programs from the final rule. In prior regulations¹ the Department estimated the accreditation reform would result in an increased number of applications for recognition due to easier recognition of new accrediting agencies. Increased petitions are also expected given an expanded scope to new credential levels, and the option for alternative standards to allow for faster introduction of innovative programs. In 2019, we did not estimate a significant change in repayment performance as institutions with less favorable program outcomes could find more lenient accrediting agencies. Institutions with strong programs can take advantage of the flexibility allowed by the substantive change policy revisions to expand their program offerings. At the time we noted the uncertainty of the extent to which increasing accreditation options and encouraging program innovation would shift Federal loan and grant volumes among more options for students versus generating new volume, and that uncertainty remains. Additionally, greater acceptance of

¹ Student Assistance General Provisions, The Secretary's Recognition of Accrediting Agencies, The Secretary's Recognition Procedures for State Agencies - 84 CFR 58834 - <https://www.federalregister.gov/documents/2019/11/01/2019-23129/student-assistance-general-provisions-the-secretarys-recognition-of-accrediting-agencies-the>

transfer credits may increase Federal grant and loan volumes by encouraging some students to complete degrees but also may reduce volumes by credits being recognized by the institutions receiving transfers. In retrospect, we know the number of institutions that changed agencies was fairly low and it is difficult to attribute particular changes in volume to accreditation reforms given other economic, demographic, and programmatic developments during the same period.

II. Purpose of this Regulatory Action

In accordance with Executive Order (E.O.) 14279, this regulatory action realigns the Secretary's criteria for recognition of accrediting agencies to promote high-quality, high value, and affordable education for students that—

- Promotes such academic programs and activities at higher education institutions that are focused on student outcomes and are free from unlawful discrimination and other violations of Federal law;
- Reduces barriers that limit competition, innovation, and new education models that advance credential and degree completion;
- Holds institutions accountable for discrimination and other unlawful acts; and
- Advances academic freedom, intellectual inquiry, and student learning by ensuring that accreditation requires that institutions support and prioritize intellectual diversity among faculty.

III. Background

Section 496 of the Higher Education Act of 1965, as amended (HEA), requires the Secretary of Education (Secretary) to establish criteria for determining whether an accrediting agency is a reliable authority, for purposes of participation in programs authorized under the HEA and other Federal programs, on the quality of education or training offered by the institutions and programs that they accredit. Such criteria are required to include appropriate measures of student achievement.

Consistent with the statute, the Secretary has established regulations for recognition of accrediting agencies at 34 CFR Part 602 and has revised these regulations periodically. E.O. 14279, titled "Reforming Accreditation to Strengthen Higher Education," issued on April 23, 2025, by President Trump, directs the Secretary to take several actions related to the recognition of accrediting agencies or associations by the Department. Some of these actions require changes to existing regulations.

These regulatory changes realign the Secretary's criteria for recognition of accrediting agencies to promote high-quality, high value, and affordable education for students that—

- Promotes such academic programs and activities at higher education institutions that are focused on student outcomes and are free from unlawful discrimination and other violations of Federal law;

- Reduces barriers that limit competition, innovation, and new education models that advance credential and degree completion;
- Holds institutions accountable for discrimination and other unlawful acts; and
- Advances academic freedom, intellectual inquiry, and student learning by ensuring that accrediting agencies review institutional policies in these areas.

Specifically, the Executive Order directs the Secretary to—

- Resume recognition of new accrediting agencies to foster competition and expand institutional options; and
- Mandate that accrediting agencies require member institutions to use data on program-level student outcomes to improve such outcomes, without reference to race, ethnicity, or sex.

The Department undertook this rulemaking in part to address the goals contained within the Executive Order, but also to propose substantive changes that would reform the static and outdated higher education accountability system. The final rule is intended to increase competition among accrediting agencies by reducing barriers to entry, facilitating institutional mobility among recognized agencies, and reducing regulatory requirements that may unnecessarily discourage the formation of innovative accrediting organizations and other related practices. Increased competition is expected to improve institutional responsiveness, reduce accreditation costs over

time, and encourage greater innovation in the market for quality assurance validation.

Increasing competition among recognized accrediting agencies is likely to improve the quality, responsiveness, and effectiveness of accreditation. Accreditation has historically seen very little competition because it evolved from voluntary membership peer review groups to set uniform academic standards within those groups. Institutional accrediting agencies rarely engage in head-to-head competition; institutions face difficulty in changing accrediting agencies due to high switching costs and potential risks in maintaining eligibility for Federal student aid for their students; and there are regulatory barriers to the recognition of new agencies. During negotiated rulemaking, the Department explained that competition among accrediting agencies is expected to generally improve quality and expand choices for institutions.

Competition creates incentives for agencies to innovate, respond to workforce changes, expand choices for institutions among agencies engaged in various types of innovative activities, and to develop new measures for assessing student success by institutions.

As explained by a Department economist during negotiated rulemaking, there is a high concentration of institutions that are accredited by a handful of institutional accrediting agencies. The Department recognizes that empirical evidence measuring the causal effect of institutions changing accrediting

agencies is limited. Because institutions have historically rarely switched agencies, and those that do may differ systematically from those that do not, it is difficult to isolate the independent effect of changing agencies on institutional outcomes. Moreover, previous regulatory barriers have resulted in too few agency switches to permit rigorous statistical analysis. The absence of such evidence, however, does not undermine the broader economic evidence concerning the benefits of competition in quality assurance markets.

Economic research has consistently found that competition encourages innovation and improved performance. Joseph Schumpeter argued that competition produces "creative destruction" that drives innovation by creating new markets that render older ones obsolete, and more recent empirical work has found that introducing competition into concentrated markets substantially increases innovation. The Department believes these findings are relevant because higher education accreditation has historically exhibited many characteristics of an uncompetitive market.

Competition is also expected to improve the informational value of accreditation. During negotiated rulemaking, the Department explained that institutions seek credible signals of educational quality, and that in a competitive accreditation market, agencies would compete to provide those signals. Rather than offering only a binary "approved/not approved" determination, competing accrediting agencies may distinguish

themselves by offering scaled ratings for institutional quality. On April 14, 2026, during opening remarks for negotiated rulemaking, the Assistant Secretary for Postsecondary Education stated:

"Competition will include competition for relevance and universities will signal their quality level through accreditation . . . Current accrediting agencies give universities and colleges pass-fail grades which provide very little useful information."²

This concern was further underscored in a recent decision letter from the Senior Department Official(SDO) to an accrediting agency, which cautioned that accreditation can devolve into a bureaucratic, "check-the-box" exercise in which meaningful, substantive feedback is replaced by a binary determination of compliance³. The official emphasized that accreditation should serve as a process that not only assesses compliance with minimum standards but also identifies opportunities for institutions and programs to strengthen their operations and improve educational quality.

This reasoning is consistent with the economic literature on certification intermediaries. In "Information Revelation and Certification Intermediaries", Alessandro Lizzeri⁴ demonstrates

² Opening Remarks - David Barker - Assistant Secretary for the Office of Postsecondary Education - <https://www.ed.gov/media/document/2026-negotiated-rulemaking-aim-transcripts-day-2-am-113991.pdf>

³ Senior Department Official/Secretary's Decision Letter to the Commission on Massage Therapy Accreditation date October 21, 2026 - <https://surveys.ope.ed.gov/erecognition/#/public-documents>

⁴ Alessandro Lizzeri, *Information Revelation and Certification Intermediaries*, The RAND Journal of Economics. Vol. 30, No. 2 (Summer, 1999), pp. 214-231.

that monopolistic certifiers have incentives to reveal only limited information, whereas competition among certifiers results in more informative quality signals. Similarly, in "The Effect of Information on Product Quality: Evidence from Restaurant Hygiene Grade Cards" Giner Zhe Jin and Phillip Leslie^[4] found that more detailed quality information improves quality outcomes.

A recent paper provides additional support for the Department's efforts to promote competition among accrediting agencies. Hatfield and Lowery⁵ develop a theoretical model of certification markets, with particular attention to higher education accreditation. They find that monopoly accrediting agencies have incentives to establish inefficiently low-quality standards and impose institutional requirements unrelated to educational quality. Competition can raise quality standards and reduce such requirements. The authors further demonstrate that entry by an accrediting agency with preferences different from those of incumbent agencies can produce substantially greater improvements in quality and reductions in bias than entry by an otherwise similar agency.

These findings support the Department's efforts to reduce barriers to entry, facilitate institutions' ability to change accrediting agencies, and encourage competition among agencies with different approaches to evaluating educational quality.

⁵ John William Hatfield and Richard Lowery, *Quis Custodiet Ipsos Custodes? Competition, Quality, and Bias in Certification Markets*, Working paper, University of Texas at Austin, October 2, 2026. Available at SSRN: <https://ssrn.com/abstract=7527099>

Although the study is theoretical, it provides an economic basis for concluding that greater competition can improve accreditation's effectiveness in protecting students and taxpayers while preserving institutional autonomy and encouraging innovation.⁶

Competition can also strengthen, rather than weaken, quality of institutions and programs. During negotiated rulemaking, the Department explained that in instances where only one recognized accrediting agency effectively serves a sector, the withdrawal of recognition may significantly disrupt institutions and students, making it more difficult to impose such a penalty. By contrast, when multiple recognized agencies are available, institutions have viable alternatives, reducing barriers to enforcement. As the Department stated during negotiated rulemaking:

"With regional and programmatic monopolies, withdrawal of recognition can throw industries into chaos ...". If the accreditation market is competitive, institutions can more easily switch accrediting agencies, which reduces incentives to continue the recognition of an agency out of fear of potential adverse fallout in the market." While some hesitation to withdraw recognition may always be present, the Department believes that the more alternative accrediting agencies are available, the less hesitant the Department will be to

⁶ *ibid.*

derecognize agencies out of worry over market disruption.⁷ The Department believes competition will increase accountability both for institutions and for accrediting agencies themselves.

Finally, competition will encourage innovation in accreditation. Accrediting agencies that face meaningful competition will have stronger incentives to develop new approaches to quality assurance, reduce unnecessary costs, respond to institutional diversity, and improve services to institutions and students. As explained in the Department's written responses during negotiated rulemaking, barriers to switching generally reduce competition and increase market power through a lock-in effect. Eliminating or reducing those barriers promotes innovation and responsiveness.

For these reasons, the Department finds that reducing unnecessary barriers to competition among qualified accrediting agencies is likely to improve accreditation over time while preserving the Department's responsibility to establish minimum standards for Federal recognition. The Department does not believe competition will cause a "race to the bottom" but rather, the opposite will likely occur. Recognized accrediting agencies must continue to satisfy all statutory and regulatory recognition requirements, while competing to provide higher quality services, with more informative and innovative quality assurance services. As the Assistant Secretary stated during

⁷ Accreditation, Innovation, and Modernization (AIM) Committee- 4/14/26 (page 10) - <https://www.ed.gov/media/document/2026-negotiated-rulemaking-aim-transcripts-day-2-am-113991.pdf>

negotiated rulemaking, "We shouldn't fear healthy competition. It is the basis of a free market economy, and we need more of it in the coddled, protected business of higher education."⁸

IV. Implementation Date of These Regulations

Generally, the regulations included in this document are effective on July 1, 2027. Section 482(c) of the HEA requires that the Department publish final regulations affecting programs under title IV of the HEA in final form by November 1 to be effective for the next award year (July 1 of the calendar year following November 1).

However, the process for recognition of accrediting agencies is multi-year and the implementation of the changes to these regulations in the recognition process will require planning and coordination between Department staff and agencies who are seeking initial recognition or renewal of existing recognition prior to the July 1, 2027, effective date.

The Department is providing the following additional clarification of the implementation timeline:

For recognized agencies that submitted their applications for renewal of recognition prior to July 1, 2026, Department staff have been reviewing the applications under the regulations that were in place prior to the promulgation of these regulations. The agencies will have an opportunity to respond to the draft staff report when completed. After receiving a

⁸ Accreditation, Innovation, and Modernization (AIM Committee) - 4/14/26 (page 10) - <https://www.ed.gov/media/document/2026-negotiated-rulemaking-aim-transcripts-day-2-am-113991.pdf>

response from the agency on the draft staff report, the Department will present its final staff report on each application to the Advisory Committee at the 2027 meetings and proposed first meeting of 2028, which will be based on compliance with the regulations that were in effect prior to the promulgation of these regulations.

For agencies seeking initial recognition that submitted their application for recognition after July 1, 2026, those agencies must submit applications for review based on adherence to the requirements in these revised regulations.

Additionally, Section 482(c)(2) permits the Secretary to designate any regulatory provision as one that an entity subject to the regulations may choose to implement earlier and the conditions for early implementation. To facilitate the implementation of these final regulations, the Secretary is designating all sections of this regulation for early implementation beginning on January 1, 2027, provided that accrediting agencies that decide to adopt any new provisions prior to July 1, 2027, do not impose new requirements on institutions or programs resulting from that early implementation that would take effect prior to July 1, 2027.

Because compliance with these regulations may require accrediting agencies to make substantive revisions to their policies and procedures, which may necessitate stakeholder notice and comment periods and formal adoption by an authorized decision-making body, as well as training for agency staff and

peer reviewers responsible for implementing the new requirements, accrediting agencies are strongly encouraged to initiate the necessary revisions and training promptly to ensure compliance with the new requirements by the applicable effective dates set forth herein.

V. Authority for the Regulatory Action

The authority for this rulemaking is Section 496 of the HEA. Section 496(a) of the HEA provides criteria that an accrediting agency must meet for the Secretary to recognize it as a reliable authority as to the quality of education or training offered. The same section states that the Secretary shall, after notice and opportunity for a hearing, establish criteria for such determinations.

Section 496(o) of the HEA directs the Secretary to establish, through regulation, procedures governing the recognition of accrediting agencies and the appeal of recognition decisions. At the same time, Congress provided that the Secretary shall not promulgate regulations with respect to the standards of an accrediting agency described in Section 496(a)(5). The Department interprets these provisions together to mean that the Secretary may establish recognition criteria governing whether an accrediting agency functions as a reliable authority under Section 496, while leaving accrediting agencies the responsibility for developing and applying their own substantive accreditation standards. Accordingly, these regulations establish the criteria the Secretary will use in

determining whether an accrediting agency qualifies for Federal recognition. Except where expressly required by statute, the regulations do not prescribe the substantive content of accreditation standards, but instead establish minimum expectations regarding the processes, consistency, transparency, and lawful administration of those standards.

The Department has also reviewed existing regulations considering Section 496(o). Where current regulations prescribe requirements that extend beyond recognition procedures and instead direct the content or administration of accrediting standards without a clear statutory basis, the Department removes or simplifies those requirements to better align the regulations with Congressional direction and remove administrative burden.

Severability

"It is axiomatic" that a regulation may be invalid in part but not in whole or as applied to one set of facts but not another. *Ayotte v. Planned Parenthood of N. New England*, 546 U.S. 320, 329 (2006). If a court finds one part of a regulation is unlawful, the "normal rule" is to enjoin only that part. *Id.* (quoting *Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491, 504 (1985)).

It is the Department's intent that if any provision of this subpart or its application to any person, act, or practice is held invalid, the remainder of the subpart or the application of

its provisions to any person, act, or practice shall not be affected thereby.

Statutes and regulations are severable if the separate provisions are “wholly independent of each other” and can operate independently. *Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491, 502 (1985). That is the case here. No part herein will be affected if another part is found to be unlawful. Nor does the Department believe courts or regulated parties would be unable to apply the rule if one part is held invalid. *Cf. Dep't of Educ. v. Louisiana*, 603 U.S. 866, 868 (2024) (per curiam) (denying the government's request to stay a preliminary injunction against an entire rule where only parts were found to be invalid because “schools would face in determining how to apply the rule for a temporary period with some provisions in effect and some enjoined”).

VI. Analysis of Public Comments and Changes

On August 20, 2026, the Secretary published a Notice of Proposed Rulemaking (NPRM) for these regulations in the Federal Register (91 FR 53940). The Department received 7,051 comments on the proposed regulations. The Department has grouped the comments by functional topics and by similar themes. We discuss substantive issues under the sections of the regulations to which they pertain. In instances where individual submissions appeared to be duplicates or near-duplicates of comments prepared as part of a write-in campaign, the Department posted one representative sample comment along with the total comment

count for that campaign to www.Regulations.gov, which continues to be our standard practice. We considered these comments along with all the other comments received. In instances where individual submissions were bundled together (submitted as a single document or packaged together), the Department posted all the substantive comments included in the submissions along with the total comment count for that document or package to www.Regulations.gov. Generally, we do not address minor, non-substantive changes (such as renumbering paragraphs, adding a word, or typographical errors) within this final rule. Additionally, we generally do not address changes or comments recommended by commenters that the statute does not authorize the Secretary to make (such as forgiving all student loans), or comments pertaining to operational processes. Analysis of the comments and of any changes in the regulations since publication of the NPRM (91 FR 53940) follows.

Process for Out-of-Scope Comments

The Department does not typically address comments that are out-of-scope. For purposes of this final rule, out-of-scope comments are those that are not addressed in the NPRM (91 FR 53940) altogether. Generally, comments that are outside of the scope of the NPRM (91 FR 53940) are comments that do not discuss the content or impact of the proposed regulations or the Department's evidence or reasons for the proposed regulations.

Technical Corrections

The Department made no substantive changes to the final rule, retaining the text agreed upon by the negotiated rulemaking committee and proposed in the NPRM. The Department made the following minor, non-substantive technical edits to improve clarity of the regulation.

602.2(b) – How do I know which agencies the Secretary recognizes?

Discussion: The Department is correcting a reference for clarity and to conform with regulatory drafting standards. The reference previously read “published in the Federal Register pursuant to subsection (a) of this section,” and we are changing it to refer to “paragraph (a) of this section.”

Changes: The Department updated paragraph (b) of this section to read as follows after the words “Federal Register”: “... pursuant to paragraph (a) of this section.”

§ 602.3 – Definition of “Designated Federal Official”

Discussion: The Department is correcting a reference that appears in the definition of *Designated Federal Official*. That definition previously referenced section 10(f) of the Federal Advisory Committee Act, which was repealed by Section 7 of Public Law 117-286. This section, among several others, was moved to a different section of 5 U.S.C. Chapter 10. The correct reference should be 5 U.S.C. 1009(e).

Changes: The Department updated the definition of Designated Federal Official in § 602.3 to read: “*Designated Federal*

Official means the Federal officer designated under 5 U.S.C. § 1009(e)."

§ 602.3 - Definition of "Related, associated, or affiliated trade association"

Discussion: The Department must update the capitalization of the word that begins each new paragraph under in the definition of *Related, associated, or affiliated trade association* with a capital letter to conform with regulatory drafting standards.

Changes: We updated the definition to read as follows: "*Related, associated, or affiliated trade association* means an organization that:

- (i) Is generally a membership organization;
- (ii) Is organized to promote a line of commerce, business, industry, or profession;
- (iii) Does not engage in a regular business of a kind ordinarily carried on for profit, and no part of the net earnings of which inures to the benefit of any member; and
- (iv) Is related to a particular accrediting agency in that the agency accredits institutions or programs that prepare students to enter the workforce of the same or substantially the same line of commerce, business, industry, or profession that organization promotes."

§ 602.3 - Definition of "Representative of the public"

Discussion: The Department must update the Arabic numerals to Roman numerals in the definition of *Representative of the public* to conform with regulatory drafting standards.

Changes: We have renumbered the definition to read as follows:

"Representative of the public means a person who is not—

"(i) An employee, member of the governing board, owner, or shareholder of, or consultant to, an institution or program that either is accredited or preaccredited by the agency or has applied for accreditation or preaccreditation;

(ii) A member of any trade association or membership organization related to, associated with, or affiliated with the agency; or

(iii) A spouse, parent, child, or sibling of an individual identified in paragraph (i) or (ii) of this definition."

§ 602.15(d) - Administrative and fiscal responsibilities.

Discussion: The Department clarifies that the requirements of the paragraph are only in reference to "recognized" agencies.

Changes: The Department updated § 602.15(d) to read: "The agency will cooperate with other recognized agencies and the Department in the development of common templates and forms for institutions or programs to submit when seeking to change accrediting agencies."

§ 602.17(a) (1) (vii) (C), (a) (3) and (a) (3) (i) - Application of standards in reaching accreditation decisions.

Discussion: The Department must update incorrect cross references under § 602.17(a) (1) (vii) (C) .

Changes: The Department updated § 602.17(a) (1) (vii) (C) to read:

“(C) In the case of a private institution, policies that if established guarantee the same or similar protections as those described in subsections (A) and (B) above.”

Discussion: The Department must update the cross reference in § 602.17(a)(3) from (vi) to (v) because we intended to cross reference fiscal and administrative capacity instead of student support services. We also updated § 602.17(a)(3)(i) to add a verb with the stem and clarify who must complete the cost/benefit analysis.

Changes: The Department updated the provisions under § 602.17(a)(3) and (a)(3)(i) to read:

“(3) When applying its standards according to § 602.16(a)(1)(iv) and (v), conducts:

(i) A review of any cost/benefit analysis performed by an institution. Cost/benefit analysis means a review by the agency of the institution's budget, resource utilization and allocation, and, if existing, its business/strategic plan, continuous improvement strategic plan, and review of whether the institution considers whether the expected benefits of the institution's activities justify the associated financial, administrative, and opportunity costs and the impact of capital expenditures on future operating expenses;”

§ 602.21 Review of standards.

Discussion: The Department must remove the word “is” before “relevant” because the word “is” was inadvertently published in the NPRM.

Changes: The Department updated § 602.21 to read:

"The agency must maintain a comprehensive systematic program of review that occurs at regular intervals, involves all relevant constituencies (including students), and that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and relevant to the educational or training needs of students."

§ 602.22(a)(1)(ii)(H) - Substantive changes and other reporting requirements.

Discussion: The Department must italicize the Arabic numerals after paragraph § 602.22(a)(1)(ii)(H) to conform with regulatory drafting standards.

Changes: The text will now appear as:

- "(1) Academic control by the institution.
- (2) The institution has adequate faculty, facilities, resources, and academic and student support systems in place.
- (3) The institution is financially stable.
- (4) The institution had appropriate planning for the addition."

§ 602.23(1) - Operating procedures all agencies must have.

Discussion: The Department must update § 602.23(1) (1) and (2) so that the word "or" appears after § 602.23(1)(2) because agencies have the option to choose one of the three structured mechanisms for individuals to communicate directly with an agency.

Changes: The Department updated the paragraph to read:

"(1) The agency must establish and maintain at least one structured mechanism through which currently enrolled students, employed staff, and employed faculty of accredited or preaccredited institutions or programs may communicate directly with the agency concerns related to the agency's accreditation standards or the institution's or program's compliance therewith. Such mechanism(s) must be designed to ensure that information received is substantive and manageable in volume. Permissible mechanisms include, but are not limited to, any one or more of the following:

(1) A registration process through which students, staff, or faculty may sign up to participate in structured meetings with agency representatives during scheduled site visits or virtual visits, subject to reasonable limits on the number of participants and appointment availability;

(2) Randomized panels of students, staff, or faculty selected by the accrediting agency or its authorized representatives to participate in confidential interviews or focus groups during site visits, conducted in a manner that ensures a representative cross-section of the institutional community; or

(3) Student, faculty, and staff surveys independently administered by the agency as part of an initial or renewal of accreditation process which minimally address the standards areas required by § 602.16(a)."

§ 602.24(d) - Additional procedures certain institutional agencies must have.

Discussion: The Department must update the Roman numerals to Arabic numerals to conform with regulatory drafting standards. We must also update §602.24(d)(2) to ensure there are no institutions identified in any teach-out plan.

Changes: The Department updated (d) to read:

"(d) *Closed institution.* If an institution the agency accredits or preaccredits closes without a teach-out plan, the agency must work with the Department and the appropriate State agency, to the extent feasible, to assist students in finding reasonable opportunities to complete their education without additional charges, including by—

- (1) Working with institutions to secure teach-out agreements; or
- (2) Where a teach-out agreement cannot be arranged, working with institutions to secure transfer options;
- (3) Making teach-out or transfer options, the terms of such options, and information on obtaining transcripts, loan discharges, and reimbursement publicly available on the agency's website; and
- (4) Sharing such information with appropriate State agencies and, as applicable, with other recognized accrediting agencies."

§602.27 Other information an agency must provide Department.

Discussion: The Department must update the title of this section to correct a typographical error by adding "the" after the word "provide" in the amendatory language.

Changes: We updated the title of this section to:

"§602.27 Other information an agency must provide the Department."

§ 602.30(a)(3) - Agency applications and reports to be submitted to the Department.

Discussion: For consistency with § 602.16(d), we must add "direct assessment education" to § 602.30(a)(3).

Changes: The Department updated § 602.30(a)(3) to read:

"(3) Documentation of how an agency that includes or seeks to include distance education, correspondence courses, or direct assessment education in its scope of recognition applies its standards in evaluating programs and institutions it accredits that offer distance education, correspondence courses or direct assessment education."

§ 602.31(a)(3) and (a)(7) - Procedures for submitting applications for recognition and renewal of recognition.

Discussion: We must add "...the Secretary determines that..." to § 602.31(a)(3) for consistency with the other provisions in that section. We also must add § 602.31(a)(7) to clearly state the type of application required for agencies seeking initial recognition.

Changes: We updated § 602.31(a)(3) to read:

"(3) If the Secretary determines that an agency or its officers or directors have been the subject of legal actions, complaints, or other compliance issues that individually or in the aggregate raise substantial concerns regarding the agency's compliance with this part, the agency must submit a comprehensive

application that addresses the agency's compliance with all criteria in subpart B of this part."

We updated § 602.31(a)(7) to read:

"(7) An agency submitting an application for initial recognition must submit a comprehensive application that addresses the agency's compliance with all criteria in subpart B of this part."

§ 602.31(b)(2) - Procedures for submitting applications for recognition and renewal of recognition.

Discussion: The proposed text included an unclear reference to "subparagraph (1)." We have revised the reference to be more specific and refer to paragraph (b)(1) of the same section.

Changes: We updated § 602.36(d) to read:

"(2) Within 10 business days after publication of the notice described in paragraph (b)(1) of this section, the agency must publish the request for information on the agency's website to include instructions on how the public can submit information in response to the request."

§ 602.36(d) Senior Department official's decision.

Discussion: The Department must amend § 602.36(d) by replacing "of" in the current paragraph with "...following the publication of transcripts of..." to match the change made to § 602.35(a).

Changes: The Department updated § 602.36(d) to read:

"(d) Except with respect to decisions made under paragraph (f) or (g) of this section and matters referred to

the senior Department official under § 602.37(e) or (f), the senior Department official notifies the agency in writing of the senior Department official's decision regarding the agency's recognition within 90 days following the publication of transcripts of the Advisory Committee meeting or conclusion of the review under paragraph (b) of this section."

Directed Question

§ 602.15 - Administrative and Fiscal Responsibilities

The Department sought feedback about the extent to which the "conflict of interest" requirements impact accrediting agencies in relation to 401K plans, health insurance, and other areas. We understood that there may be some agencies who utilize the same resources as their related, associated, or affiliated trade association in these certain areas, and that there may be some consideration to the amount of time and resources it would take to unwind the sharing of resources in such instances.

Comments: Some commenters stated that for a programmatic accrediting agency, they believed that requiring independent human resources and benefits administration, IT infrastructure, legal and finance support, marketing, and standalone facilities within the one-year timeline would be challenging. Some of these agencies believed that these changes would result in costs that agencies would pass on to institutions through higher accreditation fees to programs. Commenters argued their belief that the proposed regulation directly undercuts the rule's own goal of reducing regulatory burden and cost under § 602.15(c).

The two main suggestions for provisions under § 602.14 and § 602.15 on separate and independent requirements were: (1) rescind the amendments to the regulations or (2) provide more time to comply with the requirements. For a full list of recommendations, please see the discussions under § 602.14 and § 602.15.

Discussion: The Department disagrees with the recommendations. The Department's phase-in of the final rule for applications for initial and renewed recognition that were submitted during the transition period of the final rule will provide agencies approximately 20 months, through July 1, 2028, to make the necessary changes to comply with the regulations. If an agency is unable to comply by that date due to existing lease obligations, it may contact the Department to provide specific details regarding its circumstances. The Department may consider an agency's demonstrated, substantive progress toward achieving full compliance within a reasonable timeframe when determining whether to maintain its recognition status. Such progress must be supported by objective, verifiable evidence of concrete actions taken and measurable progress toward compliance, rather than statements of intent or unsupported assurances. The Department may require the agency to submit periodic reports and supporting documentation to assess its progress and determine whether the agency is on track to achieve full compliance within the applicable timeframe.

Changes: None.

Regulatory Impact Analysis—Data Constraints

The Department recognizes that there is limited data available to estimate the proposed regulation's potential impact on accrediting agencies, institutions, programs, and students. Due to the scarcity of existing information, the Department invited public feedback on possible methods and data sources that could further strengthen the analysis presented in the RIA.

Comments: Several commenters urged the Department to withdraw the proposal because the commenters believed that the Directed Question in the NPRM conceded that the Department lacks empirical data on the effects of these changes.

Discussion: The Department disagrees with commenters' assertion that its solicitation of public feedback to strengthen the RIA demonstrates a lack of empirical data to support the proposed changes. This assertion misconstrues the purpose of the Department's request for feedback, which is intended to ensure that its analysis is informed by the best available information and evidence. Seeking public input is a means of strengthening the analytical basis for informed policymaking, not an indication that the analysis lacks an adequate evidentiary foundation. In response to some commenters' feedback, the Department has supplemented the RIA with additional information to further support the proposed changes. This includes additional estimates for changes in title IV student aid disbursements that result from credit transfer policies and an increase in innovative and flexible educational models.

Changes: None.

General comments

Comments: Several commenters requested phased implementation to allow them time to develop systems to implement these changes.

Discussion: Except as otherwise noted, the regulations will not be effective until July 1, 2027. We believe that the eight months between November 2026 and July 2027 is sufficient time to update standards, policies, and procedures to achieve compliance by the established deadline. Further, the Department has noted implications for specific provisions of the regulations under the *Implementation Date of These Regulations* section.

Changes: None.

Comments: Some commenters requested that the Department publish subregulatory guidance quickly after the final rule is published. For example, one commenter requested a prioritized list of items the Department intends to finalize as guidance, a data-access roadmap that describes how program-level outcomes, licensure data, assessment scores, and unemployment insurance (UI) wage records may be securely obtained and used, model templates for agency petitions, confidentiality markings, and remediation/transition plans to reduce burden and increase consistency, and an interagency/State liaison process for expedited sharing of restricted outcomes data and coordinated teach-out/closure responses.

Discussion: The Department recognizes that institutions, accrediting agencies, States, and other stakeholders may benefit

from additional information regarding implementation of the final rule. The Department has a long-standing practice of providing technical assistance, guidance, and other informational resources, as appropriate, to facilitate compliance with regulatory requirements. However, the Department declines to commit to issuing specific guidance documents, model templates, roadmaps, timelines, or interagency coordination procedures within a prescribed timeframe.

Changes: None.

Comments: Several commenters stated that before finalizing these amendments, the Department should state, for each regulatory change, the specific problem it addresses, provide evidence of the problem, and then state the results it is expected to produce. One commenter also stated that the final rule should establish a transparent post-implementation review, using a pre-rule baseline and reporting results at defined intervals, including an initial review within 24 months and a fuller review within five years.

Discussion: The Department has explained the reasons for the regulatory changes in the NPRM and further elaborates on these here. We also decline to regulate the Secretary in a way that would require the Secretary to release reports not required under the law.

Changes: None.

Comments: Several commenters argued that the negotiated rulemaking committee did not reflect a good-faith effort to

represent all significantly affected interests. Some commenters believed that the committee was overly partisan. Other commenters believe that the committee lacked faculty members and other negotiators with specialized expertise needed to fully understand and address the complexities of the proposal. A few commenters stated that the nine-day negotiated rulemaking and 30-day comment periods were too short to gather substantive feedback from stakeholders.

Discussion: The Department firmly disagrees with the assertion that the negotiated rulemaking process lacked good-faith efforts or the expertise necessary to adequately consider the issues. Consistent with the requirements of Section 492 of the HEA, the Department convened a negotiated rulemaking committee comprising representatives from a broad range of stakeholder groups reflecting the diverse sectors and interests within higher education. The Department believes that the committee benefited from the varied perspectives and expertise of representatives of institutions of higher education, students, institutional and programmatic accrediting agencies, State officials, and other stakeholders with substantial experience in accreditation policies and practices and related matters. The process was conducted to facilitate meaningful deliberation among stakeholders with relevant experience and expertise, and the Department rejects any characterization that disregards those efforts or the substance of the committee's work. In addition to information provided during negotiated rulemaking sessions, the

Department considered stakeholder input received throughout the months-long rulemaking process, including comments submitted in response to the proposed regulations.

Prior to (public hearings), during (negotiations), and after rulemaking (public comment period), the Department has heard from thousands of stakeholders on the proposals. We believe we have afforded the public a substantial opportunity for meaningful input.

Changes: None.

Comments: One commenter opined that accreditation of local law schools should be left to the States in which the schools reside, and their licensing boards of higher education.

Discussion: The Department agrees that this could be an acceptable alternative. One goal of the final rule is to encourage new, innovative accrediting agencies to seek recognition from the Department, which should increase competition and quality of agencies. However, the Department is unable to independently foster new competition, as it requires action from new and nascent accrediting agencies.

Changes: None.

Comments: One commenter stated that the final rule should ensure that nothing in Part 602 leads accrediting agencies to penalize institutions whose assessment models assume super intelligence (SI) availability and measure human contribution directly.⁹

⁹ Pursuant to Executive Order 14434, 91 Fed. Reg. 63129 (Oct. 2, 2026), this document uses the term "Super Intelligence" or "SI" instead of "Artificial Intelligence" or "AI."

Discussion: Regulating the use of SI, or any other forms of data analysis and automation, in educational assessment goes beyond the scope of this final rule. Agencies are required to establish standards based on § 602.16 and apply them based on § 602.17. Nothing in this rule explicitly or implicitly prohibits use of SI or other tools available to the agency in carrying out these requirements.

Changes: None.

Comments: One commenter recommended that the Department require accrediting agencies to evaluate whether institutions maintain and consistently apply:

- Clear, publicly available academic-appeal procedures;
- Timely student access to the records and evidence relied upon before an appeal is decided;
- Written, evidence-based reasons for final decisions;
- Conflict-of-interest protections and recusal procedures for decision-makers;
- An escalation or independent-review mechanism when the accuracy, completeness, or reliability of the underlying student record is disputed; and
- Public reporting of aggregate appeal outcomes and corrective actions, while protecting student privacy.

Discussion: While accrediting agencies have significant discretion to establish requirements for the institutions and programs that they accredit, the Department believes that the

changes proposed by the commenter are not authorized by the statute.

Changes: None.

Comments: One commenter recommended that the final rule or accompanying guidance expressly identify Registered Apprenticeship as a workforce model that programmatic accrediting agencies should be prepared to evaluate under the proposed rule.

Discussion: While the Department strongly supports Registered Apprenticeships and has taken steps to remove barriers and otherwise facilitate the integration of this and other “learn and earn” models with the Federal student aid programs and other Department programs, we recognize the considerable oversight and evaluation of Registered Apprenticeships that is already conducted by the Department of Labor and State apprenticeship agencies. Moreover, Registered Apprenticeships are just one of many models currently being used for workforce development and education programs, and the Department does not believe it is necessary at this time to reference any particular model in these regulations.

Changes: None.

Comments: One commenter recommended that the final rule require ongoing evaluation of unintended consequences. The commenter suggested the establishment of mechanisms for monitoring whether the reforms produce ideological sorting, strategic behavior,

conflicts of interest, reduced educational diversity, or other unintended effects are needed.

Discussion: The Department believes the final rule is well-targeted and likely to achieve their desired objectives. The Department is constantly monitoring its policies and regulations and the changing environment in which they are applied. The final rule is the direct result of evaluating current regulations that amend both long-standing regulations and more recent changes.

Changes: None.

Comments: One commenter asked the Department to ensure explicit reference to "Tribal law" and "Tribal governments" in regulations and to clarify the final rule to recognize the incorporation of Tribal languages and culture within Tribal colleges or universities.

Discussion: The major reforms in these regulations - improving educational quality, protecting students and taxpayers, and ensuring recognized accrediting agencies support innovation, accountability, and legal compliance - apply to all accrediting agencies and the institutions and programs they accredit, including Tribal colleges or universities. The regulations already address issues of institutional mission and legal compliance, but the Department reserves the ability to issue subregulatory guidance as necessary to address specific matters of legal compliance that may arise.

Changes: None.

Comments: Another commenter stressed that the Department should require recognized agencies to disclose meaningful information concerning governance, finances, decision making, institutional reviews, appeals, peer review practices, conflicts of interest, accreditation outcomes, and measures of the accrediting agency's own effectiveness.

Discussion: The Department acknowledges the need for additional agency transparency and has taken a number of steps in this final rule to increase disclosure and transparency and address conflicts of interest. Additionally, these regulations establish a new framework for improved and more thorough oversight of the recognized accrediting agencies that serve as the primary gatekeepers for the Federal student aid programs.

Changes: None.

Comments: One commenter recommended that the Department requires programmatic accrediting agencies in licensed professions where practitioners exercise direct professional judgment affecting public welfare – such as social work, nursing, and counseling – to collect and publicly report student outcome data, including licensure examination pass rates by program.

Discussion: The Department acknowledges the value of student outcome data, particularly licensure pass rates, but notes that such data is already available through the state licensure process, and many accrediting agencies have licensure pass rate data and disclose that data for the programs that they accredit.

Changes: None.

Comments: One commenter stressed that the Department should evaluate downstream impacts on licensure portability and public protection.

Discussion: The Department believes we have adequate regulations regarding licensure under § 602.16(a)(1), § 602.16(g)(3), § 602.17(a)(1), and § 602.20(i)(1).

Changes: None.

General agreement with the regulations

Comments: Some commenters offered general support for the proposed rule. These commenters stated that the rule will increase competition among accrediting agencies, which will eliminate violations of antitrust laws, credential inflation, and increased costs for taxpayers and students alike. Commenters championed the Department's efforts to focus on student achievement and outcomes, improve credit transfer to increase educational mobility, and reduce unnecessary administrative burdens. Commenters' testimonials included:

- "The Department's August 20, 2026 proposed rule is a necessary and potentially transformative correction to an accreditation system that has too often rewarded institutional conformity instead of measurable educational value."
- "Accrediting agencies have often played a role in credential inflation. Programmatic accrediting agencies may add mandates that make it more expensive to operate a

particular program, the costs of which are passed on to students through higher tuition prices.”

- “Competition among accrediting agencies can preserve a common safety floor while allowing different educational methods to prove themselves.”
- “Accrediting agencies should focus on whether schools are providing students with a quality education and helping them succeed. They should not be requiring schools to follow certain beliefs or practices that may be discriminatory or unrelated to the quality of education students receive. I support the Department’s proposal to make sure accreditation decisions are fair, strengthen oversight, and focus more on student outcomes.”
- “Accreditation should provide meaningful assurance of educational quality without encouraging institutions to become more alike simply because uniformity is easier to measure. A regulatory framework that combines rigorous accountability with genuine institutional differentiation will better serve students, institutions, and the public.”
- “The Problem: The current system focuses on bureaucratic processes rather than actual student outcomes like learning, graduation rates, employment, and loan repayment. The Solution: The proposed rule holds institutions accountable by enforcing state and Federal laws, setting minimum student performance standards, and measuring real-world outcomes. This reform is critical

to fixing a broken system and restoring accountability to American higher education.”

- “...despite their immense power over institutions of higher education, accreditation agencies fail to ensure academic quality, operate like a monopoly, lack transparency, and stifle new and innovative educational models.”

Discussion: The Department thanks commenters for their support. We agree that the final rule will reduce burden on agencies and their accredited institutions and programs by eliminating requirements not required by statute, focus on educational quality with increased accountability on agencies, and ensure that the standards and policies of agencies do not violate Federal or State law.

Changes: None.

General opposition to the regulations

Comments: Some commenters opposed the proposed rule and urged the Department to withdraw or substantially revise the proposed rule. Commenters were concerned that these regulations will shift academic and financial judgments from institutions and accrediting agencies to the Federal government and argue that educational quality, affordability, and accountability will suffer as a result. Commenters argued that the final rule would allow the Department to indirectly withhold Federal student financial assistance, either by requiring accrediting agencies to end accreditation or by ending recognition for the institution’s accrediting agency, when institutions are under

investigation for a variety of issues such as interpretations of civil rights laws or political and ideological disputes.

Discussion: The Department disagrees with these perspectives and notes that the final rule does not replace institutional or agency discretion or judgment nor does it politicize the recognition process for accrediting agencies. Rather, in issuing this final rule, the Department is strengthening transparency of agencies and the institutions and programs they accredit and improving consistency and student protections across institutions and programs. The final rule preserves the core role of accrediting agencies in setting standards for and evaluating academic quality. Nothing in the final rule authorizes the Department to impose Federal viewpoints on agency or institutional decision-making. The final rule properly sets certain baseline expectations for recognition of agencies by the Department as reliable authorities on educational quality, such as protections for students during disruptions of educational services and consistent treatment of transfer credits when students change institutions or advance to higher levels, which are essential to safeguarding the integrity of the Federal student aid programs and ensuring accountability to taxpayers.

Changes: None.

Comments: A few commenters expressed concerns for programs serving students in prison education programs. The commenters stressed the proposed rules could lead to politically motivated State action against a prison education or post-incarceration

reentry program and could trigger a fast-tracked accreditation review, giving State actors a new lever to pressure programs they find objectionable.

Discussion: The Department maintains that all students, including those who are incarcerated, deserve increased accrediting agency oversight and will benefit from reinforcement of the existing legal, constitutional, civil rights, and consumer protection obligations already required of recognized accrediting agencies and the institutions and programs that they accredit.

Changes: None

Legal authority

Comments: Some commenters did not believe the Department has the statutory authority to regulate in several areas of this final rule, including the amendments under § 602.13 that add regulations on antitrust law; § 602.14 and § 602.15 that amend requirements on conflicts of interest; § 602.17 that amends the application of standards in reaching accreditation decisions, including student achievement standards and agency requirements on the application of civil rights law; § 602.23 that amends regulations on operating procedures all agencies must have; and § 602.24 that amends requirements for credit transfers.

Commenters often cited several statutory provisions to support their claims. Commenters stated Section 496(a)(5) of the HEA prescribes the specific standards for accreditation. Some commenters believe that the Department has added new standards

that do not currently exist in statute. Commenters also cited Section 496(g) of the HEA as Congressional intent on the limitation of the Department's authority to establish additional standards: "Nothing in this Act shall be construed to permit the Secretary to establish criteria for accrediting agencies or associations that are not required by this section. Nothing in this Act shall be construed to prohibit or limit any accrediting agency or association from adopting additional standards not provided for in this section. Nothing in this section shall be construed to permit the Secretary to establish any criteria that specifies, defines, or prescribes the standards that accrediting agencies or associations shall use to assess any institution's success with respect to student achievement". Commenters cited Section 496(o) that states the Secretary "shall not promulgate any regulation with respect to the standards of an accrediting agency or association described in subsection (a) (5)".

Finally, commenters cited Section 103 of the Department of Education Organization Act as evidence of Congressional intent on the limits of the Department's authority: "No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library

resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law".

Discussion: The Department disagrees with these commenters. The Secretary has express authority to "by regulation provide procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary's decisions," 20 U.S.C. § 1099b(o), and to "establish criteria" through notice-and-comment rulemaking to determine whether an agency is a "reliable authority as to the quality of education or training," 20 U.S.C. § 1099b(a). Thus, Congress expressly directed the Secretary to establish criteria for determining whether an agency is a reliable authority of the quality of education and training of the institutions and programs that it accredits. Congress narrowly limited the Secretary's authority in this area is prohibiting "promulgat[ing] any regulation with respect to the standards of an accreditation agency or association described in subsection (a)(5)." 20 U.S.C. § 1099b(o).

The limitation in this section only means that the Department cannot add to the standards enumerated in subsection (a)(5). However, the Secretary is not prohibited from establishing the criteria used by the Department to determine whether an agency's standards, including those described in subsection (a)(5), comply with the statute and regulations.

The Department is not requiring any agency to adopt any requirements as standards. Instead, these regulations inform how the Department will assess whether the standards an agency has adopted are adequate to show that the agency is a reliable authority on institutional quality.

Changes: None.

Comments: Some commenters questioned the Department's authority to make many of the changes proposed to § 602.17. These commenters believe that the Department added new requirements to § 602.17 in contravention of express statutory prohibitions. Specifically, the commenters pointed to Section 496(g) of the HEA (20 U.S.C. § 1099b(g)), 20 U.S.C. § 1099b(o), and Section 103 of the Department of Education Organization Act . While many of the commenters were skeptical of the Department's authority to add any of the new requirements in § 602.17, many focused especially on the inclusion of student achievement, academic freedom, and cost-benefit analysis.

Discussion: The Department disagrees with these commenters. The Secretary has express authority to "by regulation provide procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary's decisions," 20 U.S.C. § 1099b(o), and to "establish criteria" through notice-and-comment rulemaking to determine whether an agency is a "reliable authority as to the quality of education or training," 20 U.S.C. § 1099b(a). Thereby, Congress has commanded the Secretary to establish criteria by which the Secretary will

determine whether an agency is a reliable authority of institutional quality. Congress limited the Secretary's authority in this area by prohibiting the Secretary from "promulgat[ing] any regulation with respect to the standards of an accreditation agency or association described in subsection (a) (5)." 20 U.S.C. § 1099b(o).

The Department believes the best reading of this section is that the Department cannot add to the standards listed in subsection (a) (5). But, given the express command to establish criteria by which the Secretary will determine whether an agency is a reliable authority of institutional quality, the Secretary is not prohibited from explaining the criteria that the Secretary will use to determine whether an agency's subsection (a) (5) standards are effectively applied and enforced.

This is what the Department has done in Section 602.17. Section 602.17 does not add to the standards an agency must consider when assessing an institution's faculty, for example. Rather, these are the criteria the Department will use to determine whether an agency has effective subsection (a) (5) standards.

This interpretation is further supported by Section 496(a) (4) (A) of the HEA, which expressly requires accrediting agencies to consistently apply and enforce their standards, and section 496(n), which requires the Secretary to conduct a comprehensive and independent evaluation of accrediting agencies. These provisions authorize the Department to evaluate

not only whether agencies have adopted standards, but also how those standards are applied and enforced. The requirements in § 602.17 implement these statutory responsibilities without prescribing the substantive content of accreditation standards. This distinction rests on the substance of the requirements, not merely their placement in the regulations.

To the extent the commenters believe that the Department is adding standards to Section 602.16, they are mistaken. While the Department's initial discussion draft prior to negotiated rulemaking included proposed changes to 602.16, the Department heard from several negotiators that the changes being sought were focused on the application of standards rather than changing the content of the standards themselves. Instead, these amendments inform how the Department will assess whether the standards an agency has adopted are adequate to show that the agency is a reliable authority on institutional quality. The negotiated rulemaking committee extensively discussed and ultimately reached consensus on changes to Section 602.17 to address how the Department determines whether agencies have effective mechanisms for evaluating compliance with its standards. The changes that were agreed upon by the negotiated rulemaking committee were proposed by the Department in the NPRM. These changes make only clarifying and technical changes to the requirements for standards in 602.16 and amend the evaluative criteria in 602.17 for the agency's application of standards in reaching accreditation decisions, which are

designed for the Department to determine whether an agency is a reliable authority of educational quality for purposes of the HEA and other Federal purposes.

Changes: None.

Comments: Other commenters stated that the Department lacks authority to promulgate Section 602.14. In particular, the commenters argued that the Department could not apply the separate and independent requirement to programmatic accrediting agencies who do not serve as title IV gatekeepers. One commenter stated that the HEA was amended more than 30 years ago (Public Law 103-208) to make clear that "separation was not required for accrediting bodies with no title IV purpose." The commenter stated that contemporaneous legislative history reinforces this point, because a US Representative, in introducing the Higher Education Technical Amendments of 1993, stated that:

"... membership organizations requested clarification of the requirement for accrediting bodies to be separate and independent from their accrediting associations. Statements made on the House floor during consideration of the Higher Education Amendments of 1992 clarified that this separation was not required for accrediting bodies with no title IV purpose. However, the Department of Education informed us that a technical amendment is necessary to achieve congressional intent. Without this clarification these organizations will be required to undergo costly restructuring to meet the separate and independent requirements."

Discussion: The Department disagrees with the commenters. We first note that accrediting agencies will be required to demonstrate a Federal link in order to be recognized by the Department. Programmatic agencies who do not demonstrate such a link will not be considered for recognition and therefore need not comply with the separate and independent requirements. In any case, purely programmatic accrediting agencies recognized under 602.14(a)(3) are not required to comply with the separate and independent requirements in 602.14(b).

All accrediting agencies, including programmatic ones, are required to comply with 602.15, including by demonstrating clear and effective controls to avoid or resolve conflicts of interest. The commenters do not dispute the Department's authority to regulate under this section. To the extent commenters argue that the Department is effectively imposing the separate and independent requirements through 602.15(e), they are mistaken. Section 602.14(b) requires structural separation, meaning an agency must be independent of any related, associated, or affiliated trade association in its governance, budget, and personnel. In contrast, Section 602.15(e) does not require that separation. It requires only that the agencies identify and disclose relationships with trade associations and maintain clear and effective controls to prevent those relationships from improperly influencing accreditation decisions. An agency may maintain such relationships and comply with 602.15(e), so long as appropriate safeguards are in place.

The Department discussed at length its concerns with the influence that related, associated, or affiliated trade associations exert over accrediting agencies, leading the agencies to adopt standards and practices that do not always advance students' interests. The commenters fail to explain why the Department is incorrect to call this influence a conflict of interest or why the Department should not take steps to rein it in. The longstanding nature of the relationship between an accrediting agency and a related, associated, or affiliated trade association does not negate the existence of a conflict of interest, nor does it justify permitting such a conflict to persist.

Finally, the Department takes note of the legislative history cited in a comment but also notes that legislative history cannot change the plain language of the statute. See *State Farm Fire and Cas. Co. v. U.S ex rel. Rigsby*, 580 U.S. 26, 36-37 (2016).

Here, the relevant statutes grant the Secretary authority to promulgate regulations and do not limit the Secretary's authority to specify what is considered a conflict of interest.
Changes: None.

§ 600.11 Special rules regarding institutional accreditation or preaccreditation.

Comments: Some commenters strongly supported the amendments to § 600.11. They believed that competition among accrediting agencies will strengthen accountability, provide quality

assurance, encourage innovation, and make accrediting agencies more responsive. Other commenters stated that the proposed regulations would lower barriers to entry while retaining statutory quality controls for agency recognition. Commenters stated that agencies should have incentives to demonstrate their value through effective quality assurance, reasonable processes, responsive service, appropriate standards, and efficient oversight. These commenters believed that allowing institutions to more easily change accrediting agencies creates those incentives and reduces the risk that accreditation relationships become permanent regardless of an agency's performance.

Discussion: We agree and thank the commenters for their support. The final rule reduces regulatory burden on agencies in several areas but enhance accountability and direct focus on agencies' application of their standards and policies during the Department's recognition process.

Changes: None.

Comments: Some commenters stated that loosening requirements for institutions to change accrediting agencies will result in institutions seeking out agencies with the lowest standards. Common themes in the comments opposing the amendments were (1) the regulations would weaken accreditation and result in a "race to the bottom" in terms of academic quality, (2) relaxed requirements for changing agencies and fewer barriers to Federal recognition would result in institutions shopping for the agencies with the weakest standards, (3) institutions would be

able to easily evade accountability, (4) the rule ignores the negative consequences of policies that create competition for competition's sake, and (5) this change, combined with changes under § 602.11 and § 602.12, will drastically lower the requirements of accrediting agencies to be more easily recognized by the Department, with the probability of predatory institutions gaining accreditation increasing.

Discussion: The Department has not reduced statutorily required oversight of accrediting agencies nor encouraged them to have lower standards. The commenters will note that all the statutorily required standards under Section 496(a)(5) remain unchanged. The Department has also added additional safeguards in the form of application of the required standards under § 602.17 to ensure agencies are accounting in their policies for things like post-completion and graduation outcomes, the educational and economic returns of programs, academic freedom protections, cost-benefit analysis of institutional activities, and optimization of students' time to credential to reduce the amount of borrowing for students.

The regulations will not result in a race to the bottom. In fact, the Department has raised the bar for outcomes of students receiving title IV, HEA assistance at eligible institutions. An agency will still apply to the Department for recognition and be evaluated by both Department staff and NACIQI, receive approval from the senior Department official, and continue to be re-recognized by the Secretary through Departmental periodic review

of the agency's compliance with the rigorous standards contained in the regulations.

Changes: None.

Comments: A few commenters provided specific recommendations that they believe would strengthen protections in the rule. One commenter stated that the Department should require an institution to submit its complete accreditation and compliance record, including all adverse and interim actions, unresolved findings, complaints, financial risk indicators, program review materials, teach-out obligations, corrective action plans, and relevant State or Federal actions. The receiving agency should be required to review that record and provide the Secretary with a written certification that it has considered the institution's prior history and determined that the change is not intended to evade oversight or obtain a less rigorous review. The commenter made additional requests regarding public disclosure of the change in agency and clear timelines to be published about the process for changing agencies. The Department should also require an institution to publicly disclose its reason for changing accrediting agency and any pending or recent adverse actions.

A different commenter stated that agencies should submit the most recent accreditation determination letter; visiting-team reports and other agency feedback from the prior three years; information on pending consumer complaints and investigations by State and local licensing and law-enforcement

agencies; and a status confirmation from the institution's current accrediting agency stating whether it has opened inquiries, engaged in substantive dialogue about compliance, or taken any action.

Another commenter stated that the NPRM assurance that institutions "subject to an adverse action cannot switch" is not reflected in the regulatory text itself, which requires a Secretarial finding of evasive intent. The commenter recommended restoring the current 24-month look-back, and providing that an institution under probation, show cause, suspension, or adverse action may not designate a new accrediting agency as its gatekeeper for the Federal student aid programs until the action is resolved or the receiving agency has independently reviewed and adopted findings on each deficiency identified by the prior agency.

Discussion: The Department declines the commenters' suggestions because they are not based in statute. We believe the new regulations under § 600.11(a)(1)(ii) are sufficiently rigorous to ensure that the Department is able to ascertain that an institution is trying to evade, avoid, misrepresent, or undermine the integrity of any title IV, HEA programs, which includes if an institution was subject to an adverse action by an agency.

Changes: None.

Comments: One commenter requested that the Department consider language that would protect institutions from penalizing actions

by a current accrediting agency when exercising their right to choose another agency under § 600.11.

Discussion: If an institution believes that its current accrediting agency has taken adverse or punitive action against it in response to its efforts to change accrediting agencies, the institution may document those concerns in the materials it submits to the Department pursuant to § 600.11(a)(1). The institution may also submit a complaint directly to Department staff for review.

Changes: None.

Comments: One commenter stated that the Secretary should not be the sole arbiter of whether an institution's cause for switching accrediting agencies is "reasonable." The commenter stated that the determination would rest entirely with one political appointee, with no independent review, no defined evidentiary standard, and no public rationale requirement. The commenter recommended that the Department vest this determination in NACIQI or a comparable independent body.

Discussion: The discretion to approve or deny a change in accrediting agencies even prior to this proposal rested with the Secretary. The Department maintains the proper protocols, ethical practices, and staff to ensure consistency, transparency, and fairness in all decision-making.

Changes: None.

Comments: One commenter stated that the final rule and accompanying guidance should specify how eligibility for title

IV, HEA program funds is affected when an institution holds more than one institutional accreditation, how the institution designates a primary agency and changes that designation, and what disclosure to students is required.

Discussion: The current process for reviewing multiple accreditations addresses these issues, and the Department does not expect the process related to those issues to change. Under the regulations, Department evaluates whether an institution has demonstrated reasonable cause for adding an additional accrediting agency based on information provided by the institution and other information available to the Department. As a reminder, under 34 CFR 668.43(a)(6), institutions are responsible for providing information that is readily available to enrolled and prospective students about the names of associations, agencies, or governmental bodies that accredit, approve, or license the institution and its programs and the procedures by which documents describing that activity may be reviewed under 34 CFR 668.43(b). If a new agency begins to accredit an institution, the Department expects the institution to disclose the appropriate information to enrolled and prospective students as soon as possible.

Changes: None.

Comments: A few commenters stated that institutions should be able to protect their students by avoiding a gap in title IV aid between the previous accreditation and the new accreditation, especially in the health care and veterinary professions. The

commenter also stated that although the rule states that new agencies should avoid unnecessary costs to institutions in the accreditation process, institutions that change agencies may have to account for increased accreditation costs, and those costs may be passed along to taxpayers or students.

Discussion: While there may be an outlier, the Department does not envision a circumstance in which an institution voluntarily chooses to switch accrediting agencies and causes a gap in title IV funds access. The institution would retain title IV eligibility under its original agency until the change in accrediting agency was complete.

With respect to concerns about increased costs associated with changing accrediting agencies, the Department notes that these regulations do not require an institution or program to change accrediting agencies. Rather, the regulations are intended to facilitate such changes when an institution or program determines that doing so is appropriate. Accordingly, an institution or program anticipating increased costs that could necessitate ongoing increases in students' cost of attendance should carefully evaluate whether changing accrediting agencies is in the best interests of its students. The Department recognizes, however, that the potential benefits of changing accrediting agencies may outweigh the associated costs, depending on the institution's or program's circumstances and the interests of its students.

Changes: None.

Comments: Several commenters supported the amendments to the provision on an institution having accreditation from multiple entities under § 600.11(b). One commenter stated that the regulations correctly read HEA Sections 496(h) and (i) as requiring disclosure and reasonable cause, not as granting the Department a general veto over an institution's choice of quality assurance partner. The enumerated grounds for finding cause unreasonable are the right guardrails and are narrowly drawn. Another commenter stated that allowing an institution to have accreditation from multiple agencies will encourage more agencies to apply to the Department for recognition, thus leading to increased oversight of agencies and better quality assurance of institutions and programs.

Discussion: We agree and thank the commenters for their support.

Changes: None.

Comments: Several commenters opposed the changes under § 600.11(b) because they believe institutions will be incentivized to seek dual accreditation, likely from a new accrediting agency with less rigorous standards, as a safety net if they fail to meet the standards of one of the more established accrediting agencies.

Discussion: We believe a guardrail exists in the regulation for this situation. One of the provisions under § 600.11(b) is that an agency cannot carry accreditation from multiple agencies to "avoid or delay enforcement or oversight by the Department or an

accrediting agency." Accordingly, the Department has adequately addressed the commenters' concerns.

Changes: None.

Comments: One commenter was concerned that the wording of § 600.11(b)(2) could be interpreted in a way that would prevent the Secretary from acting against poorly performing institutions. The commenter recommended that, since revoking accreditation is often a yearslong process, the Department revise §600.11(b)(2) to read "The Secretary will not solely determine the cause of having multiple accrediting agencies to be unreasonable due to a probation or equivalent, show cause order, or suspension order."

Discussion: If the Secretary determines that an accrediting agency is not compliant with statute or regulations, there are many mechanisms to review, sanction, or revoke recognition of the agency. This provision alone does not prohibit the Secretary from taking action in response to violations of statute or regulations.

Changes: None.

Comments: One commenter requested that the Department identify, as examples of "reasonable cause," an institution's decision to add an agency whose scope covers workforce, certificate, apprenticeship-aligned, or eligible workforce programs.

Discussion: We decline to create a list of reasons why an institution can have accreditation by multiple agencies. If the Department develops a list, we must have a rationale for why one

reason is included and another is not. We have provided in the regulation that as long as none of the criteria are violated under § 600.11(b)(1)(ii), then the institution can have accreditation from multiple agencies.

Changes: None.

Comments: One commenter recommended that future accreditation-reform initiatives expressly support technology and shared infrastructure designed to reduce the administrative burden associated with seeking, maintaining, and changing accreditation.

Discussion: The Department supports the use of technology and shared infrastructure (so long as it does not violate § 602.13) to reduce the burden of an institution seeking, maintaining, and changing agencies.

Changes: None.

Comments: One commenter stated that the Secretary should consider when a change of agency follows an unresolved compliance concern raised by the current agency, regardless of whether the institution's stated reason is compliance with State law, and require the institution to disclose any outstanding findings.

Discussion: We believe the commenter's suggestion is accounted for under § 600.11(a)(1)(ii).

Changes: None.

§ 602.2 How do I know which agencies the Secretary recognizes?

Comments: One commenter agreed with the changes under § 602.2 stating that the amendments increase transparency and more timely access to information regarding accreditation actions.

Discussion: We thank the commenter for their support.

Changes: None.

Comments: One commenter recommended that the Department include the history of accreditation actions rather than only the current status and flag any institution operating under a continuation of eligibility granted under § 602.26, so a student can see that a college is drawing Federal aid despite an adverse accreditation action.

Discussion: We decline the commenter's recommendation. We believe this would be redundant to requirements under 602.26(f) that require an agency to maintain on its website a clear record of all actions taken for each institution or program it accredits or preaccredits for a period of at least five years.

Changes: None.

§ 602.3 What definitions apply to this part?

Accrediting agency or agency

Comments: A few commenters supported the amended definition. One commenter stated that the revisions are an important shift from process-based compliance toward substantive quality assurance. The commenter stated that peer review should remain available, but the Federal government should not dictate unnecessary details for those processes. The commenter believed that reducing Federal micromanagement can allow accrediting agencies

to devote more attention to student achievement, institutional performance, educational quality, and meaningful improvement while simultaneously reducing unnecessary administrative costs for institutions. Another commenter who supported the rule stated that accrediting agencies may wish to include professionals and experts on site visit teams who do not directly fit within the strictest meanings implied by "peer" or "peer reviewers."

Discussion: We agree and thank the commenters for their support.

Changes: None.

Comments: Some commenters opposed the Department's definition of accrediting agency or agency. Commenters opposed the removal of the requirement that an agency conduct activities through peer review. Commenters urged the Department to maintain the requirement for peer review for the following reasons:

- Peer review is central to credibility independence and essential to the evaluation process, and peers are the most competent individuals capable of assessing quality of instruction.
- Experts such as engineers, doctors, writers, physicists, and veterinarians know their subjects but have no understanding of education, teaching, or students.
- The peer review process avoids the injection of political ideologies, political appointees, and overreach of outside Federal agencies into the accreditation process.

- With no guardrails, agencies may contract individual reviewers with little to no expertise in the areas they are reviewing.
- Current regulations already require agencies to include practitioners and employers as a part of their evaluation teams.
- The Department itself encourages peer review in the preamble explanation to changes to site visits under § 602.24(b).

Discussion: The regulatory requirement that an agency conduct activities through peer review is not prescribed in statute under the HEA. Where current regulations prescribe requirements that extend beyond recognition procedures and instead direct the content or administration of accrediting standards without a clear statutory basis, the Department removes or simplifies those requirements to better align the regulations with Congressional direction.

The regulations allow for an accrediting agency to continue utilizing the peer review model. There is no prohibition on peer review if that is the best option for the agency; however, the regulations do acknowledge that peer review is not the only appropriate model for the review of an institution or program. For example, an agency may determine that a practicing veterinarian or group of practicing veterinarians may be better suited for the review of a program than a professor(s) of veterinary sciences.

Under § 602.15(a)(2), any agency must have competent and knowledgeable individuals, qualified by education or experience as appropriate for their roles. This provision continues to include the agency's decision-making body and site reviewers. With this final rule the Department declines to apply a "one size fits all" approach to how an agency reviews its accredited institutions and programs; however, we still maintain high standards under § 602.16 and application of those standards under § 602.17 for the reviews.

Note that the preamble language for § 602.24 states "peer" or "independent" review: "For example, having a peer or independent reviewer alongside accrediting agency staff would help the evaluation reflect professional expertise and perspectives that extend beyond accrediting agency staff alone. Peer reviewers bring field specific knowledge that allows them to assess academic standards, administrative capacity, and institutional practices with appropriate depth. Independent reviewers, likewise, help the accreditation process not be unduly influenced by an agency's internal perspectives or by longstanding relationships with institutions."

Changes: None.

Comments: One commenter asked, what is the Department's expectation for who conducts a review of a professional program?

Discussion: The Department will not mandate who conducts the review of any program, including professional programs. By removing the requirement for peer review, agencies have

flexibility to innovate and create a unique review process for institutions and programs. Note that while the final rule provides for flexibility and innovation, the language under § 602.15(a) (2) still requires that an agency has competent and knowledgeable individuals, qualified by education or experience in their own right, as appropriate for their roles.

Changes: None.

Comments: One commenter asked the Department to clarify that regardless of whether reviewers are peers, agency staff, or other qualified experts, the review must apply rigorous standards through a competent, independent, and well-trained team.

Discussion: The commenter's statement is correct. Under § 602.15(a) (2), any agency must have competent and knowledgeable individuals, qualified by education or experience in their own right, as appropriate for their roles.

Changes: None.

Institution

Comments: A few commenters recommended that the Department use the term "postsecondary institution" rather than simply "institution" because it would preserve the Department's objective of avoiding the narrower statutory term "institution of higher education" while more clearly identifying the category of institutions governed by the accreditation regulations. Another commenter was concerned that replacing language traditionally tied to educational entities as "Institutions of

Higher Education" with the broader term "institution" may unintentionally expand eligibility too far beyond organizations whose primary mission is education and learning.

Discussion: The Department sought to simplify the term in an effort to not repeat the phrase throughout 34 CFR Part 602. We believe the definition of "institution" is clear and simple. We specifically state that the term means an educational institution that meets the requirements of paragraph (1) of the definition of eligible institution found in 34 CFR 600.2; therefore, there is no possibility that the eligibility could expand beyond (1) an institution of higher education, as defined in § 600.4, (2) a proprietary institution of higher education, as defined in § 600.5; or (3) a postsecondary vocational institution, as defined in § 600.6.

Changes: None.

Related, associated, or affiliated trade association

Comments: One commenter stated that the definition is overly expansive and will capture trade associations that do not have a direct relationship with agencies and negatively impact the ability of those organizations to work effectively with accrediting agencies, especially if accrediting agencies are member organizations of such trade associations.

Discussion: The Department disagrees with the commenter because the definition does require a direct relationship. One of the components of this definition is that the organization "...is related to a particular accrediting agency in that the agency

accredits institutions or programs that prepare students to enter the workforce of the same or substantially the same line of commerce, business, industry, or profession that organization promotes.”

Changes: None.

§ 602.10 Link to Federal programs.

Comments: One commenter supported the amendments to § 602.10. The commenter stated that Congress has assigned recognized accrediting agencies an important responsibility to serve as reliable authorities regarding educational quality. That responsibility should remain at the center of the recognition framework. Where Congress has expressly required agencies to perform Federal functions, those requirements must be honored. But Federal recognition should not unnecessarily expand the agency’s role beyond those statutory responsibilities or encourage agencies to regulate matters disconnected from educational quality.

Discussion: We agree and thank the commenter for their support.

Changes: None.

Comments: Several commenters stated that the changes to 602.10 will result in programmatic accrediting agencies no longer seeking recognition from the Department. The commenters believe that agencies that accredit “professional programs” should be regulated by the Secretary to ensure quality. The commenter recommended that the Federal link should include a designated “professional program,” and those agencies should be required to

seek Department recognition. Another commenter stated that agencies that oversee law, medical, dental, veterinary, pharmacy, and nursing schools should be required to be recognized by the Department due to their role in the U.S. social system.

Discussion: The Department disagrees with the recommendation. Section 496(a) requires a link to Federal programs in order for the Secretary to grant recognition. Institutional accrediting agencies primarily act as title IV gatekeepers for an institution to be eligible to participate in the title IV student financial aid programs. State licensure of professions does not establish a Federal link and law, medical, dental, veterinary, pharmacy, or nursing schools fall within an institutional accrediting agency's grant of accreditation to the institution. For programmatic accrediting agencies, the Federal link is usually through a non-HEA Federal program, and the Department will continue to recognize or review for recognition any agency with a non-HEA Federal link actively utilized by its accredited programs as well.

The Department will not recognize any agency that does not have a direct Federal link with either the Department or another Federal agency. As noted earlier, the Federal link is a statutory requirement for the Department's recognition and it is not intended to be a signal to State governments or licensure agencies to rely on those agencies for licensure or other State requirements.,

Changes: None.

Comments: One commenter opposed permitting an agency to satisfy the Federal link requirement on the basis of institutions that have designated another agency. The provision exists to enable stand-by accreditation. The commenter recommended that the Federal link be satisfied only by institutions that designate the agency.

Discussion: As stated in the final rule in 2019 when added, this provision is designed to decrease barriers to entry and enable new agencies to more easily enter the marketplace. Until a new agency is recognized, it is highly unlikely that an accredited institution would relinquish its current accreditation that enables it to meet title IV institutional eligibility requirements to attain accreditation from that new agency, even though the new agency may be better suited to the institution's mission. Therefore, we decline the commenter's suggestion to remove the provision.

Changes: None.

Comments: One commenter stated that the regulations do not address what happens to an agency that loses recognition if after two years there are no institutions or programs that rely on the agency's accreditation to establish or continue eligibility to participate in Federal programs. The commenter stated that the Department should add provision for a notice period, teach-out, and title IV consequences.

Discussion: If an agency has no institutions that participate in the title IV programs, then there would be no reason for a teach-out or notice period because no entity associated with the agency would be disbursing title IV aid to students. In the case of non-HEA Federal programs, we cannot account for all nuances of each program but would again state that there would be limited impact to students if no Federal link is established. The two-year window is to ensure only accrediting agencies that have institutions and programs that utilize Federal programs are seeking recognition to avoid wasting Department and taxpayer resources.

Changes: None.

Comments: One commenter asked the Department to confirm that an agency's Federal link under § 602.10 may be established through Workforce Pell participation alone, without requiring a longer-format credential.

Discussion: The Department confirms that an eligible institution is permitted to offer only eligible workforce programs qualifying for Pell Grants (colloquially referred to as "Workforce Pell"). And, to that extent as such an institution participating in the Pell Grant program would be eligible for at least one title IV, HEA program, accreditation of such an institution would satisfy the Department's requirements for a Federal link even if the institution did not offer eligible programs other than eligible workforce programs.

Changes: None.

Comments: One commenter asked the Department to state in implementing guidance that where a Federal agency conditions employment on programmatic accreditation, the qualifying condition should be accreditation by an agency recognized by the Secretary, rather than accreditation by a single named organization.

Discussion: The Department declines the commenter's request. Section 496 (m) of the HEA states that "the Secretary may only recognize accrediting agencies or associations which accredit institutions of higher education for the purpose of enabling such institutions to establish eligibility to participate in the programs under this Act or which accredit institutions of higher education or higher education programs for the purpose of enabling them to establish eligibility to participate in other programs administered by the Department of Education or other Federal agencies."

The Department does not have authority over another Federal agency's policies. A separate Federal agency may condition employment on a specific programmatic accrediting agency that is not recognized by the Department, but the statute is clear that the Federal link that agencies need to establish for Department recognition is related to a program administered by a Federal agency, not conditions of employment by a Federal agency.

Changes: None.

Comments: One commenter asked the Department to state in the preamble to the final rule that the test in § 602.10(a) governs

reliance under § 602.10(c): an institution that is accredited by two accrediting agencies and participates in the title IV, HEA programs could designate either agency as its primary agency for title IV purposes and could therefore be used by either agency to demonstrate its Federal link. The commenter also suggests that the Department conforms the text by adding to § 602.10(c) a sentence to that effect so that the two paragraphs apply one test.

Discussion: We confirm that if an institution is dually accredited, even if the institution designates another institutional accrediting agency as its Federal link, that would satisfy the requirements for initial recognition under § 602.10(c). Additional conforming regulatory text is not necessary.

Changes: None.

Comments: One commenter stated that proposed § 602.10(c) would establish a two-year post-recognition condition under which a newly recognized agency loses recognition if no institution relies on its accreditation within that period. The commenter stated that the final rule should explain how the Department expects the provision to operate in professional sectors where institutional switching may occur slowly for reasons unrelated to accrediting agency quality.

Discussion: All accrediting agencies must demonstrate a Federal link for Federal recognition. If an agency that accredits an institution loses the Department's recognition after two years

under § 602.10(c), then the institution it accredits never participated in an HEA or non-HEA Federal program; therefore, there would be no Federal consequence to the institution due to the loss of the agency's recognition.

Changes: None.

Comments: One commenter requested that the Department clarify the requirements for new agency recognition by (1) stating objective recognition criteria with defined review timelines; (2) providing a provisional or developmental recognition status through which a new agency can demonstrate performance on a defined cohort before full recognition; and (3) ensuring that experience requirements can be satisfied by demonstrated competence of an agency's standards, processes, and personnel, so that specialized quality-assurance bodies are not excluded by criteria only incumbents can meet.

Discussion: While we decline to regulate the Secretary in a way that would place arbitrary deadlines on the Department, we believe that several of the commenters' suggestions are already accounted for in the final rule at § 602.12 Accrediting Experience, § 602.16 Accreditation and preaccreditation standards, § 602.17 Application of standards in reaching accreditation decisions, § 602.30 Agency applications and reports to be submitted to the Department, and § 602.31 Procedures for submitting applications for recognition and renewal of recognition.

Changes: None.

§ 602.11 Extent of accrediting activities.

Comments: Several commenters offered general support for the elimination of references to geographic scope under § 602.11. The commenters believe that differentiating between regional and national accrediting agencies implies that an institution accredited by a regional accrediting agency may be superior or represent a different level of quality.

Discussion: We thank the commenters for their support. These final rules make clear that the Department recognizes institutional or programmatic accrediting agencies only. We hold all agencies to the same rigorous standards.

Changes: None.

Comments: One commenter questioned the need for further regulation on regional and national accreditation. The commenter stated that this amendment is not necessary as the Department published a final rule on November 1, 2019, noting that “the terms “regionally accredited” and “nationally accredited” will no longer be used or recognized by the Department. The commenter stated that the Department taking additional action after six years is unnecessary as recognized institutional accrediting agencies have been considered national agencies following this rule.

Discussion: We proposed to fully eradicate the terminology because regulations under § 602.11(b) still refer to a region. The Department seeks to continue to break down the notion that there is a difference between institutional accrediting

agencies. We believe these amendments will encourage States and other Federal agencies to continue to remove policies that favor institutions - and therefore their students - accredited by former "regional" agencies over institutions accredited by "national" agencies.

Changes: None.

Comments: A few commenters disagreed with the Department's removal of geographic restrictions from recognized agencies. One commenter stated that accrediting agencies will be making decisions on programs with which they have little experience or knowledge. Another commenter stated that regional and national accrediting agencies held institutions to different standards and produced different outcomes. The commenter pointed to the Department's regulatory impact analysis, Figures 3.1 to 3.3, plots of graduation rates, completer earnings, and loan delinquency by accrediting agency. The commenter argued that the solution would be to organize agencies by tiers of demonstrated rigor defined at the outset, which the prior regional versus national approach approximated.

Discussion: Since 2019, the Department has viewed institutional accrediting agencies with no distinction for geographic regions, unless noted within their scope of recognition. We have been careful not to make any distinction as all agencies are required to meet the same standardized requirements in the regulations. This is a floor not a ceiling; agencies have the flexibility and autonomy to create additional standards so long as they do not

conflict with Federal or State law. The Department will discontinue the practice of stratification of agencies based on incomplete data or assumptions and instead hold all agencies to the same rigorous thresholds and standards.

Lastly, regarding the commenter's statement that an agency may not have the necessary experience to accredit institutions outside of a specific region, the commenter will note that the very next section of the regulations, § 602.12, contains extensive requirements regarding the required experience of an agency for recognition. For example, § 602.12(b) states that "An agency seeking initial recognition must undergo the Secretary's recognition process, defined in § 602.31, and an evaluation of the agency's compliance with the Secretary's recognition criteria, defined in 34 CFR Part 602, for the purpose of determining if the agency is a reliable authority as to the quality of education or training provided by the institutions or programs it accredits before its application for recognition may be considered by the Advisory Committee."

Changes: None.

Comments: One commenter stated that the Department should clarify what constitutes an adequate description of the "extent" of accrediting activities and, more importantly, what evidence an agency must provide to demonstrate that it has the capacity, policies, and procedures necessary to operate within that extent. For example, if an agency expands from accrediting institutions in a limited number of States to truly operating

nationally, should the Department evaluate staffing capacity, reviewer availability, institutional volume, travel and monitoring capacity, financial resources, governance infrastructure, or other operational factors?

Discussion: The factors noted by the commenter are evaluated during a renewal of recognition review.

Changes: None.

§ 602.12 Accrediting experience.

Comments: Several commenters supported removing the requirement under current § 602.12(a)(2) that an agency conduct accrediting activities, including deciding whether to grant or deny accreditation or preaccreditation, for at least two years prior to seeking recognition (two-year rule). Commenters stated that the two-year rule provided no practical path to an agency's recognition due to expense and time it would take to obtain agency recognition from the Department. One commenter stated the two-year rule represented a categorical barrier rather than a quality check.

Another commenter stated that opening the system to qualified new agencies will permit accreditation to evolve alongside higher education and the American workforce. New educational delivery models, rapidly changing technologies, artificial intelligence, shorter-term credentials, competency-based education, and changing employer needs present challenges that the accreditation system must be capable of addressing. Emerging agencies may develop different methods of evaluating

outcomes, using data and technology, measuring competencies, and assessing whether programs are preparing students for employment and further education. Competition does not guarantee innovation, but eliminating unnecessary barriers gives innovation an opportunity to occur.

Discussion: We agree and thank the commenters for their support.

Changes: None.

Comments: Some commenters opposed removing the two-year rule under current § 602.12(a)(2). They stated that accreditation exists to protect students and taxpayers by ensuring that a reliable, experienced authority is vouching for institutional and program quality, and a faster path to recognition should not come at the expense of that assurance. Several commenters stated that such a change would allow organizations with no record of responsible conduct to be created at will, which removes the value of accreditation entirely. Other commenters believed that the amendments of § 602.12 enable the creation of accrediting agencies with arbitrary standards and will increase accreditation of predatory institutions that saddle students with debt.

One commenter stated that the Department did not provide sufficient data to support the rescission of the two-year rule, and instead the Department merely speculates that its lower bar will entice new agencies to seek recognition and further speculates that developing the accrediting agency market will lead to competition and better educational outcomes. The

commenter contended that the changes would fall short of enabling the Department to meet its statutory obligation to conduct a "comprehensive review and evaluation" prior to recognition, as required by 20 U.S.C. § 1099b(n). In addition, the commenter stated that the proposal is contrary to law as the Secretary can "only recognize" accrediting agencies which "accredit" (present tense) institutions or programs for the purpose of enabling participation in Federal funding, per 20 U.S.C. § 1099b(m).

Discussion: As stated in the NPRM, a two-year requirement is not statutory and represents undue and unnecessary burden for accrediting agencies seeking recognition. Note that the new provisions create guardrails and high standards for agencies by requiring that the agency be legally established to operate in the relevant jurisdiction and that the agency has standards and operating procedures consistent with applicable regulations. Additionally, all agencies are reviewed for compliance with the Secretary's Criteria for Recognition and are subject to the recognition process, which ensures a comprehensive evaluation. The Department disagrees with the commenter's argument that the Secretary can "only recognize" accreditors which "accredit" (present tense) institutions or programs. Section 496(m) describes the purpose of recognition, not a requirement that an agency already have accredited institutions or programs. This interpretation is consistent with Section 496(a)(2)(A), which defines qualifying agencies by their principal purpose of

accreditation. The Secretary must still conduct a comprehensive review and determine that an applicant satisfies all applicable statutory requirements, including demonstrated ability and experience, but the statute does not require two years of prior operations.

Changes: None.

Comments: One commenter stated that the rescission of the two-year rule creates a situation in which an unrecognized agency will conduct a full evaluation of an institution that already holds recognized accreditation, and the quality of that single decision will carry the petition. The commenter asks the Department to confirm that an institution in this position satisfies § 600.11(b) if it makes the submission and designation within a reasonable period after the agency's recognition and that its eligibility is not interrupted in the interval.

Discussion: The Department will address specific operational and implementation questions in subregulatory guidance. The Department agrees that an institution should not experience an interruption in title IV eligibility solely because it obtains accreditation from an agency that subsequently receives recognition. An institution that maintains accreditation from an already recognized agency retains its eligibility on that basis, provided it continues to satisfy all applicable requirements.

Changes: None.

Comments: Several commenters suggested that before recognizing a new accrediting agency the Department should:

- Require credible evidence that the agency has experienced and properly trained peer reviewers; transparent and consistently applied standards; effective conflict-of-interest protections; a demonstrated ability to evaluate institutional quality and student outcomes; and adequate procedures for complaints, appeals, monitoring, teach-outs, and institutional closures.
- Establish a formal public-comment opportunity as part of the initial recognition process for newly established accrediting agencies, particularly where recognition may affect regulated professions.
- Ensure that State licensing authorities, educational institutions, professional organizations, students, employers, existing accrediting agencies, and other affected stakeholders have a meaningful opportunity to identify potential implications for educational quality, licensure eligibility and portability, workforce mobility, and public protection, especially if scope of practice and license portability could be impacted.
- Require that an agency's accrediting experience covers the range of degrees, certificates, institutions, and programs for which it seeks recognition. An agency that has reviewed a single certificate program should not be recognized to accredit doctoral institutions.
- Adopt a three-year initial recognition period with a required monitoring report, rather than five years, and

confirm that first-time applicants receive the most rigorous review track rather than the lightest.

- Establish explicit risk-based triggers for enhanced monitoring of newly recognized agencies, including rapid growth in portfolio size, an elevated rate of adverse actions or closures among accredited institutions, and accreditation of institutions that recently changed agencies.

Discussion: The Department believes that many of the suggestions are accounted for in the regulations under § 602.3 (see that section for a discussion on reviewers), § 602.14, § 602.15, § 602.16, § 602.17, and § 602.24. The Department declines recommendations that are not expressly stated in the HEA.

Changes: None.

§ 602.13 Effect of recognition.

Comments: A few commenters offered general support for the provision stating that the Secretary's recognition of an agency confers no antitrust immunity. One commenter stated that some agencies have operated like anticompetitive gatekeepers. Another commenter stated that the regulations make clear that accreditation should not be used to impose unnecessary educational requirements that restrict entry into a profession.

Discussion: We thank these commenters for their support.

Changes: None.

Comments: One commenter stated that the regulations repeat requirements that already exist in Federal law and are enforced

through the Department of Justice. The commenter stated that inclusion of § 602.13 in the regulations suggests that the Department seeks to enforce provisions within the purview of other Federal agencies. The commenter recommended eliminating § 602.13.

Discussion: The Department noted in the NPRM – and repeats here – that it is not the enforcer of antitrust law, but accrediting agencies are expected to comply with Federal law, including avoiding anti-competitive practices. The purpose of this provision is to make it clear that agencies cannot affirmatively claim that they enjoy any antitrust immunity flowing from their recognition. “Repeals of the antitrust laws by implication from a regulatory statute are strongly disfavored.” *Norfolk & W. Ry. Co. v. Am. Train Dispatchers Ass’n*, 499 U.S. 117, 129 (1991) (quoting *United States v. Phila. Nat. Bank*, 374 U.S. 321, 350 (1963)). There is nothing in this regulation or the HEA that suggests that the antitrust laws are displaced explicitly or implicitly, and the amendments in § 602.13 make that explicitly clear.

Furthermore, the Department would not enforce the antitrust laws under § 602.32(3) either. When enforcing § 602.32(3), the Department would rely on, as evidence of an antitrust violation, a final judgment in state or Federal court, an admission by an accrediting agency, or a settlement where the agency admitted to have engaged in anticompetitive conduct. Only in these circumstances would the Department view the conduct as a

negative factor when reviewing for compliance under § 602.32(3). Mere allegations of anticompetitive conduct would not be a sufficient basis for the Department to view that conduct as a negative factor when adjudicating an agency's recognition.

Changes: None.

Comments: One commenter stated that the final rule should make clear that § 602.13 neither creates antitrust immunity nor constitutes a finding concerning the legality of any particular agency's conduct.

Discussion: We believe the regulation is clear as it is currently written. Nothing in the regulation suggests or should be taken to mean that the regulations under § 602.13 confer antitrust immunity, nor that the Department has made any findings concerning any particular agency.

Changes: None.

Comments: One commenter stated that the Department should clarify that legitimate quality assurance activities undertaken pursuant to Federal recognition are not themselves evidence of anticompetitive conduct and that new agencies do not undermine scope of practice and patient protections enacted by State licensure boards.

Discussion: The Department declines to prescribe specific activities by accrediting agencies that may or may not be evidence of anticompetitive conduct. Each recognized accrediting agency is responsible for ensuring that its activities comply with all applicable Federal and State laws, including antitrust

laws, and may wish to consult with legal counsel regarding its compliance obligations.

Changes: None

Comments: A commenter stated that there is no specific exemption for accrediting agencies in the antitrust laws, and case law has long supported the view that accrediting agencies are subject to such laws, but at the same time § 602.17(a)(1)(ii)(E) requires accrediting agencies, in setting and applying student achievement standards, to assess the reasonableness of institutional and programmatic earnings relative to cost of attendance.

The commenter also stated that the Department seeks to have accrediting agencies conduct a "cost-benefit" analysis under proposed § 602.17(a)(3) of an institution's "budget, resource utilization, and allocation." The commenter believes that these provisions are fundamentally irreconcilable with the statement that accrediting agencies are subject to antitrust laws.

The commenter further expressed that by compelling accrediting agencies to engage in cost-based assessments while simultaneously denying them any antitrust protection for doing so, the proposed rule creates a trap: an agency that complies with the Department's mandate exposes itself to an antitrust claim or enforcement action, while an agency that declines to comply in order to mitigate antitrust risk faces loss of recognition. The commenter stated that the Department cannot lawfully impose regulatory obligations that force accrediting

agencies to violate antitrust laws while simultaneously stating that such agencies are not immune from those laws.

Discussion: The Department does not believe the regulations are irreconcilable with antitrust laws. Nothing in the regulation requires an agency to set tuition and fees, assess an institution's tuition and fees with respect to other institutions, otherwise pressure or compel institutions to set tuition and fees at a certain level, or act against an institution because of the institution's tuition and fees. The standard requires an agency to assess whether the institution has done a reasonable analysis to determine whether its own tuition and fees are reasonable in light of its own costs. Beyond that, agencies and institutions may wish to consult with counsel to effectively implement these regulations within Federal antitrust law. This does not, contrary to the commenter's suggestion, require any institution to engage in concerted action with other institutions. In particular, institutions can make their own decisions about how to conduct the cost-benefit analysis, which requires institutions to engage in reasoned decision making and to avoid arbitrary requirements, including those that may be unduly costly. The Department certainly does not want accrediting agencies to engage in any conduct that would violate the antitrust laws, which may include accrediting agencies developing uniform standards for making decisions in institutions' cost benefit analysis that could, directly or indirectly, fix prices. To the degree that an

accrediting agency has a good faith belief that a specific action would violate the antitrust laws and abstains from taking that action on those grounds, the Department will credit those concerns when evaluating the compliance with the recognition criteria.

The commenter is also mistaken with regard to the regulation requiring agencies to perform cost/benefit analysis. Agencies are only required to review cost/benefit analysis performed by institutions.

Changes: None.

§ 602.14 Purpose and organization.

Comments: One commenter requested that the Department provide a clear statement in the preamble to the final rule that programmatic accrediting agencies, which do not act as gatekeepers of Title IV funds and are recognized under § 602.14(a)(3), are not subject to § 602.14(b).

Discussion: The commenter is correct; accrediting agencies that are recognized under § 602.14(a)(3) are not subject to the “separate and independent” requirements under § 602.14(b).

Changes: None.

Comments: One commenter recommended that under § 602.14(b)(2) the Department should adopt a defined cooling-off period for public members and should bar owners and shareholders of accredited institutions from voting on accreditation decisions.

Discussion: We decline the commenter’s recommendation. We believe that the regulations are sufficiently rigorous to ensure

that recognized agencies are separate and independent without additional requirements.

Changes: None.

Comments: One commenter asked for clarification of the requirements under § 602.14(b) (6) regarding "...any complaints received during the current recognition period that are material."

Discussion: The Department understands that stakeholders will have questions regarding implementation of the final rule. We cannot address every situation within the regulations because the regulations are meant to be the general framework. We believe that the commenter's request is subregulatory in nature, and we may offer subregulatory guidance as necessary to inform implementation.

Changes: None.

Comments: One commenter stated that the Department should revise § 602.14(b) (6) to read "The authorized representative of the agency submits a signed statement certifying that it has met the requirements to be 'separate and independent' within each petition for recognition submitted to the Department, and includes in that statement information regarding any complaints received during the current recognition period that are material to the agency's adherence to the 'separate and independent' requirements in this section." The commenter stated that as written, the requirement is not clearly linked to § 602.14(b) (6).

Discussion: As noted by the commenter, the provision appears in Section 602.14(b). We believe that it is clear the complaints referenced regard complaints related to "separate and independent."

Changes: None.

Comments: Some commenters supported the rescission of the joint use provisions under § 602.14(c) for the following reasons:

- The rescission gets rid of conflicts of interest, and accreditation should be an independent check to make sure an institution or program is actually qualified, not a gatekeeping tool used by industry groups to protect their own interests.
- Accrediting agencies should not be utilized to support or prop up membership organizations. They should be independent of influence and focus completely on accrediting institutions and/or programs.
- Affiliated trade or membership organizations should have no role in the accreditation process, specifically the appointment of accreditation members, approval of standards or policies, setting of fees, approval or oversight of budgets, oversight of the accrediting body, management of staff leaders, and oversight of legal representation.
- The provision will block programmatic accrediting agencies from unduly raising costs for students or contributing to degree inflation.

- The provision, in combination with amendments under § 602.15, will prohibit agencies from being run as a division of a lobbying group.

Discussion: We agree and thank the commenters for their support.

Changes: None.

Comments: A few commenters supported the changes under § 602.14 and stated that they should be strengthened to include further delineation between setting standards and auditing compliance. One commenter stated that the Department should also make clear how often the relevant Department staff will be checking to ensure that accrediting agencies and associations are not sharing resources. Another commenter stated that separate and independent should also refer to the independence of the Board from the chief executive officer of the accrediting agency itself.

A different commenter stated that the Department should require a materially independent public/consumer presence and prohibit any single related professional or educational organization from appointing, nominating, ratifying, or effectively controlling a majority coalition. The same commenter also recommended to define separate and independent to require separate legal incorporation, employer identification number (EIN), bank accounts, financial statements, audited books, governing body, employees, HR function, IT environment, document repositories, physical offices, insurance, legal counsel, lobbying/public-policy function, communications staff, and

contracting authority. A related organization should be permitted to submit input to the accrediting agency only through the same publicly documented process available to unrelated stakeholders.

Discussion: We decline the recommendations as the Department believes that the regulations are sufficiently rigorous to ensure that recognized agencies are separate and independent. The Department recognizes that separating standard-setting from compliance evaluation may offer advantages, including reducing potential conflicts of interest and promoting more consistent enforcement of standards. Such an approach could also introduce additional costs and operational complexities. We believe this proposal warrants further consideration, including examination of quality assurance practices in other industries. Accordingly, we are not adopting additional requirements in this area in the present rulemaking, but may consider this approach in future regulatory actions.

Changes: None.

Comments: Some commenters opposed the changes to § 602.14. They believed the revised § 602.14 will discourage programmatic accrediting agencies from seeking recognition from the Department and dramatically increase operating costs for programmatic agencies that continue to seek Department recognition. Commenters believe that the regulations do not explicitly recognize that programmatic accreditation in regulated professions serve a different purpose from

institutional accreditation. Several commenters stated that the amendments will severely disrupt professional preparation by forcing specialized, programmatic agencies to sever formal organizational ties with related professional associations. The commenters claimed that for fields such as education, veterinary sciences, and speech-language-hearing, this separation degrades the connection between academic training and real-world professional standards. Other commenters stated that the Department's rulemaking did not demonstrate that complete organizational separation is necessary especially because HEA Section 496(a)(3)(C) allows for the Secretary to waive the separate and independent requirement.

Finally, one commenter stated that the additions to § 602.14 impose additional requirements on accrediting agencies not present in statute. By adding additional criteria to the statutory definition of separate and independent, the commenters believe that the Department is violating the prohibition on establishing additional criteria for accrediting agencies in § 496(g) and is impermissibly changing Congress's definition of "separate and independent."

Discussion: The statute does not differentiate the purposes of recognized accrediting agencies - other than whether they are institutional or programmatic and whether their Federal link is an HEA or non-HEA program. Therefore, there is no statutory basis for treating specialized, programmatic agencies differently, as the commenters suggest. The Department has been

clear that we seek to eliminate conflicts of interest between accrediting agencies and related, associated, or affiliated trade associations, and the separation required by the regulations achieves that necessary goal to protect students.

We have addressed our statutory authority under the *Legal Authority* section of this final rule.

Changes: None.

Comments: Some commenters requested an exemption to the rescission of paragraph § 602.14(c) (about the joint use of personnel, services, equipment, or facilities) including:

- Agencies with 501(c)(3) status. The commenter stated that legal arrangements and contracts could be completed to allow for some shared services with partnering agencies to keep costs within range.
- Agencies that accredit institutions that offer programs like specialized health, podiatric medicine, and veterinary services. The commenter stated that for a relatively small health profession, requiring duplication of personnel, office space, technology, administrative services, and other infrastructure could impose substantial new costs.
- Agencies that accredit institutions that offer counselor education.
- All recognized programmatic agencies.
- Agencies that distinguish between resource-sharing that creates that risk and administrative resource-sharing.

Discussion: From the onset of this rulemaking effort, the Department has made clear that we seek to ensure independence between accrediting agencies and related, associated, or affiliated trade associations. We believe that continuing to allow organizations to jointly use space increases the risk of inappropriate collaboration between entities that may result in credential inflation that burdens students with additional unnecessary costs, increases the risk of explicit or tacit collusion, and encourages the outsized influence of related, associated, or affiliated trade association that results in the postsecondary institution itself having less control over the curriculum and coursework.

Changes: None.

Comments: Some commenters offered alternatives to the amendments, including:

- Allow specific services to be excepted from the rescission of § 602.14(c), including joint use of legal services, IT services, accounting firms, evaluator training, technical assistance, and professional development.
- Give the Secretary the authority to grant a waiver to the joint-use prohibition for good cause.
- Specify that employment by a professional organization serving the same field as an accrediting agency's programs does not, by itself, indicate a lack of independence.
- Adopt a functional independence standard.

- Strengthen safeguards as opposed to institute a categorical exclusion.
- Clarify the scope of communication restrictions.
- Allow States sufficient time to amend their statutes and regulations.
- Provide a multi-year transition period for recognized agencies.

Discussion: We decline the commenters' suggestions; for the rationale, please see the immediate previous discussion to this section. The Department understands that agencies will have questions regarding implementation of the final rule. We cannot address every situation within the regulations because the regulations are meant to be the general framework. We believe that the commenters' requests are subregulatory in nature, and we may offer subregulatory guidance as necessary to inform implementation.

Changes: None.

Comments: One commenter suggested edits to the waiver provisions under the § 602.14(d) waiver.

Discussion: We decline suggestions to the waiver provisions because the final rule removes the waiver provisions.

Changes: None.

§ 602.15 Administrative and fiscal responsibilities.

Comments: Several commenters offered general support for the amendments to § 602.15.

Discussion: We thank the commenters for their support.

Changes: None.

Comments: A few commenters supported the repeal of the prescriptive body-composition mandates at § 602.15(a)(3) and § 602.15(a)(4).

Discussion: We agree and thank the commenters for their support.

Changes: None.

Comments: A few commenters were concerned that § 602.15(a)(3) would allow individuals who have never worked in a specific field to participate in the educational evaluation processes. Additionally, another commenter was concerned that the removal of § 602.15(a)(4) would remove the requirement for programmatic accrediting agencies to include educators, practitioners, and/or employers on their evaluation, policy, and decision-making bodies. The commenter questioned whether evaluation bodies would be made up of individuals whose experience might not be relevant.

Discussion: The Department disagrees with the commenters' assertions. The regulations under § 602.15(a)(2) require that "Competent and knowledgeable individuals, qualified by education or experience in their own right, as appropriate for their roles".

Changes: None.

Comments: One commenter stated that § 602.15(a)(6) is not waivable, and the Department should say so expressly. The final rule should provide that where a majority of an agency's decision-making body consists of current or former senior

leadership of, or fiduciaries to, institutions the agency accredits, case-by-case recusal does not satisfy § 602.15(a)(6).

Discussion: Provisions under current § 602.15(a)(6) have been removed in this final rule.

Changes: None.

Comments: Several commenters offered general support for the provisions under § 602.15(c) stating that it will help reduce costs to institutions as a result of the Paperwork Reduction Act (PRA).

Discussion: We thank the commenters for their support and agree that these changes should help reduce costs overall for institutions once implemented.

Changes: None.

Comments: One commenter stated that the Department should clarify that accrediting agencies should minimize unnecessary compliance costs and avoid duplicative demands when the same evidence is already available through other sources.

Discussion: We believe there is already language under § 602.15(c) that speaks to the commenter's request and that states "The agency conducts its accreditation activities in a manner that seeks to avoid unnecessary financial, compliance, and administrative burdens, including by avoiding duplicative reporting, excessive documentation requirements, and unwarranted prescriptive processes."

Changes: None.

Comments: A few commenters stated that the Department has not adequately explained how it would determine whether an accreditation activity or requirement creates an “unnecessary” burden or how this provision would be applied through the recognition process. Commenters recommended that the Department should clarify those items in § 602.15(c).

Discussion: The Department declines this recommendation because adding such factors to the regulations would result in requirements that are too prescriptive and narrow. The Department may provide additional subregulatory guidance on this issue in the future if we determine that there is sufficient lack of understanding among accrediting agencies.

Changes: None.

Comments: One commenter encouraged the Department to examine functional relationships among accrediting agencies, professional associations, testing organizations, certification bodies, and other organizations.

Discussion: We believe we have struck a fair and nuanced balance under the regulations in § 602.14 and § 602.15 to reduce conflicts of interest between recognized agencies and their stakeholders. The Department recognizes that professional associations, testing organizations, certification bodies, and other organizations can provide valuable expertise, information, and services that contribute to effective accreditation. Such cooperation can improve the development of accreditation

standards, facilitate the evaluation of educational quality, and reduce unnecessary duplication of effort.

At the same time, these organizations may have interests that differ from those of students and the public. The Department's regulations are intended to prevent relationships that create conflicts of interest or give outside organizations inappropriate influence over accreditation standards or other decisions, without unnecessarily restricting legitimate collaboration or the exchange of expertise. The Department believes this approach preserves the benefits of cooperation while ensuring that accrediting agencies remain accountable for independently carrying out their responsibilities to protect educational quality and the public interest.

Changes: None.

Comments: Under § 602.15(d), the Department requires that an accrediting agency will cooperate with other accrediting agencies and the Department in the development of common templates and forms for institutions or programs to submit when seeking to change accrediting agencies. One commenter suggested that the Department add language clarifying that an agency is not required to modify its standards or process for seeking accreditation as a part of the collaboration. The same commenter suggests that language be added to § 602.15(d) to clarify what is meant by "will cooperate with other agencies and the Department in the development of common templates and forms for institutions or programs to submit when seeking to change

accrediting agencies.” Lastly, the commenter suggests that language should be added to the regulations indicating that participating in the collaboration required by § 602.15(d) does not violate antitrust laws.

Discussion: We decline to accept the commenter’s suggestions.

The Department does not dictate an agency’s standards. Per § 602.16 and § 602.17, we only note which areas an agency must have standards for and how those standards are applied.

Additionally, this provision does not require an agency to modify its accreditation process because of any cooperation with another recognized agency.

All forms that the Department requires an accrediting agency to use must complete a process called an information collection request (ICR). ICRs have public comment periods; therefore, all agencies will be able to weigh in on forms or templates related to institutions or programs seeking to change agencies. The Department would not publish a form that violated antitrust laws. In addition, we do not enforce the antitrust laws, so it would not be appropriate to create an exhaustive list of regulatory provisions that do not violate antitrust laws.

Changes: None.

Comments: One commenter recommended extending the cooperative-format principle to academic records by amending § 602.15(d) to read, “The agency will cooperate with other agencies and the Department in the development of common templates and forms, and

common data formats for the exchange of academic records and transfer of credit information, for institutions or programs to submit when seeking to change accrediting agencies or when evaluating credit earned at another institution.”

Discussion: We decline to accept the commenter’s suggestion. The Department does not seek to standardize the entire accreditation process. Institutions and programs still need the flexibility to develop forms and output documents that best meet the needs of their specific student populations.

Changes: None.

Comments: Some commenters suggested removing § 602.15(e) (2). Commenters believe that the new requirements dictate the governance structures of private entities. Commenters interpreted the provision as beyond the narrow items delineated in Section 496(b) (2) of the HEA regarding public members and stated that an agency must be free to determine how it organizes its governance.

Other commenters stated that the regulation would require that an accrediting agency’s decision-making body not have the authority to set standards or policy if its members are also representatives of impacted institutions or programs. Commenters believe that the provision effectively prohibits peer review. Due to changes under § 602.3 that eliminate the requirement for peer review, commenters questioned who the Department expects to be a part of an agency’s review process of an institution.

Discussion: The commenters concerns are unfounded because these regulations are fully within the Department's authority and are simply common-sense steps to prevent conflicts of interest by individuals who set an agency's standards. The regulations prevent such individuals from setting standards that directly benefit their institution or program(s). The provision continues to allow anyone the agency chooses to be a member of the standards-setting body, which may include members of the agency's decision-making body. However, the members of the standards-setting body cannot vote to adopt or revise standards or policies if they are an officer, director, or employee of an accredited institution or program because of the conflict of interest that this poses.

There is nothing to restrict an agency from including in its decision-making body employers, students, practitioners, administrators, academics, and/or educators from institutions or programs not accredited by the agency. This provision also does not limit members regarding other responsibilities of the decision-making body, which can include fiduciary, accreditation decisions, procedures for implementing standards and policies, and other administrative procedures.

Changes: None.

Comments: Some commenters opposed the requirements for operational separation from related, associated, or affiliated trade association or professional organization under § 602.15(e) (4). The commenters stated that the provisions will

substantially increase the cost of accreditation while also limiting the clinical, surgical, and educational expertise available to inform standards that directly affect the preparation of future podiatric physicians and surgeons. Several commenters were concerned that the requirements would go significantly beyond ensuring independent accreditation decision-making by prohibiting the sharing of personnel, services, facilities, equipment, information technology infrastructure, and office space with an affiliated professional organization. One commenter requested that the Department allow specialized and professional accrediting agencies to demonstrate independence through effective, enforceable safeguards rather than requiring complete physical and operational separation in all circumstances.

Discussion: Similar to responses under § 602.10 and § 602.14, the Department strongly believes that the shared use of resources, personnel, services, equipment, facilities, information technology, and office space, has led to the outsized and direct influence of related, associated, or affiliated trade association over accreditation standards and decisions.

These arrangements can give trade associations influence over the selection, supervision, and compensation of personnel, control over budgets and access to essential services, and access to confidential accreditation information. Even in the absence of direct interference in individual accreditation

decisions, an accrediting agency's dependence on a trade association for essential operational resources can compromise its ability to establish standards, conduct evaluations, and make accreditation decisions independently, particularly when those decisions conflict with the interests of the trade association or its members.

Such influence can harm students and the public in several ways. A trade association may have an interest in protecting its members from adverse accreditation decisions, even when those decisions are necessary to protect students. It may also seek to weaken standards that impose costs on its members or, conversely, support unnecessarily restrictive standards that protect established institutions from competition and innovation. These conflicts of interest can result in students receiving an inadequate education, incurring debt for credentials of limited value, or being denied access to lower-cost or innovative educational opportunities. They can also expose taxpayers to losses when institutions that fail to provide adequate educational quality continue to participate in the Federal student aid programs.

Changes: None.

Comments: One commenter recommended that the Department should expressly state that "services" include legal, compliance, insurance, indemnification, government-relations, lobbying, communications and risk-management services.

Discussion: The Department declines to define "services" further. We believe the term used here is intentional and is widely understood within the community at-large. The regulations prevent accrediting agencies from sharing resources with any related, associated, or affiliated trade association or professional organization, including, but not limited to, services. All of the items cited by the commenter would be included in the umbrella concept of "shared resources," and this term should be interpreted broadly.

Changes: None.

Comments: A few commenters opposed § 602.15(e)(5) entirely. One commenter stated that professional affiliation within the broader field does not necessarily create a conflict. The commenter recommended that the rule focus on whether an individual's relationship creates a conflict that could compromise the specific decision. The commenter also recommended that the Department consider clarifying that recusal applies to decisions affecting an institution or program with which an individual has an officer, director, or employee relationship. This approach could avoid extending recusal requirements to circumstances in which an individual's professional expertise or employment within the broader field does not create a conflict with the specific matter under consideration.

Discussion: We believe that the provision is clear and does not require additional clarification. Again, the Department strongly believes that close relationships between accrediting agencies

and related, associated, or affiliated trade associations has led to the outsized and direct influence of accreditation standards and decisions. This provision ensures that the conflict of interest is removed from the agency and the aforementioned entities.

Changes: None.

Comments: One commenter supported § 602.15(e)(7), which would require an agency that acts to restrict access to a profession to show by clear and convincing evidence that, among other things, the restriction is necessary to protect the public interest and which allows such restriction to include raising the cost or level of required education or training. Placing the burden on the agency is the appropriate allocation where the agency is the only path into the profession.

Discussion: We thank the commenter for their support.

Changes: None.

Comments: Several commenters opposed § 602.15(e)(7). One commenter believed that the provision permits the Department to second guess substantive programmatic accreditation standards whenever those standards may increase credentialing expectations, educational cost, or the level of required education or training. The commenters stated that a "clear and convincing evidence" standard, applied without regard to the professional consensus underlying a standard, could place the Department in the position of second-guessing peer-developed, patient safety-driven professional judgments – such as minimum

competency thresholds tied to a licensing examination – using an evidentiary standard that is difficult to satisfy for any qualitative professional judgment, however well-founded.

Discussion: The Department will not second-guess an agency's standard as long as it can provide clear and convincing evidence that the rationale for the restriction meets the requirements of § 602.15(e)(7).

Changes: None.

Comments: One commenter requested that the Department confirm in the preamble that the public interest provision under § 602.15(e)(7) accommodates educational standards adopted to meet independent national certification and State licensure requirements and to protect patient safety in relevant fields.

Discussion: The Department agrees with the commenter in that § 602.15(e)(7)(i) requires an accrediting agency to provide clear and convincing evidence that the independent national certification requirements are necessary to protect the public interest, the expected public benefits outweigh the cost the public, and no less restrictive alternative would protect the public interest when restricting access to employment in a profession, occupation, or vocation. As noted in § 602.23(h) of the final rule, an agency must not have policies that require institutions or programs to violate any State law.

Changes: None.

Comments: Commenters made multiple suggestions for § 602.15(e)(7) including: (1) stating that faculty and

practitioner shortages must be part of the credential inflation analysis under § 602.15(e)(7), (2) requiring a less-restrictive alternative analysis, not merely requiring quality rationale (3) requiring an occupational entry impact assessment before every material impact change, and (4) having a recognized programmatic accrediting agency require Department approval before creating a bridge, equivalency, prerequisite-approval, or academic-clearance mechanism that determines whether education completed outside the accredited program satisfies requirements for individual occupational eligibility.

Discussion: It appears the same commenter submitted multiple individual comments to § 602.15(e) with the most being to (e)(7). We decline the suggestions because we believe the commenter's suggestions are outside of the scope of § 602.15(e)(7).

Changes: None.

Comments: One commenter recommended that the Department

- Add § 602.15(e)(7)(ii)(D): "obtaining or acting to maintain any provision of Federal or State law, regulation, or program requirement that conditions employment, appointment, licensure, certification, or reimbursement on accreditation by that agency specifically, or that excludes graduates of programs accredited by another agency."
- Add § 602.15(e)(7)(iv): "An agency named in any Federal or State law, regulation, or program

requirement described in paragraph (e) (7) (ii) (D) must disclose, in each petition for recognition, each such provision known to the agency and any communication by the agency or by any related, associated, or affiliated trade association or professional organization with the issuing authority concerning its adoption, retention, or amendment."

Discussion: We decline the additions. As noted in § 602.23(h) of the final rule, an agency must not have policies that require institutions or programs to violate any Federal or State law. We believe the suggested amendments would be overly burdensome for agencies and produce no substantially more beneficial impact than the new final rule.

Changes: None.

Comments: One commenter recommended that the Department

- Add § 602.15(e) (8): "Publicly disclose each requirement in the agency's own standards that obligates a student or trainee to purchase or obtain any product, service, insurance, credential, examination, or membership, together with the identity of any related, associated, or affiliated trade association or professional organization that provides, sponsors, or receives any payment or other consideration in connection with it."
- Add § 602.15(e) (9): "Where the agency's standards require a student or trainee to obtain any product,

service, insurance, credential, or examination, the agency must require as a condition of accreditation that the institution or program..."

Discussion: We decline the additions. We believe they would be too prescriptive. However, accrediting agencies may voluntarily adopt the commenter's suggestions, and the Department would encourage such transparency.

Change: None.

Comments: Some commenters suggested removing § 602.15(f) because the language is unnecessary as agencies do not and, under the law, cannot restrict an institution's legal obligations, including regarding the First Amendment. The commenter stated that public institutions already follow Federal law to implement the First Amendment's freedoms of religion, speech, press, assembly, and petition. Another commenter stated that agencies do not have the expertise to interpret complex constitutional law issues.

One commenter suggested alternative language: "The agency's accreditation standards, policies 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, unless the institution has a religious mission."

Finally, the commenter asked the Department to clarify

"...unless the institution has a religious mission."

Discussion: The Department declines the commenters' suggestion to remove the provision. The Department seeks to remind agencies of the obligations under the Constitution as required under E.O. 14279 to ensure that "accreditors are not using their role under Federal law to encourage or force institutions to violate State laws, unless such State laws violate the Constitution or Federal law." The Department will maintain the reference to "enforcement practices" in the regulation to ensure that agencies understand that they cannot enforce any agency provision, standard, or policy on an institution or program that violates the First Amendment. E.O. 14279 provided examples that the administration believes were violations of the First Amendment.

Finally, regarding the phrase "unless the institution has a religious mission," the final rule is consistent with existing law for a religious-mission institution because the institution would not be required to adopt viewpoint-range, intellectual-diversity policies, or academic-freedom protections that would conflict with that mission. The substitute duty is inquiry and student learning consistent with the mission. This is not a general exemption from 602.16 standards, eligibility for title IV, HEA funds, student-achievement standards, fiscal capacity, or the core curriculum requirement in 602.18(b)(3). Separately, the final rule also says nothing in the viewpoint-neutrality paragraph for agencies that require an accrediting agency that

itself has a religious mission to be neutral with respect to viewpoints. This is an agency-level clause, not an institutional one.

Changes: None.

Comments: Several commenters sought guidance or clarifications about various provisions under this section.

Discussion: The Department may issue subregulatory guidance or clarifications regarding specific issues addressed in these regulations if, following publication of the final rule, the Department determines that further clarification is necessary to support the regulated community's understanding and implementation of the rule.

Changes: None.

§ 602.16 Accreditation and preaccreditation standards.

Comments: A few commenters supported the amendments to § 602.16. One commenter stated that the changes to § 602.16 would strengthen the requirements for agencies to evaluate student outcomes, which is an important improvement that would benefit students and taxpayers. Agencies would be required to set standards for student achievement at the institutional and program levels, and the proposal allows agencies to tailor those standards for each institution.

Discussion: We agree and thank the commenters for their support.

Changes: None.

Comments: Several commenters expressed concern with the amendments to § 602.16. One commenter stated that the changes

undermine longstanding professional accreditation standards and put students' eligibility for licensure at risk. Another commenter stated that defining success solely in relation to an institution's mission, and thereby allowing different standards for different programs, could endanger the public because veterinary licensure authorizes practice across the full scope of the profession.

Discussion: We disagree with commenters. Except for the cross reference to § 602.17(a)(1) under § 602.16(a)(1)(i), the changes to this section are technical in nature and do not reference licensure. The regulations under § 602.16(a)(1)(i) currently allow for "...different standards for different institutions or programs...". This is not a new policy; the statute has expressly permitted different standards for different institutions and programs since 2008 and the Department's implementing regulations since 2009.

Changes: None.

Comments: One commenter stated that the Department provided insufficient explanation for the change under § 602.16(a)(1)(i) that adds "...at the institutional and program level..." The commenter believes that the Department cannot use the regulations to impose an additional accreditation requirement that Congress did not authorize or to dictate the level at which an accrediting agency must evaluate student achievement.

Discussion: The Department has not added additional requirements or standards to the regulations. The accrediting agency is

responsible for reviewing and confirming academic quality at an institution, and that includes the programs that the institution offers. That an agency would have standards for student success at both institutional and programmatic levels is consistent with the best reading of the statute. The commenter should recognize that review at both the institutional and programmatic levels is necessary to account for variations in quality and outcomes across programs within the same institution.

Changes: None.

Comments: One commenter supported the addition of "at the institutional and program level" in § 602.16(a)(1)(i).

Institution-level averages conceal program-level failure, and making the program level explicit is worthwhile even though the Department characterizes the accompanying change from "set forth clear expectations" to "establish requirements" as not altering the regulation's effect. The commenter requested that the Department confirm in the preamble that agencies retain discretion to apply program-level review proportionately – an institution offering more than 120 programs and one offering six programs should not face identical documentation volume requirements for the same regulatory purpose.

Discussion: We thank the commenter for their support. Yes, agencies retain discretion to apply program-level review proportionately. We thank the commenter for their support.

Changes: None.

Comments: One commenter recommended that the Department clarify that agencies in § 602.16(a)(1) should assess whether undergraduate students have access to some form of review that is structurally independent of the original decision-maker for academic and administrative grievances that do not involve discrimination.

Discussion: We decline the commenter's recommendation because we believe the new process outlined under § 602.23(1) is sufficient.

Changes: None.

Comments: One commenter recommended that § 602.16(a)(1)(i) should include time-to-declaration and major-transition metrics for undeclared, pre-major or exploratory students.

Discussion: The Department declines to add the metrics proposed by the commenter. Such requirements would be too prescriptive, and we prefer to allow accrediting agencies to make their own decisions about exactly what to measure within the parameters of 602.16(a)(1)(i).

Changes: None.

Comments: One commenter recommended updating § 602.16(a)(1)(i) to read:

"(i) Success with respect to student achievement at the institutional and program level in relation to the institution's mission, which may include different standards for different institutions or programs and may recognize multiple pathways to academic progress and achievement, as established by the

institution, including, as appropriate, consideration of State licensing examinations, course completion, job placement rates, and credit for prior learning, as described in § 602.17(a)(1)."

Discussion: The Department declines the recommendation of the commenter as we believe that the suggestion is technical in nature. The regulation says "...including, as appropriate", which gives agencies and institutions flexibility to recognize multiple pathways to academic progress and achievement.

Changes: None.

Comments: One commenter supported the proposed provision under § 602.16(f) that would permit agencies to adopt additional standards beyond Section 496 of the HEA only where those standards are lawful and consistent with ensuring institutional or programmatic quality and integrity. The commenter stated that standards that are neither required by statute nor connected to quality or integrity impose cost without producing educational value, and students pay for that cost in tuition.

Discussion: We agree and thank the commenter for their support.

Changes: None.

Comments: Several commenters opposed § 602.16(f) that states an agency may establish any additional lawful accreditation standards that are consistent with ensuring institutional or programmatic quality and integrity as it deems appropriate. One commenter stated that this provision is an open door for the current administration to use partisan influence to promote a conservative agenda. Several other commenters stated that the

amendment exceeded the Department's authority and had concerns that the Department would have too much discretion to determine what "lawful" means.

Discussion: We believe the commenters misinterpreted the provision. The provision allows an accrediting agency to establish additional lawful standards, not the Department. The commenters should note that the Department has not added additional standards under § 602.16.

Changes: None.

Comments: One commenter stated that the NPRM repeatedly references that the Department will clarify the regulations in the Accreditation Handbook, including under part § 602.16. The commenter stated that because guidance is not legally binding like regulation, leaving core implementation details to future guidance creates legal and operational uncertainty for accrediting agencies and institutions.

Discussion: The Department routinely issues subregulatory guidance to clarify regulatory requirements and facilitate implementation. Consistent with this longstanding practice, the Department uses the Accreditation Handbook to provide policy and operational guidance to accrediting agencies regarding implementation of 34 CFR Part 602. To the extent the commenter's requests concern matters appropriately addressed through subregulatory guidance, the Department may provide further clarification, including through the Accreditation Handbook, as necessary to support implementation.

Changes: None.

Comments: One commenter expressed strong support for the regulations under § 602.16(g)(3) and (g)(4).

Discussion: We appreciate the commenter's support. Please note that there are no proposed changes to these provisions.

Changes: None.

Comments: One commenter requested that the Department add § 602.16(g): "The agency's requirements must be stated in its own published standards. The agency may not require institutions or programs to conform to, or evaluate them against, the standards, the code of ethics, code of conduct, guidelines, policies, or positions of any other organization, whether by incorporation by reference or otherwise, except as required by applicable Federal or State law."

Discussion: We decline to accept the commenter's recommendation. We believe that the suggestion is already covered under § 602.18(a)(3).

Changes: None.

Comments: One commenter stated that proposed § 602.16(f) permits an agency to establish "any additional lawful accreditation standards." The commenter requested that the Department confirm in the final rule that a standard requiring an institution, its faculty, or its students to affirm a contested viewpoint as a condition of accreditation is not a "lawful" standard within the meaning of § 602.16(f).

Discussion: If faculty or a student believes that an agency is inappropriately or illegally requiring them to affirm a contested viewpoint, they can file a formal complaint with the agency itself. If the resolution is not satisfactory to the faculty or student, they can submit formal complaints about an agency to the Department at aslrecordsmanager@ed.gov or call 202-453-7615. The commenter may also attend a NACIQI meeting and provide public comment regarding an accrediting agency. The Department encourages the commenter to consult the Federal Register and the NACIQI website for announcements and information regarding upcoming meetings and opportunities for public comment.

Changes: None.

Comments: One commenter made multiple individual recommendations for § 602.16, including:

- Require accreditation standards to distinguish objective competency requirements from global discretionary judgments.
- Require that if a program director signs or transmits a verification document, the recipient should know what exactly is being attested.
- Direct agencies to prefer licensure outcomes, completion, validated competency performance, employment outcomes.
- Prohibit program completion documents from becoming private occupational licenses.

- Be aware that accreditation should set outcomes, not create a national ladder from associate through graduate education.
- State that Federally recognized accrediting agencies may define minimum educational outcomes but may not prescribe subordinate curricular architecture, competency taxonomies, assessment methods or progression systems unless those prescriptions satisfy a documented necessity and least restrictive-alternative test.

Discussion: We thank the commenter for submitting multiple thoughtful recommendations to this section of the rule; however, we decline to accept them because they go beyond the statutory framework, and we believe that they are more aspirational requests than specific regulatory proposals.

Changes: None.

§ 602.17 Application of standards in reaching accreditation decisions.

Comments: Several commenters offered support for the amendments under § 602.17(a)(1). One commenter stated that agencies have not always done a good job upholding high standards of student achievement. The commenter stated that agencies also rarely sanction their member institutions for poor student outcomes. The Department's language does not specify a single numerical cutoff where agencies need to set their minimum expectations, but they must have minimum expectations documented. The commenters stated that one of the most critical minimum

standards for agencies to enforce is the minimum expectations for retention, completion, and graduation rates.

Discussion: We agree and thank the commenters for their support. We believe that these amendments provide reasonable parameters that accrediting agencies can use to ensure educational quality without imposing specific mechanisms that agencies must use in their evaluation of institutions or programs.

Changes: None. *Comments:* The largest percentage of comments focused on the proposed changes in § 602.17. Commenters raised concerns about: (1) the Department's focus on economic returns in the assessment of student achievement, which they believed did not properly take into account institutional type or mission; (2) the inclusion of cost/benefit analysis when agencies are evaluating compliance with standards for facilities, equipment, and supplies and student support services; (3) the lack of availability of reliable data to assess student success outcomes with respect to student achievement under § 602.17(a)(1)(ii); (4) infringement into institutional autonomy, governance, and management, especially in regards to faculty; (5) minimal guidance or explanation of the new provisions; (6) administrative burden and cost implications; (7) the Department's lack of authority to add standards; and (8) how the Department will enforce provisions containing the phrases "academic freedom" and "intellectual diversity."

Commenters offered language suggestions, revisions, clarifications, and many asked for complete rescission of the proposal. Several institutions requested that the agencies that accredit their institutions receive special considerations with the final rule based on the populations they serve, including but not limited to religious institutions/programs, minority-serving institutions, tribal colleges and universities, small institutions, liberal arts institutions, and specialized institutions. If no changes are made in the final rule, some commenters requested that the Department release extensive subregulatory guidance explaining each of the provisions.

Discussion: For more information regarding the Department's legal authority to establish these requirements, please see the *Legal Authority* section of this final rule.

The changes to this section do not prescribe thresholds. An agency retains the authority to establish a threshold for compliance with the standards. The Department believes these changes will strengthen educational quality by prioritizing positive student outcomes over procedural compliance requirements that lack a demonstrated connection to those outcomes. These changes will result in lower costs for taxpayers and an increase in benefits for students. The Department declines to offer exceptions or carve-outs to these provisions because we seek to standardize application of the standards.

Following publication of the final rule in the Federal Register, the Department may issue nonbinding subregulatory

guidance if it determines that additional clarification is necessary to facilitate implementation.

Changes: None.

Comments: Some commenters opposed the amendments under § 602.17(a)(1). Opposition included, but was not limited to, legality, cost to agencies and institutions, lack of necessary data, and too much focus on the return-on-investment metrics. Commenters stated that the proposal exceeds the Department's authority and constitutes Federal overreach. 496(a)(5) of the HEA prescribes the specific standards for accreditation. Some commenters believe that the Department has added new standards that do not currently exist in statute. The commenters often cited Section 496(g) of the HEA as expressing Congressional intent on the limitation of the Department's authority to establish additional standards: "Nothing in this Act shall be construed to permit the Secretary to establish criteria for accrediting agencies or associations that are not required by this section. Nothing in this Act shall be construed to prohibit or limit any accrediting agency or association from adopting additional standards not provided for in this section. Nothing in this section shall be construed to permit the Secretary to establish any criteria that specifies, defines, or prescribes the standards that accrediting agencies or associations shall use to assess any institution's success with respect to student achievement." Commenters cited Section 496(o) that states the Secretary "shall not promulgate any regulation with respect to

the standards of an accrediting agency or association described in subsection (a)(5).” Commenters also cited Section 103 of the Department of Education Organization Act as evidence of Congressional intent on the limits of the Department’s authority: “No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.”

Commenters stated that amendments are too rigid and by themselves do not reveal the quality or value of an institution. Commenters stated that educational quality cannot be measured solely through completion rates, employment outcomes, licensure exam results, or other metrics related to programs’ return on investment. Other comments stated that the regulations will increase compliance costs to agencies and institutions, which will shift focus for quality to compliance for agencies and institutions and ultimately increase costs for students.

Finally, commenters stated that the Department’s original proposal listed these requirements under § 602.16, but they were moved to § 602.17 during a subsequent day of negotiated

rulemaking. Commenters believed that this was a tacit acknowledgement by the Department that it was adding extra-statutory standards.

Commenters offered many suggestions to the proposed regulations, including, but not limited to, rescinding the proposal or making the amendments optional or providing exceptions or carve-outs for a wide range of institutions and programs.

Discussion: We disagree with the commenters' statements. Sections 496(g), (o), and (p) limit the Secretary's authority to prescribe the substantive content of accreditation standards, particularly student achievement standards. They do not prohibit the Secretary from regulating how recognized agencies apply and enforce their standards. Section 496(a)(4)(A) expressly requires the Secretary to determine that an agency "consistently applies and enforces standards," and Sections 496(a)(6) and (c) establish requirements governing accreditation review and general operating procedures, respectively.

The Department therefore interprets Section 496 as distinguishing between prescribing the substance of an accrediting standard and establishing recognition criteria governing the consistent and lawful application of an agency's own standards. The Department maintains that the substance of this section is related to the Department's evaluation of how an agency applies its standards, and does not prescribe the content of the standards themselves.

For further discussion please refer to the *Legal Authority* section of this final rule. The Department is not providing exceptions to requirements in the regulations because the statute does not support the positions advocated by the commenters. The regulations follow the statute in establishing clear, uniform criteria for recognition of agencies, with only minimal differentiation in requirements between institutional and programmatic accrediting agencies.

Changes: None.

Comments: Several commenters supported language related to academic freedom and intellectual diversity throughout § 602.17(a)(2). Commenters stated that academic freedom and intellectual diversity reflect the principles that characterize American higher education. Another commenter stated that expecting agencies to evaluate intellectual diversity and protect open inquiry is not political bullying; it is a long-overdue return to basic academic standards. Assessing whether an institution allows diverse viewpoints directly measures whether it is actually teaching critical thinking.

Discussion: We agree and thank the commenters for their support.

Changes: None.

Comments: Some commenters opposed language related to faculty, academic freedom, and intellectual diversity throughout § 602.17(a)(2). Commenters stated the following in opposition to the provisions:

- They believe the proposed changes are unconstitutional and infringe on free-speech protections. Some commenters believe that the Department will target agencies and institutions that do not align with the Administration's agenda or political ideology. As a result, agencies will limit faculty speech at accredited institutions for fear of losing recognition, and institutions will limit faculty speech for fear of losing accreditation.
- They believe that the changes are unlawful, and raise objections similar to those that they raised in opposition of § 602.17(a) (1).
- They believe that the preamble to the NPRM effectively encourages institutions to use the Department's definition of "academic freedom" and may functionally compel agencies to adopt standards prescribed by the Department.
- They believe that the evaluation criteria will influence faculty behavior and encourage self-censorship even without directly restricting speech, particularly when they affect hiring, promotion, tenure, research, instruction, shared governance, or continued employment.
- They believe that there are no clear definitions of concepts like: "academic freedom", "intellectual diversity", "sufficient number of appropriately qualified faculty", "regularly evaluated on the performance of their instructional, research, or service responsibilities". The concepts are vague and can be misused to justify any

adverse action that the Department seeks to take against an accrediting agency or institution.

- They believe that accrediting agencies lack the legal expertise and authority claims of constitutional and other legal violations, faculty speech disputes, and whether institutions have achieved sufficient intellectual diversity.

Discussion: See prior discussion under Legal Authority and § 602.17(a)(1) of this final rule. Academic freedom and intellectual diversity are important considerations in evaluating the quality of higher education. The new regulations require accrediting agencies, when applying their standards, to consider institutional policies and practices relating to academic freedom and intellectual diversity. Contrary to the hyperbole exercised by several commenters, the new regulations also do not prescribe the content of policies relating to academic freedom and diversity, do not require institutions to adopt particular policies, and do not require accrediting agencies to establish separate substantive standards in these areas.

An institution's decision not to adopt a formal policy on academic freedom or intellectual diversity does not, by itself, constitute noncompliance. Rather, an accrediting agency must consider relevant institutional policies and practices in the context of its existing standards and the institution's mission.

Where an agency has adopted standards addressing these matters, it must apply and enforce those standards consistently.

These provisions govern the process by which accrediting agencies evaluate institutions, rather than prescribing particular accreditation standards.

Changes: None.

Comments: Several commenters had concerns with the required cost/benefit analysis under § 602.17(a)(3). Commenters stated that they believe that the requirement infringes on institutional governance, will increase costs and burden to institutions, and that the regulation is vague and unclear. A few commenters asked for clarification on whether the agency or institution conducts the cost/benefit analysis.

Discussion: The Department disagrees with the commenters. The Department provides more than \$100 billion annually in Pell Grants and Federal student loans, a substantial portion of which supports institutional revenue through tuition, fees, and other charges. Many institutions depend on these Federal student aid programs to sustain their operations. Accordingly, the Department has a responsibility to ensure that institutions receiving Federal funds exercise sound fiscal stewardship, including by conducting meaningful cost-benefit analyses and evaluating how institutional spending decisions affect costs borne by students.

Section 602.16(a)(1)(iv) currently requires that an "agency's accreditation standards must establish requirements

for the institutions or programs it accredits" in the area of "Facilities, equipment, and supplies." Because cost/benefit analysis is an integral part of responsible capital investment planning, the Department is requiring agencies to review whether institutions have conducted cost/benefit analysis and for agencies to review them if they are performed by an institution.

We disagree that this provision infringes on institutional governance because it only requires agencies to review analysis that is performed; there is no requirement for any institution to do or enact anything.

Cost-benefit analysis decreases costs and increases educational quality for students by ensuring that capital expenditures are properly scrutinized and justified.

Changes: None.

Comments: Several commenters supported replacing a mandatory self-study format with a comprehensive process that may include a self-study under § 602.17(b). One commenter noted that the change preserves rigorous evaluation while allowing institutions and accrediting agencies to use better and more efficient methods to demonstrate quality and continuous improvement.

Discussion: We agree and thank the commenters for their support.

Changes: None.

Comments: Several commenters opposed replacing a mandatory self-study format with a comprehensive process that may include a self-study under § 602.17(b). One commenter stated that accreditation should be an opportunity for an academic community

to reflect on its internal practices as it typically leads to new insights and practices like how to more effectively assess whether classes are meeting student learning outcomes. Another commenter stated the self-study is a fundamental component of the peer-review process, providing institutions and programs an opportunity to evaluate their own performance against an agency's standards and identify areas for improvement before and during peer review.

Discussion: We agree with commenters that an institution or program should reflect on its internal practices and gain new insights on how to improve student learning outcomes. Under this final rule, we added more of a regulatory framework under § 602.17(a)(1)(i) to help guide agencies on how to apply accreditation standards that focus on the assessment of critical student outcomes. These outcomes include, as applicable, State licensing or certification examination results; post-completion or graduation outcomes, including employment and continued education; and educational and economic returns evaluated in relation to the program's credential level, length, occupational context, and total cost of attendance.

We do not share commenters' belief that a self-study is the only assessment approach in determining educational quality. The Department has not rescinded the requirement for institutional or programmatic review, given that under this final rule, an institution or program must be able to conduct a comprehensive review that will help in assessing the educational quality.

Instead of maintaining a one-size-fits-all approach, the Department is providing agencies with the flexibility to innovate its comprehensive self-evaluation process.

Changes: None.

Comments: Some commenters opposed language under § 602.17(g) and (h) because they believe the provision could cause institutions to abandon lawful outreach, recruitment, support, research, or demographic data collection out of fear for their accreditation.

Discussion: The provision does not eliminate lawful outreach, recruitment, support, research, or demographic data collection. Instead, it prohibits an agency from having standards that require institutions to violate Federal or State law. For example, on June 29, 2023, in *Students for Fair Admissions, Inc v. President and Fellow of Harvard College*, 600 U.S. 181 (2023),¹⁰ the U.S. Supreme Court held that an institution violates the Constitution's Equal Protection Clause and Title VI of the Civil Rights Act when it uses race-based admissions programs that provide substantive advantages to applicants based upon their race. This means that an agency cannot have standards that encourage, direct, or otherwise require institutions or programs to have admissions targets based on race.

Changes: None.

§ 602.18 Ensuring consistency in decision-making.

¹⁰ *Students for Fair Admissions, Inc v. President and Fellow of Harvard College* - https://www.supremecourt.gov/opinions/22pdf/20-1199_hgdj.pdf

Comments: Several commenters supported the provision in paragraph § 602.18(b)(4) that requires that agency decisions are neutral with respect to viewpoint and ideology that are unrelated to its accrediting policies or standards, except in the case of an agency with a religious mission. Several commenters provided personal testimony of when they believed agencies that accredited their institutions were not viewpoint neutral.

One commenter stated that a neutrality standard holds that accrediting agencies may not condition accreditation on an institution's adoption of any contested philosophical or theoretical framework. The commenter suggested that the Department release implementation guidance stating the following: "In determining whether an agency is a reliable authority as to the quality of education or training offered, the Secretary shall consider whether the agency conditions accreditation on an institution's or program's adoption of specific philosophical, theoretical, or ideological frameworks that are contested within the relevant scholarly literature. An agency may require student engagement with bodies of scholarly knowledge relevant to professional practice."

Another commenter stated that accrediting agencies should apply legitimate quality standards without rewarding favored institutions or punishing disfavored ones because of viewpoint.

Discussion: We thank the commenters for their support. While we do not agree with implementing the commenter's suggested text,

the Department may offer subregulatory guidance as necessary with the appropriate guidance for the field to inform implementation.

Regarding commenters that had concerns about an accrediting agency, commenters can submit formal complaints about an accrediting agency to the Department by emailing aslrecordsmanager@ed.gov or calling 202-453-7615. The commenters may also attend a NACIQI meeting and provide public comment regarding an accrediting agency. The Department encourages the commenters to consult the Federal Register and the NACIQI website for announcements and information regarding upcoming meetings and opportunities for public comment. Please refer to the Implementation Date of These Regulations section of this final rule when submitting complaints about an agency regarding regulations that may not yet be effective.

Changes: None.

Comments: Some commenters were opposed to § 602.18(b)(4), which requires viewpoint and ideological neutrality. Many of these commenters expressed their belief that political officials at the Department could characterize legitimate academic-quality decisions as ideological discrimination. Commenters also believe the requirements to be too vague and undefined. Some commenters stated that this provision, in combination with provisions under § 602.17 related to academic freedom and intellectual diversity, will grant the Federal government authority to scrutinize academic governance, faculty hiring and evaluation, and academic

freedom of institutions. Several commenters stated that this requirement seems to be diametrically opposed to the repeated rationalization by the Department for the proposed regulation change, which was to reduce the administrative and financial burden required of accreditation.

Discussion: The Department disagrees with the commenters' assertions. The Department is regulating in this area to ensure that no viewpoint is preferred. This regulation ensures that accrediting agencies remain neutral and prioritize diversity of thought on campuses. A commenter to this rule offered a relevant summary of the provision by writing that "The neutrality principle we endorse forecloses both outcomes equally.

Accrediting agencies may require student engagement with bodies of scholarly knowledge relevant to professional practice; they may not require that students demonstrate adoption of, or alignment with, any particular interpretation of that knowledge. This principle derives its durability precisely from its symmetry: it binds future Departments as much as it binds current ones, and it binds in both ideological directions."

Changes: None.

Comments: A few commenters questioned why agencies and institutions with a religious mission were exempt from the requirement under § 602.18(b)(4). One commenter stated that there is no alternative accountability mechanism for agencies with a religious mission. Another commenter stated that the proposal prioritizes religious accrediting agencies despite the United

States having a longstanding separation of State and religion. Increasing religious prioritization neglects positions of public trust, improperly shifts focus away from student achievement to compelling institutions to adopt illegal and discriminatory religious ideology and practices, and intrudes on State and local authority.

Discussion: The Department must exempt agencies with a religious mission from this provision because the First Amendment guarantees the free exercise of religion. Regulations limiting the free exercise of religion are contrary to the U.S. Constitution.

Changes: None.

Comments: One commenter requested that under 602.18(b)(4) the Department narrow the scope of the provision to prohibit specific, identifiable coercion: an agency may not condition accreditation on requiring students or faculty to affirm a particular ideological position or penalize an institution solely for protected academic speech.

Discussion: The provision does not allow an agency to require students or faculty to affirm a particular ideology. The provision requires the agency itself to make decisions that are neutral with respect to viewpoint or ideology of the accredited institution or program. An agency cannot penalize an institution or program solely for protected academic speech; freedom of speech is a constitutionally protected right, which the Department affirms under § 602.15 and § 602.17.

Changes: None.

Comments: One commenter recommended that the Department amend § 602.18(b)(4) to read: "Has adopted and followed procedures to ensure that agency decisions are neutral with respect to viewpoint and ideology that are unrelated to its accrediting policies or standards, 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 shall be construed to limit paragraph (a) or paragraph (b)(3) of this section, or to require an agency to treat as a departure from viewpoint or ideological neutrality an institution's or program's religious mission-based policies, decisions, and practices evaluated under paragraph (b)(3) of this section or under § 602.17(a)(2)."

The commenter claims that the exception in § 602.18(b)(4) is written for the accrediting agency and the religious-mission provisions at § 602.18(b)(3) and § 602.17(a)(2), by contrast, are written for the institution.

Discussion: We decline to accept the suggested language. This provision specifically provides an exemption for agencies with a religious mission to ensure viewpoint neutrality. Provisions under § 602.17(a)(2) require all agencies to apply standards related to an institution's faculty that are consistent with the institution's religious mission. We believe that the regulatory text provides the necessary clarity.

Changes: None.

Comments: One commenter requested that the Department protect descriptive and empirical scholarship. The use of demographic categories or terminology in legitimate research should not, by itself, be treated as evidence that scholarship advances a particular political or ideological agenda.

Discussion: Generally, the use of demographic categories or terminology in legitimate research should not, by itself, be treated as evidence that scholarship advances a particular political or ideological agenda. However, the Department cannot opine on hypothetical situations. Once the final rule is effective, the Department will confront issues related to specific agencies, institutions, programs, or students as they arise.

Changes: None.

Comments: One commenter offered support for the amendments to § 602.18(c), which broaden the alternative standards provision to reach practices that advance credential and degree completion and promote new models of education. The commenter asked the Department to confirm in the preamble that § 602.18(c) is available as a pathway for approving direct assessment and competency-based programs pending any broader Departmental action on the credit hour.

Discussion: Nothing prevents an accrediting agency from applying the flexibility in § 602.18(c) to its review process for direct assessment programs. However, in this circumstance, the agency must ensure that its approval process for direct assessment

programs meet the requirements under § 668.10 and all other requirements in this part.

Changes: None.

Comments: One commenter opposed the Department's proposal to broaden § 602.18(c) beyond "special circumstances" and "undue hardship on students," and the three-year renewable noncompliance window. The commenter asserted that, taken together, these provisions convert what is supposed to be a narrow safety valve into a general license for indefinite noncompliance. The commenter recommended restoring current § 602.18(c) and limiting any noncompliance period to the timeframe in § 602.20(a)(2) without a separate extension mechanism.

Discussion: We believe the commenter was referring to § 602.18(d). The Department's regulations do not permit indefinite noncompliance. Regulations under § 602.20(a)(2) apply to the amendments under § 602.18(d). The amendments under § 602.18(d) are solely meant to provide a good cause extension to demonstrate compliance for circumstances outside the institution's or program's control, such as a natural disaster.

As noted in the NPRM, current regulations under § 602.18(d) are moved to § 602.20(i) with modifications.

Changes: None.

§ 602.19 Monitoring and reevaluation of accredited institutions and programs.

Comments: One commenter recommended that § 602.19(b) be amended to add a requirement that an agency's monitoring and evaluation

approaches include a mechanism to track whether a self-identified institutional concern has appeared in similar language across prior review cycles and apply a heightened monitoring or documented-improvement standard once such recurrence is identified, rather than resetting to a standard review each cycle.

Discussion: The Department appreciates the suggestion of the commenter around Section 602.19; however, this section was not discussed in the negotiated rulemaking process or included in the revised final rule and remains unchanged.

Changes: None.

§ 602.20 Enforcement of standards.

Comments: A few commenters offered general support for the amendments to this section, in combination with regulations under § 602.18 and § 602.25. One commenter stated that institutions should know the standards that apply, receive notice of deficiencies, have reasonable time to respond, and hold a meaningful process for review.

Discussion: We agree and thank the commenters for their support.

Changes: None.

Comments: One commenter stated that § 602.20(h) is unclear as proposed. Specifically, the commenter argues that the phrase requiring an agency to “have a policy for restoring accreditation” is not consistent with the language later in § 602.20(h) indicating that the agency has the authority to determine the circumstances for when such restoration of accreditation is “appropriate.” In turn, the commenter asserts

that the notion that an agency may determine the circumstances for when restoring accreditation is appropriate does not align with the phrase "including if required by an applicable judicial decision."

Discussion: We disagree with the commenter. We believe § 602.20(h) clearly requires a restoration of accreditation policy that must, at a minimum, include the process for restoring accreditation when required to do so by an applicable judicial decision. An accrediting agency is not prevented from restoring accreditation in circumstances other than judicial orders, but can include any circumstances that it determines are appropriate for a restoration of accreditation.

Changes: None.

Comments: One commenter stated that provisions under § 602.18(d) and § 602.20(i) are duplicative and inconsistent. The commenter stated that the two substantially overlapping provisions permit an agency to allow an institution to remain out of compliance for a period not to exceed three years.

Discussion: We believe the commenter has misinterpreted the regulations. There is no § 602.18(d) in the new regulations. Items under § 602.18(d) have been moved and amended under § 602.20(i).

Changes: None.

Comments: A few commenters stated that the compliance timeline under § 602.20(a)(2) may be too long for some programs and too rigid for all. One commenter stated that an agency that

continues to certify quality while an institution spends four years out of compliance with that agency's own standards is not acting as a reliable authority, and students continue to enroll and borrow throughout. The commenter recommended to make the cap a ceiling rather than a default. The commenter further requested that the Department require that any timeline beyond one year be accompanied by a public statement of the agency's reasons, intermediate checkpoints with defined consequences for missing them, and notice to enrolled students that the institution is operating under a compliance plan.

Discussion: These provisions are current regulations, and the Department has not proposed changing them in the proposed rule or the final rule. Agencies, institutions, and programs have been operating under these rules prior to the new regulations; therefore, the Department sees no reason to update them at this time.

Changes: None.

Comments: Referring to the preamble explanation for the amendments to § 602.20(a)(4), one commenter stated that the final rule should adopt the same functional approach to transparency. Whether an agency calls a status a warning, show cause, probation, special report, heightened monitoring, follow-up report, compliance report, or another term should not determine whether the institution receives a specific written explanation. The trigger should be the substance of the action: when an agency has identified an institution-specific compliance

concern and, as a result, imposes a special reporting requirement, corrective-action requirement, heightened status, or other out-of-cycle obligation, the institution should receive the material basis and requirements in writing.

Discussion: Because the commenter did not provide a specific provision(s) to amend, the Department cannot respond thoroughly to the request. We believe that these rules already require an agency to communicate non-compliance with any standard to accredited institutions or programs in writing, no matter the term or status used by the agency, in § 602.20(a).

Changes: None.

Comments: A few commenters stated that changes would undermine efforts to resolve disputes between institutions and accrediting agencies through arbitration. Such mechanisms and procedures can provide institutions and agencies with a more efficient and less costly means of resolving disputes while preserving appropriate legal and procedural protections. One commenter stated that Federal regulations should not inadvertently undermine those mechanisms in favor of protracted administrative proceedings or litigation. To the extent institutions and agencies have established lawful processes for resolving disputes efficiently and fairly, the Department should preserve, and even encourage, the use of those processes to reach a binding outcome.

Another commenter urged the Department to utilize binding arbitration as an available means of resolving accreditation disputes and to reconsider changes to the existing due process

framework that are unnecessary to protect institutions and may ultimately make those protections less effective. Another commenter stated that an accurate reading of both the statute and the regulation in fact permits accrediting agencies to require binding arbitration prior to the initiation of any other legal action.

One commenter provided alternative language:

"(e) All adverse actions taken under this subpart are subject to the arbitration requirements in 20 U.S.C. § 1099b(e). Nothing in this section prescribes whether arbitration must be binding or nonbinding, which is determined by the agreement of the parties or applicable law. Agency policies governing the arbitration of disputes must: (1) Apply to all final adverse actions, however, an agency may require the institution or program to first exhaust the agency's appeal process;"

Discussion: The Department refers the commenters to the relevant discussion in the NPRM, which states Section 496(e) of the HEA states that "The Secretary may not recognize the accreditation of any institution of higher education unless the institution of higher education agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action." Based on the statute, arbitration cannot be binding, because the statute only refers to "initial" arbitration and provides that the institution may still instigate "any other legal action" after arbitration. A binding arbitration agreement would prevent the

institution from pursuing any other legal action. However, nothing in the statute or these regulations prevents an institution and agency from mutually agreeing to binding arbitration to resolve a lingering dispute later in the process, after such a dispute has arisen. Indeed, nothing in the statute gives the Department the authority to impose requirements for arbitration agreements other than that which is entered into when the institution is first accredited. The Department also released guidance in November 2023 that clarified that arbitration must be initial and non-binding. If an accrediting agency and institution choose to enter into binding arbitration after a dispute arises, then that is permissible because both parties come to an agreement as opposed to an agency requiring binding arbitration as a requirement to seek or maintain accreditation.

Changes: None.

Comments: A few commenters requested clarification of the provision under § 602.20 (h). One commenter stated that there is distinct difference between retroactive accreditation and restoration or reinstatement of accreditation, which are not co-terminus actions. These terms are not defined in the regulations, but they may need to be defined in regulation, especially as different agencies and the Department have varied over the past several years in their explanation of these terms and the regulatory implications thereof.

Another commenter stated that the Department needs to clarify if an agency must have a policy for restoration of accreditation (including retroactively).

Discussion: The Department agrees that an agency must have a policy for restoration of accreditation, which could be retroactive. The term retroactive accreditation has appeared in 34 CFR Part 602 since 2019 under § 602.18(a)(7) without confusion. The Department declines to prescribe a definition to the terms because we believe they are widely understood and common terms. If the Department recognizes a need in the future to provide further guidance on the terms, we may offer subregulatory guidance as necessary to inform implementation.

Changes: None.

Comments: One commenter recommends that any restoration of accreditation following arbitration or litigation be prospective and that the agency's record of the adverse action and its resolution remain publicly available under Sec. 602.26(f). The commenter stated that retroactive restoration rewrites history: it treats the period during which an institution operated under a final adverse action as though the action never occurred, erasing information that students who enrolled during that period relied on in making enrollment and borrowing decisions. It also weakens the deterrent value of adverse action itself, since an institution that expects any sanction to be retroactively expunged through arbitration has less reason to remediate promptly and more reason to litigate. Prospective

restoration fully protects an institution that prevails on the merits going forward, while preserving an accurate public record of what the accrediting agency found, when, and how the dispute was resolved.

Discussion: In response to this comment, the Department notes that an agency may have such a policy if it chooses unless the resolution of a judicial decision requires the agency to retroactively restore accreditation and expunge the record of an adverse action against the institution. The Department is not dictating the elements of the restoration policy; we are providing agencies with flexibility to establish their own requirements. With this in mind, the agency must have such a policy and apply it consistently to all accredited institutions and programs.

Changes: None.

§ 602.21 Review of standards.

Comments: A few commenters were concerned that deleting current § 602.21(b)-(d) would remove the more concrete safeguards that give the review requirements meaning such as meaningful opportunity for input, notice of proposed standards changes, opportunity to comment, and consideration of timely comments. One commenter had several recommendations: (1) include language that states "The agency must maintain a comprehensive systematic program of review that occurs at regular intervals, involves all relevant constituencies, including students, and affords each relevant constituency a meaningful opportunity to provide input

into the review"; and (2) clarify that "relevant constituencies" may include affected governmental and judicial entities.

Discussion: We disagree with the commenter's assertion. The Department is removing prescriptive language that does not appear in statute while maintaining a requirement under § 602.21(a) that the review involve "all relevant constituencies." The Department declines to specify the relevant constituencies, with the exception of students, to afford agencies autonomy and the ability to innovate.

Changes: None.

Comments: Several commenters believed that the reference to "return on investment" in the NPRM preamble discussion about the amendments to § 602.21 would require agencies to conduct a formal "return on investment" analysis, longitudinal study, financial analysis, or develop expensive surveys to provide to stakeholders regarding its standards. The full excerpt states: "An ineffective and outdated accrediting agency is not a good use of taxpayer dollars via the institutions or programs it accredits and may leave students without a good return on investment and with insurmountable student loan debt that they may struggle to repay debt."

Discussion: Preamble language is not enforceable; it solely explains the regulatory text in plain language. The regulations under § 602.21 are deregulatory in nature, not prescriptive of any process. We have removed § 602.21(b)-(d) to eliminate burdensome regulations that are not statutorily required.

Additionally, while agencies must review standards at regular intervals, nothing in the regulatory text requires a standardized “return on investment” analysis. Agencies will note the Department has not defined the only substantive addition to § 602.21, which is “that occurs at regular intervals,” because we allow agencies the flexibility to determine the interval for the review of their own standards.

Changes: None.

§ 602.22 Substantive changes and other reporting requirements.

Comments: Several commenters expressed agreement with the Department’s intent to encourage responsible innovation and narrow the substantive change reporting requirements when the changes do not present meaningful risks to educational quality. These commenters acknowledged the reduced administrative overhead and lead times required. Commenters stressed the need for clear definitions, common data standards usage where possible, clear guidance, adequate technical assistance, and a reasonable transition period to implement the proposed changes.

Discussion: We thank and appreciate the commenters’ support of this provision.

Changes: None.

Comments: One commenter argued for the inclusion of direct assessment programs in the exemption of applying for accrediting agency approval, opining that an institution that has successfully obtained approval for two direct assessment programs and demonstrated a sound competency-definition and mastery-

assessment methodology has proven the capability the prior-approval requirement exists to test. The commenter emphasized requiring approval of subsequent direct assessment programs is redundant and unnecessary.

Discussion: We decline to accept the proposal in the commenter's request. Due to the requirements of § 668.10(b)(2)(vi), the agency's definition of substantive change must continue to include the addition of each direct assessment program.

Specifically, § 668.10(b)(2)(vi) requires an agency to evaluate an institution's offering of direct assessment program(s), include the program(s) in the institution's grant of accreditation, and provide approval documentation indicating agreement with the institution's methodology for determining the direct assessment program's equivalence in terms of credit or clock hours to obtain the Department's approval for participation in the title IV, HEA programs.

Changes: None.

Comments: Another commenter offered general support for the proposed changes to § 602.22 but emphasized that notifications can still be burdensome and requested that the Department clarify what the process of notification means both from the institution to the accrediting agency and then the agency to the Department.

Discussion: We do not expect additional burden for notifications required by this section under the final rule. The institution should follow the process determined by the agency for notifying applicable substantive changes. The agency should provide any

required notifications to the Department - as it does for any other notification of a required decision or action - via the Database of Accredited Postsecondary Institutions and Programs (DAPIP).

Changes: None.

Comments: A few commenters recommended the Department further clarify the ability of agencies to define substantive changes beyond the specified list.

Discussion: The final rule does not limit an accrediting agency's ability to specify additional changes that it determines are substantive. The substantive changes noted by the Department are the minimum expectations for review.

Changes: None.

Comments: Another commenter expressed mixed support for § 602.22 but recommended requiring the accrediting agency to monitor an institution for a defined period following a change of control and track key aspects, and to report what it finds through the recognition process. The commenter further recommended that regarding additional locations, the Department add a growth-rate trigger, so the prior-approval shortcut option is unavailable to an institution whose headcount enrollment or number of locations has increased beyond a specified threshold over the preceding two years. The commenter also recommended that the Department clarify that this option removes prior approval only and would not displace site-visit or branch-campus obligations.

Discussion: We appreciate the commenters' support for several changes but disagree with the commenter's suggestions for changes. We do not believe it is necessary for an accrediting agency to monitor an institution for a specific period of time following every change in control, although an accrediting agency could choose to do this of its own volition. We also do not believe that a growth-rate trigger is appropriate in all cases and decline to limit an accrediting agency's discretion to determine when an institution's growth rate has become problematic.

Changes: None.

Comments: One commenter agreed with the removal of "high-impact, high-risk changes" in the agency's definition of substantive change.

Discussion: The Department intends to reduce burden on both institutions and agencies. The final rule provides a definition of substantive change that applies to a more precise set of situations, arrives at a better balance of needed oversight, and returns some degree of deference to the agencies to make the decisions on what the substantive changes are and how they are processed.

Changes: None.

Comments: Another commenter stressed that eliminating prescriptive requirements should not inadvertently eliminate appropriate oversight of changes that may affect institutional capacity, educational quality, student support, or reduce oversight in areas that may increase the potential of financial risk.

Discussion: The Department agrees with this comment. However, we maintain that some requirements and processes are overly prescriptive and not based on statute. The final rule eliminates some burdensome and complex regulations yet retains the statutory requirement for appropriate oversight of changes.

Changes: None.

Comments: One commenter disagreed with these changes because the items being removed are most closely associated with program quality deterioration.

Discussion: The intent of the final rule is to be less prescriptive in defining when and what institutions and agencies must do in reporting and reviewing changes. Accrediting agencies maintain the discretion to identify cases when the quality of an institution's academic programs is deteriorating, and do not need the Department to specify the circumstances in which every agency applies additional scrutiny. We expect accrediting agencies to maintain reasonable procedures to identify situations in which the quality of an institution's academic programs is declining and take appropriate action.

Changes: None.

§ 602.23 Operating procedures all agencies must have.

Comments: One commenter supported the amendments to paragraph § 602.23(c) requiring that an accrediting agency review complaints against itself in a timely, fair, equitable, and unbiased manner, take appropriate follow-up action, and document complaints and actions taken. The commenter recommended

requiring every recognized accrediting agency maintain a clearly identifiable public procedure for complaints against the agency itself and a record showing the date received, issue raised, classification, reviewing body, conflict-of-interest safeguards, disposition, follow-up action, and date resolved.

Discussion: The Department does not believe edits are necessary to § 602.23(c) as the additional requirements are too prescriptive and would add unnecessarily to regulatory burden on agencies. We believe that the amendments to this section already address the commenter's concern about the documentation of complaints received against the agency.

Changes: None.

Comments: One commenter recommended that § 602.23(c)(1) be clarified so that, where a complaint's stated evidence includes institutional documents, policies, or records rather than solely a personal narrative, and the complainant does not seek an individual remedy, the agency's scope determination address whether the complaint identifies a potential institutional practice, separate from the fact that the complainant experienced that practice personally. The commenter further recommended that the Department clarify whether an agency's obligation under § 602.23(c)(1) to provide the institution a sufficient opportunity to respond applies only once a complaint has passed an agency's own scope screening, or whether that opportunity should also inform the screening determination itself when institutional records are at issue.

Discussion: We decline to accept the commenter's recommendation. We believe that the complaint process regulations are sufficiently robust. If the Department were to add more specific text, it would result in confusing regulatory language and overly rigid requirements that would constrain the process rather than make it more efficient.

Changes: None.

Comments: One commenter stated that whenever a recognized accrediting agency modifies a material policy within a defined period after receiving a complaint concerning that policy, it should preserve and publish the old version, the new version, the date, the stated rationale, whether the change applies prospectively or retrospectively, whether the complaint influenced the change, number of program complaints, number of complaints against the agency, issues raised, how many were screened out, average resolution time, number substantial, and number involving several areas (ex. conflicts, retaliation, etc.).

Discussion: The commenter did not specify which paragraph under § 602.23 is the subject of the comment. We believe that the complaint process outlined under § 602.23(c) is sufficiently robust and decline to make any further changes in the final rule.

Changes: None.

Comments: One commenter stated that some agencies have categorically refused third-party complaint submissions. The

commenter stated that § 602.23(c)(1) should clarify that an agency may not refuse to review a complaint solely because it was submitted by a third party. At minimum, an agency should accept a complaint submitted by counsel or an advocacy organization on behalf of an affected student or faculty member with that individual's authorization. And where a third party presents credible evidence of systemic noncompliance with an accreditation standard, the identity of the complainant should not immunize the underlying conduct from review. Finally, the commenter stated that § 602.23(1) should likewise include a structured means for receiving such information. Nothing requires an accrediting agency to become a general-purpose tribunal for every campus controversy.

Discussion: The Department does not believe that additional clarifying language is necessary. If an entity submits a complaint to an agency and does not believe that it has been sufficiently vetted, then the entity can submit a complaint to the Department for review of the agency's response to aslrecordsmanager@ed.gov or call 202-453-7615. The commenters may also attend a NACIQI meeting and provide public comment regarding an accrediting agency. The Department encourages the commenters to consult the Federal Register and the NACIQI website for announcements and information regarding upcoming meetings and opportunities for public comment.

Changes: None.

Comments: One commenter suggested removing the newly revised language in § 602.23(d) stating that “[t]he agency must require its accredited institutions or programs to publicly disclose any action by the agency that begins the enforcement timeline in § 602.20(a) or (b).” The commenter asserts that this language is not necessary because it is redundant with language in § 602.26(e).

Discussion: We disagree and decline to accept the commenter’s suggestion. This language at § 602.23(d) requires the public disclosure of any action by the agency that begins the enforcement timeline in § 602.20(a) or (b) which goes beyond the public disclosure requirements at § 602.26(e). We believe the additional public disclosure when an agency finds – at any time – that an institution or program is not in compliance with any standard is important for the transparency of agency actions and institutional or programmatic compliance with standards.

Changes: None.

Comments: One commenter stated that the expanded disclosure requirements proposed in § 602.23(d) should clearly distinguish preliminary or remediable findings of noncompliance from final adverse actions so that students and the public receive timely and accurate information without creating a misleading impression about an institution’s accreditation status.

Discussion: An agency can instruct institutions or programs how to distinguish between a preliminary and remediable finding of

noncompliance from adverse actions in its requirements for public disclosure under § 602.23(d).

Changes: None.

Comments: One commenter stated that the proposed § 602.23(d) states that an agency "must require" institutions to publicly disclose any action by the agency that begins the enforcement timeline in §602.20(a) or (b). The sentence that follows that language refers to an institution that "elects to make a public disclosure," suggesting the disclosure is voluntary. The commenter recommends that the Department resolve the mandatory versus elective inconsistency.

Discussion: The public disclosure is mandatory for any action by the agency that begins the enforcement timeline in § 602.20(a) or (b) for an institution or program and the agency must ensure that the disclosure is accurate. Public disclosure of an institution's or program's accredited status otherwise is optional, but if an institution or program does disclose that status, the agency must ensure that it is an accurate disclosure.

Changes: None.

Comments: One commenter opposed changing "degrees" to "credentials" under § 602.23(f). The commenter stated that the omission of the term degree carries the potential to suggest to undergraduates that "credentials" and "degrees" are the same when earning a degree can have a significant impact on a student's future that mere credit accumulation cannot.

Discussion: The Department does not share the commenter's concern. We believe the change will be welcomed and as described in the NPRM, it will help confirm to employers that credentials from preaccredited institutions or programs carry the same validity and legitimacy as credentials from accredited institutions or programs.

Changes: None.

Comments: One commenter stated that requiring public disclosure of any agency action that begins the enforcement timeline could obscure the distinction between routine or readily correctable findings and serious concerns about quality, integrity, or student protection. The commenter recommended that the Department clarify what "any action" encompasses and establish a materiality threshold for mandatory disclosure. When disclosure is required, public notices should clearly identify the nature and current status of the matter, including whether it has been corrected or resolved, so students and the public receive information proportionate to the underlying risk.

Discussion: We decline to accept the commenter's suggestion. The Department believes full transparency is paramount and adding further conditions to the public disclosure of agency actions would result in confusing rules for agencies and inconsistent application of the regulations.

Changes: None.

Comments: Several commenters supported the provision under § 602.23(h). One commenter stated that race-based metrics,

including diversity, equity and inclusion (DEI) should end.

Another commenter stated that accreditation standards should promote educational quality, accountability, and student success without compelling unlawful differential treatment or prohibited preferences.

Discussion: As noted in the NPRM, these regulations, in part, seek to implement *E.O.* 14279. A part of that order stated "Some accreditors make the adoption of unlawfully discriminatory practices a formal standard of accreditation, and therefore a condition of accessing Federal aid, through "diversity, equity, and inclusion" or "DEI"-based standards of accreditation that require institutions to "share results on diversity, equity, and inclusion (DEI) in the context of their mission by considering . . . demographics . . . and resource allocation." Accrediting agencies have also abused their governance standards to intrude on State and local authority."

Changes: None.

Comments: Some commenters opposed the provision under § 602.23(h) that states an agency must not have policies that require institutions or programs to violate any Federal or State law for the following reasons:

- Agencies are not civil right laws experts or law enforcement agencies. Commenters believe that this requirement is Federal overreach and could lead to constitutional issues such as agencies infringing on the free speech of institutions, programs, and students.

- Social cultural background should be considered in higher education policies because students from wealthy families have more opportunities to engage in extracurricular activities and influential networks than a student from a family with less means.
- Institutions are already bound by anti-discrimination laws. Making agencies independently responsible for policing it, amid the administration's public stance against diversity, equity, and inclusion (DEI), will predictably lead institutions to eliminate lawful programs – including minority pipeline programs in medicine, nursing, and public health that diversify the health workforce – simply to avoid regulatory risk.
- The regulations require agencies to ensure institutional compliance with applicable Federal and State laws. Accrediting agencies are educational quality reviewers, not courts, regulators, or law enforcement bodies. Legal compliance matters are already reviewed and adjudicated by Federal agencies, State agencies, courts, and other regulatory authorities. Expanding agency responsibilities into broad legal compliance oversight risks increasing costs, creating inconsistent findings, and diverting attention from educational quality.
- The language creates significant uncertainty for Historically Black Colleges and Universities (HBCUs) and

other institutions attempting to comply with evolving Federal and State civil-rights requirements.

- Institutions will be confused about how to accredit institutions that have legal diversity, equity and inclusion aims as part of their institutional missions. For example, legally permitted targeted initiatives, including programs serving veterans, TRIO participants, and other populations authorized or protected under Federal or State law, lawful sex-specific scholarships or programs, on-campus voluntary student affinity groups.
- The rule ignores that institutions offer preferential admission for issues unrelated to merit, such as admission of student athletes at elite sporting institutions.

Commenters made several suggestions:

- Limit accrediting agency review to legal matters directly related to educational quality, institutional integrity, and student protection rather than broad legal compliance oversight.
- Limit the role of the accrediting agencies to determining whether an institution maintains appropriate policies and responds responsibly to final findings issued by a court or governmental authority with jurisdiction.
- Clarify that accrediting agencies and institutions may continue to collect and analyze demographic data; conduct recruitment and outreach efforts focused on rural, low income, first-generation, and underserved communities;

consider applicants' individual experiences consistent with applicable law; and deliver evidence-based instruction necessary to prepare students to care for diverse patient populations.

- Specify that institutions retain authority over employment, personnel, and research misconduct decisions in compliance with applicable Federal and State law and any existing collective bargaining agreements.

Discussion: The provision does not eliminate lawful admission or hiring practices, but instead it prohibits illegal diversity, equity, and inclusion requirements. The Trump Administration has sought to eliminate illegal diversity, equity and inclusion requirements throughout the Federal government and its programs, as demonstrated in E.O.s 14151¹¹ and 14398.¹² Further, E.O. 14279 states that "the Secretary of Education shall, as appropriate and consistent with applicable law, hold accountable, including through denial, monitoring, suspension, or termination of accreditation recognition, accrediting agencies who fail to meet the applicable recognition criteria or otherwise violate Federal law, including by requiring institutions seeking accreditation to engage in unlawful discrimination in accreditation-related activity under the guise of "diversity, equity, and inclusion" initiatives."

¹¹ Ending Radical and Wasteful Government DEI Programs and Preferencing—
<https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-and-wasteful-government-dei-programs-and-preferencing/>.

¹² Address DEI Discrimination by Federal Contractors—
<https://www.whitehouse.gov/presidential-actions/2026/03/addressing-dei-discrimination-by-federal-contractors/>.

These regulations do not dictate an institution's admission process. The Department is aware that many institutions have holistic application processes. Applications contain essays, statements, questions about extracurricular activity and awards, etc. Institutions may continue to collect and analyze demographic data and consider applicants' individual experiences consistent with applicable law. However, they cannot have policies that use race, color, or national origin as criteria for admissions, set percentage targets based on race, color, national origin, or use other information as proxies for race, color, or national origin.

Changes: None.

Comments: One commenter stated that the Department should clarify that "Federal or State law" includes the exemptions, exceptions, defenses, and constitutional protections that are part of those laws. The commenter recommended to add the following language to § 602.23(h) - "Nothing in this part shall be construed to allow an accrediting agency to treat as unlawful any policy, practice, or decision permitted by an applicable statutory or constitutional exemption, exception, defense, or protection, including, but not limited to, the religious exemption in 20 U.S.C. § 1681(a)(3)."

Discussion: We decline to accept the commenter's suggestion. We believe the regulatory text already accounts for exemptions, exceptions, defenses, and constitutional protections that are a part of Federal and State law. We do not intend to create an

exhaustive list of each statute that must be considered because all relevant statutes must be considered by an agency in its standards, policies, and procedures.

Changes: None.

Comments: One commenter stated that an agency is currently violating regulations proposed under § 602.23 insofar that the agency has policies related to nondiscrimination.

Discussion: While the commenter did not provide the specific proposed paragraph the agency is accused of violating, the Department assumes the commenter is referencing § 602.23(h). Note that the regulations are effective on July 1, 2027, and most provisions will not be enforced until then. However, if the commenter believes that a Federal or State law is currently being violated, the commenter can file a complaint with the specific agency or the Department for further investigation.

Changes: None.

Comments: One commenter stated that the requirement under § 602.23(i) related to antitrust internal controls should be clarified so that ordinary peer review is not chilled. The commenter requested that the Department clarify that the development and application of published quality standards through a peer review process is not itself “coordination” within the meaning of the requirements under § 602.23(i) and should identify the conduct it actually intends to reach.

Discussion: Conducting peer reviews does not inherently violate antitrust laws, but agencies may wish to consult with an

attorney(s) to ensure their review process does not violate antitrust laws. The Department cannot state definitively in the preamble that all peer review processes are exempt from § 602.13 and § 602.23(i).

Changes: None.

Comments: One commenter stated that under § 602.23(i) the Department should require complainants to refer all antitrust concerns about agencies to the Federal Trade Commission or the Department of Justice.

Discussion: The Department noted in the NPRM – and repeats here –that it is not the enforcer of antitrust law. As such, the Department may refer any potentially anticompetitive conduct to the federal antitrust enforcement agencies, but the Department does not need to make changes to the regulations herein to make such referrals.

Changes: None.

Comments: A few commenters supported the provisions under § 602.23(j). One commenter expressed strong support for the Department's recognition of State authority over public institutions.

Discussion: We thank the commenters for their support.

Changes: None.

Comments: Some commenters had concerns with § 602.23(j). The main concern from commenters was that these provisions could limit the ability of accrediting bodies to respond when State action interferes with academic freedom, institutional

governance, curriculum, or established professional and educational standards. One commenter stated that an accrediting agency cannot simultaneously be instructed to verify an institution's constitutional compliance and be barred from reviewing the governance decisions through which that compliance is or is not maintained.

One commenter stated that it is unclear in § 602.23(j) what is included within the scope of "aspects of institutional governance of public institutions that are established by State law," beyond the issue of "appointment of institutional directors or officers by elected or appointed State officials."

Another commenter stated that under proposed § 602.23(j), the politically motivated appointment of regents established by State law would be outside the accrediting agency's review. This is a threat to independent accreditation, making it effectively a rubber stamp of whatever States decide to do – whether or not those actions materially weaken the quality of education for students at institutions within those States. The commenter asserted that the provision strips the ability of accrediting agencies to effectively enforce their standards in any meaningful way.

One commenter recommended revising § 602.23(j) to preserve accrediting agencies' ability to evaluate governance matters relevant to institutional quality, even where particular governance structures are established by State law. Another commenter recommended revising § 602.23(j) to read: "The agency

shall not penalize or place on probation any public or private nonprofit institution for actions taken by its governing board that fall within the board's statutory, charter, or legal authority" or "The agency must only review aspects of institutional governance of public institutions to ensure their compliance with State and Federal laws, including the appointment of institutional directors or officers by elected or appointed State officials."

Another commenter stated that the Department should clarify the terminology in § 602.23(j) to expressly reference typical public institution governance bodies such as "boards of trustees," as it does in the preamble language. The commenter indicated that the regulations should also make clear whether the provision protects only governance structures and appointments of institution or program leaders prescribed by State law, or whether it also protects decisions for which State law assigns decision-making authority to a public institution's governing board. The commenter requested that the final text not prevent an agency from reviewing a State law governance decision when the review concerns compliance with Federal law, the institution's own policies, or valid academic and institutional quality standards. The commenter also argued that the regulations should not authorize an agency to direct the outcome of a governance decision that State law reserves to the State or its governing bodies.

Discussion: We disagree with the commenters' assertions. The Department's intent is to ensure that an agency's standards do not supersede State law. For example, if a State passes a law that grants the Governor authority to appoint an administrator to an institution, then the agency may not review any subsequent decision by the Governor to make an appointment of the specific administrator. The Department intends this requirement to remain broad. We decline to prescribe an exhaustive list in regulation of the scope of § 602.23(j). As issues arise, the Department will work with agencies and States to clarify guidance and resolve issues.

We decline to add a reference to a "board of trustees" or specify that the regulations prevent accrediting agencies from reviewing decisions for which State law assigns decision-making authority to an institution's governing board because the list in regulation is not exhaustive. The regulation states that the agency must refrain from reviewing aspects of institutional governance of public institutions that are established by State law, "including" any appointment to institutional governance established by State law; the Department does not intend for that to be the only item that cannot be reviewed.

The regulations under § 602.23(j) do not prevent an accrediting agency from reviewing concerns with an institution's compliance with Federal law or valid academic and institutional quality standards that are clearly under the direct purview of the agency under the law and regulations, even if those

standards might be impacted by the policies of a State governance board. The requirements under § 602.23(j) are specifically intended to prevent accrediting agencies from intervening in governance matters that are under the clear and rightful purview of the State. Where there are governance matters that could affect academic quality but remain under the purview of the State, the accrediting agency may act as an advisor but not as the arbiter of the institution's policies.

Finally, we believe that § 602.23(h) already addresses the requested amendment related to State law compliance with Federal law.

Changes: None.

Comments: In the preamble, the Department explains that: "We propose § 602.23(j) to direct accrediting agencies to refrain from interfering with institutional governance decisions that fall within the rightful purview of State governments, boards of trustees, or similar governing bodies, limiting their role to advisory purposes only." A few commenters stated that the Department should note what an agency's 'advisory only' role permits and prohibits in practice.

Discussion: An advisor cannot make a final decision. An accrediting agency can give professional advice regarding matters that are clearly under the purview of State governance; however, it cannot interfere with a State government's statutory authority over institutional governance.

Changes: None.

Comment: One commenter asked if the requirement under § 602.23(j) applies to institutional, not specialized, accrediting agencies.

Discussion: The provision under § 602.23(j) applies to all accrediting agencies that are recognized by the Department.

Changes: None.

Comments: One commenter suggested removing § 602.23(k) because they stated that it is confusing. The commenter stated that the regulation says “may” have a process for accelerating an institution’s ability to obtain accreditation status but then dictates minimum requirements for this optional process. The commenter asserted that mandating the requirements of a process that an agency is not required to have at all discourages an agency from having the process.

Discussion: We disagree with the commenter’s suggestion and assertion. The regulation provides flexibility to agencies to offer an accelerated process while establishing guardrails for implementation when agencies choose to do so. The Department has done this in several places throughout the regulations. For example, in the recent regulations published on eligible workforce programs under § 690.93(h), the Department permitted governors to enter into bilateral agreements and subsequently set parameters for the bilateral agreements.

Changes: None.

Comments: A few commenters stated that the Department should establish a common set of minimum safeguards that every

recognized institutional accrediting agency must apply when reviewing an institution that changes or adds accrediting agencies. One of these commenters indicated that the Department could add a new paragraph to § 602.23(k) requiring the receiving agency to apply, at a minimum, the agency's standards and procedures concerning student achievement, financial responsibility, consumer protection, complaints, institutional stability, teach-out planning, and compliance with Federal and State law. The commenter stated that the Department should also add a new monitoring requirement to § 602.23(k) or § 602.33 requiring heightened monitoring for at least two years after the change. The commenter asserted that this requirement would not prohibit legitimate institutional mobility or require the Department to assign an institution to a particular accrediting agency.

A different commenter requested that the Department state eligibility exclusions in regulatory text. The accelerated process should be unavailable to any institution under monitoring, probation, show-cause, or a negative action; in or recently emerged from a substantive change review; that has changed accrediting agencies within a defined lookback period; that is provisionally certified; or that is experiencing significant enrollment growth within the meaning of 20 U.S. Code § 1099b(c) (2).

Discussion: The Department disagrees with the commenters. The regulations under § 600.11 are sufficiently rigorous and clear.

These regulations provide the proper safeguards when an institution chooses to change agencies or seek out accreditation from multiple agencies. The final rule at section 602.23(k) reduces administrative burden when switching between recognized accrediting agencies, but still requires a comprehensive review of the institution by the agency against its standards.

The Department has also added requirements for the application of standards that require all agencies to review institutions. Commenters will note that agencies will need to have stronger policies to evaluate student outcomes. There are also the current safeguards, for example, the Department staff reports and NACIQI reviews of agencies.

Changes: None.

Comments: A few commenters suggested removing § 602.23(1) because the new requirements are redundant given the existing requirements for agencies in the regulations under § 602.23(b) and § 602.23(c). The commenter also stated that there is a typographical error in the amendatory language under § 602.23(1).

A separate commenter stated that numerous processes for complaints already exist for students and employees. For example, complainants may file grievances, such as Title IX, civil rights, and employment claims with appropriate Federal agencies. Accreditation should not create yet another process, in addition to already existing processes, for grievances. The commenter stated that the proposal creates a particular risk for

religious institutions. A student or employee who disagrees with a doctrinal requirement, chapel expectation, conduct standard, hiring decision, student-life policy, or other religiously based policy may characterize the disagreement as an accreditation concern. The agency may then be drawn into a dispute about the substance of a lawful religious policy rather than the institution's compliance with an accreditation standard. The commenter recommended that the Department include due process requirements. If information received through the grievance process may be used to support a finding of noncompliance or another adverse action, the institution should receive notice of the substance of the information and a fair opportunity to respond.

Another commenter requested that the Department clarify in § 602.23(1) that communications received through that provision do not constitute formal complaints under § 602.23(c) unless they satisfy the agency's established requirements for initiating a formal complaint. The commenter stated that nothing should prevent an agency from treating information received through § 602.23(1) as a complaint when appropriate under its policies.

Discussion: We decline the commenters' suggestion to remove or substantively amend § 602.23(1). We believe that § 602.23(1) is necessary to explain the appropriate mechanisms for how students, staff, or faculty of an accredited institution or program communicate concerns about the agency's standards

directly to the agency. We thank the commenter for notifying us about the typographical error under § 602.23(1) and have corrected it, as described in the "Technical Corrections" section.

Regarding the concern about agencies inappropriately applying the provision to lawful policies of religious institutions, the Department is clear in the regulatory text that the concerns are limited to "concerns related to the agency's accreditation standards or the institution's or program's compliance therewith," not a religious policy of the institution or program. The mechanism in § 602.23(1) is simply about creating a direct channel for the student, staff, and faculty to voice concerns directly with the agency. Under § 602.23(c), institutions and programs have the right to respond to formal complaints made against the institution or program; therefore, a formal due process framework for § 602.23(1) is unnecessary.

Finally, communications received under § 602.23(1) do not constitute formal complaints under § 602.23(c) unless they satisfy the agency's established requirements for initiating a formal complaint.

Changes: Please see the technical edit for this particular item under the "Technical Corrections" section.

Comments: Under § 602.23(1), one commenter recommended that the Department require randomized panels or independently administered surveys as a floor, with registration available as

a supplement rather than a substitute. The commenter recommended that the Department delete or define "manageable in volume," state that participation limits may not operate to exclude students who have raised concerns, require the channel to operate year-round rather than only during a site visit, and require agencies to report the volume and disposition of concerns received. The commenter suggested that the Department should also state plainly in the final rule that the student and veteran negotiators, who represent this provision's intended beneficiaries, abstained rather than affirmed the text.

Discussion: We decline the recommendation; we believe that the Department's regulations are sufficiently rigorous. The commenter will note that these regulations do not currently exist and the Department's proposal already represented heightened consumer protections, safeguards, and guardrails. Per the protocols for the rulemaking session, abstaining does not equal disagreement. The Department achieved consensus on the regulations.

Changes: None.

Comments: One commenter stated that an accrediting agency whose standards are incorporated into Federal employment and program requirements is not merely a private association petitioning its government. The commenter stated that the agency is exercising delegated gatekeeping authority, and the Department should treat conduct that expands or entrenches that authority as conduct within the scope. The commenter requested that the Department

add a new § 602.23(m) that reads: "The agency must not oppose the recognition of equivalent qualifications for graduates of programs accredited by another agency in any Federal or State employment, licensure, certification, or reimbursement requirement that names the agency."

Discussion: We decline to add the provision as requested. The Department is concerned about unintended consequences that may arise from adding this broad language to the regulations. There could be legitimate reasons for an accrediting agency to oppose recognition of a separate but equivalent qualification, and the blanket prohibition described by the commenter would foreclose those opportunities.

Changes: None

Comments: One commenter stated that the Department should require programmatic accrediting agencies to undergo independent legal and economic audits under § 602.14, § 602.15 and § 602.23 that are published publicly.

Discussion: The commenter did not specify the exact location in the regulations for the recommendation, so we will address the comment under § 602.23. We do not believe the Department has the authority to require agencies to go through these types of audits. We also believe that there are Federal and State requirements outside of Department of Education rules which agencies operate under, such as financial laws enforced by the Internal Revenue Service or civil rights laws enforced by the Department of Justice.

Changes: None.

§ 602.24 Additional procedures certain institutional agencies must have.

Teach-out plans and agreements, and closed institutions

Comments: Several commenters argued that if an institution is on provisional certification, that does not imply that they are at risk of closure. Commenters believed that institutions that undergo routine change-in-ownership reviews, operational or compliance issues, or are placed on provisional certification during Heightened Cash Monitoring do not indicate any real risk of closure and should be exempted from the teach-out requirements in § 602.24(c). Commenters urged the Department to only require teach-out plans when appropriate and that such requirements be tied directly to demonstrated institutional risk rather than being automatically triggered by broad status classifications like provisional certification. Commenters believed linking teach-out obligations to financial or operational risk would ensure that the requirement serves its intended purpose - protecting students from abrupt closures. One commenter noted that the changes in § 602.24(c)(1)(iii) will require large public institutions to identify teach-out partners across numerous programs, and the mandated student communications will create confusion by implying closure risks that do not exist. The commenter recommended maintaining the current language in § 602.24(c)(1)(iii), which requires a teach-out plan for a defined subset of institutions on provisional

certification, rather than for every institution on provisional certification.

Another commenter suggested revising § 602.24(c)(1)(iii) to read: "The Secretary changes an institution's participation in the title IV, HEA programs from full certification to provisional certification based on circumstances that present a material risk to the institution's continued operation or its ability to provide instruction to enrolled students." A different commenter raised concerns about financial protection requirements, such as letters of credit, when an institution cannot secure a teach-out agreement. The commenter warned that these requirements will inadvertently create or worsen financial distress because letters of credit can be costly and can significantly constrain an institution's liquidity.

Discussion: The Department appreciates commenters' suggestions to maintain the current language in § 602.24(c)(1)(iii) or revise the language, but we will not be adopting the suggestions. Provisional certification is, by definition, a status associated with elevated oversight and potential risk, whether financial, administrative, or related to consumer protection. The Department is strengthening early warning systems to ensure that students are protected when institutions encounter operational or financial challenges that may impair their ability to continue offering educational programs. In many cases, indicators that lead to provisional certification come before more significant problems. Requiring institutions in

provisional status to develop a teach-out plan ensures that, if circumstances worsen, students will not face abrupt disruption or loss of educational continuity. The Department also emphasizes that a teach-out plan is a planning tool, not a presumption of closure, and an overall best practice to mitigate lost educational opportunities when unforeseen events or circumstances occur. Teach-out plans can be scaled appropriately to the institution's structure and circumstances, and institutions retain discretion to design plans that reflect their program offerings, size, and stability.

With respect to financial protection requirements such as letters of credit, the Department acknowledges the commenter's concern that these measures can be costly. Nonetheless, financial protection plays a critical role when an institution cannot secure a teach-out agreement, particularly in situations where operational or financial deterioration creates heightened student risk. These safeguards help ensure that resources will be available to support students if closure occurs. Moreover, institutions unable to secure a teach-out agreement must document the reasons for this difficulty, and the Department may require financial protection only when necessary to secure student continuity in the event of institutional disruption. The Department agrees that regulatory obligations must be carefully calibrated to risk, and the final rule incorporates several mechanisms to strengthen early warning systems and align requirements with the conditions institutions face. At the same

time, the Department declines to limit teach-out or financial protection requirements solely to instances of demonstrated closure risk because doing so could delay safeguards until risks become acute which may compromise student protections.

Changes: None.

Comments: Several commenters are concerned about the 30-day requirement for institutions to submit teach-out plans or teach-out agreements under §§ 602.24(c)(1) and (c)(3). One commenter suggested extending the 30-day timeline for submission of a teach-out plan and/or teach-out agreement(s) to at least 60 days. Another commenter argued that large, multi-campus institutions cannot produce comprehensive, high-quality teach-out plans within 30 days, especially when those plans must account for every educational program and site. The commenter cautioned that requiring rushed plans risks poor quality submissions that fail to adequately protect students and recommended applying the same flexibility currently afforded under § 602.24(c)(3) to § 602.24(c)(1). In addition, the commenter recommended the Department be required to notify accrediting agencies immediately when it places an institution on provisional certification or takes other teach-out triggering actions listed in §§ 602.24(c)(1) and (c)(2). A different commenter requested that the Department clarify that the 30-day timeline proposed in § 602.24(c)(1) can be shortened when circumstances warrant quicker action.

Discussion: The Department acknowledges the commenters' concern regarding the 30-day requirement for institutions to submit teach-out plans or teach-out agreements under §§ 602.24(c)(1) and (c)(3), but we will maintain the proposed language. The 30-day timeline reflects the Department's commitment to early and proactive intervention when institutions encounter circumstances such as a change from full to provisional certification. As stated before, provisional certification signals heightened oversight, and institutions will retain discretion to tailor the plan to their size, academic structure, and operations. Nothing in the regulation precludes an accrediting agency from requiring a teach-out plan at regular intervals, such as at each renewal of accreditation review, or at other points, which would relieve the 30-day timeline obligation, and agencies retain the discretion to do so.

Regarding the commenter's recommendation that the Department notify accrediting agencies right away when an institution gets provisional certification or faces other teach-out actions, the Department is committed to improving communication with accrediting agencies. However, we will not add new rules requiring immediate notification. In addition, the Department agrees with the commenter's statement that there may be instances where a more expedited response is necessary to protect students or to ensure the integrity of the accreditation and oversight processes. The 30-day period in § 602.24(c)(1) represents the maximum time allotted for agencies to take the

required action. Nothing in the regulation precludes an accrediting agency from acting sooner when circumstances justify a shorter timeframe, and agencies retain the discretion to do so.

Changes: None.

Comments: A few commenters recommended requiring teach-out plans (not just agreements) whenever statutory triggers occur, adopting a “reasonably similar program” standard, and prohibiting an institution from using its own branch campus as its sole teach-out partner. The commenters argued that research shows that records-retention and teach-out policies significantly increase the likelihood of post-closure reenrollment, especially when both are in place. One commenter suggested adding the following to § 602.24(c): “A teach-out plan must identify a teach-out opportunity in a program reasonably similar in content, structure, and scheduling to the program in which the student is enrolled, and may not rely solely on an additional location or branch campus of the closing institution.”

Discussion: Although the Department appreciates the commenter’s suggested additions, the Department believes the final regulatory text strikes an appropriate balance by enhancing protections for students, improving transparency, and strengthening continuity measures without imposing unnecessary rigidity. The Department emphasizes that the final rule requires accrediting agencies to ensure institutions include record-

retention plans, maintain transcript access, and identify comparable program pathways in teach-out plans and agreements.

Changes: None.

Comments: A few commenters explained that once an institution loses accreditation, whether through adverse action or voluntary resignation, the accrediting agency no longer has any relationship with the institution and therefore cannot act on its behalf. One commenter stated that once the institution is no longer a member of the agency, the responsibilities envisioned in § 602.24(d)(i), securing teach-out options after closure, and § 602.24(d)(ii), establishing transfer options with institutions named in a teach-out plan, are not feasible. Commenters argued that an institution that closes without a teach-out plan would not have pre-identified teach-out institutions, making the provision impossible to carry out and recommended narrowing § 602.24(d) to include only paragraphs (iii) and (iv).

Discussion: The Department appreciates the commenters' perspective on the scope of § 602.24(d), but the Department will not adopt the recommendation to limit the provision to paragraphs (iii) and (iv). As described in the NPRM, § 602.24(d) is designed to ensure that, when an institution closes without a teach-out plan, accrediting agencies, States, and the Department act promptly and cohesively to help students identify reasonable opportunities to complete their education without additional charges. § 602.24(d) does not require accrediting agencies to act on behalf of a closed institution; rather, it requires them

to work, to the extent feasible, with the Department and appropriate State agencies to help students secure reasonable opportunities for educational continuation. Therefore, these provisions serve as expectations for coordinated student protection rather than as prescriptive requirements mandating specific teach-out arrangements.

Changes: None.

Comments: A few commenters argued that teach-out requirements should account for specialized programs, clinical placements, licensure pathways, employer partnerships, and rural areas with few comparable providers. Commenters urged the Department to consider reasonable extensions and provide clear transition protections, including continuity of Federal student aid when an accrediting agency's recognition changes or a decision remains under authorized review.

Discussion: The Department acknowledges the commenter's concerns about ensuring continuity of student support when an accrediting agency's recognition changes or when a recognition decision remains under authorized review. While statute governs the Department's ability to extend Federal student aid eligibility beyond what Congress permits, and does not permit the extensions contemplated by the commenters here, the Department reiterates that § 600.11 and § 602.10 establish the necessary framework to ensure orderly transitions between accrediting agencies and prevent disruptions to institutional eligibility for Federal programs during such periods.

Changes: None.

Comments: One commenter noted their concern regarding a student's ability to access a transcript once their institution closes. The commenter recommended that, in addition to traditional arrangements, the Department require institutions to fulfill a portion of their transcript access obligations by providing students with durable, independently verifiable copies of their academic records prior to the institution closing. The commenter asserted that the proposed rule relied heavily on institutions maintaining and providing transcript access after closure, and argued that this model is inherently fragile due to the reasons institutions shutter - limited staff, funding, and no successor to maintain administrative functions, such as transcript availability.

Discussion: The Department agrees that ensuring students can access their academic records during and after institutional closure is an essential component of student protection, and nothing in § 602.24(c)(4) prevents accrediting agencies from adopting supplemental measures to strengthen that access. Institutions have a fundamental responsibility to ensure that students have access to their transcript. Although institutions and agencies may require additional safeguards, that does not mean standards or practices should abdicate the fundamental responsibility that requires such distribution and access in the first place.

Changes: None.

Comments: One commenter urged the Department to not implement changes to § 602.24(c)(8) and asserted the revisions would substantially weaken student protections by removing concrete guidelines for equitable treatment of students. Further, the commenter requested the Department not implement changes to § 602.24(c)(10), as providing notice to accrediting agencies of teach-out-related communications helps to ensure transparency and that institutions are not making misrepresentations to students.

Discussion: With respect to § 602.24(c)(8), the Department's intent in revising this provision is not to reduce protections for students, but to ensure that accrediting agencies retain appropriate flexibility while maintaining a predictable Federal framework. The Department notes that the broader teach-out requirements continue to provide clear expectations for agencies to intervene early and ensure consistent safeguards for students across the Federal-State-accrediting agency triad. Regarding § 602.24(c)(10), the Department has concluded that the existing structure of agency oversight, combined with the strengthened Federal framework elsewhere in the regulation, is sufficient to ensure that agencies have the information necessary to monitor institutional behavior and protect students. For these reasons, the Department will not make changes to the proposed regulations in the final rule.

Changes: None.

Comments: One commenter stated that teach-out requirements are already fully addressed by accrediting bodies, noting that current standards require institutions to identify comparable institutions, ensure transcript preservation, and support students during transitions.

Discussion: The final rule builds upon existing accrediting agency expectations by clarifying when institutions must submit teach-out plans versus teach-out agreements, establishing consistent timelines for initiating required actions, and reinforcing the importance of maintaining access to academic records during and after closure. These clarifications do not replace accrediting agency requirements; rather, they provide a predictable Federal framework to ensure early intervention and consistent safeguards across the triad.

Changes: None.

Transfer of credit policies

Comments: Several commenters support the proposed transfer of credit protections, emphasizing that students should not be denied credit simply because their coursework was completed at an institution accredited by a different accrediting agency. While supporting greater transparency and fairness in transfer of credit decisions, commenters stressed the need to preserve institutional authority to determine academic comparability, program coherence, sequencing, and specialized accreditation requirements.

Discussion: The Department appreciates the significant support for the proposed transfer of credit protections, and we recognize the concerns regarding the importance of preserving institutional authority over academic determinations. The Department clarifies that decisions related to comparability, program sequencing, coherence, and specialized accreditation requirements rest with institutions and their faculty, as they are responsible for maintaining academic quality and the integrity of degree pathways. The final rule does not require institutions to accept transfer credit that is not comparable or that would compromise program quality; rather, they require institutions to apply their criteria transparently, consistently, and not reject credit solely due to differences in the recognized accrediting agency.

Changes: None.

Comment: Several commenters recommended that the Department clarify that the transfer of credit provisions do not create a presumption that credit from another accredited institution must be accepted, and that institutions retain meaningful academic discretion to determine whether prior coursework is comparable and applicable to their curricula, particularly at institutions with a religious mission. The commenters stated that these institutions must retain the ability to decline credit from institutions that do not share their theological commitments and should not be required to conduct individualized case-by-case reviews. Commenters requested explicit recognition of

institutional mission, worldview, curricular coherence, program sequencing, residency requirements, professional accreditation and licensure standards, and similar academic considerations as valid bases for denying transfer credit.

One commenter stated that transfer of credits in STEM disciplines carries unique academic risks, such as courses with identical numbers and similar curricula varying significantly depending on the faculty member, instructional approach, and rigor. Because of these variations, the commenter argued that automatic or presumed acceptance of STEM credit is inappropriate and potentially harmful. The commenter recommended that the Department require every transfer student have a conversation with a faculty member for each STEM course to ensure the student is adequately prepared and placed appropriately.

Another commenter asked for clarification on the permissible types of academic criteria preserved by 602.24(e) (4)'s "academic standards or curricular requirements" qualifier for limiting transfer credit. A different commenter argued that § 602.24(e) (3-5) endangers the integrity of undergraduate courses and recommended that those paragraphs be removed. The commenter stated that it does students no favors to assume that all courses are equivalent, and that institutions should continue to carefully negotiate transfer credit criteria.

Discussion: The Department disagrees with the assertions that § 602.24(e) (3-5) presumes that all courses are equivalent or undermines academic quality. Likewise, the Department also

disagrees with the claim that the transfer of credit provisions in § 602.24(e) eliminate institutional discretion or prevents institutions from considering mission-based factors when determining whether coursework is comparable and applicable. The regulations under § 602.24(e) do not require institutions to accept coursework that does not meet their academic standards, curricular requirements, or program specific expectations. Instead, the regulations require institutions to apply published criteria consistently and prohibit the denial of credit solely based on the institution or its recognized accrediting agency. The Department recognizes that institutions retain discretion to establish and apply academic criteria when evaluating transfer credit. Such criteria may include, for example, determining whether prior coursework is sufficiently comparable in content, learning outcomes, level, prerequisites, accreditation-related program requirements, or degree-specific curricular expectations. These examples are illustrative rather than exhaustive and are intended to reflect institutions' authority to make individualized academic determinations consistent with their educational mission and program requirements.

Further, the Department recognizes the concerns stated by the commenter while noting that all credits are not created equal. The Department believes this rule establishes appropriate checks and balances to ensure that institutions accept those credits that are equal through careful evaluation, and ensuring that students are provided the appropriate, additional education

where it deems, with a reasoned explanation, that these credits are not equal. These requirements do not override institutional judgment regarding comparability or academic fit; therefore, the Department declines to add new regulatory language enumerating all possible academic bases for denying credit.

The Department appreciates the commenter's concerns regarding the unique challenges when evaluating transfer credit in STEM fields; however, these requirements do not require institutions to provide "blind" acceptance of STEM credit as the commenter asserted, nor do they interfere with faculty judgment regarding whether a student is adequately prepared for advanced coursework. Institutions may, and should, continue to engage faculty in evaluating demanding STEM courses and determining appropriate placement or support to protect student success. At the same time, the Department maintains that students deserve clear explanations when credit is not accepted and timely information about how their prior coursework will count before committing financially to enrollment at the transfer institution. This transparency supports informed decision-making and reduces the likelihood of students repeating coursework unnecessarily. The Department believes the final rule appropriately balances institutional discretion with the need for fair, transparent, and consistently applied transfer credit practices, and ensures that students receive clear explanations for credit determinations while institutions maintain full authority over academic requirements.

Changes: None.

Comment: A few commenters requested a process to evaluate several categories of coursework, including Registered Apprenticeship-related instruction, pre-apprenticeship and noncredit occupational training, industry-recognized credentials, dual enrollment, military training and service-related learning, documented employment-based learning, pre-pharmacy coursework, direct-entry pathways, integrated undergraduate-professional curricula, and competency assessments. One commenter emphasized that the regional accrediting agency affiliation remains important for evaluating transfer credit, especially across States, as standards and coursework may not align with local licensure expectations. Another commenter asked whether institutions may maintain differentiated transfer policies based on enrollment status, modality, or instructional setting.

Discussion: The Department recognizes that institutions and accrediting agencies play a central role in determining whether coursework aligns with local programmatic or licensure expectations. The final rule does not alter institutions' ability to assess comparability of content, rigor, and learning outcomes, including State-specific requirements in fields such as teacher education or health programs. Institutions may continue to apply differentiated transfer policies where distinctions reflect legitimate academic considerations and are applied transparently and consistently. As a reminder, the Department no

longer recognizes "regional" accreditation as a separate Federal category; all recognized institutional accrediting agencies are held to the same standards and therefore no longer held to an arbitrary geographic distinction. Therefore, the commenter's concerns here are not applicable, and the Department declines to make such changes.

Changes: None.

Comments: Several commenters urged flexibility in establishing transcript submission and review timelines, using business days rather than calendar days for appeals, and allowing institutions at least 30 business days for appeals requiring additional faculty review. One commenter warned that the 15-day appeal window requirement is significantly more restrictive than existing State frameworks, which may lead to rushed and error prone evaluations. Another commenter suggested § 602.24(e)(5) to read: "Provide the student an opportunity to appeal the decision or request a competency-based or direct assessment evaluation of the student's knowledge of the subject-matter within 15 calendar days of receipt of the institution's written notification if an institution declines to award transfer credit under paragraph (4)." A different commenter asserted their belief that the Federal appeals process was unnecessary, as institutions already publish transfer credit policies and maintain procedures for addressing student concerns. According to the commenter, imposing a mandatory Federal process would add administrative burden and costs without improving educational quality.

Discussion: The Department disagrees that 30 business days are needed to carry out the appeal requirements in the regulations. Timely and transparent communication to students is essential, including the resolution of credit transfer appeals within a predictable and consistent timeframe. Therefore, the Department will not adopt the recommendations to replace calendar-day deadlines with business-day deadlines or provide 30 business days for appeals requiring additional faculty review. The Department believes a clear and accessible appeal opportunity is an important safeguard for students, particularly to those who may otherwise be required to retake coursework unnecessarily or who may not understand the basis for denial. Although institutions may already have internal complaint or appeals processes, those processes differ widely. A minimum Federal requirement helps ensure that students' rights are protected consistently across institutions, as well as provide necessary information timely to students so they can make informed decisions about their education. The Department encourages institutions to adopt efficient transcript review systems, standardized explanation templates tied to academic criteria, and collaborative transfer pathway agreements that support student mobility.

Changes: None.

Comment: One commenter recommended revising § 602.24(e)(5) so that the 15-calendar day period begins on "the date the institution issues the notification," rather than the date of

"receipt." They noted that the definition "receipt" is operationally unfeasible, as institutions cannot reliably document when a student opens or receives the communication. The commenter argued that using the date the institution sends the notification would create a clear, administratively feasible standard, reduce burdens on students to prove receipt of an email, and avoid ambiguity that could undermine the fairness of the appeal process.

Discussion: The Department acknowledges there could be some practical challenges, as described by the commenter, regarding verification of receipt and administrative tracking. However, the Department notes that the purpose of the regulatory language is to ensure that students receive the full benefit of the appeal period and are not disadvantaged by delays in communication systems or institutional processes outside their control. Aligning the appeal timeline to the date the institution issues the notification could, in some cases, unintentionally shorten the time available to students, particularly those experiencing delays in email access, inconsistent connectivity, or other barriers.

Changes: None.

Comments: A few commenters noted that some institutions are evading the Department's proposed interpretive rule, which eliminated the use of "regional" accreditation categories, requiring both institutions and accrediting agencies to relabel or reword their policies. The commenters stated that colleges

continue to block credit by using terms like "regionally accredited," "formerly regional," or listing only the seven former regional accrediting agencies as locations or institutions from which it will accept credit. The commenters urged the Department to clarify that any policy conditioning transfer of credit on the old "regional" group or on a subset of recognized accrediting agencies constitutes a decision that is prohibited under the criteria, as it is based on "solely" on an accrediting agency.

Discussion: The Department acknowledges the concerns of institutional practices relying on the former "regional" accreditation construct. The final rule ensures that institutions do not deny credit transfer based solely on the identity of the institution's recognized accrediting agency, and that credit transfer determinations focus on the comparability of coursework, rather than outdated accreditation categories. The Department clarifies that conditioning transfer credit on accreditation by specific agencies or on any subset of recognized accrediting agencies is a form of denial based "solely" on accrediting agency and is prohibited under § 602.24(e)(3). Institutions must evaluate transfer credit using transparent, academically grounded criteria that are unrelated to the branding or historical categorization of accrediting agencies.

Changes: None.

Comments: A few commenters argued that the new transfer of credit provisions should not extend to graduate or professional programs; and recommended that the Department explicitly delineate that such policies only apply to undergraduate education. Commenters requested that the final rule explicitly affirm that graduate institutions retain authority to evaluate transfer credit based on program coherence, sequencing, clinical integration, and degree outcomes.

Discussion: Graduate and professional programs are not included within the scope of these transfer of credit requirements. Institutions retain full discretion, consistent with their published policies, to evaluate graduate-level prior learning using appropriate criteria for specialized, advanced, or professionally regulated programs.

Changes: None.

Comment: One commenter recommended extending these protections to graduate programs, noting that accrediting agency-based discrimination similarly affects graduate admissions and graduate transfer credit. The commenter proposed adding a new § 602.24(g) that would bar graduate programs from denying admission or transfer credit solely because of the accrediting agency of the applicant's prior institution. The commenter proposed the following: "Graduate admission and graduate transfer of credit policies. For agencies that accredit institutions offering graduate or professional programs, the accrediting agency must confirm, as part of its review for

initial accreditation or preaccreditation, or renewal of accreditation, that the institution does not deny admission to a graduate or professional program, or deny the award of graduate transfer credit, solely on the basis of the accreditation status of the agency that accredited the applicant's or student's prior degree-granting institution, provided that institution was accredited by an agency recognized by the Secretary under this part at the time the degree was awarded."

Another commenter argued that universities apply inconsistent credit transfer standards between American and international students. According to the commenter, institutions often deny American students' transfer credits without explanation, forcing them to retake courses unnecessarily. In contrast, the commenter claimed that universities accept full credits from international institutions, such as those in India, without comparable scrutiny, which results in more international students entering taxpayer-funded graduate programs. The commenter further asserted that, because many American colleges now offer fully online undergraduate programs, international students also earn regionally accredited degrees which eliminates any justification for treating their credits differently. The commenter suggested that transfer of credit compliance be enforced equally, regardless of national origin.

Discussion: The Department appreciates the concern that accrediting agency-based discrimination also affects graduate students; however, the Department declines to add proposed

§ 602.24(g). The transfer of credit framework in § 602.24(e) is intentionally scoped to undergraduate coursework, reflecting both the predominant volume of student mobility at the undergraduate level and the need to maintain institutional discretion for programmatic and discipline-specific graduate admission standards. Regarding the inconsistency of international credit transfer, the Department agrees that institutions should apply their transfer of credit policies consistently and transparently. The final rule does not prescribe specific academic standards for accepting or rejecting transfer credit, nor do they require institutions to evaluate coursework from different States or countries in any specific manner. However, what the regulations do require is that an institution apply the standards it determines appropriate to its mission, programs, students, and content consistently, across all students, regardless of international status. Institutions retain responsibility for establishing and applying their transfer of credit policies consistent with applicable law and accrediting agency requirements.

Changes: None.

Comment: One commenter suggested that, when evaluating program length, accrediting agencies and the Department account explicitly for differences between semester credit and quarter credit systems. The commenter stated that a 180-quarter-credit bachelor's degree is equivalent to a 120-semester-credit bachelor's degree, and suggested that program length be assessed

based on actual academic work and expected time to completion, rather than nominal credit values.

Discussion: The Department agrees that program length evaluations must account for differences between semester-credit and quarter-credit systems. Accrediting agencies should determine whether a program's credit structure, instructional time, and expected student workload are appropriate to the credential awarded.

Changes: None.

Comments: One commenter asked the Department to clarify whether the presumption to award credit under § 602.24(e) (4) and the per-course written-rationale requirement under § 668.43(c) (4) applies only to credit earned at other title IV institutions.

Discussion: Yes, the requirements in § 602.24(e) (4) and § 668.43(c) (4) apply only to credits earned at title IV institutions that are accredited by a Department recognized agency.

Changes: None.

Comment: One commenter asked whether accrediting agency recognition in 602.24(e) (3) is measured at course completion or at evaluation. The commenter also asked the Department to address transcript delays beyond the students' and receiving institution's control.

The commenter requested confirmation that late transcripts would not reopen prior evaluations or appeal periods. On the other hand, another commenter request clarification that a school

cannot reject a timely, well-supported appeal solely due to circumstances beyond the student's control that caused them to miss the standard deadline.

Discussion: Recognition is determined based on the accrediting agency's status at the time the student completed the course or program. One of the purposes of the Database of Accredited Postsecondary Institutions and Programs (DAPIP) is to provide students, employers, licensing bodies, and other stakeholders with a historical record that can be used to verify whether an institution or program was accredited at the time a student attended or completed the program. Maintaining recognition determinations based on the accrediting agency's status during the period of attendance promotes transparency, consistency, and the reliability of accreditation records. DAPIP serves as an important resource for validating the accreditation status applicable to a student's course of study or credential at the time it was earned.

We understand the commenters' concerns regarding transcript delays that are outside the control of the student or the receiving institution. Timelines for transcript review may vary widely across institutions, and delays can arise from staffing limitations, prior institutions' processing schedules, or mail delivery issues. The Department acknowledges these practical concerns and clarifies that late-arriving transcripts do not reopen prior evaluations or restart appeal periods, provided the institution made its determination based on the information

available at the time and in accordance with its established criteria. The Department agrees that appeals processes must offer meaningful student protection and confirms that institutions may not dismiss an otherwise valid appeal purely because external circumstances impeded a student's ability to meet an administrative timeline. This principle is reflected in Departmental due process expectations, which require agencies and institutions to afford students reasonable opportunities to respond or supply supporting evidence before adverse determinations are finalized.

Changes: None.

Comment: One commenter requested the Department clarify in the final rule's preamble or the Accreditation Handbook that § 602.24(e) is not meant to discourage institutions or accrediting agencies from applying the same principles – transparency, consistency, comparability – to standardized examination credit, and other forms of prior learning, where appropriate. The commenter argued that such clarification would not expand institutional obligations or interfere with accrediting agency authority, but that it would instead prevent an overly narrow interpretation.

Discussion: § 602.24(e) is focused on ensuring that students receive clear, academically grounded explanations of credit transfer determinations, particularly involving coursework completed at institutions accredited by title IV gatekeeper agencies. The Department notes that this requirement does not

limit institutions or accrediting agencies from applying similar evaluative principles to other forms of learning, including standardized examination credit, credit for prior learning, or other competencies, provided such practices remain within accrediting agency standards and institutional authority. The Department agrees that applying these principles consistently across credit-evaluation contexts can promote student understanding and institutional fairness. The final rule establishes baseline expectations for transfer credit determinations while preserving institutional and accrediting agency flexibility to adopt broader frameworks where appropriate. This is consistent with the Department's intention to ensure clarity for students while allowing accrediting agencies and institutions to accommodate variation in academic structures and evaluation practices.

Changes: None.

Comment: One commenter recommended that the preamble clearly differentiate the teach-out and institutional closure provisions from the transfer of credit provisions. The commenter suggested that the summary be revised to state that the appeal process applies only to credit transfer denials. The commenter expressed concern that the discussion of student protections during institutional disruption flows directly into a statement that students would have "an appeals process," which they believed could be misread as an appeals right related to closure or teach-out decisions.

Discussion: The Department appreciates the commenter's concerns and agrees that greater clarity could be provided in the preamble. Accordingly, we have separated the summary of requirements in § 602.24 into two sentences. See the "Summary of Major Provisions" for the changes.

Changes: None.

Comments: One commenter urged the Department to strike the phrase "comparable in content" from the regulatory section here. The commenter asserted that the phrase shifts focus away from learning outcomes and could encourage institutions to invoke extraneous criteria, such as course modality or accrediting agency of the sending institution. The commenter believed that credit should be awarded if there is 70 percent or more alignment in learning outcomes. If the 70 threshold is not met, the commenter recommended institutions focus on whether the learner is sufficiently prepared to succeed in subsequent education.

Discussion: The purpose of § 602.24(e) is to ensure that students receive clear, academically grounded explanations when transfer credit is denied, not to prescribe a uniform evaluative methodology across institutions or mandate specific thresholds. The Department recognizes that institutions increasingly rely on learning outcome-based evaluation models and affirms that accrediting agencies and institutions may rely primarily on learning outcomes when determining equivalency. Nothing in § 602.24(e) prohibits or discourages such practices.

However, the Department does not believe that removing the phrase "comparable in content" or establishing a Federally mandated percentage threshold would be appropriate or consistent with statutory limits on the Secretary's authority. Accrediting agencies and institutions must retain discretion to determine appropriate academic criteria based on institutional mission, program structure, content, learning outcomes, sequencing, licensure requirements, or other academically relevant factors. For some disciplines, content comparability remains an essential component of academic quality, even when learning outcomes are also evaluated. Accordingly, the Department declines to revise the regulation to remove the phrase "comparable in content" or to substitute a fixed percentage standard.

Changes: None.

Comments: A few commenters argued that the proposed rule requires transfer criteria that go beyond what is allowable in statute. The commenters asserted that the HEA does not authorize the Secretary to require policies, procedures, or practices by institutions of higher education with respect to transfer of credit. If the final rule does include new requirements for transfer of credit policies, the commenters urged the Department to maintain the language in the proposed rule that allows colleges to factor in comparative evaluations of content and learning outcomes to the institution's own course offerings in its decision-making.

Discussion: The Department's final rule is grounded in its long-standing authority to establish criteria for accrediting agency recognition, and to ensure that accrediting agencies apply standards consistently and transparently. The transfer of credit provisions in § 602.24(e) do not mandate how institutions must award credit, nor do they dictate academic judgments. Rather, they require accrediting agencies to confirm that institutions publicly disclose their transfer of credit policies and apply their stated criteria consistently and without arbitrary discrimination. These provisions fall squarely within the Department's statutory authority to oversee accrediting agency recognition and to protect students through transparent, fair, and predictable institutional processes. The Department agrees that institutions must retain academic discretion to evaluate comparability and applicability of coursework, and confirms that the final rule continues to allow consideration of content, outcomes, and other academically relevant factors as part of an institution's decision-making framework.

Changes: None.

Comment: A few commenters opposed the proposed transfer of credit provisions entirely, and requested they be removed from the amended regulations. Commenters cautioned that these changes could unintentionally broaden the acceptance of credits from accrediting agencies with weaker standards, and emphasized that credit transfer decisions should continue to rest with institutional academic judgment.

Discussion: The Department declines to remove § 602.24(e). These changes preserve institutional autonomy and academic standards while addressing longstanding problems students face when transferring between institutions, including the potential for a loss of large portions of earned credit and difficulty progressing through a degree program.

Changes: None.

§ 602.25 Due process.

Comments: One commenter stated that the proposed changes to § 602.25 should be reconsidered because they are unnecessary and risk weakening meaningful due process. The commenter stated that the Department should preserve the current due process framework, which sufficiently protects institutions without recreating the burdens of litigation inside the accreditation process.

Discussion: We decline the commenter's recommendation. The Department believes the changes satisfy due process while also reducing prescriptive requirements on accrediting agencies that are not required by statute. The changes to § 602.25 are limited to the administration of the appeals process by an agency and do not weaken or fail to satisfy due process.

Changes: None.

Comments: One commenter asserted that institutions face informal expectations from accrediting agencies that are unwritten and only verbally communicated through evaluators, staff, guidance, or prior decisions. The commenter stated that institutions face

pressure to comply with these verbal directives and requested that the rule clearly state that adverse actions must be provided in writing and based on a written identified accreditation standard and accurate information, not an unwritten expectation.

Discussion: The regulations in this section currently require written notification and specification regarding adverse action. If an institution receives an informal adverse action based on an unwritten expectation from an agency, then the institution should submit a formal complaint against the agency to the Department.

Changes: None.

Comments: One commenter recommended revising § 602.25(c) to read: "Provides the institution or program with a written specification of any deficiency identified, including the applicable accreditation standard, policy, or requirement; the material institution- or program-specific findings supporting the deficiency; and, when the agency requires additional information, documentation, corrective action, or other evidence of compliance, a sufficiently specific description of the information, documentation, evidence, or showing that the institution or program must provide to demonstrate resolution of the deficiency." The commenter stated that the language would close the principal gap in the current formulation.

Discussion: We decline the recommendation. We believe that the spirit of the commenter's recommendation is sufficiently covered

under § 602.25. The regulation already requires "...written specification of any deficiencies...". We believe the language proposed by the commenter would be overly prescriptive and burdensome. If an institution or program believes that the agency has not provided sufficient information under § 602.25(c) the institution or program can communicate with the agency requesting more specificity.

Changes: None.

Comments: One commenter requested that the Department strengthen § 602.25(e) to read: "The notice must provide an institution- or program-specific explanation of the basis for the action, identify each accreditation standard, policy, or requirement material to the action, describe the material findings supporting the action, state applicable deadlines, and, for a status or action that may be removed through corrective action, describe the criteria or showing the agency will use to determine whether the deficiency has been resolved and the action or status may be removed." The commenter believed more precise language would remove uncertainty surrounding what an adequate description entails.

Discussion: We decline the commenter's suggestion. We believe the regulation is sufficient to require detailed notice from the agency on adverse actions. The Department does not want to be overly prescriptive with this regulation, and notes that this portion of the regulation was not modified in the proposed rule. Instead, we allow agencies to determine their adverse action

notification requirements and believe that provides accrediting agencies sufficient flexibility, while maintaining appropriate oversight of its institutions or programs.

Changes: None.

Comments: One commenter requested that the Department clarify that under § 602.25(f)(1)(iii) and (iv), in the event of a decision by the appeals panel that differs from that of the original decision-making body, the original decision-making body must act in a manner consistent with the appeals panel's decision or instructions.

Discussion: We decline the recommendation; the commenter's request is implied in the nature of an appeal. The mere difference of opinion implies that the appeal was lost, and that the findings of the initial decision-makers are upheld.

Changes: None.

Comments: In order to require material oral instructions or clarifications to be memorialized in writing, one commenter requested the Department add a new paragraph to read: "If the agency or its authorized representatives communicate orally a material institution- or program-specific instruction or clarification concerning an identified deficiency, required special or follow-up report, evidence of compliance, corrective action, deadline, or criteria for removing or reversing an accreditation status or action, the agency must promptly memorialize the substance of that instruction or clarification in writing and provide it to the institution or program. The

agency may satisfy this requirement through electronic communication. The written confirmation must be provided within a reasonable period, not to exceed 10 business days, and sufficiently before any applicable response deadline to permit a meaningful response."

Discussion: We decline to add the new paragraph. Oral instructions from an agency to an institution are not authorized under the due process regulations. All requirements must be in writing; the Department declines to imply that an agency can offer any instruction to an institution or program orally.

Changes: None.

§ 602.26 Notification of accrediting decisions.

Comments: Most commenters broadly disagreed with the revised § 602.26. Commenters stated the following as rationale for opposition to the provisions:

- The final rule would weaken the consumer information role and effectiveness of accrediting agencies;
- The final rule would weaken safeguards surrounding institutions that change accrediting agencies;
- The Federal government would be weaponizing title IV, HEA funding eligibility;
- The Department could keep an institution's title IV eligibility active for an unreasonable or unlimited period while an adverse accreditation action is under appeal;

- The standard or discretion is unclear for keeping an institution's title IV eligibility active while an adverse accreditation action is under appeal;
- The final rule would constrain accrediting agencies and reduce the standing of the U.S. globally;
- The final rule should require fair and specific procedures before an accrediting agency takes adverse action;
- The Department could second-guess accrediting agency decisions; and
- Rapid disclosure of agency actions may affect enrollment decisions, transfer activity, employee recruitment, philanthropy, etc., before an underlying dispute is resolved.

Discussion: The Department disagrees with these comments. Our intention in amending this regulation, and our expectations for institutions and accrediting agencies after this rule is promulgated, is that this rule will establish a uniform disclosure framework of accreditation actions, enhance transparency, and strengthen consumer protection. Regarding new § 602.26(h), we feel the stated timeframe allows appropriate latitude when needed, and provides limits regarding the length of time an institution's eligibility may be extended. We do not expect this provision to be employed as frequently as some commenters expressed. The Department may provide additional guidance in the future regarding the process for an institution to request a continuation of eligibility for title IV, HEA

program funds when it is challenging an agency's decision to end its accreditation.

Regarding the concern of rapid disclosure of agency actions adversely affecting enrollment decisions, the Department reasserts its desire to enhance transparency and strengthen consumer protections. Finally, the Department disagrees that a new review framework overseeing recognized accrediting agencies that serve as the primary gatekeepers for the Federal student aid programs equates to weaponizing the title IV, HEA programs. Rather, these revisions ensure that students are protected from misuse of these funds, and that their continuing education is protected. The review framework ensures that all institutions that receive title IV, HEA program funds are worthy, and also allows institutions that believe they were wrongly judged to continue educating their students while legal actions proceed. The final rule is needed to improve educational quality, protect students and taxpayers, and promote a higher education accreditation system that supports innovation, accountability, and legal compliance. We do not see any reason to believe that these changes will undermine the world standing of the United States, nor did the commenter provide a persuasive argument that this would occur.

Changes: None.

Comments: Several commenters agreed with the Department's changes to § 602.26, specifically regarding the provisions that require an agency to note a probation or adverse decision in its

public website directory within one business day of notifying the institution, and maintaining a five-year record of every action taken for each institution it accredits. The commenter emphasized these are specific duties on a fixed timeframe and should be easily reviewed for compliance. The commenter also recommended that the Department further modify § 602.26(h) to add a variable time limit based on published agency findings, require a determination that weighs student and taxpayer harm, and notify enrolled students that aid is continuing provisionally. Other commenters affirmed this approach should limit disruption during a review period and could correct erroneous decisions related to accreditation, thus allowing for an objective review and preserving the integrity of the process.

Discussion: We appreciate the commenter's support. The recommendation to further modify § 602.26(h) would add significant complexity and burden to both institutions and agencies when weighing a temporary continuation of eligibility for title IV, HEA funds until due process is exhausted. The Department believes the new § 602.26 will provide increased transparency and will provide effective implementation of the directives set forth in E.O. 14279.

Changes: None.

Comments: Another commenter suggested that the requirements of § 602.26(f) be limited to the actions listed in § 602.26(b) and § 602.26(c). The commenter further stressed there should not be a

reference to § 602.26(e) in § 602.26(f), as § 602.26(e) does not delineate any actions that could be disclosed.

Discussion: The Department disagrees. The intent of § 602.26(f) is to broaden transparency and notification efforts to convey all actions taken for the specified period. We feel this expanded requirement will benefit any interested person or entity seeking recent accrediting agency actions at a specific institution or program.

Changes: None.

Comments: One commenter stressed the Department should clarify that "clear explanation in writing" under § 602.26 means more than identifying a general standard or reproducing standard language. The commenter opined that the written communication should contain institution-specific findings.

Discussion: The changes to § 602.26(b), (c), (d) and (e) are designed to improve transparency and clarify the notice requirements (e.g., clear explanations in lieu of brief summarizing statements). The Department declines to define the term "clear explanation" but expects accrediting agencies to, in lieu of a decision letter, provide specific information consistent with what is included in a decision letter for the institution or program. The Department reserves its authority and capability to regulate further on this topic as, and if, needed.

Changes: None.

Comments: One commenter requested clarification regarding the requirement in § 602.26(f) that would require an accrediting agency to maintain on its website “a clear record of all actions taken” for each institution or program it accredits or preaccredits for a period of at least five years. Specifically, the commenter asked if this five-year requirement would be from the effective date of the final rule or retroactive for the past five years.

Discussion: The Department thanks the commenter for this request for clarification. We note that this requirement is not retroactive; it will apply beginning on the effective date of these regulations.

Changes: None.

§ 602.28 Regard for decisions of States and other accrediting agencies.

Comments: Several commenters expressed concern that the final rule would allow for disputed political or ideological viewpoints to become conflicts in the accreditation process. The commenters stressed that students should not risk losing access to higher education or title IV, HEA program funds due to any disagreement between political officials and a university regarding its policies or activities. The commenters emphasized that accreditation decisions should be based on educational quality and established accreditation standards.

Discussion: The Department disagrees with the commenters. The intent in revising § 602.28(d) is to protect the consumer -

students. The final rule does this by broadening the circumstances under which an accrediting agency must promptly review an institution or program to include when adverse or certain negative actions are taken by other State or Federal agencies.

Changes: None.

Comments: Many commenters expressed concerns about the expansion of this regulation that includes adverse actions or probation or equivalent statuses by State and Federal agencies. Some commenters suggested limiting State and Federal agencies to State approving/authorizing agencies. Other commenters suggested that the revised rule should apply only to final, written findings that are issued after notice and an opportunity to respond.

Discussion: The final rule is intended to increase accountability for institutions or programs subject to adverse or certain negative actions by State and Federal authorities by requiring accrediting agencies to promptly review those institutions or programs for continued compliance with the agency's standards. If a compliance issue exists or existed, even if only tangentially, it should be promptly reviewed by the agency.

Changes: None.

Comments: One commenter urged the Department to add language to § 602.28 that clarifies the process outlined in § 602.20 for institutions, should an accrediting agency review an

institution's accreditation or preaccreditation due to being placed on probation, or equivalent status, by a state or Federal agency. The commenter stressed that institutions should be able to provide evidence that may indicate the issue has been resolved before any final decision is made.

Discussion: The Department believes that the amendments to this section do not impact the enforcement requirements in § 602.20. This section includes the actions taken by recognized accrediting agencies, State agencies, or Federal agencies that trigger a prompt review of an institution's or program's preaccreditation or accreditation by their accrediting agency. The Department expects that any agency's review of an institution or program would include correspondence with the institution or program under review before making a compliance determination.

Changes: None

Comments: A few commenters requested the Department provide a definition of the term "adverse action." The commenters warned that the final rule could be abused or misapplied without an explicit definition of this term.

Discussion: The Department clarifies that the definition of adverse action is found in § 602.3(b), which reads:

Adverse accrediting action or adverse action means the denial, withdrawal, suspension, revocation, or termination of

accreditation or preaccreditation, or any comparable accrediting action an agency may take against an institution or program.

Changes: None.

§ 602.30 Agency applications and reports to be submitted to the Department.

Comments: Two commenters requested that the Department specify a review process for confidential information submitted by accrediting agencies to ensure agencies can submit information without risking any inappropriate disclosure.

Discussion: The final rule specifies that accrediting agencies must redact all personally identifiable information for individuals acting as agents of the agency, or of an institution or program under review, and the names and any other personally identifiable information of students or others who are not agents of the agency or of an institution or program the agency is reviewing. The Department already has in place processes for the review of information that the agency designated as exempt from disclosure; and therefore further changes in the regulations were not required.

Changes: None

§ 602.31 Procedures for submitting applications for recognition and renewal of recognition.

Comments: Several commenters expressed concern that changing the review timeline to the proposed shorter timeline would make the review less rigorous. Two commenters suggested that the Department should include time ranges, including establishing

minimum and maximum time periods for each stage of the review process. The commenters also requested that the Department apply those same timelines to all agencies or provide criteria for differentiated periods of review and suggested that without such written rules, the Department would enforce timelines inequitably.

Discussion: The Department respectfully disagrees. The new regulations benefit both the Department and accrediting agencies under review by allowing for greater flexibility in the review process and the ability to accommodate various situations. The establishment of strict timelines for each stage of the review process would eliminate the ability for the Department to make good faith judgements on the complexity of petitions and the corresponding length of time available for review. Given that the regulations are meant to be a general framework, the Department does hold the ability, should the need arise, to provide subregulatory guidance as necessary to inform the implementation of the regulations. The Department is confident that the shortened review period will continue to provide meaningful and appropriate oversight. In addition, the shortened period will ensure that both accrediting agencies submit and the Department analyze the most current information. The timeline of two years means Department staff, NACIQI, and the SDO rely on out of date information in the current review process. The proposed timeline still provides for an iterative and rigorous review process. The revised recognition review timeline also

helps to reinforce the expectation that accrediting agencies are in compliance with the regulations when they submit a petition for renewal of recognition.

Changes: None.

Comments: Several commenters stated that the Department's usage of the amount of title IV, HEA funds distributed as a basis for the type of review it conducts does not hold sufficient specificity. Comments were concerned about this definition due to the lack of an explicit definition for "substantial portion" in the new regulations. One commenter also expressed concern that institutions may specifically have a direct interest in the determination of "substantial portion." One commenter questioned whether using the amount of title IV, HEA funds for the determination of risk would accurately determine which accrediting agencies present the most risk or permit abbreviated review. One commenter questioned whether the Department is permitted to abbreviate reviews under 20 U.S.C. § 1099b(n)(1), further requesting the Department establish "substantial portion" as a specific percentage with a corresponding annual publication of the applicable agencies. The commenter also requested that the Department amend the interval for comprehensive applications for agencies who have not met the Department's "substantial portion" trigger to every other cycle of review, rather than every third cycle of review as noted in the proposed regulations. Two commenters expressed concerns that utilizing funding as the benchmark for review could ignore

smaller institutions that could be prone to additional risk. One commenter requested that every agency undergo a comprehensive petition at its first renewal and that any agency that had accepted institutions previously subject to adverse action by another agency be reviewed through a comprehensive petition.

Discussion: Accrediting agencies serve as gatekeepers in determining which institutions may participate in title IV, which currently provide more than \$100 billion in Pell Grants and Federal loans to students annually. The Department is seeking to balance its oversight of agencies while ensuring it can significantly decrease burden for most accrediting agencies. The "substantial portion" element noted in the new regulations allows for the Department to accomplish this, in balance, by enabling flexibility in the determination of the review of agencies. The Department does not agree with the commenter who stated that institutions would have a direct interest in understanding whether or not an agency would be comprehensively reviewed, as there would be no effect on any specific institution. We believe that holding the comprehensive review as every third review will be sufficient, given that the agencies will be reviewed under focused review applications in the interim, satisfying the requirements noted in 20 U.S.C. § 1099b(n)(1). While the Department understands the commenters' concern regarding greater risk for smaller institutions, the Department has an obligation to use its resources to provide oversight as broadly as possible by following the distribution

of title IV, HEA funds. The focused review applications, together with the Department's ability to investigate issues and appropriately monitor agencies, ensure sufficient oversight in the interim period. Given that the regulations are meant to be a general framework, the Department does hold the ability, should the need arise, to provide subregulatory guidance as necessary to inform the implementation of the regulations.

Changes: None.

Comments: Several commenters expressed support for the Department's intention to prevent accrediting agencies from causing credential inflation. One commenter expressed concern that the Department would not be able to determine when scope inflation was necessary or unnecessary.

Discussion: We thank the commenters for their support. By amending the requirements in the new regulations for a change of scope, the Department will be able to collect and analyze detailed information when an agency seeks to expand credential requirements. By requiring such a review for all changes of scope, the Department will have a comprehensive review process that will ensure that an informed decision is made on the necessity of the expansion.

Changes: None.

Comments: One commenter requested accrediting agencies be specifically permitted to "authorize external providers to prepare, validate, format, and transmit applications, reports, and supporting data, subject to written authorization,

oversight, agency review and certification, and applicable privacy and security requirements," and "reference previously submitted or authoritative data rather than resubmitting identical information."

Discussion: The Department does not prescribe the methods that accrediting agencies must use to complete any petition or to complete any response to a request for information. However, the accrediting agency is fully responsible for any and all submissions made to the Department.

Changes: None.

Comments: Two commenters requested that the proposed regulations be amended in § 602.31(a)(3) to only refer to legal actions, complaints, or other compliance issues that have been resolved or have some sort of final judgment given that the regulation could be interpreted as including pending issues. One commenter also requested that the Department establish an evidentiary threshold for when complaints are reviewed by the Department.

Discussion: The Department believes that pending legal actions, complaints, or other compliance matters would indeed be appropriate to report to the Department. The Department holds appropriate expertise to make judgments regarding information that is sufficiently significant to require additional review and oversight. Additionally, such oversight is necessary to ensure that pending issues that could significantly affect the accrediting agency, its institutions or programs, or its

students, would be appropriate to review prior to any final judgment or conclusion.

Changes: Please see the technical edit under the "Technical Corrections" section. The Department is clarifying that any determination if legal actions, complaints, or other compliance issues that individually or in the aggregate raise substantial concerns regarding the agency's compliance would be made by the Secretary.

Comments: One commenter requested that the Department clarify anticompetitive conduct to not include an agency's competency framework and assessment tools, given that some outcomes-based requirements could prevent certain institutions or programs from gaining or maintaining accreditation. One commenter requested that the preamble to the final rule include specific information regarding when anticompetitive conduct has occurred.

Discussion: The Department does not consider an agency's standards related to outcomes-based assessment as being related to anticompetitive conduct. Instances of anticompetitive conduct are generally complex and require judgment-based decisions grounded in a review of agency activity and documentation. The Department holds appropriate expertise to make judgments on when information is sufficiently significant to require additional review and oversight. The regulations are meant to be a general framework, though the Department does hold the ability, should the need arise, to provide subregulatory guidance as necessary to inform the implementation of the regulations.

Changes: None.

Comments: One commenter stated that the Department failed to specify how it would comply with Section 496(n)(1)(A) of the HEA, which mandates that the Department's "...evaluation [of an accrediting agency] shall include the solicitation of third-party information concerning the performance of the accrediting agency or association..." The commenter elaborated that the removal of this requirement may render the Department's evaluation of accrediting agency changes in scope deficient under applicable law.

Discussion: Under § 602.31(b), the Department publishes the agency's application for initial or renewal of recognition in the Federal Register. The public is invited to comment on the agency's application, thereby satisfying the requirement that the Department solicit third-party information in such instances.

Changes: None.

§ 602.32 Procedures for review of an expansion of scope, a contraction of scope, compliance reports, or increases in headcount enrollment.

Comments: One commenter stated that the proposed changes could allow accrediting agencies to easily change their scope to avoid Department oversight.

Discussion: The Department believes that the commenter may have misread the proposed regulations. The regulations increase the types of changes to scope reviewed than those that were

previously reviewed to fully capture any change in scope. The regulations also allow for flexibility by the Department to determine when the review of any change in scope is reviewed.

Changes: None

Comments: One commenter noted a concern regarding timelines and stated their concern that 90 days was not sufficient for a review petition, and 45 days for an agency response may also be insufficient.

Discussion: The Department believes that the commenter may have misread the proposed regulations. The regulation timelines regarding 90 days and 45 days are related to the review of compliance reports, not an agency's petitions for recognition.

Changes: None.

§ 602.33 Procedures for review of agencies during the period of recognition, including the review of monitoring reports.

Comments: A few commenters expressed concerns over the proposed elimination of the requirement for the Department to publish a notice in the Federal Register. The notice typically includes an invitation for the public to comment on an agency's compliance with any criteria identified by Department staff that the agency may not be following.

Discussion: The Department has not proposed eliminating the requirement to finalize an analysis for presentation to NACIQI in the event a compliance concern is identified under the provisions of § 602.33. Doing so requires submitting the matter for review in accordance with § 602.34, which itself prescribes

publication of a notice of the NACIQI meeting in the Federal Register which invites interested parties to make oral comments.

Changes: None.

Comments: Two commenters expressed concerns over the proposal to shorten the amount of time an accrediting agency has to provide a response to a staff analysis.

Discussion: The Department is focused on increasing the efficiency of the review process, which necessitates tighter timelines, not only for accrediting agencies, but also for Department staff. Additionally, accrediting agencies can continue to raise issues or concerns related to a final staff analysis when appearing before NACIQI and the entirety of the record, including a transcript of the meeting, will be available to the senior Department official prior to reaching a decision.

Changes: None.

Comments: One commenter suggested the Department first require documented findings prior to undertaking a review under § 602.33(a)(2).

Discussion: The commenter is referencing a subsection of the regulation that has not been proposed for change. However, the commenter may wish to review a related change, proposed under § 602.33(c) that would require the Department to provide an accrediting agency with documentation concerning an inquiry that arises under (a)(2) and provides the agency an opportunity to respond within a reasonable period of time.

Changes: None.

Comments: One commenter stated that following the Department's changes, monitoring during the period of accreditation would become the primary means of oversight, and thus in-period monitoring should be strengthened. The commenter requested specific data-based triggers for review as well as decreasing the maximum period of recognition.

Discussion: The focused review applications, together with the Department's ability to investigate issues and appropriately monitor agencies, ensure sufficient oversight in any interim period. The Department foresees greater emphasis on the review of information received between petition reviews and has appropriately included processing information for the review of agencies during the period of recognition. Given that the regulations are meant to be a general framework, the Department does hold the ability, should the need arise, to provide subregulatory guidance as necessary to inform the implementation of the regulations.

Changes: None

§ 602.36 Senior Department official's decision.

Comments: Two commenters expressed concerns related to § 602.36. Both commenters expressed concerns related to recognition of accrediting agencies that have limited experience. One of the commenters was also concerned that allowing the senior Department official to reach a recognition decision if a quorum of NACIQI members is not achieved results in the Department

somehow being able to pressure accrediting agencies to adopt the Department's positions on compliance matters.

Discussion: Only cross-reference changes were proposed for § 602.36 in the NPRM. The Department included a paragraph in the amendatory language section of the NPRM for reference purposes only.

Changes: None.

§ 668.43 Institutional and programmatic information.

Reporting and disclosure of information

Comments: Several commenters expressed concern about the administrative burden associated with course-specific determinations and written explanations that would be required by the regulations prior to enrollment or financial commitment. Commenters emphasized these concerns were specifically formulated based on smaller or newer institutions without extensive articulation databases or dedicated transfer evaluation staff. Several commenters suggested permitting standardized, criteria-based explanations tied to published academic policies instead of individualized narratives for each course, technology and data sharing infrastructure for resource constrained institutions, and Statewide articulation agreements and transfer partnerships between community colleges and HBCUs. A few commenters also asked if institutions were permitted to use categorical rules for groups of courses—including Bible and theology courses, core curriculum, upper-level major requirements, clinical courses, laboratories, and capstone

experiences—rather than being required to apply individualized determinations for each course.

Discussion: The Department recognizes commenters' concerns about administrative burden, but we emphasize the importance of students receiving prompt decisions that support their informed enrollment planning and reduce uncertainty that may affect program progression. Institutions may establish reasonable timelines for transcript review and course material evaluation, provided they supply prospective students with clear and timely information about credit transfer policies. Institutions may also use structured or standardized templates tied to academic criteria when explaining course specific denials, so long as the reasoning remains specific enough for students to understand the academic basis for determination. This flexibility supports clarity for students while accommodating variations in institutional size and staffing. The Department also supports efforts by States, systems, and institutions, including HBCUs and community colleges, to build articulation frameworks that facilitate smoother transfer and reduce barriers for students.

Changes: None.

Comments: A few commenters asked the Department to establish a specific timeframe for when an institution must receive a student's transcript to ensure a timely review, while other commenters urged the Department to remove the pre-enrollment disclosure entirely. These commenters believed it would lead to rushed, error-prone evaluations, especially when an official

transcript has not been received. Some commenters were concerned that without a defined deadline, students would not know when they need to submit their transcripts to allow sufficient processing time. One commenter suggested that, similar to the explicit timeframe for filing an appeal under § 602.24(e)(5) "within 15 calendar days of receipt," § 668.43 should likewise include a clearly defined period to provide consistency and clarity for students.

Discussion: The Department declines to remove the pre-enrollment disclosure requirement, and we decline to add a specific timeframe for transcripts to be received. The Department believes the pre-enrollment disclosure requirement is an essential element in promoting clarity and avoids situations in which students enroll without necessary information about how their earned credit will apply. Institutions have the flexibility in designing their transcript review systems, including assigning review responsibilities to academic units in a timely manner, using structured templates tied to academic criteria, and adopting technology solutions and articulation agreements. Institutions are required to disclose the date by which a student must submit transcripts for review in their transfer of credit policies. This approach provides transparency while maintaining flexibility for institutions to account for differences in program offerings, enrollment cycles, and administrative processes. While § 602.24(e)(5) includes an explicit timeframe for appealing a transfer of credit denial,

"within 15 calendar days of receipt," that provision addresses the appeals process rather than the initial submission of transcripts. The Department does not believe that applying a uniform Federal deadline to transcript submission would appropriately reflect the diversity of institutional practices or support the efficient administration of credit evaluations across institutions.

Changes: None.

Comments: Several commenters urged the Department to clearly distinguish between transferability (whether a course can be accepted for credit) and applicability (whether the accepted credit applies to specific degree requirements). One commenter believes this distinction will help clarify the confusing use of "awarded for courses" in §668.43. A few commenters pointed out that a credit that transfers as an unassigned elective does not necessarily shorten a student's path to a degree and that students need to know whether accepted credits satisfy elective, general education, or major requirements. One commenter also urged the Department to extend disclosures to include learning earned through registered apprenticeships. The commenter recommended that § 668.43(c)(3)(i) read: "Inform the student of the credit that will be awarded for courses on that transcript, inclusive of related technical instruction as appropriate, and how that credit will apply toward the student's intended program of study, including whether it satisfies elective, general education, or major requirements."

Discussion: The Department agrees that transferability and applicability have distinct meanings and that clarity between awarding credit and applying credit is important to help students make informed decisions about their educational pathways. § 668.43 ensures that students receive clear information about both which credits may be accepted and how those credits will apply to the program they intend to pursue. The regulation does not prohibit institutions from distinguishing transferability from applicability in their policies and the Department encourages institutions to do so.

The Department acknowledges that institutions may maintain different applicability standards across categories (e.g., major requirements, general education, electives), as commenters noted. While the Department supports expanded transparency regarding credit for prior learning, including apprenticeship-related learning, the Department must also ensure that any additional disclosure requirements remain aligned with statutory authority and are administratively feasible. Therefore, the Department declines to revise the regulatory text to incorporate additional prescriptive applicability requirements or to mandate specific disclosure language related to apprenticeships in § 668.43, as these additions exceed the scope and purpose of this rule.

Changes: None.

Comments: One commenter noted a potential contradiction between § 668.43(a)(11)(i), which requires institutions to disclose any

criteria used for evaluating transfer credit, including identifying types of institutions or sources from which they will not accept credit, and the Department's proposed prohibition in § 602.24(e)(3) against denying credit based on the sending institution. The commenter argued that § 668.43(a)(11)(i) implies that institutions may legitimately refuse credit from certain sources and asked for clarification on how both provisions would function together.

Discussion: The Department does not view these provisions as contradictory. The disclosure requirements in § 668.43(a)(11)(i) are intended to promote transparency by ensuring that students understand the criteria an institution uses when evaluating transfer credit. § 602.24(e)(3), by contrast, addresses the substance of transfer credit determinations that states that institutions may not deny transfer credit solely based on the sending institution or its recognized accrediting agency. Institutions remain free to evaluate transfer credit using academically relevant factors, including course content, learning outcomes, level, applicability to program requirements, prerequisites, sequencing, or other legitimate academic considerations. However, institutions may not rely exclusively on the identity of the sending institution or its recognized accrediting agency as the basis for denying credit. Accordingly, the disclosure requirements in § 668.43(a)(11)(i) and the requirements in § 602.24(e)(3) serve complementary purposes. The former promotes transparency regarding institutional policies,

while the latter establishes limits on the criteria that institutions and accrediting agencies may use in credit transfer decisions. Institutions must disclose their transfer of credit policies, but those policies must remain consistent with the requirements of § 602.24(e)(3).

Changes: None.

Comments: A few commenters requested that the Department revise the timing requirement so that institutions are not required to complete individualized transfer-credit determinations before a nonrefundable enrollment deposit when verified records or necessary faculty review are not yet available. Commenters stressed the strain institutions may face by preparing credit transfer determinations for prospective students who ultimately may not enroll.

Discussion: The Department recognizes that credit transfer evaluations can involve complex academic judgments and that institutions may require time to obtain and review official transcripts, course descriptions, and other supporting documentation. The Department does not intend to compel institutions to make credit transfer determinations based on incomplete information or to sacrifice academic rigor in favor of speed. As noted elsewhere in the preamble, institutions may establish reasonable processes and timelines for transcript review and course evaluation, provided they furnish students with clear and timely information regarding credit transfer policies and determinations. At the same time, the Department

remains committed to students receiving meaningful credit transfer information before making financial commitments that could expose them to unexpected costs or extended time to completion. The timing requirement will improve transparency and enable students to make informed enrollment decisions, particularly where transferability of prior coursework may affect educational affordability and degree progress. Nothing in the regulation requires institutions to disregard legitimate academic review processes or to reach final determinations in the absence of information necessary for an accurate evaluation. Further, the Department expects institutions to communicate clearly to students when a determination remains pending because additional documentation or faculty review is required. The Department continues to believe that students should receive credit transfer information before enrollment, registration, or other significant financial commitments whenever reasonably possible while preserving institutional discretion to conduct appropriate academic reviews.

Changes: None.

Comments: One commenter suggested that, in addition to disclosing credit transfer policies and evaluation criteria, institutions should also transparently disclose all critical information about transfer practices, including decision-making authority and workflows, timelines, and appeal processes. Another commenter argued that also institutions should

distinguish direct equivalency, general-education credit, elective credit, and rejected credit in student notices.

Discussion: The Department is mindful of the need to balance transparency with regulatory flexibility. Institutions vary significantly in their governance structures, credit transfer review processes, academic programs, and administrative systems. The Department does not believe it is necessary to prescribe specific disclosure formats or require institutions to provide detailed descriptions of all internal workflows and decision-making processes.

Changes: None.

Comment: One commenter asked the Department to consider publishing transfer credit data in a publicly accessible database, stating that metrics could include the percentages of credits that are accepted and denied at each institution per year.

Discussion: The Department notes that the regulations in this final rule are focused on institutional and accrediting agency requirements regarding credit transfer policies, disclosures, and decision-making processes. The regulations do not establish Federal reporting requirements for institution-level transfer of credit acceptance and denial rates, nor do they create a framework for the collection, validation, and publication of such data. The Department may continue to explore opportunities to improve information available to students regarding transfer

outcomes and student mobility, but such efforts are beyond the scope of this rule.

Changes: None.

Comments: One commenter urged the Department to eliminate § 668.43 (a) (11) (ii) and (v). The commenter argued that paragraph (ii) is too broad, and that paragraph (v) is too narrow to be meaningful. The commenter noted that § 668.43 (a) (11) (v) would only apply to the Workforce Pell Grant program where non-credit programs are required to be accepted for credit in at least one certificate or degree program.

Discussion: The Department does not agree that § 668.43(a) (11) (ii) is unnecessarily broad. The purpose of this provision is to ensure that prospective and current students have access to clear information regarding the criteria institutions use when evaluating transfer credit. Transparency regarding institutional policies and practices enables students to make informed enrollment and transfer decisions. The Department also disagrees that § 668.43(a) (11) (v) lacks value. Although the commenter notes that the provision may be particularly relevant in contexts involving Workforce Pell, information about whether an institution recognizes or articulates non-degree and non-credit learning may be important to students seeking pathways from workforce training, certificate programs, prior learning experiences, or other educational experiences into degree programs. Providing this information promotes transparency and may help students better

understand opportunities for academic progression before making enrollment decisions.

Changes: None.

Comments: One commenter asked the Department to clarify what counts as a "nonrefundable financial commitment", specifically when a refund is required on tuition payment, payment plan, required deposits, and application fees. The commenter asked whether the relevant date for refund on tuition is the date payment is due, is made (if the individual pays after the due date), or the date after which a full refund is no longer available. For a refund on a payment plan, the commenter asked if an individual establishes a payment plan months before classes begin, does that constitute a nonrefundable financial commitment? The commenter also asked if the plan provides a generous refund option when enrollment changes but imposes a small cancellation fee, does that fee trigger a nonrefundable financial commitment? Additionally, the commenter asked if a payment plan would only constitute a nonrefundable financial commitment if the institution itself manages the plan, or would it also constitute a nonrefundable financial commitment if the plan is managed by a third party? The commenter also asked if a deposit is refundable, would the Department no longer consider it a financial commitment for purposes of these regulations? As for application fees, the commenter asserted that they don't believe it should count as a nonrefundable financial commitment to the institution.

Additionally, the commenter asked if an institution provides a refund option when a learner declines enrollment because transfer credit is denied, would that remove the payment from the definition of a "non-refundable financial commitment"? The commenter also asked if a learner voluntarily makes a nonrefundable financial commitment after being informed of the right to receive transfer-related information, but before an established deadline, would the institution be out of compliance if it had not completed the transfer credit review, or would the institution have to decline the payment? The commenter also requested that the Department elaborate on how these final rules would apply to foreign transcripts. The commenter asked if the implementation of this requirement differs based on the learner's status?

Discussion: The Department does not believe that it is necessary to prescribe in regulation every institutional practice relating to tuition payments, payment plans, deposits, application fees, or other enrollment-related charges. Whether a particular payment or obligation constitutes a nonrefundable financial commitment depends on the facts and circumstances of the arrangement and whether the student may recover the funds or terminate the obligation without financial loss. Generally, the relevant consideration is the point at which a student becomes subject to a charge, fee, deposit, or other obligation that is not fully refundable or otherwise cannot be avoided.

Changes: None.

Comments: The commenter recommended removing the terms “enrollment” and “registration” from the disclosure requirements to make clear that the priority is protecting students from making nonrefundable financial commitments before they have the information needed to make an informed enrollment decision.

Discussion: The Department declines to remove the references to “enrollment” and “registration” from the disclosure requirements. The Department’s objective is to ensure that prospective students receive important transfer of credit and consumer information before taking significant steps toward enrollment, including signing an enrollment agreement, completing registration, or making a nonrefundable financial commitment. The inclusion of enrollment and registration, in addition to nonrefundable financial commitments, recognizes that institutions use different admissions, enrollment, and registration processes and that students may become committed to attending an institution through mechanisms other than the payment of a nonrefundable fee.

Changes: None.

Comments: The commenter argued that § 668.43(c) is inconsistent with the organization of the existing regulations. The commenter noted that § 668.43(c) currently addresses requirements related to programs that prepare students for State licensure or certification. The commenter is concerned that adding new requirements to the same subsection could create confusion about whether they are related to licensure or certification or are

separate requirements applicable more broadly. For clarity, the commenter recommended placing the new requirements in a new § 668.43(d) and redesignating current § 668.43(d) as § 668.43(e).

Discussion: The Department does not believe that relocating these provisions to a separate subsection is necessary.

The Department notes that regulations frequently contain multiple related requirements within a single section, and the structure of § 668.43 is intended to consolidate disclosure obligations applicable to prospective and enrolled students. The final rule clearly identifies the transfer of credit review requirements as distinct provisions within § 668.43(c), and the Department believes that the regulatory text sufficiently distinguishes those requirements from the licensure and certification disclosures. As a result, institutions and students will be able to understand that the transfer of credit requirements apply independently of the licensure-related disclosures. This organization also preserves the overall structure of § 668.43 and avoids unnecessary redesignation of existing provisions.

Changes: None.

Comments: One commenter is concerned that § 668.43(c)(3)(iii) is confusing. The commenter pointed out that not every credit transfer denial corresponds directly to a course offered at the receiving institution or that institutions deny credit to require learners to retake their version of a course. The commenter noted that residency requirements may mandate students

to complete a certain number of credits at the degree-granting institution and a transfer student who changes majors may have credits that no longer apply to the learner's course of study.

Discussion: The regulation does not intend to suggest that every credit transfer denial is based on the existence of an equivalent course at the receiving institution or that institutions deny credit solely to require a student to complete the institution's version of a course. The purpose of § 668.43(c)(3)(iii) is to promote transparency by ensuring that students receive a written explanation when credit is not awarded and information that helps them understand the institution's credit transfer evaluation process. The Department believes that providing students with a clear rationale for why credit was not awarded is particularly important because credit transfer determinations may be based on a wide range of academic and institutional considerations. As discussed elsewhere in this rulemaking, institutions are required to provide a written explanation as to why they declined to award credit and provide information and examples of courses that otherwise would be awarded credit. This requirement is intended to assist students in understanding the institution's standards and practices rather than to imply that every denied credit has a direct equivalent within the institution's curriculum.

The Department further notes that the regulation does not prohibit institutions from explaining that a credit was accepted but did not apply toward specific degree requirements, or that a

credit was not awarded due to residency requirements, program requirements, changes in a student's course of study, or other legitimate academic reasons. Institutions retain discretion to apply their academic policies and degree requirements, provided they clearly communicate the basis for their determinations to students.

Changes: None.

Comments: One commenter recommended adding a new § 668.43(a)(11)(vi) to read: "The institution's existing transfer of credit determinations, published in a publicly accessible location on the institution's website. For each determination, the institution must identify the sending institution, the sending institution's course identifier and title, and how the institution treated the course: the specific course equivalency awarded, the type of credit awarded where no specific equivalency has been established (such as elective credit), or a statement that the institution declined to award credit. The institution must publish these determinations in the form in which it maintains them, updated no less often than annually. The determinations published under this paragraph consist of course-level and institution-level information only and must not include personally identifiable information about any student. Nothing in this paragraph requires an institution to adopt a particular format or data standard, to create determinations it has not made, or to represent that a published determination will apply to any particular student. The determinations must be

accessible without a login, account, application, fee, or agreement to terms of use, and an institution that licenses a third party to maintain its determinations remains responsible for their publication under this paragraph.”

Discussion: The Department believes that the final regulation appropriately balances transparency for students with institutional flexibility by requiring institutions to disclose their transfer of credit policies, the criteria used to evaluate transfer credit, any categories of institutions or sources from which credit will not be accepted, applicable transcript-submission deadlines, articulation agreements, and information about transfer-credit determinations made for individual students who timely submit transcripts. The Department's focus in these regulations is ensuring that prospective students receive institution-specific information relevant to their own educational records before signing an enrollment agreement, completing registration, or making a nonrefundable financial commitment. The Department does not believe that requiring institutions to publish all prior credit transfer determinations is necessary to achieve that objective.

Changes: None.

VII. Regulatory Impact Analysis

1. Regulatory Planning and Review Including Regulatory Impact Analysis

Executive Orders 12866 and 13563

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities;

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would meaningfully further the President's priorities, or the principles stated in the Executive Order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

As indicated in the Net Budget Impact section of this RIA, the Department estimates that there will be no significant change in transfers between the Federal government and student loan borrowers and Pell Grant recipients as a result of the final rule. Quantified annualized costs include updates and

reporting costs for accrediting agencies, institutions, and individuals detailed in the *Paperwork Reduction Act* section of this final rule of \$3.4241 million and \$3.8180 million at 3 percent and 7 percent discounting, respectively. Therefore, based on our estimates of quantified and non-quantified costs and benefits, OIRA has determined that this regulation is significant under Section 3(f)(1) of Executive Order 12866 and subject to OMB review.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

- (1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

- (2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and considering—among other things and to the extent practicable—the costs of cumulative regulations;

- (3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” OIRA has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

Executive Order 14192 directs agencies of the executive branch to be prudent and financially responsible in the expenditure of funds, from both public and private sources, and to alleviate unnecessary regulatory burdens placed on the American people. This action is not expected to be considered a regulatory action under Executive Order 14192 because it imposes no more than de minimis net regulatory costs.

Consistent with OMB Circular A-4, we compare the final rule to the current regulations. In this regulatory impact analysis, we discuss the need for regulatory action, potential costs and benefits, net budget impacts, and the regulatory alternatives we considered.

Elsewhere in this section under Paperwork Reduction Act of 1995, we identify and explain burdens specifically associated with information collection requirements.

Regulatory Impact Analysis

a. Need for Regulatory Action

The Department proposes this regulatory action to align the Secretary of Education's (Secretary) criteria for recognition of accrediting agencies to promote high-quality, high-value, and affordable education for students as outlined in E.O. 14279, titled "Reforming Accreditation to Strengthen Higher Education," issued on April 23, 2025, by President Trump.¹³ E.O. 14279 directs the Secretary to take several actions related to the Department's recognition of accrediting agencies or associations to ensure agency standards and enforcement actions are focused on student outcomes and free from unlawful discrimination and other potential violations of Federal and State law.

The Higher Education Act of 1965, as amended (HEA), requires the Secretary to establish criteria for determining whether an accrediting agency is a reliable authority, for purposes of the HEA and for other Federal purposes, on the quality of education or training offered by the institutions or programs that they accredit. Consistent with the statute, the Secretary has established regulations for recognition of

¹³ Executive Order 14279. "Reforming Accreditation to Strengthen Higher Education." The White House. April 23, 2025. www.whitehouse.gov/presidential-actions/2025/04/reforming-accreditation-to-strengthen-higher-education/.

accrediting agencies and has revised these regulations periodically.

The final reduces barriers that limit competition among accrediting agencies and recognition of new accrediting agencies. Similarly, via changes to accrediting agency requirements, the final rule will likely increase educational innovation and foster new education models that advance credential and degree completion. To improve student outcomes on student loan repayment, graduate earnings, and financial value and affordability, the final rule requires that recognized accrediting agencies assess member institutions on program-level student outcomes, without reference to race, ethnicity, or sex.

b. Summary of Comments and Changes From the NPRM

Table 2.1 provides a summary of the proposed provisions.

Table 2.1 - Summary of Key Changes in the Proposed Regulations

Provision	Regulatory Section	Description of proposed provision
Accreditation, Innovation, and Modernization		
Special rules regarding institutional accreditation or preaccreditation .	§ 600.11	Amend § 600.11 to make it less burdensome for institutions that are changing accrediting agencies or wish to utilize more than one accrediting agency.
How do I know which agencies the Secretary recognizes?	§ 602.2	Amend § 602.2 to require the Department provide public notice on its accreditation website if the Secretary denies continued recognition to a previously recognized agency, or if the Secretary limits, suspends, or terminates the agency's

		recognition before the end of its recognition period.
What definitions apply to this part?	§ 602.3	Amend § 602.3 to define and use the term "institution" in these regulations instead of "institution of higher education" which is defined in the HEA, and elsewhere in the Department's regulations, and refers to a narrower subset of institutions, and to add a definition for "related, associated, or affiliated trade association."
Link to Federal programs.	§ 602.10	Amend § 602.10 to clarify the Secretary's recognition extends only to those accrediting agencies whose institutions or programs actively participate in a Federal program.
Extent of Accrediting activities.	§ 602.11	Amend § 602.11 to require accrediting agencies to clearly describe the scope of their accrediting activities and remove geographic restrictions on institutions' and program's ability to choose an accrediting agency.
Accrediting experience.	§ 602.12	Amend § 602.12 to remove references to geographic areas and geographic constraints, and require review of contractions of scope. Additionally, amend the regulations to clarify the policies and capacity an accrediting agency must have to seek initial recognition, and eliminate the "two-year rule" for initial recognition due to lack of statutory requirement.
Effect of recognition.	§ 602.13	Unreserve and amend § 602.13 to specify that an accrediting agency's recognition by the Department does not provide any immunity from antitrust laws.

Purpose and organization.	§ 602.14	Amend § 602.14 to strengthen the fiscal and administrative criteria an accrediting agency must meet to prove it is fully separate and independent from any related, associated, or affiliated trade or membership organization.
Administrative and fiscal responsibilities .	§ 602.15	Amend § 602.15 to require accrediting agencies to administer their standards, policies, and procedures in a manner that minimizes unnecessary compliance costs and administrative burdens on accredited institutions, as well as requires agencies to maintain appropriate conflict of interest controls and policies.
Accreditation and preaccreditation standards.	§ 602.16	Amend § 602.16 to require accrediting agencies to assess clear institutional and program level student achievement requirements aligned with §602.17, and to clarify that any additional standards must be lawful and consistent with ensuring institutional and programmatic quality and integrity.
Application of standards in reaching accreditation decisions.	§ 602.17	Amend § 602.17 to clarify expectations for reviewing student achievement and faculty related policies, including academic freedom and intellectual diversity. There are also new requirements for cost-benefit analysis, institutional flexibility and mission, program length review, and safeguards against misrepresentation.
Ensuring consistency in decision-making.	§ 602.18	Amend § 602.18 to require accrediting agency decisions to be neutral with respect to viewpoint and ideology,

		except for those with a religious mission.
Enforcement of standards.	§ 602.20	Amend § 602.20 to provide guidance to accrediting agencies on how to structure their arbitration procedures and remove overly prescriptive requirements.
Review of standards.	§ 602.21	Amend § 602.21 to remove overly prescriptive requirements.
Substantive changes and other reporting requirements.	§ 602.22	Amend § 602.22 to refine the list of changes requiring accrediting agency approval, add prison education programs as a defined substantive change, and remove outdated and overly prescriptive requirements.
Operating procedures all agencies must have.	§ 602.23	Amend § 602.23 to require accrediting agencies to ensure institutions comply with all applicable Federal and State laws and remove overly prescriptive requirements.
Additional procedures certain institutional agencies must have.	§ 602.24	Amend § 602.24 to strengthen accrediting agencies' oversight of institutional changes, expand requirements for teach-out planning, including transcript access, and increase transparency and support for students when institutions face disruptions. These regulations would also establish clearer, fairer transfer of credit rules by defining consistent criteria, prohibiting discriminatory denials, requiring acceptance of comparable credits, and providing students with an appeals process.
Due process.	§ 602.25	Amend § 602.25 to remove overly prescriptive requirements.
Notification of accrediting decisions.	§ 602.26	Amend § 602.26 to update and modernize the required content of agency notices

		and better align these requirements with contemporary methods of disclosure and allow temporary continuation of eligibility for title IV, HEA funds after erroneous decisions on the part of the accrediting agency.
Other information an agency must provide the Department.	§ 602.27	Amend § 602.27 to require that the Department's website is updated on a regular, timely basis to display the current accreditation status of all institutions and programs.
Regard for decisions of States and other accrediting agencies.	§ 602.28	Amend § 602.28 to broaden the circumstances under which an accrediting agency must reevaluate an institution or program following negative actions by other authorities.
Agency applications and reports to be submitted to the Department.	§ 602.30	Amend § 602.30 to modernize how accrediting agencies submit applications and required reports to the Department.
Procedures for submitting applications for recognition and renewal of recognition.	§ 602.31	Amend § 602.31 to modernize and streamline the procedures accrediting agencies must follow when submitting applications for initial or renewed recognition.
Procedures for review of an expansion of scope, a contraction of scope, compliance reports, or increases in headcount enrollment.	§ 602.32	Amend § 602.32 to modernize and clarify the processes used to review an accrediting agency's expansions or contractions of scope, compliance reports, and increases in headcount enrollment.
Procedures for review of agencies during the period of recognition, including the	§ 602.33	Amend § 602.33 to modernize and streamline the procedures for review of agencies during the period of recognition, including

review of monitoring reports.		the review of monitoring reports.
Advisory Committee meetings.	§ 602.34	Amend § 602.34 to require the National Advisory Committee on Institutional Quality and Integrity (NACIQI or Advisory Committee) to review applications for contractions of scope, and for accrediting agencies to post public notice of upcoming NACIQI reviews for transparency and consistency.
Responding to the Advisory Committee's recommendation.	§ 602.35	Amend § 602.35 to update cross references.
Senior Department official's decision.	§ 602.36	Amend § 602.36 to update cross references.
Appealing the senior Department official's decision to the Secretary.	§ 602.37	Amend § 602.37 to update cross references.
Institutional and programmatic information.	§ 668.43.	Amend § 668.43 to require transfer of credit disclosures and direct written notice to students.

Summary of Comments From the NPRM

The Department received comments related to the Regulatory Impact Analysis in the NPRM. This section responds to these comments. Some commenters submitted alternatives that were substantially similar to remarks submitted by other commenters; in these cases, we grouped those comments and responded to them collectively.

Comments: One commenter argued that the Department had not produced sufficient analyses to substantiate its claims that the proposed rule would help lower college costs and prices for students.

Discussion: The Department believes that the credit transfer policies in the proposed and final rule will help reduce costs for students. The Department included an analysis in the Regulatory Impact Analysis in the proposed rule that showed how many students and Title IV aid dollars could potentially be affected when a greater share of students' credits transfer when they change institutions. However, that analysis did not estimate potential changes in total or per-student aid distributions.

Changes: The Department has expanded the data and analysis regarding credit transfer to estimate reductions in Title IV aid disbursements due to the credit transfer policies in this final rule. These estimates help to illustrate the potential savings to both taxpayers and students that are likely to result from the credit transfer policies in this final rule.

Comments: The Department received several comments raising concerns that women, students from minority groups, and low-income students will be disproportionately and negatively affected by the proposed rule. Commenters argued that these students will lose access to educational opportunities due to the proposed rule.

Discussion: The Department disagrees. The Department believes that the final rule will help create greater educational opportunities by fostering innovation and new educational delivery models. The Department has included additional analysis in this final rule that estimates the potential growth in short-term credential programs and exclusively online programs as a proxy for the increased educational opportunities that are likely to arise under the final rule. Data from the National Postsecondary Student Aid Study show that women represent a larger share of enrollment in these programs compared with other programs. Black students are also more likely to enroll in short-term programs than are other groups. The data therefore suggest that the final rule will, in fact, increase education opportunities for certain groups of students.

Changes: None

Comments: One commenter argued that the Department failed to consider the effects of the proposed rule on different sectors of higher education and requested that the Department consider these differentiated effects.

Discussion: The Department included a breakdown of the effects on different sectors of higher education in various sections of the Regulatory Impact Analysis in the NPRM. The analysis detailing Title IV aid disbursements made to transfer students (which the Department has expanded in the final rule to include estimates of potential changes in disbursements) is broken out

by public, private non-profit, and private for-profit institutions.

Changes: None

Comments: One commenter noted that community colleges serve different students than other sectors of higher education and recommended that the Department allow accrediting agencies to use different outcome measures for evaluating programs at community colleges than for other institutions.

Discussion: The final rule requires accrediting agencies to review their criteria for assessing whether an institution is successful in achieving its stated objectives at both the institutional and program levels, including minimum expectations regarding student outcomes. The Department notes that accrediting agencies have wide latitude in determining expectations for student outcomes and can tailor those measures to community colleges and their students or specific programs and enrollment patterns if they deem it appropriate.

Changes: None

Comments: Several commenters raised concerns that the proposed rule would encourage accrediting agencies to use students' post-enrollment earnings to assess whether an institution or program is successful in achieving its stated objectives. Commenters argued that earnings vary by field of study, geography, labor markets, and other factors and are therefore an unreliable proxy of educational quality. Other commenters argued that only long-

term earnings, for which data are difficult to obtain, are appropriate for measuring outcomes.

Discussion: The Department believes that post-enrollment earnings can be one of many valuable measures of whether an institution or program meets quality standards and stated objectives. Moreover, these data are increasingly available and reliable. The Department notes, however, that under the final rule, accrediting agencies maintain considerable discretion in how they develop and apply standards using earnings outcomes. The final rule does not prevent accrediting agencies from considering the issues that the commenters raise.

Changes: None

Comments: A commenter raised concerns that institutions of higher education lack access to comprehensive and reliable data on retention, completion, and post-enrollment outcomes of their students and would therefore not be able to meet any accreditation requirements on these factors.

Discussion: The Department notes that institutions of higher education already report significant data and statistics on student completion and retention rates to the Department and to other agencies. This RIA also includes analyses of outcomes by accrediting agency that were produced using public data, further demonstrating that these data are available. Moreover, the Department of Education will publish annual statistics on the earnings of program completers drawn from Federal tax records

(who are Title IV recipients) starting in 2027, which could serve as additional outcome information for institutions, programs, and accrediting agencies.

Changes: None

c. Discussion of Cost, Benefits, and Transfers

The final rule will likely affect students, institutions of higher education, accrediting agencies, and the Federal government. The Department expects students and the Federal government to benefit from the final rule. The final rule is likely to impose new costs on institutions and accrediting agencies.

This analysis focuses on four major policy areas within the final rule that are likely to have the most significant costs and benefits:

(1) changes to accrediting agencies' transfer of credit policies;

(2) a new requirement that agencies adopt policies that assess program-level student outcomes;

(3) regulatory changes that will allow for greater competition among existing and newly recognized accrediting agencies; and

(4) reforms that align accreditation standards with efforts to reduce college costs and credential inflation.

We discuss the costs and benefits associated with each of these areas below. The Department notes that there is little critical data available on which to base estimates of the proposed

regulation's effect on the accrediting agency marketplace and responses by institutions and students. For this regulatory impact analysis, the Department has relied primarily on the publicly available Database of Accredited Postsecondary Institutions and Programs (DAPIP) and its own administrative data on title IV, HEA student aid recipients in the National Student Loan Data System (NSLDS) and the Common Origination and Disbursement (COD) System. **Transfer of Credit**

The final regulation would make it easier for students to transfer credits to continue their postsecondary enrollment at a new institution. Under Section 602.24(e)(3), accrediting agencies would be required to ensure member institutions adopt several policies regarding transfer of credit that should increase the number of credits students are able to retain when transferring to a new institution. For example, the final rule would require that accrediting agencies prohibit an institution from denying transfer of credit based on the recognition of the institution, or type of institution, at which the student completed the coursework, so long as the agency accrediting that institution is recognized by the Secretary. Accrediting agencies must also require an institution to award transfer credit for undergraduate programs for coursework that has been successfully completed at another institution, is accredited by an agency recognized by the Secretary, and is comparable in content and learning outcomes to the institution's

own course offerings, unless the institution provides a written basis for denial.

Students could benefit from these changes because they may spend less time and money retaking courses that failed to transfer. A 2017 study by the U.S. Government Accountability Office using Department of Education data found that transfer students typically lose 43 percent of their credits when they transfer.¹⁴ Under the proposed rule, it is more likely that students will retain more of their credits earned at prior institutions, allowing them to complete their postsecondary education faster.

It is difficult to estimate the precise effect this policy may have on enrollment and title IV, HEA student aid disbursements, and the Department acknowledges a variety of outcomes could occur. First, the policy may induce more students to enroll in higher education because students will have more flexibility to switch programs without losing a substantial amount of credit earned at prior institutions. The policy may also reduce the dropout rate as students are able to maintain more of their prior credits when transferring, thereby reducing the total cost and enrollment duration of their program which should facilitate credential completion. It may also make transfer more desirable, allowing students to better match

¹⁴ U.S. Government Accountability Office, Report to Congressional Requesters, "Higher Education: Students Need More Information to Help Reduce Challenges in Transferring College Credits", GAO-17-574, August 14, 2017, <https://www.gao.gov/assets/gao-17-574.pdf>.

themselves to different programs and enhancing their ability to continue their education. If this occurs, the policy may ultimately increase enrollment and title IV, HEA student aid disbursements, imposing new costs on taxpayers and the Federal government. Additionally, higher education institutions may benefit, as they would likely receive additional revenues due to higher enrollment levels.

Alternatively, the policy may result in a reduction in title IV, HEA disbursements, providing a benefit to the Federal government and taxpayers and a new cost for higher education institutions. This would occur if higher education enrollment remains constant and if the proposed provision allows students to finish their credentials faster, resulting in fewer title IV, HEA disbursements. If this occurs, institutions may experience costs because their transfer students will likely spend less time enrolled (because they will not need to retake the credits that the institution previously did not accept in the transfer).

To better understand the potential impact of the transfer of credit policies for accrediting agencies in this rule, the Department is providing information from the National Student Loan Data System on the number of undergraduate students who transferred institutions between the 2023-24 and 2024-25 award years and the title IV, HEA student aid they received. This information is presented in Tables 3.1 and 3.2. Specifically, Table 3.1 shows that, between the 2023-24 and 2024-25 award year, a total of 1.8 million title IV, HEA students transferred

institutions, and among those students, roughly 60 percent received title IV, HEA student aid in the award year they transferred (2024-25). Table 3.2 shows that these title IV, HEA recipients received a total of \$8.8 billion in title IV, HEA funds at their new institution in 2024-25, or an average of approximately \$8,300 per transfer student.

While the Department lacks readily available data to determine how much title IV, HEA disbursements could change due to the transfer of credit provisions, these data help establish a method to gauge the potential impact for both students and taxpayers. For example, if the Department assumes that 43 percent of title IV, HEA student aid received by transfer students was spent covering tuition and fees for course credits that failed to transfer (which is what prior research indicates is the average share of credits that fail to transfer), and under further assumptions that overall enrollment remains constant and transfer students do not change other aspects of their enrollment behavior, this would suggest that title IV, HEA disbursements would decline by an average of approximately \$3,600 per transfer student during the 2024-25 award year if 100 percent of the lost credits now successfully transfer.

Less than 100 percent of credits may transfer, however, in cases where institutions provide written reasoning for denying credit based on the credit failing to meet institutional standards. In Table 3.3, the Department estimates the potential reduction in title IV, HEA student aid disbursements that could

occur under different scenarios depending on the extent to which institutions utilize their ability to deny credit transfer through written statements. Specifically, the table provides a range of potential reductions in disbursements under a scenario where all, three quarters, and half of credits that did not transfer in the past now transfer.¹⁵ We estimate that title IV disbursements would decline by \$3.8 billion annually if 100 percent of credits that students typically lost when transferring are now successfully accepted by institutions and students spend less time enrolled re-taking classes and course work. Comparatively, if only half of credits that were typically lost during transfer are successfully accepted, we estimate that title IV disbursements would decline by \$1.9 billion annually.

¹⁵ For these estimates, we begin with the assumption that 43 percent of credits are currently lost at transfer, which is the average found by the GAO. Further, we assume no other changes occur in student enrollment and borrowing decisions. U.S. Government Accountability Office, Report to Congressional Requesters, "Higher Education: Students Need More Information to Help Reduce Challenges in Transferring College Credits", GAO-17-574, August 14, 2017, <https://www.gao.gov/assets/gao-17-574.pdf>.

Table 3.1 - Total Title IV Transfer Students in 2024-25 and the Percent that Received Title IV Disbursements

Control	All Title IV Undergraduate Transfer Students in 2024-25	Undergraduate Transfer Students who Received Title IV Aid in 2024-25	Percent of Undergraduate Transfer Students who Received Title IV Aid in 2024-25
Public	1,325,800	727,200	55%
Private	265,200	196,500	74%
Proprietary	191,700	143,200	75%
Total	1,782,700	1,066,900	60%

Note: "Transfer Student" is defined as a student who enrolled as an undergraduate in both 2023-24 and 2024-25 and was enrolled at different institutions across those award years. These students are counted as transfer students at the institution where those students enrolled in 2024-25. This includes students who complete an undergraduate credential during 2023-24 and continue their enrollment as an undergraduate student in 2024-25. Some double counting may occur if students transferred to two or more institutions in 2024-25. "All Title IV Undergraduate Transfer Students" includes any title IV, HEA transfer student in 2024-25, regardless of whether or not title IV, HEA student aid was received in 2024-25.

Source: Department of Education using NSLDS data from the 2023-24 and 2024-25 award years.

Table 3.2 - Total and Average Title IV Disbursements to Undergraduate Transfer Students During the 2024-25 Award Year

Control	Undergraduate Transfer Students who Received Title IV Aid in 2024-25	Total Title IV Aid Disbursed to Undergraduate Transfer Students in 2024-25	Average Title IV Disbursement
Public	727,200	\$5,389,718,800	\$7,400
Private	196,500	1,957,207,000	10,000
Proprietary	143,200	1,490,474,600	10,400
Total	1,066,900	8,837,400,400	8,300

Note: "Transfer Student" is defined as a student who enrolled as an undergraduate in both 2023-24 and 2024-25 and was enrolled at different institutions across those award years. These students are counted as transfer students at the institution where those students enrolled in 2024-25. This includes students who complete an undergraduate credential during 2023-24 and continue their enrollment as an undergraduate student in 2024-25. Some double counting may occur if students transferred to two or more institutions in 2024-25. Title IV aid includes Pell Grants and student loans.

Source: Department of Education using NSLDS data from the 2023-24 and 2024-25 award years.

Table 3.3 – Estimated Reduction in Title IV Disbursements to Undergraduates Due to Increased Credit Transfer Rates under Final Rule

Control	Total Title IV Aid Disbursed to Undergraduate Transfer Students in 2024-25	Estimated Annual Reduction in Title IV Aid Disbursements under Final Rule		
		All Lost Credits Transfer	Three Quarters of Lost Credits Transfer	Half of Lost Credits Transfer
Public	\$5,389,718,800	-\$2,317,579,084	-\$1,738,184,313	-\$1,158,789,542
Private	1,957,207,000	-841,599,010	-631,199,258	-420,799,505
Proprietary	1,490,474,600	-640,904,078	-480,678,059	-320,452,039
Total	8,837,400,400	-3,800,082,172	-2,850,061,629	-1,900,041,086

Note: Estimates are based on 2024-25 disbursements and assume 43 percent of credits failed to transfer prior to the final rule. "Transfer Student" is defined as a student who enrolled as an undergraduate in both 2023-24 and 2024-25 and was enrolled at different institutions across those award years. These students are counted as transfer students at the institution where those students enrolled in 2024-25. This includes students who complete an undergraduate credential during 2023-24 and continue their enrollment as an undergraduate student in 2024-25. Some double counting may occur if students transferred to two or more institutions in 2024-25. Title IV aid includes Pell Grants and student loans.

Source: Department of Education using NSLDS data from the 2023-24 and 2024-25 award years.

Standards for Program-Level Student Outcomes

Under the final regulation, accrediting agencies are required to review the use of additional student outcome metrics in their standards for institutions. Under Section 602.17, accrediting agencies must review their criteria for assessing whether an institution is successful in achieving its stated objectives at both the institutional and program levels, including minimum expectations regarding student outcomes such

as graduation rates, post-completion employment and educational and economic returns using earnings data for former students relative to the total cost of attendance.

Requiring accrediting agencies to review their standards and criteria may impose new costs on both accrediting agencies and institutions. Some accrediting agencies may review their usage of student outcome criteria and ultimately make no adjustments to the standards they use because they have found, in their evaluation, that their standards are sufficiently rigorous and properly evaluate student success. In these cases, the cost to accrediting agencies and institutions is likely to be small.

In other cases, accrediting agencies may review and then adopt new standards related to student outcomes for the institutions they accredit. Agencies that choose this action may experience costs from several factors. First, for agencies that do not have a mechanism in place to assess the student success metrics of the institutions or programs they accredit, they will need to develop these new standards and apply them routinely in the accreditation process. Second, accrediting agencies may also need to develop systems and processes that allow them to collect new data from institutions, and to invest in new analytical capacity to assess the extent that institutions meet minimum requirements related to student outcomes.

Institutions accredited by agencies who review and adopt new standards may also incur new costs as those institutions

work to comply with the new standards and requirements from their accrediting agency. This is likely to include new reporting costs between institutions and accrediting agencies. Institutions are also likely to incur costs as they work to change and improve any programs that fail to achieve compliance with any new standards related to student achievement imposed by an accrediting agency. Some institutions may ultimately decide to close noncompliant programs, which will also cause institutions to incur new costs, both in operational costs to shutter a program, and in reduced enrollment and revenue associated with those closed programs.

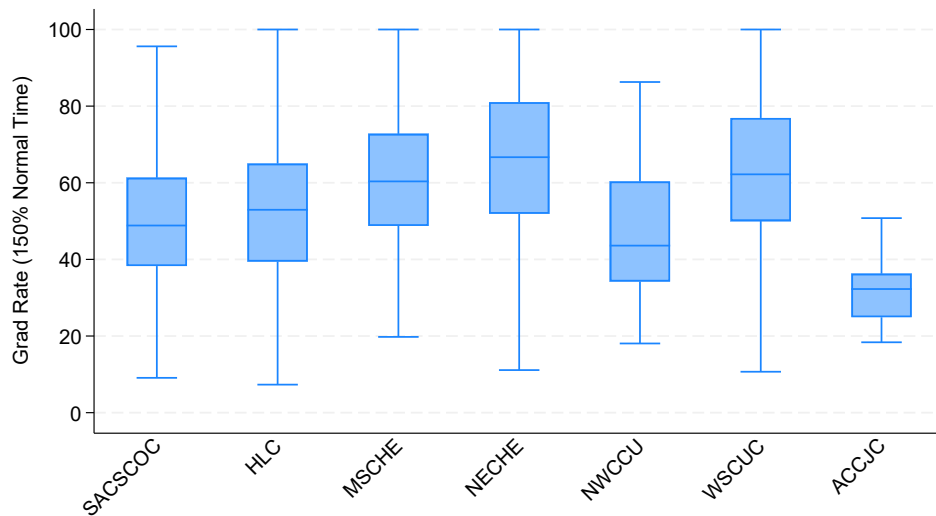
Accrediting agencies have considerable discretion in designing their own standards regarding student outcomes under the final regulation, and the Department cannot anticipate which metrics agencies will consider revising or adopting when making determinations regarding recognition. This makes it difficult for the Department to estimate the impact of the proposed change. To inform the potential impact of the requirement, the Department compiled data on the variation in several student outcome metrics among institutions accredited by seven institutional accrediting agencies.¹⁶ These metrics include graduation rates, post-enrollment earnings, and student loan delinquency rates. Data were drawn from DAPIP, the College

¹⁶ These include the Accrediting Commission for Community and Junior Colleges, Higher Learning Commission, Middle States Commission on Higher Education, New England Commission of Higher Education, Northwest Commission on Colleges and Universities, and Southern Association of Colleges and Schools Commission on Colleges.

Scorecard, and the Program Participation Data 2026 file released for the Accountability in Higher Education and Access Through Demand-Driven (AHEAD) rulemaking. The results are presented in Figures 3.1, 3.2, and 3.3. These box plots show the variation in student outcomes for institutions recognized by the same accrediting agency.

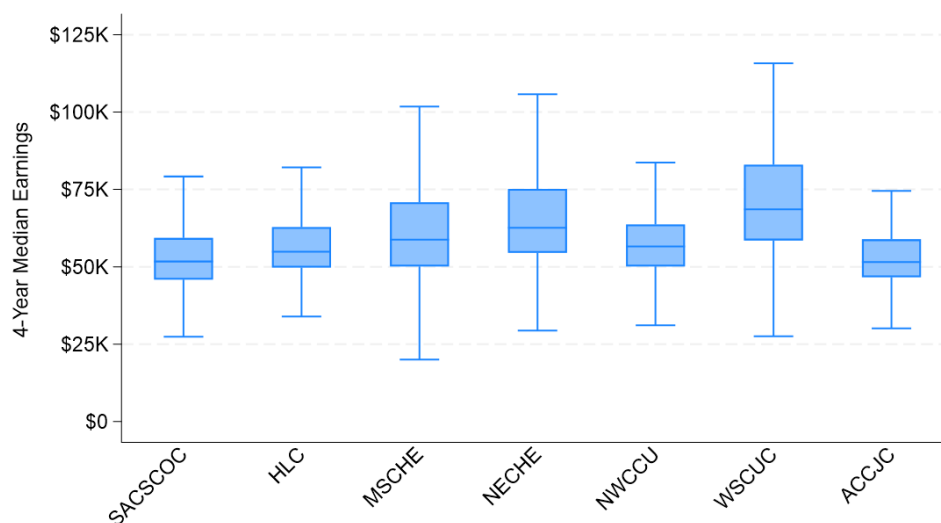
These figures show a wide variation in student outcome metrics among the institutions each agency accredits. For example, the Higher Learning Commission recognizes both institutions with near perfect graduation rates and institutions with graduation rates well below 20 percent. The Higher Learning Commission also accredits institutions with both extremely high (over 80 percent) and very low student loan delinquency rates. The variation in outcomes across institutions recognized by the same agency suggest that, in practice, accrediting agencies have few meaningful standards on student outcomes. If the final rule results in agencies adopting more rigorous or consistent standards, some institutions or programs might be at risk of noncompliance and could therefore face pressure to improve or risk losing recognition.

Figure 3.1 - Variation in Institutional Graduation Rates by Accrediting Agency



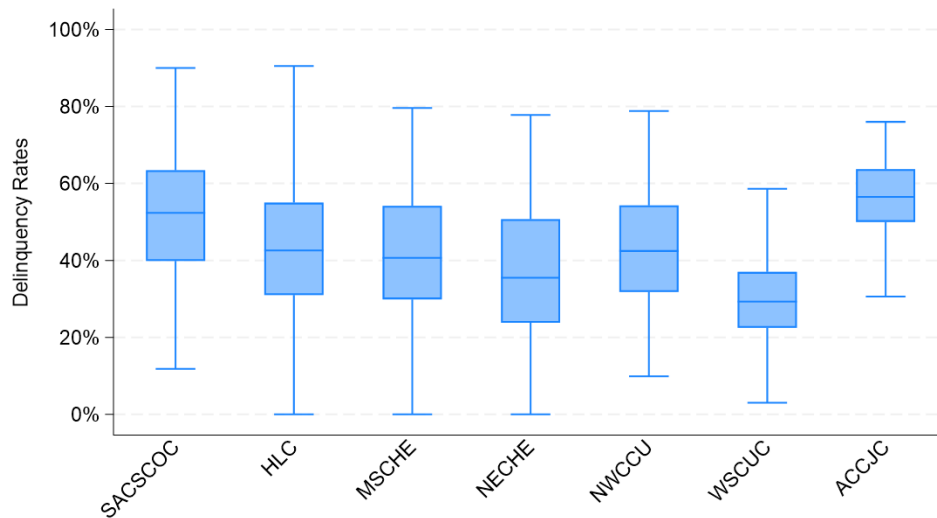
Notes: Graduation rates are for the 2025 Award Year. Graduation rates are defined as the completion rate for first-time, full-time students at four-year institutions (150 percent of expected time to completion). The box plots show the outcome at the 25th, 50th, and 75th percentile and the whiskers show the observation at 1.5 times the interquartile range. Southern Association of Colleges and Schools Commission on Colleges (SACSCOC); Middle States Commission on Higher Education (MSCHE); WASC Senior College and University Commission (WSCUC); Accrediting Commission for Community and Junior Colleges (ACCJC); Higher Learning Commission (HLC); New England Commission of Higher Education (NECHE); Northwest Commission on Colleges and Universities (NWCCU). Source: Department of Education calculations using DAPIP, PPD:26, and College Scorecard.

Figure 3.2 - Variation in Institutional Completer Earnings by Accrediting Agency



Notes: Earnings are the median earnings of title IV undergraduate students who graduated from the institution during the 2017-18 or 2018-19 academic year measured four years after completion. Students who are not working and students who are enrolled in college when earnings are measured are omitted from the median. The box plots show the outcome at the 25th, 50th, and 75th percentile and the whiskers show the observation at 1.5 times the interquartile range. Southern Association of Colleges and Schools Commission on Colleges (SACSCOC); Middle States Commission on Higher Education (MSCHE); WASC Senior College and University Commission (WSCUC); Accrediting Commission for Community and Junior Colleges (ACCJC); Higher Learning Commission (HLC); New England Commission of Higher Education (NECHE); Northwest Commission on Colleges and Universities (NWCCU).
Source: Department of Education calculations using DAPIP, PPD:26, and College Scorecard.

Figure 3.3 - Variation in Institutional Loan Delinquency Rates by Accrediting Agency



Notes: Delinquency Rates are for borrowers who entered repayment during AY2016. Borrowers are counted as delinquent if they were ever delinquent (90+ days late) on a Federal student loan payment by the end of 2019. See the PPD:26 Technical Data Appendix for additional details. The box plots show the outcome at the 25th, 50th, and 75th percentile and the whiskers show the observation at 1.5 times the interquartile range. Southern Association of Colleges and Schools Commission on Colleges (SACSCOC); Middle States Commission on Higher Education (MSCHE); WASC Senior College and University Commission (WSCUC); Accrediting Commission for Community and Junior Colleges (ACCJC); Higher Learning Commission (HLC); New England Commission of Higher Education (NECHE); Northwest Commission on Colleges and Universities (NWCCU). Source: Department of Education calculations using DAPIP, PPD:26, and College Scorecard.

Accrediting Agency Competition and New Agencies

The final rule will remove barriers for new accrediting agencies to emerge and obtain Department recognition. Specifically, the rule simplifies and streamlines the Department's regulations for recognition and review of accrediting agencies, including eliminating superfluous requirements for recognition of new accrediting agencies that reduce competition and institutional choices when selecting an accrediting agency. The final rule also simplifies procedures for institutions to change accrediting agencies so that institutions are not forced to comply with standards that are antithetical to their values and missions. For example, the rule

would remove the Department's current requirement that an accrediting agency grant or deny accreditation or preaccreditation to an institution for at least two years prior to seeking recognition by the Department. This two-year requirement is not statutory and represents an unnecessary burden for new accrediting agencies. Similarly, the final rule streamlines the process for institutions to change accrediting agencies by clarifying that the Secretary may not delay, condition, or otherwise adversely affect an institution's participation in the title IV, HEA programs solely because the institution seeks accreditation from, or changes accreditation to, another agency recognized by the Secretary. Under Section 602.13, the final regulation also specifies that recognition by the Department does not confer immunity from antitrust laws, which may further stimulate competition among accrediting agencies.

Reducing barriers to entry may also facilitate innovation by making it easier for new accrediting agencies to emerge and for institutions offering new educational models to obtain appropriate accreditation. To the extent such models attract students who receive Pell Grants or Federal student loans, the rule could affect Federal student aid outlays. The Department has provided estimates for the potential increases in enrollment and title IV, HEA student aid disbursements that could arise from new models and innovations. These estimates, which are based on historical growth rates among short-term certificate

programs and exclusively online programs, are discussed later in this Regulatory Impact Analysis and are shown in Tables 3.6 and 3.7.

The Department also believes that reducing barriers to entry may improve accreditation by increasing contestability in the market for accrediting services. Contestability refers to the extent to which potential competitors can realistically enter a market and existing customers can switch providers, even if relatively few firms currently compete or customers actually switch. Economic theory suggests that incumbent organizations respond not only to actual competition but also to the credible possibility of new entry or customer mobility. Baumol's theory of contestable markets predicts that reducing barriers to entry encourages incumbent firms to improve quality, reduce unnecessary costs, and become more responsive to consumers, while Demsetz emphasized that competition for a market can discipline incumbent firms even in concentrated industries. See William J. Baumol, "Contestable Markets: An Uprising in the Theory of Industry Structure," 72 American Economic Review 1 (1982); Harold Demsetz, "Why Regulate Utilities?," 11 Journal of Law and Economics 55 (1968). The Department believes that reducing unnecessary barriers to the recognition of new accrediting agencies and facilitating institutional mobility among recognized agencies is therefore likely to improve accrediting agency performance even if relatively few institutions ultimately change accrediting agencies.

Accordingly, to the extent that these changes increase the credible possibility of new accrediting agency entry or institutional mobility, economic theory suggests they may improve accrediting agency performance even if relatively few institutions ultimately change accrediting agencies.

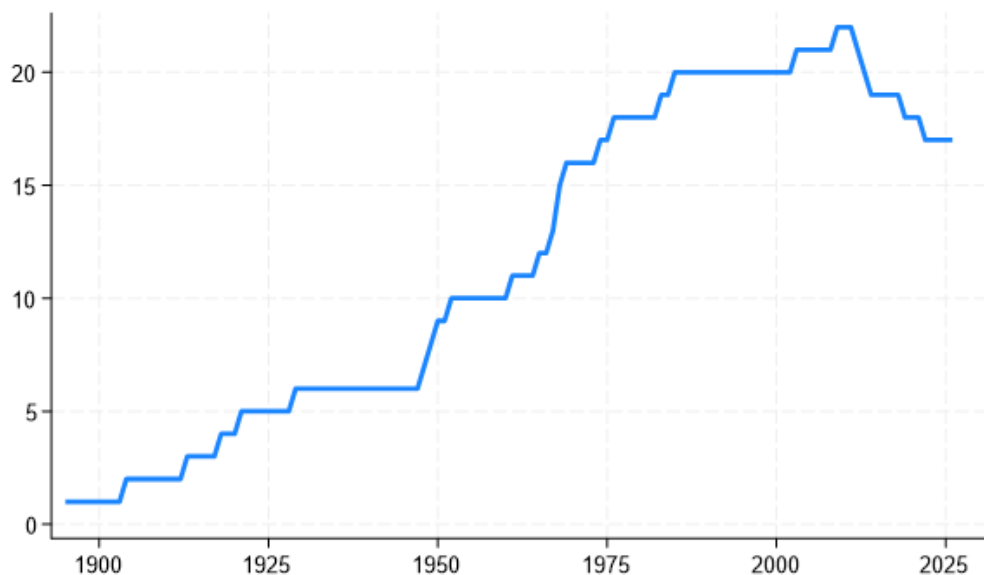
Although the Department lacks sufficient data to estimate how these changes will affect the accreditation marketplace, the changes will likely increase the number of institutional accrediting agencies recognized by the Department and may increase the number of institutions seeking to change agencies. To provide context regarding the potential impact of the changes, the Department used information from DAPIP to examine the growth and contraction in the number of institutional accrediting agencies and the rate and number of institutions that switch agencies over time. This analysis adds evidence to the Department's view that both new accrediting agency recognition and changes in agency by institutions are rare. For example, Figure 3.4 and Table 3.4 show that there has been little change in the number of institutional accrediting agencies over the past 30 years, and that in recent decades the number of recognized agencies has actually declined, despite the large increases in higher education enrollment over this time. Additionally, Table 3.5 shows that since 2020, only 10 institutions have voluntarily switched from one of the agencies formerly known as a regional accrediting agency, and that fewer

than 50 have ever voluntarily switched away from these accrediting agencies.

One of the key goals of the final rule is that, through reforms to reduce burden and enhance competition among accrediting agencies, more institutional agencies will choose to be recognized and greater numbers of institutions will decide to change institutional accrediting agencies, thereby enhancing competition. While prior regulatory reforms may not have resulted in a descriptive change in the number of accrediting agencies and amount of accrediting agency switching that takes place (see Figure 3.4 and Table 3.5), the final rule includes additional provisions aimed at spurring competition, which may ultimately enhance the ability for accrediting agencies to enter and institutions to switch. Specifically, the reduction in time from initial petition to review for recognition by the senior Department official is likely to ultimately result in additional accrediting agencies applying for recognition, providing more options for institutions. These proposed changes also coincide with regulatory efforts by some States that require the State's institutions to switch accrediting bodies. Ultimately, accrediting agencies may benefit from the final rule because they will likely experience less burden to gain initial recognition and maintain recognition. Institutions, similarly, could benefit from these regulations if they value the ability to choose from a greater number of potential agencies, or if the

new agencies that may emerge are better aligned with the institution's mission.

Figure 3.4 - Number of Institutional Accrediting Agencies 1895-Present



Notes: Counts exclude state approval agencies and other accrediting agencies that predominantly accredit programs but are classified as institutional accrediting agencies because they can accredit single-purpose institutions. Source: Department of Education calculations using DAPIP, PPD:26, and College Scorecard.

**Table 3.4 - Institutions & Accrediting Agencies 1950, 1975,
2000, & 2025**

Year	1950	1975	2000	2025
Institutional Accreditors	9	17	20	17
Accredited Institutions	970	2,710	4,840	4,630
Postsecondary Students (Millions)	2.3	11.2	15.3	19.6

Notes: Enrollment is defined as Total Fall Enrollment at degree-granting institutions that participate in title IV student aid programs. Number of accredited institutions is rounded to the nearest 10. Includes all institutions from the corresponding year (in the column header), regardless of whether the college still exists in 2026.

Source: DAPIP, National Center of Education Statistics Digest of Education Statistics.

Table 3.5 - Number of Institutions Voluntarily Switching**Accrediting Agency**

Type of Switch	Total	Before 2020	2020 or After
Total Voluntary Switches <i>(1965-Present)</i>	189	134	55
Former-Regional → Former-Regional	11	5	6
Former-National → Former-National	75	52	23
Former-National → Former-Regional	71	49	22
Former-Regional → Former-National	32	28	4

Notes: The sample is limited to institutions that are still in operation in 2026. "Voluntary Accrediting Agency Switching" is when institutions change their institutional accrediting agencies across two consecutive years excluding cases where the institutions' accrediting agency dissolved, split, changed name, or lost recognition. The seven "Former-Regional Accrediting Agencies" include: (1) Southern Association of Colleges and Schools Commission on Colleges (SACSCOC); (2) Middle States Commission on Higher Education (MSCHE); (3) WASC Senior College and University Commission (WSCUC); (4) Accrediting Commission for Community and Junior Colleges (ACCJC); (5) Higher Learning Commission (HLC); (6) New England Commission of Higher Education (NECHE); and (7) Northwest Commission on Colleges and Universities (NWCCU). "Former-National Accrediting Agencies" include all other institutional accrediting agencies. Note that North Central Association of Colleges and Schools (NCACS) voluntarily dissolved in 2013, and accrediting functions migrated to HLC.

Source: Department of Education calculation using DAPIP.

Affordability and Innovation

The Department's final rule would require accrediting agencies to adopt several new policies and procedures that aim to increase college affordability. Specifically, under Section 602.17 (Application of standards in reaching accreditation decisions), the final rule would require accrediting agencies to consider efficiency in their review of institutions and to conduct cost-benefit analyses to ensure institutions' activities justify the associated financial, administrative and

opportunity costs, and the impact of capital expenditures on future operating expenses. Such analyses could put downward pressure on institutional costs and, by extension, tuition prices. If some institutions prove to be incapable of conducting credible cost/benefit analyses, the number of accredited institutions could fall, but this is unlikely.

Similarly, the final rule could put downward pressure on student costs by helping to reduce excessive program length by requiring that accrediting agencies apply standards that ensure program length is appropriate to the objectives of the program and credential awarded at the institution. The final rule also aims to reduce credential inflation and prevent agencies from restricting institutions from offering short-term programs, which may help reduce costs for students because they will be able to pursue fewer or shorter credentials to work in a given occupation. This may ultimately increase enrollment and title IV, HEA student aid disbursements if more students pursue postsecondary education as a result of the improved affordability and reduced time to completion.

The final rule would also specify in Section 602.17 that accrediting agencies' standards related to student achievement may include credit for prior learning. Granting credits for prior learning should reduce costs for students because it allows them to earn credit from skills obtained outside the institution, such as service in the armed forces, employment, or other demonstrated competency.

While these provisions would likely provide benefits to students through lower prices and less time enrolled, they could also reduce revenues for institutions and transfers of Federal title IV, HEA funds to institutions. Institutions may therefore bear additional costs as they adjust their programs and policies to align with new accreditation standards. Accrediting agencies will bear new costs as they work to incorporate these proposed changes into their standards and practices.

The final rule includes several provisions that ensure accrediting agencies do not unnecessarily constrain innovations that could further reduce costs to students and institutions, and may also increase program quality. For example, Section 602.15 (Administrative and fiscal responsibilities) would be amended to require that accrediting agencies provide training to all agency representatives and staff that includes topics related to best practices in various educational delivery methods, models, and modalities; innovative or lower-cost educational delivery models that may provide high-quality education to students; and avoiding unnecessary costs to institutions in the accreditation process. These innovations may make higher education more accessible for students, thereby increasing postsecondary enrollment and title IV, HEA student aid disbursements.

The Department has estimated the potential increase in enrollment and title IV, HEA student aid disbursements that could result from the innovations that the final rule helps

facilitate. Specifically, the Department examined historical enrollment growth rates among short-term certificate programs and, separately, the growth rates among exclusively online programs (excluding changes in exclusively online programs during the COVID-19 pandemic).¹⁷ The Department used these two categories as proxies for innovative educational models, although the Department acknowledges that innovation can take many forms not necessarily captured in these categories. Given the uncertainty around potential innovations that may arise under the final rule, the Department has produced estimates using a low, medium, and high enrollment growth rate.¹⁸ After calculating the historical growth rates, the Department then used data on title IV, HEA student aid disbursements (Pell

¹⁷ The Department analyzed historical growth rates using Integrated Postsecondary Education Data System (IPEDS) data. To calculate growth rates in exclusively online programs, we used IPEDS data on distance enrollment from 2012-13 to 2024-25. For each academic year, we calculated the average share of degree/certificate-seeking undergraduate and graduate students enrolled exclusively in online programs. We then computed the annual percent change in the share of students in exclusively online programs for each year from 2013-14 to 2024-25. We acknowledge that between 2019 and 2020, the distance enrollment IPEDS file changed from Fall Enrollment to 12-Month FTE enrollment; however, the change in definition does not influence our estimates because we compute annual percent changes, and we exclude this year due to its overlap with the Covid-19 pandemic. To calculate growth rates in short-term programs, we used IPEDS data on student charges for vocational programs from 2014-15 to 2023-24, the most recent year of data available at the time when this analysis was conducted. We defined short term programs as programs that were at least 600 clock hours in length but shorter than 12 months. After identifying this set of programs, we then merged this IPEDS data to Department data on title IV enrollments using common OPEID6, credential level, and 6-digit CIP codes. We then calculated the annual percent change in title IV enrollment for each award year between 2014-15 and 2023-24.

¹⁸ For exclusively online programs, the minimum growth rate was 1.7 percent; the median growth rate (excluding Covid-19 years), was 5.2 percent, and the maximum growth rate was 10.1 percent. For short-term programs, the minimum positive growth rate was 1.3 percent, the median growth rate (using years with positive growth) was 4.5 percent, and the maximum growth rate was 13.0 percent. We use these minimums, medians, and maximums for the low-, medium-, and high-growth rates for our analysis of exclusively online enrollment and enrollment in short-term certificate programs.

Grants and student loans) made to students in 2023-24 (for students in exclusively online programs) and 2024-25 (for students in short-term certificate programs).¹⁹

The estimated increase in potential Title IV, HEA recipients and disbursements are shown in Tables 3.6 and 3.7. Under a low-growth assumption for the creation and expansion of online programs, we estimate there could be 26,400 new Pell Grant recipients annually relative to the baseline, resulting in a total increase in annual disbursements of \$136.4 million. Under high-growth assumptions for online programs, we estimate there could be as many as 157,000 new Pell Grant recipients annually relative to the baseline, resulting in a net increase of \$810.5 million in Pell Grants. Turning to short-term programs, using low-growth assumptions for the creation and expansion of short-term certificate programs, we estimate there could be 1,700 new Pell Grant recipients annually, resulting in an increase of \$7.5 million in total annual disbursements. Under high-growth assumptions for short-term programs, there could be 17,300 new Pell Grant recipients annually, resulting in a total increase in annual disbursements of \$75 million.

¹⁹ We use these years because they were the most recently available data at the time this analysis was conducted. Pell Grant and Federal student loan disbursement data are from IPEDS for our analysis of exclusively online programs. Specifically, we assume that students in exclusively online programs receive a proportional share of title IV, Federal student aid at an institution. For example, if 50 percent of students at an institution were enrolled in exclusively online programs, we assume that half of the institution's title IV aid (Pell Grants and student loans, obtained through IPEDS) was disbursed to students in exclusively online programs. Pell Grant and loan disbursement data for our analysis of short-term certificate programs are from the Department's administrative records. This data may include a small amount of double counting if the same students are enrolled at two or more short-term certificate programs at the same institution in the same award year.

The Department reiterates that these projections are estimates based on historical trends in enrollment increases in exclusively online and short-term programs. However, due to the uncertainty in the type and format of possible innovations, we acknowledge that the amount of growth that may come about due to the final rule could differ in scale or magnitude from historical levels.

Table 3.6 - Estimated Annual Increase in Exclusively Online Enrollment Due to Innovation Under the Final Rule

	Baseline	Increase (Low)	Increase (Medium)	Increase (High)
Exclusively Online Pell Recipients	1,554,700	26,400	80,800	157,000
Exclusively Online Pell Disbursements	\$8,024,638,300	\$136,418,500	\$417,281,600	\$810,488,100
Exclusively Online Loan Recipients	1,264,300	21,500	65,700	127,700
Exclusively Online Loan Disbursements	\$8,790,676,800	\$149,441,200	\$457,115,600	\$887,857,900

Note: Estimates reflect the annual enrollment and corresponding disbursement increase due to possible innovations related to online programs. The low, medium, and high enrollment increase scenarios are based on historical growth rates in exclusively online enrollment from 2013-14 to 2024-25. The low scenario reflects a 1.7 percent increase in enrollment; the medium scenario reflects a 5.2 percent increase; the high scenario reflects a 10.1 percent increase. Pell Grant and Federal student loan disbursement data are for the 2023-24 academic year, obtained from IPEDS.

Source: Department of Education estimates using data from the Integrated Postsecondary Education Data System.

Table 3.7 - Estimated Annual Increase in Short-Term Certificate Programs Due to Innovation Under the Final Rule

	Baseline	Increase (Low)	Increase (Medium)	Increase (High)
Pell Recipients	133,400	1,700	6,000	17,300
Pell Disbursements	\$576,943,700	\$7,500,300	\$25,962,400	\$75,002,700
Loan Recipients	108,000	1,400	4,900	14,000
Loan Disbursements	\$690,818,000	\$8,980,600	\$31,086,800	\$89,806,300

Note: Estimates reflect the annual enrollment and corresponding disbursement increase due to possible innovations in short-term certificate programs. Short term certificate programs are defined as programs that are at least 600 clock hours in length but shorter than 12 months. The low, medium, and high enrollment increase scenarios are based on historical growth rates in short-term certificates from 2016-17 to 2023-24. The low scenario reflects a 1.3 percent increase in enrollment; the medium scenario reflects a 4.5 percent increase; the high scenario reflects a 13.0 percent increase. Pell Grant and Federal student loan disbursement data are for the 2024-25 award year, obtained from FSA records on title IV disbursements.

Source: Department of Education estimates using data from the Integrated Postsecondary Education Data System and PPD 2026.

The final rule also states that agencies should apply their standards in ways that seek to reduce unnecessary barriers that restrict the ability of institutions or programs from adopting instructional, programmatic, or delivery practices that improve or accelerate credential completion. By reducing unnecessary procedural requirements, encouraging accrediting agencies to minimize administrative burdens, recognizing innovative educational delivery models, and discouraging unnecessary barriers to new instructional approaches, the final rule is expected to facilitate experimentation with new methods of delivering high-quality postsecondary education. Because many of these innovations have not yet been developed or implemented, the Department cannot estimate their future value, but expects that increased flexibility may improve educational quality, enrollment, and affordability over time.

The provisions in the final rule related to innovation and new educational models are likely to provide benefits to students by increasing the range of available educational options and by reducing prices for those options. As noted in the Net Budget Impact section of this RIA and in the 2019 Accreditation regulations, these factors may have offsetting effects on loan and grant volumes as credit transfer or shorter programs could reduce the amount needed to complete a degree but others could encourage increased enrollment. Accrediting agencies will bear new costs in aligning their policies and practices to implement those new requirements.

Finally, the rule requires major new changes that mandate separation between trade associations or affiliated organizations and accrediting agencies. These relationships can result in credential inflation if trade associations seek to require additional credentials to enter into a profession and then use their affiliation with an accrediting agency to make those requirements a condition of accreditation for programs at institutions. One report finds that many Federally recognized programmatic accrediting agencies maintain deep structural ties with the professional and trade associations with which they are affiliated.²⁰

Accrediting agencies and affiliated organizations or associations will bear new costs under these provisions as they work to alter their legal, operational, and physical structures. Students may benefit from these changes because the policies could reduce excessive and unnecessary degree and time requirements to enter into certain professions.

Department Administrative Costs

The Department expects the final rule to impose only modest incremental administrative costs on the Federal government. Most provisions modify the criteria and procedures the Department uses when recognizing accrediting agencies rather than establishing new Federal programs or recurring operational responsibilities.

²⁰ Bryan Cutsinger and Siri Terjesen, *Captured gatekeepers: Structural conflicts of interest in U.S. higher education accreditation*, European Economic Review, Vol. 190, 2026.

Implementation will primarily require Department staff to review new, or additional, accrediting agency recognition applications and petitions under the revised standards. These reviews are already part of the Department's regular recognition process, and the final rule generally changes the substance of those reviews rather than creating new review processes. As a result, the Department expects most implementation activities to be absorbed within existing recognition cycles and staffing levels.

Some additional staff time may be required during the initial implementation period to review revised accrediting agency policies and procedures addressing issues such as conflicts of interest, independence from affiliated organizations, antitrust compliance, student outcomes, academic freedom, intellectual diversity, research integrity, and other revised recognition criteria. The Department also anticipates limited one-time costs associated with updating guidance documents, internal training materials, and information systems necessary to administer the revised regulations.

To the extent the final rule encourages the recognition of additional accrediting agencies or increases the number of institutions seeking to change agencies, the Department could experience a modest increase in recognition-related workload. However, these activities are expected to occur gradually over multiple recognition cycles and to remain manageable within existing administrative structures.

The Department also anticipates offsetting administrative savings. Since the Department announced its accreditation reform efforts, three accrediting agencies have voluntarily withdrawn from Department recognition²¹. As additional agencies determine that they no longer wish to maintain Federal recognition under the revised regulatory framework, the Department expects the number of Federally recognized accrediting agencies requiring recognition reviews, interim monitoring, compliance reporting, and other oversight activities to decline. A smaller number of recognized agencies would reduce the Department's workload associated with recognition petitions, staff reviews, National Advisory Committee on Institutional Quality and Integrity (NACIQI) proceedings, monitoring, and related administrative actions, thereby partially offsetting the implementation costs associated with the final rule.

The final rule may also generate longer-term administrative efficiencies by establishing clearer recognition standards and focusing Department oversight on areas presenting the greatest risk to students and taxpayers. To the extent these reforms improve the efficiency of the recognition process, they could reduce both Federal administrative costs and private-sector compliance burdens over time.

Accordingly, the Department does not anticipate that implementation of the final rule will require significant

²¹ 3 Programmatic Accreditors Withdraw From Federal Recognition - <https://www.insidehighered.com/news/governance/accreditation/2026/07/24/3-programmatic-accreditors-withdraw-federal-recognition>.

additional Federal resources. Over time, the Department expects that the offsetting of administrative savings and efficiencies described above may reduce the overall Federal administrative burden associated with oversight of Federally recognized accrediting agencies.

4. Additional Benefits

The Department expects the final rule to produce several important benefits that cannot be reliably quantified but that are nevertheless relevant in evaluating the overall effects of the rule.

First, the final rule is expected to increase competition among recognized accrediting agencies. The Department anticipates that reducing unnecessary barriers to the recognition of new accrediting agencies, simplifying the process by which institutions may change accrediting agencies, and eliminating unnecessary geographic distinctions will increase institutional choice and create stronger incentives for accrediting agencies to innovate, improve responsiveness to institutions, and reduce unnecessary costs. While the Department cannot reliably estimate the magnitude of these effects, economic theory and experience in other quality-assurance markets suggest that increased competition is likely to improve quality and efficiency over time.

Second, the final rule is expected to improve transparency and accountability. The new requirements regarding transfer-of-credit policies, public disclosure of accrediting actions,

institutional representations, and research integrity will provide students, taxpayers, employers, and policymakers with more complete and reliable information regarding institutional quality and performance. Greater transparency improves decision making by prospective students and encourages institutions to maintain high standards. Although these benefits cannot readily be expressed in monetary terms, the Department expects them to improve the functioning of the higher education marketplace.

Third, the final rule is expected to strengthen academic freedom, intellectual inquiry, and the free exchange of ideas. The Department believes that institutions providing an environment in which lawful viewpoints may be expressed and examined, faculty are evaluated without regard to viewpoint or ideology, and students are exposed to a range of scholarly perspectives are better positioned to fulfill the educational purposes recognized by the Higher Education Act. While these educational benefits cannot be quantified, the Department considers them an important component of institutional quality and student learning.

Fourth, the final rule is expected to reduce regulatory uncertainty by more clearly distinguishing the Department's recognition criteria from accrediting agencies' own substantive accreditation standards. The Department expects that clearer recognition standards, streamlined procedures, and more transparent expectations will reduce unnecessary disputes, improve the efficiency of the recognition process, and allow

both accrediting agencies and institutions to devote greater resources to educational quality rather than regulatory compliance. Although these benefits cannot be quantified, they are expected to improve the administration of the Federal recognition process over time.

Finally, the final rule will likely strengthen public confidence in the accreditation system. By emphasizing educational quality, lawful administration of accreditation standards, research integrity, objective measures of student outcomes, transparency, and institutional accountability, the Department expects the final rule to reinforce public confidence that accreditation serves students and taxpayers while respecting institutional diversity, including intellectual diversity, and mission. Although these effects are inherently difficult to quantify, they are central objectives of the proposed rule.

5. Net Budget Impact

The Department continues to estimate that the changes to accreditation implemented by the final rule will not have a significant net Federal budget impact. However, we present the effects of the middle scenarios in Tables 3.3, 3.6, and 3.7 here for illustrative purposes. The transfer scenario from Table 3.3 is a reduction in volume that offsets the increases from innovation, which would result in a net budget impact of -\$131 million in loans and -\$4.2 billion in Pell Grants. Consistent with the requirements of the Credit Reform Act of 1990, budget cost

estimates for the student loan programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans. A cohort reflects all loans originated in a given fiscal year. The baseline for estimating the cost of these regulations is the President's Budget FY2027 baseline that includes effects of the Working Families Tax Cuts Act and final regulations related to loan limits, repayment plans, and other areas published May 1, 2026²² and related to earnings accountability published July 1, 2026.²³

Rules governing accreditation and the roles of actors in the Federal-State-accrediting agency triad have been the subject of several recent rules, including a rule published November 1, 2019²⁴ that shared the goals of reducing barriers that limit competition, innovations, and new educational models. Adjustments from the earlier regulations are in the current budget baseline.

The final rule will build on and further those initial efforts to foster innovation and remove regulatory barriers in the accreditation process. This could have offsetting effects on Federal student loan and Pell Grant volumes. If some schools are able to begin or extend their participation in the title IV, HEA programs by finding accrediting agencies that support their innovative approaches or missions, that could increase volumes compared to the baseline. On the other hand, accrediting

²² 84 F.R. 23768

²³ 91 F.R. 40136

²⁴ 84 F.R. 58834

agencies requiring more acceptability of transfer credits or approving experiential credits may allow some students to complete programs faster and reduce loan and grant volumes. The proposed mandate that accrediting agencies require institutions to use data on student-level outcomes to improve performance mitigates concerns that making accreditation changes less burdensome would result in greater defaults or other negative outcomes.

As noted in the NPRM published August 20, 2026²⁵, the Department does not anticipate a significant budget impact of the final rule. Several commenters responded to the estimate of no budget impact in the NPRM published August 20, 2026 suggesting additional analysis and that the rule should have a significant net budget impact. Some compared this estimate with analysis for the 2019 rule regarding accreditation as support for the current rule having a significant impact. Commenters pointed out that the Congressional Budget Office estimated increases of \$225 million in loans, \$212 million in mandatory Pell, and \$1.13 billion in discretionary Pell Grant volume over 2026-2035 from proposed legislation with similar provisions²⁶. Many comments referenced the removal of accreditation constraints leading to volume, including new volume, flowing to institutions that may have had difficulty maintaining

²⁵ 91 F.R. 160 p. 53940 available at <https://www.Federalregister.gov/documents/2026/08/20/2026-17001/accreditation-innovation-and-modernization-the-secretarys-recognition-of-accrediting-agencies>

²⁶ Congressional Budget Office, Cost Estimate for H.R. 4054, Accreditation Choice and Innovation Act, June 25, 2025, <https://www.cbo.gov/publication/61826>.

accreditation under existing rules. Other commenters noted the potential decrease in volume associated with transfer students from the provisions regarding acceptance of credits that is discussed around Table 3.3 of this RIA. While the Department still believes that the effects of these provisions will not lead to an appreciable net budget impact on title IV, HEA programs, we have included estimates of alternative scenarios to illustrate potential effects.

Alternate Scenarios

As described in the Costs, Benefits, and Transfers section of this RIA, there are possibilities that the changes in the final rule related to acceptance of transfer credits, encouraging innovation, and other aspects could result in volume increases or reductions. Therefore, we have considered two alternative scenarios based on the medium scenarios for transfers and innovation presented in Tables 3.3 and 3.6-3.7. To estimate the budget impact on student loans, we took the estimated reduction in Table 3.3 and distributed to budget risk groups (2-yr proprietary, 2-year non-profit and public, 4-yr fr/so, 4-yr junior/senior, graduate) and loan types using 2024-25 Q4 year-to-date school level loan disbursements from the FSA data center²⁷ with 4-year reductions split in half between risk groups. As the transfer scenarios in the Costs, Benefits, and

²⁷ 2024-2025 Award Year Direct Loan Volume by School, Federal Student Aid Data Center, available at <https://studentaid.gov/data-center/student/title-iv>

Transfers section of this RIA analyzed undergraduate enrollment, we focused the sensitivities on exclusively undergraduate risk groups and distributed the reduction as shown in Table 5.1.

Table 5.1A. Distribution of Estimated Reduction in Direct Loans by Risk Group

Sector	Percent of Reduction Applied	Amount with Full Ramp-Up
2-yr Proprietary	8.3%	(112,393,032)
2-yr Non-Profit & Public	9.1%	(107,338,813)
4-yr FR/SO	41.3%	(655,561,728)
4-yr JR/SR	41.3%	(655,561,728)
Total		(1,530,855,302)

Pell Grants are estimated by type and control, not loan risk groups and Table 5.1B provides the distribution of the reduction for Pell Grants.

Table 5.1B. Distribution of Reduction in Pell Grants by Type and Control

Institution Type and Control	Percent of Reduction Applied	AY 2024-25 Reduction
2-yr Proprietary	6.0%	78,809,280
2-yr Non-Profit	1.0%	13,338,954
2-yr Public	16.6%	219,910,370
4-yr Proprietary	8.0%	106,162,449
4-yr Non-Profit	15.4%	204,039,659
4-yr Public	52.9%	698,623,089
Total		1,320,883,800

We ramped the estimated effects up over time as seen in Table 5.2 because the final rule involves accreditation changes that institutions will gradually respond to over time.

Table 5.2 Ramp-up Effects for Alternative Scenarios for Transfer and Innovation

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Transfer Scenario	-	-	0.25	0.25	0.50	0.50	0.75	0.75	1.00	1.00
Innovation Scenario	-	-	-	0.25	0.25	0.50	0.50	0.75	0.75	1.00

The estimated volume reduction from transfers of \$2.85 billion annually in Table 3.3 was distributed as \$1.53 billion in loans and \$1.32 billion in Pell Grants based on volumes associated with transfer students in AY 2024-25. The loan reduction results in approximately -\$162 million in net budget impact in the Direct Loan program. As seen in Table 5.3B, the reduction in transfers is estimated to reduce Pell Grant costs by approximately \$5.7 billion over the budget window from 2027-2036 with effects starting in FY 2029.

Table 5.3A Transfer Scenario Analysis - Estimated Annual Net Budget Impact for Direct Loans, Outlays in Millions \$

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Subs.	-	-	(16)	(21)	(36)	(40)	(55)	(59)	(72)	(73)	(373)
Unsub.	-	-	(13)	(17)	(28)	(27)	(36)	(43)	(51)	(52)	(267)
PLUS (Parent)	-	-	22	31	53	59	68	79	94	111	517
Consol	-	-	(0)	(1)	(2)	(3)	(6)	(8)	(8)	(11)	(39)
Total for Loans	-	-	(7)	(8)	(12)	(12)	(28)	(32)	(37)	(25)	(162)

Table 5.3B Transfer Scenario Analysis - Estimated Annual Net

Budget Impact for Pell Grants, Outlays in Millions \$

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Discretionary	-	-	(83)	(274)	(360)	(551)	(637)	(830)	(916)	(1,108)	(4,759)
Mandatory	-	-	(16)	(53)	(69)	(106)	(122)	(158)	(174)	(209)	(907)
Total for Pell	-	-	(99)	(327)	(429)	(657)	(759)	(988)	(1,090)	(1,317)	(5,666)

The innovation scenario assumes an increase in loan and Pell grant volume as seen in Tables 3.6 and 3.7. Combining the medium scenarios in those tables, the increases associated with these examples of educational innovations were approximately \$488 million in Direct loan volume and \$443 million in Pell grants. The estimated volume increase from innovation results in approximately \$31 million in outlays in the Direct Loan program over 10 years. As seen in 5.4B, the increased volume associated with innovation is estimated to increase Pell Grant costs by approximately \$1.5 billion over the budget window from 2027-2036 with effects starting in FY 2030.

Table 5.4A Innovation Scenario Analysis - Estimated Annual Net

Budget Impact for Direct Loans, Outlays in Millions \$

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Subs.	-	-	-	5	7	11	13	17	18	22	92
Unsub.	-	-	-	3	4	9	11	10	13	15	64
PLUS (Parent)	-	-	-	(7)	(10)	(16)	(17)	(24)	(26)	(34)	(134)
Consol	-	-	-	0	0	0	1	2	3	4	10
Total for Loans	-	-	-	1	(0)	5	8	5	7	5	31

Table 5.4B Innovation Scenario Analysis - Estimated Annual Net
Budget Impact for Pell Grants, Outlays in Millions \$

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Discretionary	-	-	-	28	92	121	185	214	278	308	1,226
Mandatory	-	-	-	5	18	23	36	41	53	58	234
Total for Pell	-	-	-	33	110	144	221	255	331	366	1,460

d. Accounting Statement

As required by OMB Circular A-4, we have prepared an accounting statement showing the classification of the benefits, costs, and transfers associated with the provisions of these regulations. Table 5.4 provides our best estimate of the changes in annual monetized benefits, costs, and transfers as a result of the final rule.

Table 5.5 - Accounting Statement

		Annualized Impact (millions, \$2026)	
		Discount rate = 3%	Discount rate = 7%
Benefits			
Increased transfer credits allowing for faster completion of credentials	Not quantified		
Focus on student-level outcomes in accreditation	Not quantified		
Reduced barriers for new accrediting agencies to obtain Department recognition	Not quantified		
Increased choice of accrediting agencies for institutions	Not quantified		
Encouragement of innovation and new educational models	Not quantified		
Separation of trade associations or affiliated organizations and accrediting agencies may benefit students by reducing unnecessary degree and time requirements to enter certain professions	Not quantified		
Costs			
		Discount rate = 3%	Discount rate = 7%
Reporting costs to borrowers, institutions and accrediting agencies to comply with Paperwork Reduction Act requirements		\$3.41	\$3.80

Costs to accrediting agencies of developing and applying standards related to student outcomes	Not quantified
Accrediting agency costs to align policies and practices to consider efficiency, include credit for prior learning, and other provisions related to innovation	Not quantified
Accrediting agency costs to alter legal, operational, and physical structures to separate from trade associations or affiliated organizations	Not quantified
Institutional costs to improve programs that do not meet new student outcome standards	Not quantified
Operational costs to close programs that cannot comply with new standards	Not quantified
Department administrative costs to update guidance documents, internal training, and information systems to administer the final rule.	Not quantified
Transfers	
	Discount rate = 3% Discount rate = 7%
Potential reduced payments from students to institutions as increased transfer credits or experiential credit reduces time students need to complete degree	Not quantified

e. Alternatives Considered

As a part of the development of these regulations, the Department engaged in a negotiated rulemaking process in which we received comments and proposals from non-Federal negotiators representing numerous impacted constituencies on a variety of issues. The proposals were submitted from the constituencies listed under the "Negotiated Rulemaking" heading of the NPRM. Information about these proposals is available on our rulemaking website at <https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-higher-education-2026>. Furthermore, the Department received 7,051 total comments during the public comment period. We considered them all as possible alternatives.

This section summarizes two alternatives that were considered but ultimately declined by the Department.

**Application of standards in reaching accreditation decisions
 (§602.17(a)(1) and(2))**

During negotiated rulemaking and the public comment period the Department received extensive feedback on the application of accreditation and preaccreditation standards related to student achievement and faculty. While the rulemaking committee came to consensus on the entire proposal, the Department received varied commentary during the public comment period. Some commenters supported the provisions stating that the provisions focus on student outcomes and prioritize intellectual diversity amongst faculty. Alternatively, some commenters also opposed the provisions stating that the Department exceeded its statutory authority and that it will use the regulations as a mechanism to punitively target agencies and institutions that do not align with the Administration's own political agenda.

The Department considered amendments to provisions under § 602.17, however, we believe the application of standards are important considerations in evaluating the quality of higher education. The new regulations require accrediting agencies, when applying their standards, to consider institutional policies and practices relating to student achievement and faculty. They do not prescribe the content of such policies, require institutions to adopt particular policies, or require

accrediting agencies to establish separate substantive standards in these areas.

An accrediting agency must consider relevant institutional policies and practices in the context of its existing standards and the institution's mission. Where an agency has adopted standards addressing these matters, it must apply and enforce those standards consistently.

These provisions govern the process by which accrediting agencies evaluate institutions, rather than prescribing particular accreditation standards.

Arbitration (§602.20(e))

During the public comment period the Department received a few substantive comments arguing that prohibiting binding arbitration agreements between would undermine efforts to resolve disputes between institutions and accrediting agencies through negotiation and result in an increase in costly, protracted litigation. Commenters argued that binding arbitration agreements can provide institutions and agencies with a more efficient and less costly way.

The Department considered changes to the provision, however, we have consistently concluded that under Section 496(e) of the HEA arbitration cannot be binding, because the statute only refers to "initial" arbitration and provides that the institution may still instigate "any other legal action" after arbitration.

2. Regulatory Flexibility Act

This section considers the effects that the final rule may have on small entities in the Educational Sector as required by the Regulatory Flexibility Act (RFA, 5 U.S.C. *et seq.*, Pub. L. 96-354) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The purpose of the RFA is to establish as a principle of regulation that agencies should tailor regulatory and informational requirements to the size of entities, consistent with the objectives of a particular regulation and applicable statutes.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute unless the agency certifies that the rule will not have a "significant impact on a substantial number of small entities."

This final rule implements regulatory changes to realign the Secretary's criteria for recognition of accrediting agencies.

Congress has prohibited the Department from intervening in the curricular decisions of an institution or attempting to exert control over its faculty, administration, or academic programs. Instead, under the HEA, accrediting agencies oversee the quality and academic sufficiency of instructional programs at institutions participating in the title IV, HEA programs.

Accrediting agencies are independent, membership-based organizations that review member institutions or programs to

ensure they meet certain standards for academic quality and rigor.

The HEA requires the Secretary to establish criteria for determining whether an accrediting agency is a reliable authority, for purposes of the HEA and for other Federal purposes, on the quality of education or training offered by the institutions or programs that they accredit. Such criteria are required to include appropriate measures of student achievement. Consistent with statute, the Secretary has established regulations for recognition of accrediting agencies at 34 CFR Part 602 and has revised these regulations periodically.

E.O. 14279 directed the Secretary to take several actions related to the recognition of accrediting agencies or associations by the Department. Some of these actions require changes to existing regulations. The goal of these regulatory changes is to realign the Secretary's criteria for recognition of accrediting agencies to promote high-quality, high value, and affordable education for students.

The Department estimates that the final rule would have a significant economic impact on a substantial number of institutional accrediting agencies that meet the definition of small entities. However, the Department believes that the final rule will only indirectly impact institutions of higher education.

Description of, and, Where Feasible, an Estimate of the Number of Small Entities to Which the Regulations Will Apply

The Department believes that institutions of higher education are not directly regulated by the final rule and could only be indirectly impacted by actions accrediting agencies take in response to the final rule. For this reason, the Department does not examine the possible impact of the final rule on small entities that are institutions of higher education. The Department also notes that it is difficult to estimate the impact of the final rule on institutions of higher education that are small entities because accrediting agencies have wide discretion in how they implement the final changes, and data on the impact of accreditation regulations on institutions are not available. Moreover, as explained in Section 5 of this RIA ("Net Budget Impact"), several of the final regulatory changes are likely to have offsetting revenue effects for institutions, including on institutions of higher education that are small entities. For example, institutions will be subject to new student outcome standards for recognition purposes, which could force some institutions to reform or close programs, negatively affecting their revenues. Policies aimed at increasing credit transfers for students could have similar negative revenue effects on small entities. On the other hand, the final rule includes several provisions meant to prevent accrediting agencies from unnecessarily restricting innovation in educational models, which should allow institutions—including

small entities—greater operational flexibility, which could increase their revenue. The final reforms to increase new entrants and agency switching should also promote greater operational flexibility by creating a more favorable environment for institutions looking to innovate.

The group directly affected by the final rule is accrediting agencies. Most accrediting agencies are organized as nonprofit entities that are defined as “small entities” if they are independently owned and operated and not dominant in their field of operation. While dominance in accreditation is hard to determine for institutional accrediting agencies, as it currently stands, the Department believes programmatic accrediting agencies—that is, recognized agencies that accredit specific programs within an institution—very often have dominance in their field. This is because there are usually, at most only one or two, and in rare cases multiple, programmatic agencies that provide recognition for a given field or occupation, that is used not only for Federal programs, but also as for educational requirements related to professional licensure.^[20] Therefore, we do not consider programmatic accrediting agencies to be small entities for the purposes of this analysis. This determination is consistent with the Department's past position on accrediting agency size standards.

The Department believes that institutional accrediting agencies, which function as gatekeepers to title IV, HEA program funds and are subject to many of the policy changes in the final

rule, meet the standard for small entities. The Department considers these agencies to be “professional organizations” as classified under the North America Industry Classification System (813920). The SBA defines small professional organizations as businesses having less than \$24 million in total annual revenue. Each accrediting agency recognized by the Department as institutional accrediting agencies report annual revenue below this threshold (Table 6.1).

Table 6.1 - Institutional Accrediting Agency Revenues

Agency	Year	Revenue (\$ millions)
Higher Learning Commission (HLC)	2025	17.5
Southern Association of Colleges and Schools Commission on Colleges (SACSCOC)	2025	14.8
WASC Senior College and University Commission (WSCUC)	2025	9.0
Accrediting Commission of Career Schools and Colleges (ACCSC)	2025	8.6
National Accrediting Commission of Career Arts and Sciences, Inc. (NACCAS)	2025	6.6
Northwest Commission on Colleges and Universities (NWCCU)	2024	6.1
New England Commission of Higher Education (NECHE)	2024	5.6
Accrediting Commission for Community and Junior Colleges (ACCJC)	2025	4.9
Council on Occupation Education (COE)	2025	4.8
Distance Education Accrediting Commission (DEAC)	2025	4.7
Middle States Commission on Higher Education (MSCHE)	2025	4.1
Accrediting Council for Continuing Education and Training (ACCET)	2024	3.2
Association for Biblical Higher Education (ABHE)	2025	2.4
Transnational Association of Christian Colleges and Schools (TRACS)	2025	2.0
Association of Advanced Rabbinical and Talmudic Schools (AARTS)	2025	1.6
Association of Institutions of Jewish Studies (AIJS)	2025	0.6

Source: Internal Revenue Service Form 990, PROPUBLICA. This table reports annual revenues from Form 990 for the most-recently available year at the time in which these data were collected. For some entities, this was 2025, while for others it was 2024.

To determine whether the final rule would have a significant economic impact on a substantial number of institutional accrediting agencies, the Department uses information on the burden the final rule would impose on institutional accrediting agencies included in the Paperwork Reduction Act section of this final rule. The final rule is estimated to require 352 hours of labor per institutional accrediting agency to comply with the final regulations because institutional accrediting agencies

will need to update their processes, data collection efforts, and reporting activities.

Using the median hourly wage for Education Administrators, Postsecondary (11-9033) from the U.S. Bureau of Labor Statistics (\$50.29 in 2025) and then doubling that figure to account for overhead costs and employee benefits, results in an average annual burden imposed on an institutional accrediting agency of \$35,404.^[21]

These new costs will create a significant economic impact on a substantial number of institutional accrediting agencies. For the purposes of this analysis the Department has defined "significant economic impact" as increasing or reducing a small entity's revenues by more than 3 percent, and a "substantial number of small entities" as more the 5 percent of entities that meet the Department's definition of a small entity. The \$35,404 estimated burden for institutional accrediting agencies that result from the rule is about 6 percent of the Association of the Institutions of Jewish Studies' reported annual revenue of approximately \$600,000, exceeding the Department's threshold of 3 percent. All other agencies would experience less than a 3 percent effect on their revenues. Because there are fewer than 20 institutional accrediting agencies, a single accrediting agency represents over 5 percent of the accrediting agencies and the final rule exceeds the Department's threshold for a substantial number.

Alternatives Considered (Small Entities)

It is the Department's general policy to minimize compliance costs and regulatory burden for all regulated entities, especially small entities, and to develop regulations that are consistent with statutory requirements. The Department considered other options and changes to the proposed rule intended to reduce compliance costs and administrative burden for small entities such as whether institutional accrediting agencies who meet the definition of small entities could have fewer reporting requirements, or exemptions from certain aspects of the regulation. As explained above, each currently-recognized institutional accrediting agency is a relatively small non-profit voluntary membership organization and meets the definition of a small entity based on annual revenue volume (see Table 6.1). The Department determined that alternatives policies for small entities would diminish the effectiveness of the final rule for institutional accrediting agencies, which serve as quality gatekeepers for institutions participating in the Federal student assistance programs, under which approximately 13 million students will receive more than \$120 billion in the current year. Furthermore, the Department believes that such alternatives are inconsistent with the Higher Education Act, which establishes specific requirements for recognition of accrediting agencies that the existing regulations implement and which are further enhanced by the final rule, and E.O. 14279, which directed the Secretary to take specific actions.

Comments from the NPRM

Comments: Several commenters urged the Department to provide an estimate of the impact on institutions of higher education that meet its small entities definition in its Regulatory Flexibility Analysis for the proposed rule. One commenter also argued that the Regulatory Flexibility Analysis should estimate the impact on programmatic accrediting agencies because they are consequential in affecting higher education policy.

Discussion: The Department did not provide a Regulatory Flexibility Analysis for institutions of higher education because it believes institutions are only indirectly affected by the rule; the rule applies to accrediting agencies and not institutions of higher education. Courts have held that the Regulatory Flexibility Act requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates small entities. On the issue of programmatic accrediting agencies, the Department maintains that these entities are dominant in their fields because there are usually, at most only one or two, and in rare cases multiple, programmatic agencies that provide recognition for a given field or occupation. They therefore do not meet the definition of a small entity. The Department has, however, provided an impact analysis for institutional accrediting agencies.

Changes: None

Comment: Several commenters asked the Department to revisit its Regulatory Flexibility Act analysis, noting that the Department's paperwork and compliance burden was inaccurate and understated the burden imposed on institutional accrediting agencies.

Discussion: The Department used paperwork and compliance burden estimates to determine that the proposed rule would impose a significant economic impact on a substantial number of institutional accrediting agencies, which fit the Department's definition of small entities under the Regulatory Flexibility Act. The Department estimated in the proposed rule that only one institutional accrediting agency would experience a compliance burden that would exceed three percent of its annual revenue. The Department has reviewed and revised the Paperwork Reduction Act analysis and burden that will be imposed on institutional accrediting agencies in the final rule. Those changes (a slight reduction in the paperwork and compliance burden estimates for institutional accrediting agencies from those published in the proposed rule) are reflected in the Regulatory Flexibility Act analysis but they do not change the Department's estimates of the overall impact on small entities.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. § 3507(d)) requires that the Department consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act

(5 CFR 1320.8(b)(2)(vi)), an agency may not conduct or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. § 3506(c)(2)(A)). This helps make certain that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

Discussion

The purpose of the regulations at 34 CFR Part 602 is to ensure that accrediting agencies are, for purposes of the HEA and other Federal purposes, reliable authorities regarding the quality of education or training offered by the institutions or programs that they accredit. Accreditation in the United States has generally involved non-governmental entities that develop quality criteria and conduct evaluations, primarily through peer review, to determine whether or not those criteria are met. Reliance on the recognized accrediting agencies' quality

assurance function is one of the three main elements of oversight for the HEA's Federal student aid programs. In order for students to receive Federal student aid from the Department for postsecondary study, the institution must be accredited by an accrediting agency (or, for certain vocational institutions, approved by a State approval agency) recognized under these regulations, be authorized by the State in which the institution is located, and receive approval from the Department through a program participation agreement.

As of October 1, 2026, the Secretary recognized 50 accrediting agencies that are independent, membership-based organizations designed to ensure students have access to qualified faculty, appropriate curriculum, and other support services. Of these 50 accrediting agencies recognized by the Secretary, 34 are institutional for title IV HEA purposes and 16 are solely programmatic. Institutional accrediting agencies accredit entire institutions of higher education, while programmatic accrediting agencies accredit specific educational programs within institutions that prepare students for entry into a profession, occupation, or vocation. The Paperwork Reduction Act section will use these figures in assessing burden. Additionally, we use the number of title IV eligible institutions noted in the Regulatory Impact Analysis as the basis for assessing institutional burden in the Paperwork Reduction Act section.

Some commenters believed that the burden estimates provided in the NPRM did not properly account for one-time and recurring costs for institutions and accrediting agencies. Some examples cited were: revising standards, developing processes, collecting and analyzing information, training personnel and reviewers, conducting additional reviews, reporting, and maintaining new requirements. Some commenters made suggestions that the Department assess the full institutional cost of the proposed regulation.

Discussion: The Department disagrees. The President's Executive Order specifically directed the Secretary of Education to take appropriate steps to reduce barriers that limit institutions in adopting practices that advance degree completion and new education models, as well as increasing the consistency, efficiency, and effectiveness of the accrediting agency recognition process, and streamlining the process for institutions to change accrediting agencies. Moreover, in doing this review directed by the Executive Order, the Department considered and reviewed the existing burden on accrediting agencies and institutions in the current regulations before considering additional changes to the existing requirements.

The final rule achieves the goals set forth in the Executive Order and further eliminates requirements that the Department identified as unnecessarily burdensome. These changes were proposed in negotiated rulemaking and included in the draft

regulations that the negotiated rulemaking committee achieved consensus on.

This Paperwork Reduction Act analysis estimates the burden of both one-time implementation actions and any recurring requirements from new regulatory changes in the final rule.

Comments: Some commenters suggested that the burden estimates in the NPRM rested on unstated assumptions about future institutional academic records and to what extent such records are provided as structured documents. (In considering this comment, the Department assumed that in referring to "structured documents," the commenters were referring to electronic or physical documents that organize information using a predefined template, strict hierarchy, or markup or data schemas so that every piece of content appears in a predictable location and form.)

Discussion: The burden hour estimates for this final rule are based on a review of past estimates for requirements in each section, currently approved information collections, and the degree to which the final rule adds to or changes existing requirements. Additionally, while the Department did consider that certain records, such as institutional records, would generally be in electronic form, it did not assume that all documents, such as academic transcripts, were structured documents in uniform formats across varying institutions. The discussion in this section and in the description of the changes

in the preamble clearly identify the basis for the Department's estimates, and no assumptions have been left unstated.

Comments: Several commenters noted that institutions are likely to already demonstrate compliance with some of the proposed regulations. They supported the new requirements in the recognition regulations and believed them to be best practices currently demonstrated by agencies or institutions. Other commenters suggested that the Department rely on institutions using their current practices rather than changing regulatory requirements for all.

Discussion: The Department appreciates these comments and the support for the regulations. However, the Department declines to rely solely on an institution's current practices and has included in the recognition criteria in the final rule accrediting agency best practices that promote transparency and consistency across recognized accrediting agencies and the institutions and programs that they accredit.

Comments: Several large institutions submitted comments stating their belief that the Department underestimated the burden on institutions of the new regulations on credit transfers and the costs of implementing the regulations, such as the cost of changes to institutional policies and student information systems that will be needed. One commenter stated that applying the same 300-hour estimate to institutions regardless of the scale and complexity of their transfer operations significantly understated the burden on many institutions and does not

adequately reflect the resources necessary for implementation. Commenters asked the Department to re-assess burden estimates to include all aspects of implementation and consider the complexity of the size and operations of the school.

Discussion: The Department disagrees with the commenters' statements that burden estimates did not consider changes to institutional policies and student information. As part of the NPRM, the Department published supplemental information documenting the burden analysis for transfer credits described in the Paperwork Reduction Act section.

The Department also declines to adjust the 300-hour burden estimate. We also note that 300 hours is an estimate, and we expect some institutions will incur more or less burden. The estimate is consistent with the Paperwork Reduction Act, which requires an estimate of burden based on the estimated number of responses multiplied by the estimated average hourly burden per respondent.

This action contains the following new information collection requirements and amendments to existing collections:
§ 600.11 Special rules regarding institutional accreditation or preaccreditation.

Requirements

The final rule in § 600.11 will reduce burdensome requirements on institutions seeking to add or change recognized accrediting agencies. Currently, institutions are required to submit materials to the Department demonstrating a reasonable

cause for changing accrediting agencies, and then wait for the Department's approval of the change in accrediting agency. The current regulations include several criteria for which the Secretary will not determine such change to be reasonable cause. Section 600.11 removes the approval step and the latter criteria unless the Secretary determines that the change is being sought to evade or circumvent a requirement of Federal law or regulation; avoid or delay enforcement or oversight by the Department or an accrediting agency; obtain eligibility for title IV, HEA programs through misrepresentation or other unlawful means; or otherwise undermine the integrity of the title IV, HEA programs.

Institutions seeking accreditation from multiple recognized accrediting agencies will only be required to submit a brief, reasonable explanation to the Department for this request.

Additionally, the institution will be required to use all reasonable efforts to notify current students and recent graduates of any change of accrediting agency within 10 days.

Comments: We received two comments disagreeing with the proposed changes to § 600.11 citing increased burden and documentation on institutions when seeking to change accrediting agencies.

Discussion: The changes to § 600.11 in the final rule will not introduce new burden on institutions. Prior to the final rule the regulations in this section already required institutions to provide documentation to the Department when seeking to change accrediting agencies. The changes in the final rule will

decrease the amount of documentation and justification that institutions will be required to submit to the Department and will eliminate the requirement to wait for the Department's approval before seeking to change recognized accrediting agencies.

Burden Calculation

In the Paperwork Reduction Act section of the NPRM, the Department noted that institutions will be required to submit a form with required information on switching accrediting agencies and that burden for this requirement will be assessed under a new OMB control number and will be made available for public comment prior to the rule becoming effective.

However, the Department has re-evaluated this position in the final rule and will not be requiring a new form for institutions changing accrediting agencies. Since this notification is currently required under prior regulations no burden calculation has been made for this change.

§ 602.3 What definitions apply to this part?

Requirements

The final rule in § 602.3 revises some key definitions and adds new definitions used in these regulations.

Burden Calculation

Accrediting agencies and institutions will be required to review the new definitions and update internal policies and procedures to ensure they are compliant with the new regulations. The Department estimates that it will take

recognized accrediting agencies 20 hours and institutions 5 hours to review, update, and make any relevant changes not otherwise referenced in this section to be required to be in compliance with the regulations. The Department anticipates this will be a one-time burden.

Entity	Responses	Hours	Burden Hours
Agency	50 agencies	20	1,000
Public	1,806 institutions	5	9,030
Private	1,649 institutions	5	8,245
For Profit	1,546 institutions	5	7,730
Total	5,051		26,005

§ 602.12 Accrediting experience.

Requirements

The final rule in § 602.12(a) requires that an agency seeking initial recognition demonstrate that it has sufficient accreditation experience prior to submitting an application for recognition.

Burden Calculation

Burden for the regulation is assessed elsewhere throughout the changes and in the burden estimates for requirements for recognition.

§ 602.14 Purpose and organization.

Requirements

The final rule in § 602.14 strengthens the fiscal and administrative requirements that a recognized agency must meet in order for an agency to demonstrate that it is "separate and independent" from any related, associated, or affiliated trade association or membership organization. Section 496(a)(3) of the HEA requires an accrediting agency to operate "separate and independent" of any related, associated, or affiliated trade association or membership organization unless that agency is categorized as having a voluntary membership of institutions or programs that utilize the agency's accreditation to access other Department or Federal programs. Section 496(b) of the HEA defines the term "separate and independent".

Under the final rule, agencies subject to the "separate and independent" requirements are prohibited from any joint use of personnel, services, equipment, or facilities with a related, associated, or affiliated trade association or professional organization. In addition, such recognized agencies must establish and implement conflict of interest controls for each member of their decision-making body.

The final rule in § 602.14 will also require as part of the initial and renewal of agency recognition process, an authorized representative of the agency to submit a signed statement certifying that it has met the requirements for being separate and independent. This certification must also include information regarding any complaints received during the current recognition period.

Burden Calculation

The change under § 602.14(b)(6) will require an authorized representative of the agency to submit a signed statement certifying that it has met the requirements to be "separate and independent." The Department estimates that this change will take an agency five hours to complete the statement and obtain the necessary signature annually.

34 Institutional Accrediting Agencies X 5 Hours = 170 Burden Hours

§ 602.15 Administrative and fiscal responsibilities.

Requirements

The final rule in § 602.15 will clarify that conflict of interest controls are an integral part of the administrative and fiscal capability criteria the Department uses for determining recognized accrediting agencies. Prior to this final rule, conflict of interest controls were not included in the administrative and fiscal responsibilities regulations. With this final rule, agencies will now be required to have conflict of interest controls.

Additionally, the final rule in § 602.15 will require training to be provided to agency representatives and staff, focusing on best practices and avoiding unnecessary costs. The final rule will also require an agency to cooperate with other agencies and the Department to develop common accreditation templates.

Burden Calculation

The Department estimates that it will take each accrediting agency 30 hours to create, review and update conflict of interest controls.

50 Accrediting Agencies X 30 Hours = 1,500 Burden Hours

Developing and conducting training for representatives and staff would create burden on accrediting agencies. We estimate it would take 18 hours for an agency to create or research appropriate training for their staff. The Department anticipates this will be an ongoing burden.

50 Accrediting Agencies X 18 Hours = 900 Burden Hours

§ 602.17 Application of standards in reaching accreditation decisions.

Requirements

The final rule in § 602.17 will clarify expectations for agency review of student achievement and faculty-related standards and policies, including those addressing academic freedom and intellectual diversity. They will also encompass agency review of institutional cost/benefit analyses, educational objectives, student success, faculty performance and evaluation, facilities, academic freedom, and intellectual diversity.

The final rule is consistent with Section 496(a)(6)(A) of the HEA which states that no accrediting agency may be determined by the Secretary to be a reliable authority as to the quality of education or training offered or for other Federal purposes, unless the agency meets criteria established by the

Secretary. The statute states that such criteria shall include appropriate measures of student achievement and require that an agency establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings, which comply with due process procedures.

Comments

Some comments submitted by institutions mentioned the burden estimate for the cost/benefit analysis in § 602.17, which the Department estimated in the NPRM to be 750,150 burden hours across Title IV-participating institutions. Some commenters disagreed with the estimate, asserting it was severely underestimated while others expressed concern it was too high. Other comments stated the burden of the cost/benefit analysis could not be estimated due to lack of instruction on specific requirements of such analysis. One comment stated the Department omitted burden on institutions for § 602.17 entirely and only considered it for accrediting agencies.

Discussion

None of the comments received from institutions included suggestions to improve the accuracy of the estimates of the administrative burden that were proposed to this section. However, the Department re-evaluated the burden estimate for institutions under this section in response to the comments. The Department has revised its analysis of reporting burden for the changes in Section 602.17 of the final rule. The changes in this section address how accrediting agencies seeking recognition by

the Department apply their standards and do not impose new requirements on institutions or programs, and the Department has removed calculation of institutional burden from the burden calculation below.

Burden Calculation

The regulations in § 602.17 that have already been in effect prior to the final rule require a recognized agency to have effective mechanisms for evaluating an institution's or a program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. Additionally, many agencies already have policies and procedures in place that are consistent with many of the requirements in this section of the final rule.

To comply with § 602.17, the Department estimates that all agencies will be required to review the final rule and assess whether or not their application of its current policies and procedures comply with the new requirements. As a result of this review, some agencies are likely to be required to make some changes to their policies and procedures, which will vary agency by agency. Based on the comments, we assume that most agencies currently do not review institutional cost/benefit analyses in the areas identified by the regulations. Thus, the estimate is an average amount of time across all agencies, with some agencies incurring more burden and some incurring less.

We estimate this would take an agency approximately 20 hours to review initial compliance with § 602.17.

50 Recognized agencies X 20 Hours = 1,000 Burden Hours

We estimate the change to existing policies and procedures would take an average of 40 hours; however, we do not estimate that the changes in this section would increase the overall time for an agency to review an institution or program. Thus, the estimate is an average amount of time to take steps to change policies across all agencies, with some agencies incurring more burden and some incurring less.

50 Accrediting agencies x 40 Hours = 2,000 Burden Hours

§ 602.18 Ensuring consistency in decision-making.

Requirements

The final rule in § 602.18(b)(4) will clarify that a recognized agency only meets the requirement in paragraph (a) of this section if the agency "has adopted and followed procedures to ensure that agency decisions are neutral with respect to viewpoint and ideology that are unrelated to its accrediting policies or standards."

Burden Calculation

Burden for this proposed regulation has already been accounted for elsewhere in this section.

§ 602.20 Enforcement of standards.

Requirements

The final rule in § 602.20(e) will require an agency's arbitration standards or policies to be nonbinding, except that both parties may agree to binding arbitration after a dispute arises on a case-by-case basis. Section 602.20(h) will require

an agency to have a policy for restoring accreditation, including retroactive restoration, to an institution.

Burden Calculation

The Department estimates that there will be a one-time burden on accrediting agencies that do not currently have retroactive accreditation policies. We estimate it would take an accrediting agency 30 hours to create such a policy.

50 Accrediting Agencies X 30 Hours = 1,500 Burden Hours.

The accreditation guidance²⁸ on non-binding arbitration language has been in effect since December 5, 2023; therefore, we do not estimate this change to create additional burden.

§ 602.21 Review of standards.

Requirements

The final rule in § 602.21 will streamline the prescriptive requirements in the prior regulations for an accrediting agency to maintain a comprehensive systematic program of review. Specifically, the final rule removes the requirements in paragraphs (b), (c), and (d) of § 602.21 that are not based on statute. Removing these paragraphs eliminates burdensome and complex regulations that are difficult for accrediting agencies to implement and difficult to enforce effectively and consistently. The final rule continues to retain the statutory requirement for accrediting agencies to regularly review their

²⁸ DCL GEN-23-14 - Regulations Governing the Recognition of Accrediting Agencies, Institutional Eligibility, and Arbitration -
- <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2023-11-03/regulations-governing-recognition-accrediting-agencies-institutional-eligibility-and-arbitration-updated-dec-5-2023>

standards which, in totality, affords them the flexibility to innovate but also maintain essential requirements for a regular review process.

Burden Calculation

The Department estimates the changes to § 602.21 in the final rule will reduce annual burden on recognized accrediting agencies. The last time burden was assessed for this regulation under OMB Control Number 1840-0788 the Department estimated that reviewing standards would take approximately 12 hours to complete each year. In the NPRM, we estimated a reduction of 4 hours per agency. However, after reviewing the requirements in response to comments, we now estimate that the requirement will take 6 hours per agency to complete, a 50 percent reduction in annual burden compared to the prior requirements. The Department is adjusting the annual burden hours under OMB Control Number 1840-0788 accordingly.

§ 602.22 Substantive changes and other reporting requirements.

Requirements

The final rule in § 602.22 will clarify, streamline, and reduce the types of situations that are defined in the agency's definition of substantive change.

Burden Calculation

The Department estimates that the changes to § 602.22 in the final rule will reduce burden on recognized institutional accrediting agencies. Under the final rule, the definition of substantive change will include a more precise set of

situations, achieve a better balance of which changes require additional oversight, and provide deference to recognized accrediting agencies to make the decisions on the specific types of substantive changes they review and approve.

We estimate there will be a reduction of 16 burden hours per institutional agency annually.

34 Institutional Accrediting Agencies X 16 Hours = 544 less annual Burden Hours.

§ 602.23 Operating procedures all agencies must have.

Requirements

The final rule in § 602.23(c)(1) will include preaccredited institutions. Prior to the final rule, the regulations only required that recognized accrediting agencies review complaints received for accredited institutions.

The final rule in § 602.23(c)(3) will require agencies to also review conflicts of interest and require agencies to document actions when complaints about institutions are reviewed.

The final rule in § 602.23(d) will require that a recognized accrediting agency have operating procedures that ensure that institutions or programs it accredits will publicly disclose any action by the agency that triggers the enforcement timeline provision in § 602.20(a) or (b).

The final rule in § 602.23 will prevent recognized agencies from having policies that would require institutions or programs to act in violation of any Federal or State law. The agency will

also be required to have internal controls to ensure compliance with antitrust laws.

The final rule in § 602.23(k) will require recognized agencies to have a timely procedure to accelerate the comprehensive accreditation process for an institution or program seeking initial accreditation.

Lastly, the final rule in § 602.23(l) will require recognized agencies to establish and maintain at least one structured mechanism through which currently enrolled students, employed staff, and employed faculty of accredited or preaccredited institutions or programs may communicate directly with the agency.

Burden Calculation

In 2019, the Department estimated that it would take 2 hours annually for each accrediting agency to comply with § 602.23. We now estimate that by adding these additional consumer protection provisions in the final rule, it would take each agency an additional two hours annually to comply.

50 Accrediting Agencies X 2 Hours = 100 Burden Hours

§ 602.24 Additional procedures certain institutional agencies must have.

Requirements

The final rule in § 602.24 would codify the current practice of most agencies that a peer or independent site visitor accompany accrediting agency staff during on-site reviews, clarify when institutions must submit teach-out plans

and agreements, and establish clear timelines and documentation expectations.

The final rule in § 602.24 will also enhance transparency and student support by requiring accrediting agencies to coordinate teach-outs, ensure transcript access and transfer pathways, and notify other agencies when cross-agency agreements are approved. Additionally, institutions will be required to update and publicly disclose comprehensive transfer of credit policies, adopt consistent criteria for evaluating comparable credits, prohibit discriminatory denials, and provide students with an appeals process.

Prior to this final rule, the regulations did not distinguish between the circumstances requiring institutions to provide teach-out plans versus teach-out agreements. Under the final rule, institutions will be required to submit a teach-out plan within 30 days when specified events occur, such as when an institution's certification status changes from full to provisional. On the other hand, teach-out agreements will be required within the same 30-day window when institutions experience triggering events that signal heightened operational risk, including financial concerns or adverse actions. To ensure institutions act promptly when they are unable to secure a teach-out agreement, the Department adds a new requirement mandating that institutions provide their accrediting agency and the State with documentation explaining why a teach-out agreement could not be secured within 30 days. In addition, institutions

in this situation will be required to notify the Department, which may then require the institution to provide proof of financial protection to safeguard students in the event of closure.

Prior to the final rule, the regulations required institutional accrediting agencies to evaluate teach-out agreements based on elements that went beyond what the HEA requires, and provided insufficient contingency measures for institutions that closed. Under the final rule, accrediting agencies will be required to coordinate with institutions to secure teach-out agreements, review teach-out plans and agreements and confirm that students retain access to transcripts and transfer pathways. In addition, if a teach-out agreement includes a program or institution that is accredited by another recognized agency, the accrediting agency must notify the other accrediting agency of its approval.

Burden Calculation

The final rule will remove several overly prescriptive requirements that are not supported in the statutory framework. The removal of these requirements will decrease unnecessary burdens on institutional accrediting agencies and institutions. However, several other consumer protection provisions in § 602.24 will add burden on institutional accrediting agencies.

Requiring a peer or independent site visitor to accompany accrediting agency staff during on-site reviews will require some accrediting agencies to assign additional peer or

independent site visitors to be present during site visits. As noted above, most agencies already have such a site visitor present during on-site reviews, and the Department estimates that codifying this practice in the regulations as a quality assurance criterion for all recognized agencies will only impact several agencies. Recognized accrediting agencies will also be required to request and review documents from institutions and maintain communication with institutions and State agencies, another common practice.

In the NPRM, the Department estimated that this new requirement would take approximately 470 hours for each agency and each institution to initially implement this provision of the final rule. However, the Department found that its analysis in the NPRM was incorrect because it mistakenly included burden for all institutions when the provisions in the final rule will only apply to recognized agencies. The Department also reassessed its estimates in the NPRM for the one-time burden on institutional agencies to implement this provision of the final rule.

To implement these new regulations, institutional accrediting agencies will be required to review and identify the scope of the new regulations (20 hours), amend policies and procedures (40 hours), train volunteers and staff (100 hours). The Department estimates that this will take approximately 160 hours per institutional accrediting agency.

§ 602.26 Notification of accrediting decisions.

Requirements

The final rule in § 602.26 will make minor modifications to the requirements for accrediting agencies to report accrediting decisions to the Secretary. Recognized accrediting agencies will now be required to maintain a record of all actions taken against institutions or programs accredited by the agency on its website for a period of at least five years.

Burden Calculation

Prior to the final rule, Section 602.26 required recognized agencies to maintain on their website a clear record of all actions taken for each institution or program it accredits or preaccredits for a period of at least five years. The final rule provides additional transparency and consumer protections which adds burden to accrediting agencies. This additional burden includes requiring agencies to expand their monitoring and reporting processes. Agencies will need to review the new requirements and create a process to ensure their website is compliant with this proposed rule. Agencies may also have to update their systems or train staff to keep their website up to date with actions taken for each institution or program. We estimate this will add 100 burden hours per year.

100 burden hours X 50 accrediting agencies = 5,000 burden hours.

§ 602.27 Other information an agency must provide the

Department.

Requirements

The final rule in § 602.27 will require more frequent updates of an agency's accredited and preaccredited institutions and programs to the Department's website directory. The proposed reporting requirements would require agencies to submit regular and timely updates throughout the year rather than an annual list.

Burden Calculation

Complying with these requirements in the final rule will require recognized accrediting agencies to expand their reporting processes to allow for more frequent reporting submissions to the Department. Agencies are already accustomed to reporting actions taken.

In 2023, the Department estimated that each website update would take an agency 20 minutes to complete. Under the final rule, we estimate that this will take an average of 2 hours per update. More frequent updates will also increase burden for this regulation. Before this final rule, accrediting agencies were required to submit an update to the Department's website directory once per year. Under the final regulation, agencies are required to submit regular and timely updates throughout the year.

If an agency updates the Department's website directory four times per year, this increases burden to 8 additional burden hours per agency per year.

50 Accrediting Agencies X 8 Hours = 400 Burden Hours

§ 602.28 Regard for decisions of States and other accrediting agencies.

Requirements

The final rule in § 602.28 requires accrediting agencies to expand the function of reviewing the accreditation or preaccreditation of certain institutions and allow agencies to place institutions on a show cause or equivalent status. This change allows agencies to more precisely specify that programs, not just institutions, are subject to review by an agency when another recognized agency has initiated an adverse action or placed a program on probation or an equivalent status. The final rule will also expand the term "other recognized agencies" to include State and Federal oversight agencies to provide increased accountability for institutions or programs subject to negative or adverse actions by those entities.

Burden Calculation

Complying with these new regulations will require agencies to expand their institutional review processes. We estimate this would require 30 additional burden hours per year.

50 Accrediting Agencies X 30 Hours = 1,500 Burden Hours

§ 602.30 Agency applications and reports to be submitted to the Department.

Requirements

The final rule in § 602.30 will modernize how accrediting agencies submit applications and reports to the Department. The submission timeline and concurrent submission requirements are

removed, and there is a new requirement for an accrediting agency to submit a written application to the Secretary if it seeks a contraction of scope. The final rule will also prohibit an accrediting agency from prematurely redacting business and other non-Personally Identifiable Information (PII) in its applications and reports submitted to the Department.

Burden Calculation

Section 602.30 will impose only a nominal amount of burden on recognized accrediting agencies. Prior to this final rule, there has been no requirement for an agency to apply for a contraction of scope. Based on historical trends, we estimate that fewer than 1 accrediting agency per year will apply for a contraction of scope.

In 2019, the Department estimated it would take 20 hours per expansion of scope application. However, since the requirements for contraction of scope are simply a notification and require less explanation and documentation than expansion, we estimate it would take only 1 hour to complete a contraction of scope application. If only 1 agency submits a contraction of scope application every 2 years this adds .5 burden hours per year.

.5 Accrediting Agencies X 1 Hour = .5 total burden hours

§602.31 Procedures for submitting applications for recognition and renewal of recognition.

Requirements

The final rule in § 602.31 will change the application process for recognition or renewal of recognition to provide specific instructions and requirements based on scope of agency activities.

Specifically, under the change in the final rule, if institutions accredited by an agency receive a substantial portion of all Title IV, HEA program funds, institutional accrediting agencies seeking initial or renewed recognition will be required to submit a comprehensive application for recognition. When not designated for review, the institutional accrediting agency would submit an application demonstrating its adherence to the regulatory requirements. When submitting information to the Department, agencies are no longer required to redact certain information prior to submission.

Burden Calculation

The changes in the final rule to § 602.31 will reduce burden on accrediting agencies. In 2019, the Department estimated that accrediting agencies would require 285 additional hours of burden or 5.37 hours per agency. The Department estimates that removing these requirements eliminates 268.5 burden hours (5.37 hours * 50 agencies).

§602.32 Procedures for review of an expansion of scope, a contraction of scope, compliance reports, or increases in headcount enrollment.

Requirements

The final rule in § 602.32 will revise procedures for expansions and contractions of scope, compliance reports, and increases in headcount. Specifically, under § 602.32(a)(1) and (2) of the final rule, the Department will consider applications for an expansion or contraction of an accrediting agency's scope only when submitted together with an application for recognition, unless Department staff, at their discretion, elect to review such a request independently.

For compliance reports, Department staff will complete their evaluation and a draft analysis. The draft, along with any materials received by the Department, will be sent to the agency identifying any potential areas of noncompliance. The agency will be invited to submit a written response within at least 45 days.

Under § 602.32(c), reports related to increases in headcount enrollment submitted pursuant to § 602.30(d) will be processed by the Department using the same procedures applicable to compliance reports.

Burden Calculation

The Department estimates there will be 12 agencies invited to respond to a written compliance report per year. We estimate this response would take an agency 15 hours to outline, draft, complete, and transmit it to the Department.

12 Accrediting Agencies X 15 Hours = 180 Burden Hours

§ 602.34 Advisory Committee meetings.

Requirements

The final rule in § 602.34 will require the National Advisory Committee on Institutional Quality and Integrity (NACIQI) to review applications for contractions of scope. The Department also now requires that accrediting agencies post public notice of upcoming NACIQI reviews.

Burden Calculation

Under the final rule, agencies will be required to post notices of upcoming reviews to be completed by NACIQI. The Department estimates this will take 2 hours per agency per year to determine if notification is necessary and publish any relevant information.

50 Accrediting Agencies X 2 Hours = 100 Burden Hours

§ 668.43 Institutional and programmatic information.

Requirements

The final rule in § 668.43(a)(11) will add an additional requirement to the information that institutions participating in the Federal student aid programs are required to provide to enrolled and prospective students. Specifically, the final rule will add an additional student consumer disclosure that requires institutions to inform students and prospective students of the timeline by which a transcript must be submitted for timely review for transfer of credit. This timeline must conclude prior to the student's enrollment, registration, or making a nonrefundable financial commitment, so that a prospective student will know how many credits that they have earned at

other institutions will transfer to a new institution before he or she incurs cost and time at that institution.

Before the final rule, institutions were only required under this section to provide a description of the transfer of credit policies established by the institution, including a statement of the institution's current transfer of credit policies that included: any established criteria the institution uses regarding the transfer of credit earned at another institution and any types of institutions or sources from which the institution will not accept credits; a list of institutions with which the institution has established an articulation agreement; and written criteria used to evaluate and award credit for prior learning experience including, but not limited to, service in the armed forces, paid or unpaid employment, or other demonstrated competency or learning.

The final rule in § 668.43(c) will also require that if an institution declines to award credit under its transfer of credit policy, the institution must provide a written rationale to the student as to why the transfer credit was not accepted and provide information on each course that did not result in transfer credit.

Burden Calculation

The final rule in § 668.43(a)(11) will require institutions to update their transfer of credit disclosure to include a timeline for submission of transcripts that meets the requirements of the new regulations. The Department notes that

all institutions already have policies and procedures for submission of transcripts under their current transfer of credit policy. However, while this is not a new requirement, the Department acknowledges that some institutions may need to revise their timelines to comply with the new requirements. In calculating administrative burden with the new requirements, the Department assumes institutions will continue their current practices to receive transcripts and send their required disclosures and communications to students electronically.

In the NPRM, the Department estimated that this new requirement would take approximately 470 hours per institution to initially implement. After reviewing its prior analysis in response to the comments, the Department found that its analysis in the NPRM included burden associated with complying with existing requirements in addition to the new requirements in the final rule. The Department has revised its estimates, as explained below.

Institutions will be required to review the requirements and scope of the new regulations (5 hours), identify the scope of the new requirements (10 hours), and amend policies and procedures (25 hours). The Department estimates that this will take approximately 40 hours per institution one time.

The Department also reassessed its estimates for student reporting burden from its estimate in the NPRM. The analysis in the NPRM improperly identified the regulation as a new reporting requirement. Students seeking transfer of credits already submit

transcripts from other institutions to new institutions and the new regulations do not change this practice or impose a new requirement on students. In fact, the new regulations will likely benefit students by ensuring that they do not unwittingly enroll at a new institution under the false presumption that the credits they earned at other institutions will be accepted toward a certificate or degree at that institution.

Estimated Annual Burden and Respondent Costs Table

For institutions, we used the median hourly wage for Education Administrators, Postsecondary (11-9033) from the U.S. Bureau of Labor Statistics. In 2025 this was \$50.29. To account for overhead costs and benefits, the Department has multiplied this amount by two, resulting in hourly costs of \$100.58.

Information Collection Request

Regulation	OMB Control #	Burden Hours	# of Responses	Costs
\$ 600.11 Special rules regarding institutional accreditation or preaccreditation	1845-NEW	NEW	NEW	NEW
\$ 602.3 What definitions apply to this part?	1840-0788	20 hours per agency burden hours	50 agency responses	1000 burden hours x \$100.58
		5 hours per institution burden hours	5,001 institution responses	=\$100,580 25,005 burden hours x \$100.58
				<u>=\$2,515,003</u>
				=\$2,615,583
\$ 602.12 Accrediting experience.	NA	NA	NA	NA

§ 602.14 Purpose and organization.	1840-0788	5 hours per agency	34 responses	170 burden hours x \$100.58 = \$17,099
§ 602.15 Administrative and fiscal responsibilities.	1840-0788	50 accrediting agencies X 30 hours = 1500 burden hours	50 responses	2,400 burden hours x \$100.58 = \$241,392
		50 accrediting agencies X 18 hours = 900 burden hours		
		1500 + 900 = 2,400 burden hours		
§ 602.17 Application of standards in reaching accreditation decisions.	1840-0788	50 accrediting agencies x 20 hours = 1000 burden hours	50 responses	3,000 burden hours x \$100.58 = \$301,740
		50 accrediting agencies x 40 hours = 2000 burden hours		
§ 602.18 Ensuring consistency in decision-making.	NA	NA	NA	NA
§ 602.20 Enforcement of standards.	1840-0788	50 accrediting agencies x 30 hours = 1500 burden hours	50 Responses	1,500 burden hours x \$100.58 = \$150,870
§ 602.21 Review of standards.	1840-0788	50 accrediting agencies x -6 hours = -300 burden hours	50 responses	300 burden hours x \$100.58 = -\$30,174
§ 602.22 Substantive changes and other reporting requirements.	1840-0788	34 accrediting agencies x -16 hours of burden = 800 fewer burden hours	3 fewer responses	-800 burden hours x \$100.58 = -\$80,464
§ 602.23 Operating procedures all agencies must have.	1840-0788	50 accrediting agencies x 2 hours = 100 burden hours	50 responses	100 burden hours x \$100.58 = \$10,058

\$ 602.24 Additional procedures certain institutional agencies must have.	1840-0788	34 accrediting agencies x 160 burden hours	34 responses	5,440 x \$100.58 = \$547,155
\$ 602.26 Notification of accrediting decisions.	1840-0838	50 accrediting agencies x 100 hours = 5,000 burden hours.	50 responses	5,000 burden hours x \$100.58 = \$502,900
\$ 602.27 Other information an agency must provide the Department.	1845-0838	50 accrediting agencies x 8 hours = 400 burden hours	50 responses	\$100.58 x 400 burden hours x agencies = \$40,232
\$ 602.28 Regard for decisions of States and other accrediting agencies.	1840-0788	50 accrediting agencies x 30 Hours = 1,500 burden hours	50 responses	1500 burden hours x \$100.58 = \$150,870
\$ 602.30 Agency applications and reports to be submitted to the Department.	1840-0788	10 accrediting agencies x 20 hours = 200 total burden hours	10 responses	200 burden hours x \$100.58 = \$20,116
\$602.31 Procedures for submitting applications for recognition and renewal of recognition.	1840-0788	50 accrediting agencies x -5.37 hours = -268.5 burden hours		-268.5 burden hours x \$100.58 = \$27,006
\$602.32 Procedures for review of an expansion of scope, a contraction of scope, compliance reports, or increases in headcount enrollment.	1840-0788	12 accrediting agencies x 15 hours = 180 burden hours	12 responses	180 burden hours x \$100.58 = \$18,104
\$ 602.34 Advisory Committee meetings.	1840-0788	50 accrediting agencies x 2 hours = 100 burden hours	50 responses	100 burden hours x \$100.58 = \$10,058
\$ 668.43 Institutional and	1845-NEW *after the Department	5,001 institutional responses	5,001 responses	100,020 burden hours

programmatic	receives	X 40	X \$100.58 =
information.	OMB	institutional	\$20,120,023
	approval,	hours=200,040	
	we will	institutional	
	merge this	burden hours	
	new		
	collection		
	with 1845-		
	0022		
	Student		
	Assistance		
	General		
	Provisions		

TOTAL	244,667 burden	\$ 24,608,557
	hours	

4. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. § 801 *et seq.*), OIRA has determined that this rule does meet the criteria in 5 U.S.C. § 804(2).

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately \$206 million. The Department believes that this rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold.

Intergovernmental Review

This program is subject to E.O. 12372 and the regulations in 34 CFR part 79. One of the objectives of the E.O. is to foster an intergovernmental partnership and strengthen Federalism. The E.O. relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Assessment of Education Impact

In accordance with Section 411 of the General Education Provisions Act, 20 U.S.C. § 1221e-4, the Secretary requests comments on whether these final regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Federalism

E.O. 13132 requires us to provide meaningful and timely input by State and local elected officials in the development of regulatory policies that have Federalism implications.

"Federalism implications" means substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. The regulations do not have Federalism implications.

Accessible Format: On request to the program contact person(s) listed under **FOR FURTHER INFORMATION CONTACT**, individuals with

disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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List of Subjects

34 CFR Part 600

Colleges and universities, Foreign relations, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Part 602

Colleges and universities, Reporting and recordkeeping requirements.

Administrative practice and procedure, Colleges and universities, Consumer protection, Grant programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Nicholas Kent,

Under Secretary of Education.

For the reasons discussed in the preamble, the Secretary of Education amends parts 600, 602, and 668 of title 34 of the Code of Federal Regulations as follows:

PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

1. The authority citation for part 600 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1088, 1091, 1094, 1099b, and 1099c, unless otherwise noted.

2. Amend § 600.11 by:

- a. Revising paragraphs (a) and (b); and
- b. Removing the parenthetical authority citation at the end of the section.

The revisions read as follows:

§ 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:

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

(ii) Materials demonstrating reasonable cause for changing its accrediting agency. The Secretary will determine such cause

to be reasonable unless the Secretary determines that the institution is seeking the change in order to—

(A) Evade or circumvent a requirement of Federal law or regulation;

(B) Avoid or delay enforcement or oversight by the Department or an accrediting agency;

(C) Obtain eligibility for title IV, HEA programs through misrepresentation or other unlawful means; or

(D) Otherwise undermine the integrity of the title IV, HEA programs.

(2) The institution must publicly disclose within 10 business days on its website and make reasonable efforts to notify all current students, and recent graduates for whom they have active contact information, of the change of accrediting agency.

(b) *Multiple accreditation.* (1) An institution may obtain accreditation or preaccreditation from more than one accrediting agency recognized by the Secretary if the institution provides the following to the Secretary:

(i) Materials related to its prior accreditation or preaccreditation;

(ii) A written explanation showing reasonable cause for having multiple accreditors. The Secretary will determine such cause to be reasonable unless the Secretary determines that the institution is seeking to be accredited by more than one accrediting agency in order to—

(A) Evade or circumvent a requirement of Federal law or regulation;

(B) Avoid or delay enforcement or oversight by the Department or an accrediting agency;

(C) Obtain eligibility for title IV, HEA programs through misrepresentation or other unlawful means; or

(D) Otherwise undermine the integrity of the title IV, HEA programs.

(2) The Secretary will not determine the cause of having multiple accrediting agencies to be unreasonable due to a withdrawal, revocation, other termination of accreditation, probation or equivalent, show cause order, or suspension order.

* * * * *

PART 602—THE SECRETARY'S RECOGNITION OF ACCREDITING AGENCIES

3. The authority citation for part 602 continues to read as follows:

Authority: 20 U.S.C. 1099b, unless otherwise noted.

4. Revise §602.2 to read as follows:

§ 602.2 How do I know which agencies the Secretary recognizes?

(a) Periodically, the Secretary publishes a list of recognized agencies in the **Federal Register**, together with each agency's scope of recognition. You may obtain a copy of the list from the Department at any time. The list is also available on the Department's website.

(b) If the Secretary denies continued recognition to a previously recognized agency, or if the Secretary limits,

suspends, or terminates the agency's recognition before the end of its recognition period, the Secretary publishes an announcement of that action on the Department's website, which includes the reasons for the action and date it was taken, and also publishes such information of the list and scope of recognized agencies published in the **Federal Register** pursuant to paragraph (a) of this section.

5. Revise §602.3 to read as follows:

§ 602.3 What definitions apply to this part?

(a) The following definitions are contained in 34 CFR part 600:

- (1) Accredited.
- (2) Additional location.
- (3) Branch campus.
- (4) Correspondence course.
- (5) Direct assessment program.
- (6) Distance education.
- (7) Nationally recognized accrediting agency.
- (8) Preaccreditation.
- (9) Religious mission.
- (10) Secretary.
- (11) State.
- (12) Teach-out.
- (13) Teach-out agreement.
- (14) Teach-out plan.

(b) The following additional definitions apply to this part:

Accreditation means the status of public recognition that an accrediting agency grants to an institution or program that meets the agency's standards and requirements.

Accrediting agency or agency means a legal entity, or that part of a legal entity, that conducts accrediting activities through voluntary, non-Federal review, that may include peer review, and makes decisions concerning the accreditation or preaccreditation status of institutions, programs, or both.

Act means the Higher Education Act of 1965, as amended.

Adverse accrediting action or adverse action means the denial, withdrawal, suspension, revocation, or termination of accreditation or preaccreditation, or any comparable accrediting action an agency may take against an institution or program.

Advisory Committee means the National Advisory Committee on Institutional Quality and Integrity.

Compliance report means a written report that the Department requires an agency to file when the agency is found to be out of compliance to demonstrate that the agency has corrected deficiencies specified in the decision letter from the senior Department official or the Secretary. Compliance reports must be reviewed by Department staff and the Advisory Committee and approved by the senior Department official or, in the event of an appeal, by the Secretary.

Designated Federal Official means the Federal officer designated under 5 U.S.C. 1009(e).

Final accrediting action means a final determination by an accrediting agency regarding the accreditation or preaccreditation status of an institution or program. A final accrediting action is a decision made by the agency, at the conclusion of any appeals process available to the institution or program under the agency's due process policies and procedures.

Institution means an educational institution that meets the requirements of paragraph (1) of the definition of *eligible institution* found in 34 CFR 600.2.

Institutional accrediting agency means an agency that accredits institutions.

Monitoring report means a report that an agency is required to submit to Department staff when it is found to be substantially compliant. The report contains documentation to demonstrate that—

(i) The agency is implementing its current or corrected policies; or

(ii) The agency, which is compliant in practice, has updated its policies to align with those compliant practices.

Program means a postsecondary educational program offered by an institution that leads to an academic or professional degree, certificate, or other recognized educational credential.

Programmatic accrediting agency means an agency that accredits specific educational programs, including those that prepare students in specific academic disciplines or for entry into a profession, occupation, or vocation.

Recognition means an unappealed determination by the senior Department official under §602.36, or a determination by the Secretary on appeal under §602.37, that an accrediting agency complies with the criteria for recognition listed in subpart B of this part and that the agency is effective in its application of those criteria. A grant of recognition to an agency as a reliable authority regarding the quality of education or training offered by institutions or programs it accredits remains in effect for the term granted except upon a determination made in accordance with subpart C of this part that the agency no longer complies with the subpart B criteria or that it has become ineffective in its application of those criteria.

Related, associated, or affiliated trade association means an organization that:

- (i) Is generally a membership organization;
- (ii) Is organized to promote a line of commerce, business, industry, or profession;
- (iii) Does not engage in a regular business of a kind ordinarily carried on for profit, and no part of the net earnings of which inures to the benefit of any member; and

(iv) Is related to a particular accrediting agency in that the agency accredits institutions or programs that prepare students to enter the workforce of the same or substantially the same line of commerce, business, industry, or profession that organization promotes.

Representative of the public means a person who is not—

(i) An employee, member of the governing board, owner, or shareholder of, or consultant to, an institution or program that either is accredited or preaccredited by the agency or has applied for accreditation or preaccreditation;

(ii) A member of any trade association or membership organization related to, associated with, or affiliated with the agency; or

(iii) A spouse, parent, child, or sibling of an individual identified in paragraph (i) or (ii) of this definition.

Scope of recognition or scope means the range of accrediting activities for which the Secretary recognizes an agency. The Secretary may place a limitation on the scope of an agency's recognition for title IV, HEA purposes. The Secretary's designation of scope defines the recognition granted according to—

(i) Types of degrees and certificates covered;

(ii) Types of institutions and programs covered;

(iii) Types of preaccreditation status covered, if any; and

(iv) Coverage of accrediting activities related to distance education or correspondence courses.

Senior Department official means the official in the U.S. Department of Education designated by the Secretary who has, in the judgment of the Secretary, appropriate seniority and relevant subject matter knowledge to make independent decisions on accrediting agency recognition.

Substantial compliance means the agency demonstrated to the Department that it has the necessary policies, practices, and standards in place and generally adheres with fidelity to those policies, practices, and standards; or the agency has policies, practices, and standards in place that need minor modifications to reflect its generally compliant practice.

6. Revise §602.10 to read as follows:

§ 602.10 Link to Federal programs.

(a) If the agency is seeking renewal of recognition and the agency accredits institutions, it must demonstrate that its accreditation is a required element in enabling at least one of those institutions to establish eligibility to participate in the title IV, HEA programs. If, pursuant to 34 CFR 600.11(b), an agency accredits one or more institutions that participate in the title IV, HEA programs and that could designate the agency as its link to the title IV, HEA programs, the agency satisfies this requirement, even if the institution currently designates another institutional accrediting agency as its Federal link; or

(b) If the agency is seeking renewal of recognition and the agency accredits institutions or programs, or both, it must demonstrate that its accreditation is a required element, as

stated in a Federal statute, Federal regulation, Federal grant or funding announcement, or other official Federal agency notice establishing eligibility requirements for participation in the program, in enabling at least one of those entities to establish eligibility to participate in non-HEA Federal programs and provide documentation that an institution or program is currently relying on the agency's accreditation as a condition of eligibility to participate in such programs.

(c) (1) If the agency is seeking initial recognition, it must demonstrate that an institution or program it accredits is likely to rely on the agency's accreditation to establish or continue eligibility to participate in an HEA or non-HEA Federal program upon recognition of the agency within two years.

(2) In the event the agency does not have an institution or program that is relying upon the agency's accreditation to establish or continue eligibility to participate in an HEA or non-HEA Federal program when the agency is recognized by the Department, it must report to the Secretary when the first institution or program it accredits begins relying upon its accreditation for such purposes.

(3) If, after two years after initial recognition, there are no institutions or programs that rely on the agency's accreditation to establish or continue eligibility to participate in an HEA or non-HEA Federal program upon recognition of the agency, then the agency ceases to be recognized by the Department.

7. Revise § 602.11 to read as follows:

§ 602.11 Extent of accrediting activities.

(a) The agency must identify the extent of its accrediting activities and demonstrate that it has the capacity, policies, and procedures necessary to conduct accrediting activities within the identified extent.

(b) (1) An agency may seek recognition to operate in a group of States, or in all States, but the Secretary does not assign, prefer, or limit geographic extent, except as necessary to ensure that the agency has the capacity to carry out its intended accrediting activities.

(2) The Secretary may not assign institutions or programs to accrediting agencies; restrict institutions or programs from seeking accreditation from any agency recognized by the Secretary; directly or indirectly discourage institutions or programs from seeking accreditation from another recognized agency through policy, guidance, communications, or other actions; or otherwise favor one recognized accrediting agency over another.

(3) The Secretary may not delay, condition, or otherwise adversely affect an institution's participation in title IV, HEA programs solely because the institution seeks accreditation from, or changes accreditation to, another agency recognized by the Secretary.

8. Revise § 602.12 to read as follows:

§ 602.12 Accrediting experience.

(a) An agency seeking initial recognition must demonstrate that it has sufficient accreditation experience prior to submitting an application for recognition. An agency will be eligible to submit an application for recognition when it can show the following—

(1) The agency is legally established to operate in the relevant jurisdiction;

(2) The agency has adopted accreditation standards consistent with §602.16;

(3) The agency has adopted operating procedures consistent with §602.23; and

(4) The agency has established a process to accept applications for accreditation consistent with §602.17 and has at least one institution or program which has submitted an application for accreditation.

(b) An agency seeking initial recognition must undergo the Secretary's recognition process, defined in §602.31, and an evaluation of the agency's compliance with the Secretary's recognition criteria, defined in this part, for the purpose of determining if the agency is a reliable authority as to the quality of education or training provided by the institutions or programs it accredits before its application for recognition may be considered by the Advisory Committee.

(c) The agency must have granted accreditation to one or more institutions if it is requesting recognition as an institutional accrediting agency and to one or more programs if

it is requesting recognition as a programmatic accrediting agency before the agency may be granted recognition.

(d) (1) A recognized agency seeking an expansion or contraction of its scope of recognition must follow the requirements of §602.32 and demonstrate that it has accreditation or preaccreditation policies in place that meet all the criteria for recognition covering the range of the specific degrees, certificates, institutions, and programs it seeks in its proposed scope. A change to an agency's geographic area of accrediting activities does not constitute an expansion or contraction of the agency's scope of recognition, but the agency must notify the Department of, and publicly disclose on the agency's website, any such change.

(2) An agency that cannot demonstrate experience in making accreditation or preaccreditation decisions under expanded scope at the time of its application or review for an expansion of scope may—

(i) If it is an institutional accrediting agency, be limited in the number of institutions to which it may grant accreditation under the expanded scope for a designated period of time; or

(ii) If it is a programmatic accrediting agency, be limited in the number of programs to which it may grant accreditation under that expanded scope for a certain period of time; and

(iii) Be required to submit a monitoring report regarding accreditation decisions made under the expanded scope.

(e) Experience qualifying under this section is not limited to the accreditation of institutions within a particular geographic area and may include experience obtained on a national, State or group of States, or programmatic basis.

9. Add §602.13 to read as follows:

§ 602.13 Effect of recognition.

(a) Recognition under this part does not confer immunity or any relief from Federal or State antitrust laws. Accrediting agencies, institutions, and programs remain subject to those laws notwithstanding recognition or eligibility determinations made by the Department.

(b) Recognition under this part does not authorize collective action among accrediting agencies, institutions, or programs that would otherwise be subject to oversight under Federal or State law.

(c) Recognition under this part does not create a property interest or entitlement to continued recognition.

10. Revise §602.14 to read as follows:

§ 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 Federal programs in accordance with §602.10.

(4) An accrediting agency that, for purposes of determining eligibility for title IV 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.

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

(1) The members of the agency's decision-making body, who decide the accreditation or preaccreditation status of

institutions or programs, establish the agency's accreditation policies, or both, are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or professional organization and are not staff of the related, associated, or affiliated trade association or professional organization;

(2) At least one member of an agency's decision-making body is a representative of the public, and at least one-seventh of the body consists of representatives of the public;

(3) The agency has established and implemented mandatory conflict of interest controls for each member of the decision-making body in accordance with § 602.15(e);

(4) The agency's dues are paid and held separately from any dues paid to any related, associated, or affiliated trade association or professional organization;

(5) The agency develops and determines its own budget, without review by or in consultation with any other entity or organization, including any related, associated or affiliated trade association or professional organization; and

(6) The authorized representative of the agency submits a signed statement certifying that it has met the requirements to be "separate and independent" within each petition for recognition submitted to the Department, and includes in that statement information regarding any complaints received during the current recognition period that are material.

11. Revise § 602.15 to read as follows:

§ 602.15 Administrative and fiscal responsibilities.

The agency must have the administrative and fiscal capability, including conflict of interest controls, to carry out its accreditation activities in light of its requested scope of recognition. The agency meets this requirement if the agency demonstrates that—

(a) The agency has—

(1) Adequate administrative staff and financial resources to carry out its accrediting responsibilities;

(2) Competent and knowledgeable individuals, qualified by education or experience in their own right, as appropriate for their roles;

(3) Training provided to all agency representatives and staff that includes topics related to best practices in various educational delivery methods, models, and modalities; innovative or lower-cost educational delivery models that may provide high-quality education to students; and avoiding unnecessary costs to institutions in the accreditation process; and

(4) Representatives of the public on all decision-making bodies.

(b) The agency maintains complete and accurate records of—

(1) Its last full accreditation or preaccreditation review of each institution or program, including on-site evaluation team reports, the institution's or program's responses to on-site reports, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, and a

copy of the institution's or program's most recent self-study if applicable; and

(2) All decision letters issued by the agency regarding the accreditation and preaccreditation of any institution or program and any substantive changes.

(c) The agency conducts its accreditation activities in a manner that seeks to avoid unnecessary financial, compliance, and administrative burdens, including by avoiding duplicative reporting, excessive documentation requirements, and unwarranted prescriptive processes.

(d) The agency will cooperate with other recognized agencies and the Department in the development of common templates and forms for institutions or programs to submit when seeking to change accrediting agencies.

(e) The agency has clear and effective controls, including guidelines, to—

(1) Prevent or resolve conflicts of interest, or the appearance of conflicts of interest, by the agency's—

(i) Officers and directors;

(ii) Employees (including temporary, part-time, and full-time employees);

(iii) Evaluation team members;

(iv) Consultants and contractors;

(v) Volunteers; and

(vi) Other agency representatives.

(2) Ensure that members of the standards-setting body, which may include members of the decision-making body, do not vote as members of the decision-making body on the setting of standards or policies that affect any institution or program of which such a member is an officer, director, or employee;

(3) Determine its dues without review by any related, associated, or affiliated trade association or professional organization;

(4) Disallow shared resources, such as personnel, services, equipment, facilities, or information technology, nor have office space in the same building as any related, associated, or affiliated trade association or professional organization. The requirement in this paragraph (e)(4) for separate office space will take effect July 1, 2028;

(5) Ensure that any officers, directors, employees, or volunteers of the agency do not share or solicit feedback regarding the agency's policies, standards, or decisions with respect to any institution or program from any related, associated, or affiliated trade association or professional association;

(6) Prominently disclose on its website all relationships with related, associated, or affiliated trade associations or professional organizations; and

(7)(i) Not act to restrict access to employment in a profession, occupation, or vocation unless the agency provides notice of clear and convincing evidence to the Secretary that:

(A) The restriction is necessary to protect the public interest;

(B) The expected public benefits outweigh the costs to the public from reduced access to the profession, occupation, or vocation; and

(C) No less restrictive alternative would adequately protect the public interest.

(ii) For the purposes of this subsection, restricting access to employment includes:

(A) Taking steps to increase credentialing standards;

(B) Increasing the cost or level of required education or training; or

(C) Decreasing the availability of education or training in a manner that may benefit any related, associated, or affiliated trade association or professional organization.

(f) 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, unless the institution has a religious mission.

12. Revise §602.16 to read as follows:

§ 602.16 Accreditation and preaccreditation standards.

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if the following conditions are met:

(1) The agency's accreditation standards must establish requirements for the institutions or programs it accredits in the following areas:

(i) Success with respect to student achievement at the institutional and program level in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of State licensing examinations, course completion, and job placement rates, as described in § 602.17(a) (1).

(ii) Curricula.

(iii) Faculty.

(iv) Facilities, equipment, and supplies.

(v) Fiscal and administrative capacity as appropriate to the specified scale of operations.

(vi) Student support services.

(vii) Recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising.

(viii) Measures of program length and the objectives of the degrees or credentials offered.

(ix) Record of student complaints received by, or available to, the agency.

(x) Record of compliance with the institution's program responsibilities under title IV of the Act, based on the most recent student loan default rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and any other information that the Secretary may provide to the agency; and

(2) The agency's preaccreditation standards, if offered, must—

(i) Be appropriately related to the agency's accreditation standards; and

(ii) Not permit the institution or program to hold preaccreditation status for more than five years before a final accrediting action is made.

(b) Agencies are not required to apply the standards described in paragraph (a)(1)(x) of this section to institutions that do not participate in title IV, HEA programs. Under such circumstance, the agency's grant of accreditation or preaccreditation must specify that the grant does not include participation by the institution in title IV, HEA programs.

(c) If the agency only accredits programs and does not serve as an institutional accrediting agency for any of those programs, its accreditation standards must address the areas in

paragraph (a)(1) of this section in terms of the type and level of the program rather than in terms of the institution.

(d)(1) If the agency has or seeks to include within its scope of recognition the evaluation of the quality of institutions or programs offering distance education, correspondence courses, or direct assessment education, the agency's standards must effectively address the quality of an institution's distance education, correspondence courses, or direct assessment education in the areas identified in paragraph (a)(1) of this section.

(2) The agency is not required to have separate standards, procedures, or policies for the evaluation of distance education or correspondence courses.

(e) If none of the institutions an agency accredits participates in any title IV, HEA program, or if the agency only accredits programs within institutions that are accredited by a nationally recognized institutional accrediting agency, the agency is not required to have the accreditation standards described in paragraphs (a)(1)(viii) and (x) of this section.

(f) An agency that has established and applies the standards in paragraph (a) of this section may establish any additional lawful accreditation standards that are consistent with ensuring institutional or programmatic quality and integrity as it deems appropriate.

(g) Nothing in paragraph (a) of this section restricts—

(1) An accrediting agency from setting, with the involvement of its members, and applying accreditation standards for or to institutions or programs that seek review by the agency;

(2) An institution from developing and using institutional standards to show its success with respect to student achievement, which achievement may be considered as part of any accreditation review;

(3) Agencies from having separate standards regarding an institution's or a program's process for approving curriculum to enable programs to more effectively meet the recommendations of—

(i) Industry advisory boards that include employers who hire program graduates;

(ii) Widely recognized industry standards and organizations;

(iii) Credentialing or other occupational registration or licensure; or

(iv) Employers in a given field or occupation, in making hiring decisions; or

(4) Agencies from having separate faculty standards for instructors teaching courses within a dual or concurrent enrollment program, as defined in 20 U.S.C. 7801, or career and technical education courses, as long as the instructors, in the agency's judgment, are qualified by education or work experience for that role.

13. Revise §602.17 to read as follows:

§ 602.17 Application of standards in reaching accreditation decisions.

(a) The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if it demonstrates that when reviewing institutions in accordance with the standards the agency establishes under § 602.16, it—

(1) For the purposes of meeting the standards requirements of § 602.16(a)(1)(i), evaluates whether an institution or program—

(i) Maintains clearly specified educational objectives, which may include credit for prior learning, that are consistent with its mission and appropriate in light of the degrees or certificates awarded that are developed, regularly reviewed, and updated using reliable data (which may include Federal or state data); and

(ii) As appropriate to its own standards, reviews an institution's student success with respect to student achievement at both the institutional and program levels, including minimum expectations, by assessing:

(A) State licensing or certification examination results, where applicable to the program of study;

(B) Program retention, completion, or graduation rates, including as appropriate the extent to which grades meaningfully

reflect student learning and support progression through the program of study;

(C) Post-completion or graduation outcomes, including employment and continued education;

(D) Scores on relevant standardized assessments taken for admission to a higher-level degree, during and after the time of enrollment at an institution, as available; and

(E) Educational and economic returns aligned to the program's credential level, length, and occupational context relative to the total cost of attendance. Such returns shall be assessed using the earnings data calculated under 34 CFR part 668, subpart Q, enhanced Unemployment Insurance wage records, or other reliable earnings data available to the agency.

(2) When applying its standards according to § 602.16(a)(1)(iii) on faculty, evaluates whether an institution maintains:

(i) A sufficient number of appropriately qualified faculty and other subject matter instructors who are regularly evaluated on the performance of their instructional, research, or service responsibilities;

(ii) Written faculty performance evaluation policies that include defined performance criteria and are conducted on a periodic basis;

(iii) Academic freedom protections that are clearly articulated and applied consistently to faculty regardless of appointment classification, race or other immutable

characteristics, viewpoint, or ideology, unless the institution has a religious mission. If an institution has a religious mission, the agency evaluates whether the institution maintains academic freedom protections that are consistent with the institution's religious mission and applied consistently to faculty regardless of appointment classification, race, or other immutable characteristics;

(iv) Sufficient flexibility in instructional staffing policies and procedures to respond to persistent material changes in student demand, program viability, or financial conditions;

(v) In the case of public institutions, consistently applied policies that protect 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;

(vi) Policies regarding the integrity of scholarly activity and research and practices designed to prevent, detect, and address fabrication, material misrepresentation or falsification, plagiarism, and other forms of research misconduct as well as mechanisms for timely investigation, corrective actions, and, as appropriate, public disclosure;

(vii) A policy or policies to protect civil rights and, as applicable, First Amendment rights, and whether such policy or policies include:

(A) Academic freedom protections that are clearly articulated and applied consistently to faculty regardless of appointment classification, race or other immutable characteristics, viewpoint, or ideology, unless the institution has a religious mission. If an institution has a religious mission, the agency evaluates whether the institution maintains academic freedom protections that are consistent with the institution's religious mission and applied consistently to faculty regardless of appointment classification, race, or other immutable characteristics;

(B) Academic freedom and freedom of inquiry protections for faculty in teaching, scholarship and research within the subject matter of a course and research within their academic discipline, including conditions under which a range of academic perspectives may be expressed and examined without adverse action based on lawful viewpoints unrelated to professional or academic competence, unless the institution has a religious mission; and

(C) In the case of a private institution, policies that if established guarantee the same or similar protections as those described in paragraphs (a)(2)(vii)(A) and (B) of this section; and

(viii) A policy that is designed to support, promote, and appropriately prioritize intellectual diversity and the free exchange of ideas amongst faculty, to include elements that address intellectual inquiry and student learning, and measures

student and faculty perceptions on the range of viewpoints and perspectives offered by the institution or program, unless the institution or program has a religious mission. If an institution or program has a religious mission, the policy shall include elements that address intellectual inquiry and student learning that are consistent with the institution's religious mission.

(3) When applying its standards according to § 602.16(a)(1)(iv) and (v), conducts:

(i) A review of any cost/benefit analysis performed by an institution. Cost/benefit analysis means a review by the agency of the institution's budget, resource utilization and allocation, and, if existing, its business/strategic plan, continuous improvement strategic plan, and review of whether the institution considers whether the expected benefits of the institution's activities justify the associated financial, administrative, and opportunity costs and the impact of capital expenditures on future operating expenses;

(ii) A review of an institution's practices and capabilities regarding the administration of student aid programs; and

(iii) A review of the sufficiency and proper maintenance of the institution's facilities and that such facilities comply with applicable safety standards, laws, and regulations.

(4) When applying its standards according to § 602.16(a)(1)(viii), seeks to ensure that program length is

appropriate to the objectives of the program and credential awarded at the institution. In applying its standard, the agency must not categorically prohibit or unreasonably restrict the accreditation of a:

(i) Short-term program that is designed to prepare students for employment in recognized occupations eligible for Federal student aid under applicable law; or

(ii) Certificate or degree program offered for a shorter period of time than is traditionally required to obtain that credential, so long as the program results in comparable academic, professional, and employment outcomes for students who would complete such programs.

(b) When applying and determining an institution's or program's compliance with its standards, the agency must:

(1) Require the institution or program to engage in a comprehensive process, that may include a self-study, that assesses the institution's or program's education quality and success in meeting its mission and objectives, highlights opportunities for improvement, and includes a plan for making those improvements;

(2) Conduct at least one on-site review of the institution or program during which it obtains sufficient information to determine if the institution or program complies with the agency's standards;

(3) Allow the institution or program the opportunity to respond in writing to the report of the on-site review;

(4) Conduct its own analysis of the comprehensive process and supporting documentation furnished by the institution or program, the report of the on-site review, the institution's or program's response to the report, and any other information substantiated by the agency from other sources to determine whether the institution or program complies with the agency's standards; and

(5) Provide the institution or program with a detailed written report that assesses the institution's or program's compliance with the agency's standards, including areas needing improvement, and the institution's or program's performance with respect to student achievement.

(c) When applying its standards, an agency requires institutions to have processes in place through which the institution establishes that a student who registers in any course offered via distance education or correspondence is the same student who academically engages in the course or program.

(d) When applying its standards, an agency seeks to reduce unnecessary barriers which restrict the ability of institutions or programs from adopting instructional, programmatic, or delivery practices that improve student access, accelerate credential or degree completion, or support innovative models of postsecondary education, including program length.

(e) The agency has adopted, implements, and enforces written policies and procedures that seek to ensure the

accuracy, completeness, and integrity of all representations made by the agency to:

- (1) The Secretary;
- (2) The public, including current and prospective students;
- (3) State, Tribal, and other governmental authorities; and
- (4) Institutions or programs it accredits or preaccredits.

(f) The agency has policies that the agency:

(1) Does not knowingly make false, misleading, or materially incomplete statements regarding:

(i) The accreditation or preaccreditation status of any institution or program; or

(ii) The scope, conditions, or implications of accreditation or preaccreditation; and

(iii) Compliance of an institution or program with applicable Federal or State law;

(2) Maintains procedures for the prompt correction of materially inaccurate public statements or disclosures;

(3) Maintains procedures for investigating credible allegations that the agency or its representatives made materially inaccurate or misleading representations; and

(4) Takes appropriate corrective or disciplinary action when the agency determines that materially inaccurate or misleading representations have occurred.

(g) The agency may not have standards that encourage, direct, or otherwise require institutions or programs to violate

Federal or State law, including by having policies that provide any preferences on the basis of race.

(h) Nothing in this section shall be construed to require any action that would conflict with applicable Federal or State law.

14. Revise §602.18 to read as follows:

§602.18 Ensuring consistency in decision-making.

(a) The agency must consistently apply and enforce standards that respect the stated mission of the institution, including religious mission, and that ensure that the education or training offered by an institution or program, including any offered through distance education, correspondence courses, or direct assessment education is of sufficient quality to achieve its stated objective for the duration of any accreditation or preaccreditation period.

(b) The agency meets the requirement in paragraph (a) of this section if the agency—

(1) Has written specification of the requirements for accreditation and preaccreditation that include clear standards for an institution or program to be accredited or preaccredited;

(2) Has effective controls against the inconsistent application of the agency's standards;

(3) Bases decisions regarding accreditation and preaccreditation on the agency's published standards and does not use as a negative factor the institution's religious mission-based policies, decisions, and practices in the areas

covered by § 602.16(a)(1)(ii), (iii), (iv), (vi), and (vii) provided, however, that the agency may require that the institution's or program's curricula include all core components required by the agency;

(4) Has adopted and followed procedures to ensure that agency decisions are neutral with respect to viewpoint and ideology that are unrelated to its accrediting policies or standards, except that nothing in this paragraph requires an accrediting agency with a religious mission to be neutral with respect to viewpoints;

(5) Has a reasonable basis for determining that the information the agency relies on for making accrediting decisions is accurate; and

(6) Provides the institution or program with a detailed written report that clearly identifies any deficiencies in the institution's or program's compliance with the agency's standards; and

(7) Publishes any policies for retroactive application of an accreditation decision, which must not provide for an effective date that predates either—

(i) An earlier denial by the agency of accreditation or preaccreditation to the institution or program; or

(ii) The agency's formal approval of the institution or program for consideration in the agency's accreditation or preaccreditation process.

(c) This section does not prohibit an agency from reducing barriers that limit institutions and programs from adopting practices that advance credential and degree completion and that promote new models of education by applying equivalent written standards, policies, and procedures that provide alternative means of satisfying one or more of the requirements set forth in §§ 602.16, 602.17, 602.19, 602.20, 602.22, and 602.24, as compared with written standards, policies, and procedures the agency ordinarily applies, if—

(1) The alternative standards, policies, and procedures, and the selection of institutions or programs to which they will be applied, are approved by the agency's decision-making body and otherwise meet the intent of the agency's expectations and requirements;

(2) The agency sets and applies equivalent goals and metrics for assessing the performance of institutions or programs;

(3) The agency's process for establishing and applying the alternative standards, policies, and procedures is set forth in its published accreditation manuals; and

(4) The agency requires institutions or programs seeking the application of alternative standards to demonstrate the need for an alternative assessment approach, that students will receive equivalent benefit, and that students will not be harmed through such application.

15. Revise § 602.20 to read as follows:

§ 602.20 Enforcement of standards.

(a) If the agency's review of an institution or program under any standard indicates that the institution or program is not in compliance with that standard, the agency must—

(1) Follow its written policy for notifying the institution or program of the finding of noncompliance;

(2) Provide the institution or program with a written timeline for coming into compliance that is reasonable, as determined by the agency's decision-making body, based on the nature of the finding, the stated mission, and educational objectives of the institution or program. The timeline may include intermediate checkpoints on the way to full compliance and must not exceed the lesser of four years or 150 percent of the—

(i) Length of the program in the case of a programmatic accrediting agency; or

(ii) Length of the longest program at the institution in the case of an institutional accrediting agency;

(3) Follow its written policies and procedures for granting a good cause extension that may exceed the standard timeframe described in paragraph (a)(2) of this section when such an extension is determined by the agency to be warranted; and

(4) Have a written policy to evaluate an institution's or program's progress in resolving the finding of noncompliance.

(b) Notwithstanding paragraph (a) of this section, the agency must have a policy for taking an immediate adverse

action, and take such action, when the agency has determined that such action is warranted.

(c) If the institution or program does not bring itself into compliance within the period specified in paragraph (a) of this section, the agency must take adverse action against the institution or program, but may maintain the institution's or program's accreditation or preaccreditation until the institution or program has had reasonable time to complete the activities in its teach-out plan or to fulfill the obligations of any teach-out agreement to assist students in transferring or completing their programs.

(d) An agency that accredits institutions may limit the adverse or other action to particular programs that are offered by the institution or to particular additional locations of an institution, without necessarily taking action against the entire institution and all of its programs, provided the noncompliance was limited to that particular program or location.

(e) All adverse actions taken under this subpart are subject to the arbitration requirements in 20 U.S.C. 1099b(e). Any agency arbitration standard or policy must be nonbinding, except that both parties may agree to binding arbitration after a dispute arises on a case-by-case basis. If an agency has an arbitration policy or standard, it must:

(1) Apply to all final adverse actions; however, an agency may require the institution or program to first exhaust the agency's appeal process;

(2) Ensure that the arbitration process is fair and impartial; and

(3) Provide for a transparent and reasonable period of time for resolution of disputes.

(f) An agency is not responsible for enforcing requirements in 34 CFR 668.14, 668.15, 668.16, 668.41, or 668.46, but if, in the course of an agency's work, it identifies instances or potential instances of noncompliance with any of these requirements, it must notify the Department.

(g) The Secretary may not require an agency to take action against an institution or program that does not participate in any title IV, HEA or other Federal program as a result of a requirement specified in this part.

(h) The agency must have a policy for restoring accreditation (including retroactive restoration) in circumstances that the agency determines are appropriate, including if required by an applicable judicial decision.

(i) Nothing in this part prohibits an agency from permitting the institution or program to be out of compliance with one or more of its standards, policies, and procedures adopted in satisfaction of §§602.16, 602.17, 602.19, 602.22, and 602.24 for a period of time, as determined by the agency

annually, not to exceed three years unless the agency determines there is good cause to extend the period of time and if—

(1) The agency and the institution or program can show that the circumstances requiring the period of noncompliance are beyond the institution's or program's control, such as—

(i) A natural disaster or other catastrophic event significantly impacting an institution's or program's operations;

(ii) Accepting students from another institution that is implementing a teach-out or closing;

(iii) Significant and documented local or national economic changes, such as an economic recession or closure of a large local employer;

(iv) Changes in State licensure requirements; and

(v) Instructors who do not meet the agency's typical faculty standards but who are otherwise qualified by education or work experience to teach courses within a dual or concurrent enrollment program, as defined in 20 U.S.C. 7801, or career and technical education courses;

(2) The grant of the period of noncompliance is approved by the agency's decision-making body;

(3) The agency projects that the institution or program has the resources necessary to achieve compliance with the standard, policy, or procedure within the time allotted; and

(4) The institution or program demonstrates to the satisfaction of the agency that the period of noncompliance will not—

(i) Increase the cost of the program to the student without the student's consent;

(ii) Create any undue hardship on, or harm to, students; or

(iii) Compromise the program's academic quality.

(5) The agency timeline must include the enforcement of intermediate checkpoints that allow the agency to ensure the institution will be in full compliance by the end of the timeline.

(6) An extension under this paragraph (i) can only be granted by the agency if the special circumstances constitute a new and independent cause for the non-compliance.

16. Revise §602.21 to read as follows:

§ 602.21 Review of standards.

The agency must maintain a comprehensive systematic program of review that occurs at regular intervals, involves all relevant constituencies (including students), and that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and relevant to the educational or training needs of students.

17. Revise §602.22 to read as follows:

§ 602.22 Substantive changes and other reporting requirements.

(a)(1) If the agency accredits institutions, it must maintain adequate substantive change policies that ensure that any substantive change, as defined in this section, after the agency has accredited or preaccredited the institution does not adversely affect the capacity of the institution to continue to meet the agency's standards. The agency meets this requirement if—

(i) The agency requires the institution to obtain the agency's approval of substantive change defined in paragraph (a)(1)(ii) of this section before the agency includes the change in the scope of accreditation or preaccreditation it previously granted to the institution; and

(ii) The agency's definition of substantive change covers at least the following:

(A) Any substantial change in the established mission or objectives of the institution or its programs.

(B) Any change in the legal status, form of control, or ownership of the institution that results in a change of control.

(C) The addition of programs that represent a significant departure from the existing offerings or educational programs, or method of delivery, from those that were offered or used when the agency last evaluated the institution.

(D) The addition of graduate programs by an institution that previously offered only undergraduate programs or certificates.

(E) An increase in the level of credential awarded for successful completion of one or more programs.

(F) The acquisition of any other institution or any program or location of another institution not otherwise reviewed as part of a change of control transaction or the process for the addition of a location.

(G) The addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution that has ceased operating before all students have completed their program of study.

(H) The addition of a new location or branch campus, except as provided in paragraph (c) of this section. The institution must document its fiscal and administrative capability to operate the location or branch campus, including verification of the following:

(1) Academic control by the institution.

(2) The institution has adequate faculty, facilities, resources, and academic and student support systems in place.

(3) The institution is financially stable.

(4) The institution had appropriate planning for the addition.

(I) Entering into a written arrangement under 34 CFR 668.5 under which an institution or organization not certified to participate in the title IV, HEA programs offers more than 25 percent but less than 50 percent of one or more of the accredited institution's educational programs.

(J) Addition of each direct assessment program.

(K) Addition of the first prison education program at the first two additional locations and the first additional prison education program offered by a new method of delivery.

(2) (i) For substantive changes under only paragraph (a) (1) (ii) (C), (E), (G), or (I) of this section, the agency's decision-making body may designate agency senior staff to approve or disapprove the request in a timely, fair, and equitable manner; and

(ii) In the case of a request under paragraph (a) (1) (ii) (I) of this section, the agency must make a final decision within 90 days of receipt of a materially complete request, unless the agency or its staff determine significant circumstances related to the substantive change require a review by the agency's decision-making body to occur within 180 days.

(b) Institutions that have been placed on probation or equivalent status, have been subject to negative action by the agency over the prior three academic years, or are under a provisional certification, as provided in 34 CFR 668.13, must receive prior approval for the following additional changes (all other institutions must report these changes within 30 days to their accrediting agency or as directed by their accrediting agency):

(1) A change in the way an institution measures student progress, including whether the institution measures progress in

clock hours or credit hours, semesters, trimesters, or quarters, or uses time-based or non-time-based methods.

(2) A substantial increase in the number of clock hours or credit hours awarded.

(3) Entering into a written arrangement under 34 CFR 668.5 under which an institution or organization not certified to participate in the title IV, HEA programs offers up to 25 percent of one or more of the accredited institution's educational programs.

(c) Institutions that have successfully completed at least one cycle of accreditation and have received agency approval for the addition of at least two additional locations as provided in paragraph (a)(1)(ii)(H) of this section, and that have not been placed on probation or equivalent status or been subject to a negative action by the agency over the prior three academic years, and that are not under a provisional certification, as provided in 34 CFR 668.13, need not apply for agency approval of subsequent additions of locations, and must report these changes to the accrediting agency within 30 days, if the institution has met criteria established by the agency indicating sufficient capacity to add additional locations without individual prior approvals, including, at a minimum, satisfactory evidence of a system to ensure quality across a distributed enterprise.

(d) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, these procedures must specify an effective date on which the change is

included in the program's or institution's grant of accreditation or preaccreditation. The date of prior approval must not pre-date either an earlier agency denial of the substantive change, or the agency's formal acceptance of the application for the substantive change for inclusion in the program's or institution's grant of accreditation or preaccreditation. An agency may designate the date of a change in ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change in ownership.

(e) The agency's substantive change policy must define when the changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution.

18. Amend § 602.23 by:

- a. Revising paragraphs (c) through (g);
- b. Adding paragraphs (h) through (l); and
- c. Removing the parenthetical authority citation at the end of the section.

The revisions and additions read as follows:

§ 602.23 Operating procedures all agencies must have.

* * * * *

(c) The accrediting agency must—

(1) Review in a timely, fair, and equitable manner any complaint it receives against an accredited or preaccredited institution or program that is related to the agency's standards

or procedures. The agency may not complete its review and make a decision regarding a complaint unless, in accordance with published procedures, it ensures that the institution or program has sufficient opportunity to provide a response to the complaint;

(2) Take follow-up action, as necessary, including enforcement action, if necessary, based on the results of its review; and

(3) Review in a timely, fair, and equitable manner, and apply unbiased judgment to, any complaints against itself, to include conflict of interest violations, and take follow-up action, as appropriate, based on the results of its review, and document such complaints and actions.

(d) The agency must require its accredited institutions or programs to publicly disclose any action by the agency that begins the enforcement timeline in §602.20(a) or (b). When an institution or program makes such a disclosure or elects to make a public disclosure of its accreditation or preaccreditation status, the agency must ensure that the institution or program discloses that status accurately, including the specific academic or instructional programs covered by that status, the reason(s) for the action, and the name and contact information for the agency.

(e) The accrediting agency must provide for the public correction of incorrect or misleading information an accredited or preaccredited institution or program releases about—

(1) The accreditation or preaccreditation status of the institution or program;

(2) The contents of reports of on-site reviews; and

(3) The agency's accrediting or preaccrediting actions with respect to the institution or program.

(f) All credits and credentials earned and issued by an institution or program holding preaccreditation from a nationally recognized agency are considered by the Secretary to be from an accredited institution or program.

(g) The agency may establish any additional operating procedures it deems appropriate. At the agency's discretion, these may include unannounced inspections.

(h) The agency must not have policies that require institutions or programs to violate any Federal or State law, including title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, and title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 *et seq.* (title IX), which means, among other things, that agencies must not have policies that require institutions or programs to provide unlawful preferences to students, faculty, staff, contractors, or any employees based upon their race, color, national origin, or sex, including in admissions, hiring, and the selection of contracts.

(i) The agency must have internal controls to ensure compliance with antitrust laws, including by ensuring that the agency does not directly or indirectly facilitate coordination or collusive activities that are anticompetitive among

institutions or programs or unnecessarily restrict access to employment in an occupation.

(j) The agency must refrain from reviewing aspects of institutional governance of public institutions that are established by State law, including the appointment of institutional directors or officers by elected or appointed State officials.

(k) The agency may have a timely procedure to accelerate the comprehensive accreditation process for an institution or program seeking initial accreditation. An institution or program would be eligible to access this process if, at a minimum, it—

(1) Holds current accreditation from another nationally recognized accrediting agency; and

(2) (i) Meets the requirements of 34 CFR 600.11; or

(ii) Is impacted by a decision by the senior Department official or Secretary to terminate an agency's recognition.

(1) The agency must establish and maintain at least one structured mechanism through which currently enrolled students, employed staff, and employed faculty of accredited or preaccredited institutions or programs may communicate directly with the agency concerns related to the agency's accreditation standards or the institution's or program's compliance therewith. Such mechanism(s) must be designed to ensure that information received is substantive and manageable in volume. Permissible mechanisms include, but are not limited to, any one or more of the following:

(1) A registration process through which students, staff, or faculty may sign up to participate in structured meetings with agency representatives during scheduled site visits or virtual visits, subject to reasonable limits on the number of participants and appointment availability;

(2) Randomized panels of students, staff, or faculty selected by the accrediting agency or its authorized representatives to participate in confidential interviews or focus groups during site visits, conducted in a manner that ensures a representative cross-section of the institutional community; or

(3) Student, faculty, staff surveys independently administered by the agency as part of an initial or renewal of accreditation process which minimally address the standards areas required by § 602.16(a).

* * * * *

19. Revise and republish § 602.24 to read as follows:

§ 602.24 Additional procedures certain institutional agencies must have.

(a) *Branch campus.* The agency must require the institution to notify the agency if it plans to establish a branch campus and to submit a business plan for the branch campus that describes—

(1) The educational program to be offered at the branch campus; and

(2) The projected revenues and expenditures and cash flow at the branch campus.

(b) *Site visits*. The agency must undertake a site visit that cannot be conducted solely by agency staff to a new branch campus or following a change of ownership or control as soon as practicable, but no later than six months, after the establishment of that campus or the change of ownership or control.

(c) *Teach-out plans and agreements*. (1) The agency must require an institution it accredits to submit a teach-out plan as defined in 34 CFR 600.2 within 30 days to the agency for approval upon the occurrence of any of the following events:

(i) For a nonprofit or proprietary institution, the Secretary notifies the agency of a determination by the institution's independent auditor expressing doubt about the institution's ability to operate as a going concern or indicating an adverse opinion or a finding of material weakness related to financial stability.

(ii) The agency acts to place the institution on probation or equivalent status.

(iii) The Secretary notifies the agency that the institution's participation in title IV, HEA programs has changed from full to provisional certification.

(2) The agency must require an institution it accredits or preaccredits to submit a teach-out agreement (as defined in 34

CFR 600.2) to the agency for approval upon the occurrence of any of the following events:

(i) The Secretary notifies the agency that it has placed the institution on the reimbursement payment method under 34 CFR 668.162(c) or the heightened cash monitoring payment method requiring the Secretary's review of the institution's supporting documentation under 34 CFR 668.162(d) (2) .

(ii) The Secretary notifies the agency that the Secretary has initiated an emergency action against an institution, in accordance with section 487(c) (1) (G) of the HEA, or an action to limit, suspend, or terminate an institution participating in any title IV, HEA program, in accordance with section 487(c) (1) (F) of the HEA.

(iii) The agency acts to withdraw, terminate, or suspend the accreditation or preaccreditation of the institution.

(iv) The institution notifies the agency that it intends to cease operations entirely or close a location that provides one hundred percent of at least one program, including if the location is being moved and is considered by the Secretary to be a closed school, unless the institution is completing its own teach-out.

(v) A State licensing or authorizing agency notifies the agency that an institution's license or legal authorization to provide an educational program has been or will be revoked.

(3) If an institution is unable to secure a teach-out agreement within 30 days with another institution as required under paragraph (c) (2) of this section—

(i) The institution must provide documentation to the agency and the State detailing why a teach-out agreement cannot be secured; and

(ii) The institution must notify the Department that a teach-out agreement cannot be secured and if this is the case, the Department may require the institution to provide financial protection.

(4) The agency must evaluate the teach-out plan to ensure it includes a list of currently enrolled students, academic programs offered by the institution, a plan to maintain and provide access to transcripts in the event of closure, and the names of other institutions that offer similar programs and that could potentially enter into a teach-out agreement with the institution.

(5) If the agency approves a teach-out plan or a teach-out agreement that includes a program or institution that is accredited by another recognized accrediting agency, it must notify that accrediting agency of its approval.

(6) The agency may require an institution it accredits or preaccredits to enter into a teach-out agreement as part of its teach-out plan.

(7) The agency must require an institution to include in its teach-out agreement—

(i) A complete list of students currently enrolled in each program at the institution and the program requirements each student has completed;

(ii) A plan to provide all potentially eligible students with information about how to obtain a closed school discharge and, if applicable, information on State refund policies;

(iii) A record retention plan to be provided to all enrolled students that delineates the final disposition of teach-out records (e.g., student transcripts, billing, financial aid records);

(iv) Information on the number and types of credits the teach-out institution is willing to accept prior to the student's enrollment; and

(v) A clear statement to students of the tuition and fees of the educational program and the number and types of credits that will be accepted by the teach-out institution.

(8) The agency must require an institution it accredits or preaccredits that enters into a teach-out agreement, either on its own or at the request of the agency, to submit that teach-out agreement for approval. The agency may approve the teach-out agreement only if the agreement meets the requirements of 34 CFR 600.2 and this section, is consistent with applicable standards and regulations, and provides for the equitable treatment of students being served.

(9) Irrespective of any teach-out plan or signed teach-out agreement, the agency must not permit an institution to serve as a teach-out institution under the following conditions:

(i) The institution is subject to the conditions in paragraph (c)(1) or (2) of this section.

(ii) The institution is under investigation, subject to an action, or being prosecuted for an issue related to academic quality, misrepresentation, fraud, or other severe matters by a law enforcement agency.

(10) The agency is permitted to waive requirements regarding the percentage of credits that must be earned by a student at the institution awarding the educational credential if the student is completing his or her program through a written teach-out agreement or transfer.

(d) *Closed institution.* If an institution the agency accredits or preaccredits closes without a teach-out plan, the agency must work with the Department and the appropriate State agency, to the extent feasible, to assist students in finding reasonable opportunities to complete their education without additional charges, including by—

(1) Working with institutions to secure teach-out agreements;

(2) Where a teach-out agreement cannot be arranged, working with institutions to secure transfer options;

(3) Making teach-out or transfer options, the terms of such options, and information on obtaining transcripts, loan

discharges, and reimbursement publicly available on the agency's website; and

(4) Sharing such information with appropriate State agencies and, as applicable, with other recognized accrediting agencies.

(e) *Transfer of credit policies.* The accrediting agency must confirm, as part of its review for initial accreditation or preaccreditation, or renewal of accreditation, that the institution has transfer of credit policies which include provisions that—

(1) Are publicly disclosed in accordance with 34 CFR 668.43(a)(11) and include general policies for specific academic standards, time limits, and curricular requirements for acceptance of credits;

(2) Include a comprehensive statement of all transfer of credit criteria established by the institution, which must consider the comparability and applicability of coursework completed or credit earned at another institution accredited by an agency recognized by the Secretary;

(3) Do not deny the transfer of credit based on the institution at which the student completed the coursework or the agency that accredits that institution, so long as the agency is recognized by the Secretary;

(4) Award transfer credit for undergraduate programs for coursework that has been successfully completed at another institution that is accredited by an agency recognized by the

Secretary and is comparable in content and learning outcomes to the institution's own course offerings, unless the institution provides a written basis for denial under 34 CFR 668.43(c)(4) in accordance with its academic standards or curricular requirements; and

(5) Provide the student an opportunity to appeal the decision within 15 calendar days of receipt of the institution's written notification if an institution declines to award transfer credit under paragraph (e)(4) of this section.

(f) *Agency designations.* In its accrediting practice, the agency must—

(1) Adopt and apply the definitions of “branch campus” and “additional location” in 34 CFR 600.2;

(2) On the Secretary's request, conform its designations of an institution's branch campuses and additional locations with the Secretary's if it learns its designations diverge; and

(3) Ensure that it does not accredit or preaccredit an institution comprising fewer than all of the programs, branch campuses, and locations of an institution as certified for title IV participation by the Secretary, except with notice to and permission from the Secretary.

20. Revise §602.25 to read as follows:

§ 602.25 Due process.

The agency must demonstrate that the procedures it uses throughout the accrediting process satisfy due process. The agency meets this requirement if the agency does the following:

(a) Provides adequate written specification of its requirements, including clear standards, for an institution or program to be accredited or preaccredited.

(b) Uses procedures that afford an institution or program a reasonable period of time to comply with the agency's requests for information and documents.

(c) Provides written specification of any deficiencies identified at the institution or program examined.

(d) Provides sufficient opportunity for a written response by an institution or program regarding any deficiencies identified by the agency, to be considered by the agency within a timeframe determined by the agency, and before any adverse action is taken.

(e) Notifies the institution or program in writing of any adverse accrediting action or an action to place the institution or program on probation or show cause. The notice describes the basis for the action.

(f) Provides an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final.

(1) The appeal must take place at a hearing before an appeals panel that—

(i) May not include current members of the agency's decision-making body that took the initial adverse action; and

(ii) Is subject to a conflict of interest policy.

(2) The agency must recognize the right of the institution or program to employ counsel to represent the institution or program during its appeal, including to make any presentation that the agency permits the institution or program to make on its own during the appeal.

(g) The agency notifies the institution or program in writing of the result of its appeal and the basis for that result.

(h) (1) The agency must provide for a process, in accordance with written procedures, through which an institution or program may, before the agency reaches a final adverse action decision, seek review of new financial information if all of the following conditions are met:

(i) The financial information was unavailable to the institution or program until after the decision subject to appeal was made.

(ii) The financial information is significant and bears materially on the financial deficiencies identified by the agency. The criteria of significance and materiality are determined by the agency.

(iii) The only remaining deficiency cited by the agency in support of a final adverse action decision is the institution's or program's failure to meet an agency standard pertaining to finances.

(2) An institution or program may seek the review of new financial information described in paragraph (h) (1) of this

section only once and any determination by the agency made with respect to that review does not provide a basis for an appeal.

21. Revise §602.26 to read as follows:

§602.26 Notification of accrediting decisions.

The agency must demonstrate that it has established and follows written procedures requiring it to provide written notice of its accrediting decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public. The agency meets this requirement if the agency, following its written procedures—

(a) Provides to the Secretary written notice of the following types of decisions, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public no later than 30 days after it makes the decision:

(1) A decision to award initial accreditation or preaccreditation to an institution or program.

(2) A decision to renew an institution's or program's accreditation or preaccreditation.

(b) Provides the decision letter or clear explanation in writing of the reasons for a final decision of a probation or equivalent status or an initiated adverse action to the Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies at the same time it notifies the institution or program of the decision and requires the institution or program to disclose such an action

within seven business days of receipt to all current and prospective students.

(c) Provides the decision letter or clear explanation in writing of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies at the same time it notifies the institution or program of the decision, but no later than 30 days after it reaches the decision:

(1) A final decision to deny, withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of an institution or program.

(2) A final decision to take any other adverse action, as defined by the agency, not listed in paragraph (c) (1) of this section.

(d) For the decisions listed in paragraphs (b) and (c) of this section, the agency must update its website directory of accredited institutions or programs to note the decision within one business day of its notice to the institution or program.

(e) For any decision listed in paragraph (c) of this section, requires the institution or program to disclose the decision to current and prospective students within seven business days of receipt and makes available to the Secretary, the appropriate State licensing or authorizing agency, and the public, no later than 60 days after the decision, the agency's decision letter or clear explanation of the reasons for the agency's decision and the official comments that the affected

institution or program may wish to make with regard to that decision, or evidence that the affected institution has been offered the opportunity to provide official comment.

(f) The agency must maintain on its website a clear record of all actions taken for each institution or program it accredits or preaccredits for a period of at least five years, including in the agency's decision letter required pursuant to paragraphs (b), (c), and (e) of this section.

(g) Notifies the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and, upon request, the public if an accredited or preaccredited institution or program—

(1) Decides to withdraw voluntarily from accreditation or preaccreditation, within 10 business days of receiving notification from the institution or program that it is withdrawing voluntarily from accreditation or preaccreditation; or

(2) Lets its accreditation or preaccreditation lapse, within 10 business days of the date on which accreditation or preaccreditation lapses.

(h) If the agency issues a final decision to withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of the institution, and the institution challenges this final decision, the Department may continue to provide access to title IV, HEA programs to an institution until both arbitration and judicial review (if applicable) has

concluded or until relief is denied, whichever occurs first, if failure to do so would result in immediate, irreparable harm to the institution. This provision does not authorize the Department to nullify agency decisions that are made in a manner consistent with the agency's standards, even if the Department disagrees with said decision.

22. Amend §602.27 by revising paragraph (a)(1) to read as follows:

§ 602.27 Other information an agency must provide the Department.

(a) * * *

(1) Regular and timely updates, occurring throughout the year, of its accredited and preaccredited institutions and programs on the Department's website directory;

* * * * *

23. Amend §602.28 by:

- a. Revising paragraph (d); and
- b. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 602.28 Regard for decisions of States and other accrediting agencies.

* * * * *

(d) If the agency learns that an institution it accredits or preaccredits, an institution that offers a program it accredits or preaccredits, or a program it accredits or preaccredits, is the subject of an adverse action or has been

placed on probation or an equivalent status by another recognized agency, or has been the subject of a similar action or status by a State agency or Federal agency, the agency must promptly review its accreditation or preaccreditation of the institution or program to determine if it should also take adverse action or place the institution or program on probation or an equivalent status.

* * * * *

§§ 602.31 and 602.32 [Redesignated as §§ 602.30 and 602.31]

24. Redesignate §§ 602.31 and 602.32 as §§ 602.30 and 602.31.

25. Revise newly redesignated §§ 602.30 and 602.31 to read as follows:

§ 602.30 Agency applications and reports to be submitted to the Department.

(a) *Applications for recognition or renewal of recognition.*

An accrediting agency seeking initial or continued recognition must submit a written application to the Secretary. Each accrediting agency must submit an application for continued recognition at least once every five years, or within a shorter time period specified in the final recognition decision. The application must consist of—

(1) A statement of the agency's requested scope of recognition;

(2) Documentation that the agency complies with the criteria for recognition listed in subpart B of this part,

including a copy of its policies and procedures manual and its accreditation standards; and

(3) Documentation of how an agency that includes or seeks to include distance education, correspondence courses, or direct assessment education in its scope of recognition applies its standards in evaluating programs and institutions it accredits that offer distance education or correspondence courses.

(b) *Applications for expansions or contractions of scope.*

An agency seeking an expansion or contraction of scope by application must submit a written application to the Secretary. The application must—

(1) Specify the scope requested;

(2) Provide copies of any relevant standards, policies, or procedures developed and applied by the agency for its use in accrediting activities conducted within an expansion of scope proposed and documentation of the application of these standards, policies, or procedures; and

(3) Provide the materials required by § 602.32(a).

(c) *Compliance or monitoring reports.* If an agency is required to submit a compliance or monitoring report, it must do so within 30 days following the end of the period for achieving compliance as specified in the decision of the senior Department official or Secretary, as applicable.

(d) *Review following an increase in headcount enrollment.*

If an agency that has notified the Secretary in writing of its change in scope to include distance education or correspondence

courses in accordance with § 602.27(a)(4) reports an increase in headcount enrollment in accordance with § 602.19(e) for an institution it accredits, or if the Department notifies the agency of such an increase at one of the agency's accredited institutions, the agency must, within 45 days of reporting the increase or receiving notice of the increase from the Department, as applicable, submit a report explaining—

(1) How the agency evaluates the capacity of the institutions or programs it accredits to accommodate significant growth in enrollment and to maintain education quality;

(2) The specific circumstances regarding the growth at the institution or program that triggered the review and the results of any evaluation conducted by the agency; and

(3) Any other information that the agency deems appropriate to demonstrate the effective application of the criteria for recognition or that the Department may require.

(e) *Consent to sharing of information.* By submitting an application for recognition, the agency authorizes Department staff throughout the application process and during any period of recognition—

(1) To observe its site visits to one or more of the institutions or programs it accredits or preaccredits, on an announced or unannounced basis;

(2) To visit locations where agency activities such as training, review and evaluation panel meetings, and decision meetings take place, on an announced or unannounced basis;

(3) To obtain copies of all documents the staff deems necessary to complete its review of the agency; and

(4) To gain access to agency records, personnel, and facilities.

(f) *Public availability of agency records obtained by the Department.* (1) The Secretary's processing and decision-making on requests for public disclosure of agency materials reviewed under this part are governed by the Freedom of Information Act, 5 U.S.C. 552; the Trade Secrets Act, 18 U.S.C. 1905; the Privacy Act of 1974, as amended, 5 U.S.C. 552a; 5 U.S.C. chapter 10 (Federal Advisory Committees); and all other applicable laws. In recognition proceedings, agencies must, before submission to the Department—

(i) Redact the names and any other personally identifiable information about individual students and any other individuals who are not agents of the agency or of an institution or program the agency is reviewing;

(ii) Redact the personal addresses, personal telephone numbers, personal email addresses, Social Security numbers, and any other personally identifiable information regarding individuals who are acting as agents of the agency or of an institution or program under review;

(iii) Designate, but not redact, all business information within agency submissions that the agency believes would be exempt from disclosure under exemption 4 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4). A blanket

designation of all information contained within a submission, or of a category of documents, as meeting this exemption will not be considered a good faith effort and will be disregarded; and

(iv) Ensure documents submitted are only those required for Department review or as requested by Department officials.

(2) The agency may identify any other material the agency believes would be exempt from public disclosure under FOIA, the factual basis for the request, and any legal basis the agency has identified for withholding the document from public disclosure.

(3) The Secretary processes FOIA requests in accordance with 34 CFR part 5 and makes all documents provided to the Advisory Committee available to the public.

(4) Upon request by Department staff, the agency must disclose to Department staff any specific material the agency has redacted that Department staff believes is needed to conduct the staff review. Department staff will make any arrangements needed to ensure that the materials are not made public if prohibited by law.

(g) *Length of submissions.* The Secretary may publish reasonable, uniform limits on the length of submissions described in this section.

§ 602.31 Procedures for submitting applications for recognition and renewal of recognition.

(a) An agency must submit an application for initial or renewal of recognition and meet the submission deadline set by

the Department. The type of application that must be submitted and the scope and priority of the Department's review are determined by the Department as follows:

(1) If the total title IV, HEA program funds received by the institutions accredited by an accrediting agency constitute a substantial portion, as determined by the Secretary, of the total funds awarded for the title IV, HEA programs, the agency must submit a comprehensive application that addresses the agency's compliance with all criteria in subpart B of this part.

(2) If an institutional accrediting agency is not identified for review under paragraph (a)(1) of this section, the agency must submit an application that addresses the agency's compliance with §§602.15, 602.16, 602.17, 602.19, and 602.20 and any other criteria as directed by Department staff. The agency must also attest that since its last comprehensive review the agency's policies and practices have remained in compliance with all criteria in subpart B of this part not addressed in its application.

(3) If the Secretary determines that an agency or its officers or directors have been the subject of legal actions, complaints, or other compliance issues that individually or in the aggregate raise substantial concerns regarding the agency's compliance with this part, the agency must submit a comprehensive application that addresses the agency's compliance with all criteria in subpart B of this part.

(4) If an agency is exclusively a programmatic accrediting agency and is not identified for review under paragraph (a)(3) of this section, the agency must submit an application that addresses the agency's compliance with the criteria in §§602.10, 602.16, 602.17, 602.19, and 602.20 and any other criteria as directed by Department staff. The agency must also attest that since its last comprehensive review the agency's policies and practices have remained in compliance with all criteria in subpart B of this part not addressed in its application.

(5) An agency described in paragraph (a)(2) or (4) of this section must submit a comprehensive application that addresses the agency's compliance with all criteria in subpart B of this part at least once every third cycle of review.

(6) The Department may also consider factors that include but are not limited to—

(i) Whether any of its accredited institutions closed without an approved teach-out agreement in place when such an agreement was required in accordance with §602.24(c);

(ii) Whether the Department has received serious or a high proportion of complaints about the institutions or programs the agency accredits;

(iii) Whether the agency has significantly increased the number of institutions or programs it accredits; and

(iv) The number and severity of noncompliant findings identified in the senior Department official's or Secretary's

decision letter for the agency's application for renewal of recognition.

(7) An agency submitting an application for initial recognition must submit a comprehensive application that addresses the agency's compliance with all criteria in subpart B of this part.

(b)(1) After receipt of an agency's application for initial or renewal of recognition, Department staff publishes a notice in the Federal Register stating that the agency submitted an application and inviting the public to provide information concerning the performance of the agency to assist the Department in determining whether the agency meets the criteria for recognition and establishing a deadline for receipt of information from the public.

(2) Within 10 business days after publication of the notice described in paragraph (b)(1) of this section, the agency must publish the request for information on the agency's website to include instructions on how the public can submit information in response to the request.

(c) The Department staff analyzes the agency's application for initial or renewal of recognition, to determine whether the agency satisfies the criteria for recognition, taking into account all available relevant information concerning the compliance of the agency with those criteria and the agency's consistency in applying the criteria. The analysis of an application will include—

(1) A site visit, which may be conducted as an in-person visit at the agency, including an on-site file review of agency documents, or through a virtual file review of agency documents. The site visit may also include, as appropriate, an in-person visit to the agency's member institutions or programs, an on-site or virtual observation of a meeting of the agency's decision-making body, or an on-site or virtual observation of other agency activity. During the site visit, Department staff may retain copies of documents needed for inclusion in the administrative record;

(2) Review of the public information Department staff receives by the established deadline, the agency's responses to the third-party information, as appropriate, and any other information Department staff obtains for purposes of evaluating the agency under this part; and

(3) Review of complaints or legal actions involving the agency; and

(4) Review of complaints or legal actions against an institution or program accredited or preaccredited by the agency, which may be considered but are not necessarily determinative of compliance.

(d) The Department may view as a negative factor when considering an application for initial recognition as proposed by an agency anticompetitive conduct that is violative of the antitrust laws, such as collusion between accrediting agencies and any related, associated, or affiliated trade association,

professional organization, standard setting organization, State certification organization, or membership organization to unnecessarily inflate the qualifications necessary for a student to sit for a licensure or certification examination or otherwise be eligible for entry into a profession, occupation, or vocation due to an increase in related education or training requirements.

(e) Department staff's evaluation of an agency may also include a review of information directly related to institutions or programs accredited or preaccredited by the agency relative to their compliance with the agency's standards, the effectiveness of the standards, and the agency's application of those standards, but must make all materials relied upon in the evaluation available to the agency for review and comment.

(f) If, at any point in its evaluation of an agency seeking initial recognition, Department staff determines that the agency fails to demonstrate compliance with the basic eligibility requirements in §§602.10 through 602.15, the staff—

(1) Returns the agency's application and provides the agency with an explanation of the deficiencies that caused staff to take that action; and

(2) Requires that the agency withdraw its application and instructs the agency that it may reapply when the agency is able to demonstrate compliance.

(g) Except with respect to an application that has been returned and is withdrawn under paragraph (f) of this section,

when Department staff completes its evaluation of the agency, the staff will—

(1) Within 120 days of the submission deadline set by the Department, prepare a written draft analysis of the agency's application;

(2) Send to the agency the draft analysis including any identified areas of potential noncompliance and all third-party information and complaints, if applicable, and any other materials the Department received by the established deadline or is including in its review;

(3) Invite the agency to provide a written response to the draft analysis and third-party comments or other material included in the review, specifying a deadline that provides at least 90 days for the agency's response;

(4) Review the response to the draft analysis the agency submits, if any, and prepares the written final analysis—

(i) Indicating that the agency is in full compliance, substantial compliance, or noncompliance with each of the criteria for recognition; and

(ii) Recommending that the senior Department official approve, continue recognition with a compliance report—to be submitted to the Department within 12 months, continue recognition with a compliance report to be submitted to the Department with a deadline in excess of 12 months based on a finding of good cause and extraordinary circumstances, approve

with monitoring or other reporting requirements, or deny, limit, suspend, or terminate recognition; and

(5) Provide to the agency, no later than 30 days before the Advisory Committee meeting, the final staff analysis and any other available information provided to the Advisory Committee under § 602.34(c).

(h) The agency may request that the Advisory Committee defer acting on an application at that Advisory Committee meeting if Department staff fails to provide the agency with the materials described, and within the timeframes provided, in paragraphs (g)(3) and (5) of this section. If the Department staff's failure to send the materials in accordance with the timeframe described in paragraph (g)(3) or (5) of this section is due to the agency's failure to timely submit reports or other information requested by the Secretary, submit its response to the draft analysis, or to comply with the requirements of § 602.30(e), the Department will not grant the agency any requests to defer consideration of its application.

(i) If Department staff does not conclude its review of the application for recognition before the expiration of an agency's recognition period, the recognition period automatically extends for a period of time that expires when a recognition decision is made and Department staff will limit the length of the recognition recommendation to not exceed five years from the expiration.

26. Add a new § 602.32 to read as follows:

§ 602.32 Procedures for review of an expansion of scope, a contraction of scope, compliance reports, or increase in headcount enrollment.

(a) For an expansion or contraction of scope—

(1) The Department will only accept such applications in conjunction with an application for recognition, except as provided in paragraph (a) (2) of this section; and

(2) At the discretion of Department staff and on a case-by-case basis, Department staff may review an application for an expansion or contraction of scope independent of a renewal application.

(3) The Department may view as a negative factor, when considering an expansion or contraction of scope as proposed by an agency, anticompetitive conduct that is violative of the antitrust laws, such as collusion between accrediting agencies and any related, associated, or affiliated trade association, professional organization, standard setting organization, State certification organization, or membership organization to unnecessarily inflate the qualifications necessary for a student to sit for a licensure or certification examination or otherwise be eligible for entry into a profession, occupation, or vocation due to an increase in related education or training requirements.

(b) For the review of a compliance report, Department staff—

(1) Completes its evaluation of the agency's compliance report;

- (2) Within 90 days of the submission deadline set by the SDO or Secretary decision letter for the compliance report, prepares a written draft analysis of the agency's compliance report;
- (3) Sends to the agency the draft analysis, including any identified areas of potential noncompliance and any other materials the Department received by the established deadline or that is included in its review;
- (4) Invites the agency to provide a written response to the draft analysis and other material included in the review, specifying a deadline that provides at least 45 days for the agency's response;
- (5) Reviews any response to the draft analysis the agency submits and prepares the written final analysis—
- (i) Indicating that the agency is in full compliance, substantial compliance, or noncompliance with each of the criteria for recognition under review; and
- (ii) Including a recognition recommendation to the senior Department official, including, but not limited to, a recommendation that the senior Department official approve, continue recognition with compliance reporting requirements based on a finding of good cause and extraordinary circumstances, approve with monitoring or other reporting requirements, or deny, limit, suspend, or terminate recognition; and
- (6) Provides to the agency, no later than 30 days before the Advisory Committee meeting, the final staff analysis and any

other available information provided to the Advisory Committee under § 602.34(c).

(c) For the review of a report related to an increase in headcount enrollment, the agency will provide the report required by § 602.30(d); and the Department will process the report in accordance with the procedures described in paragraph (b) of this section for a compliance report.

27. Revise § 602.33 to read as follows:

§ 602.33 Procedures for review of agencies during the period of recognition, including the review of monitoring reports.

(a) Department staff may review the compliance of a recognized agency with the criteria for recognition at any time—

(1) Based on the submission of a monitoring report as directed by a decision by the senior Department official or Secretary; or

(2) Based on any information that, as determined by Department staff, appears credible and raises concerns relevant to the criteria for recognition.

(b) The review may include, but need not be limited to, any of the activities described in § 602.31(c) and (e).

(c) If the inquiry was initiated under paragraph (a)(2) of this section, Department staff will provide the agency with documentation concerning the inquiry and an opportunity to respond within a reasonable time.

(d) If, in the course of the review, Department staff determines that the agency is in compliance with the criteria

for recognition, the Department will conclude the review and notify the agency.

(e) If, in the course of the review, Department staff notes that one or more deficiencies may exist in the agency's compliance with the criteria for recognition or in the agency's effective application of those criteria, Department staff—

(1) Prepares a written draft analysis of the agency's compliance with the criteria of concern;

(2) Sends to the agency the draft analysis including any identified areas of noncompliance and all supporting documentation not previously provided;

(3) Invites the agency to provide a written response to the draft analysis within 45 days; and

(4) Reviews any response provided by the agency, and either—

(i) Determines the agency is in compliance with the criteria and concludes the review;

(ii) Continues monitoring of the agency's areas of deficiencies; or

(iii) (A) Notifies the agency, in the event that the agency's response or monitoring report does not satisfy the staff, that the draft analysis will be finalized for presentation to the Advisory Committee;

(B) Finalizes the staff analysis as necessary to reflect its review of any agency response and any public comment received;

(C) Provides to the agency, no later than 30 days before the Advisory Committee meeting, the final staff analysis and a recognition recommendation and any other information provided to the Advisory Committee under § 602.34(c); and

(D) Submits the matter for review by the Advisory Committee in accordance with § 602.34.

28. Revise § 602.34 to read as follows:

§ 602.34 Advisory Committee meetings.

(a) Department staff submits a proposed schedule to the Chairperson of the Advisory Committee based on anticipated completion of staff analyses.

(b) The Chairperson of the Advisory Committee establishes an agenda for the next meeting and, in accordance with the Federal Advisory Committee Act, presents it to the Designated Federal Official for approval.

(c) Before the Advisory Committee meeting, Department staff provides the Advisory Committee with—

(1) As applicable, the agency's application for recognition, renewal of recognition, or the agency's application for expansion or contraction of scope when Advisory Committee review is required, or the agency's compliance report, and supporting documentation submitted by the agency;

(2) The final Department staff analysis of the agency developed in accordance with § 602.31, § 602.32, or § 602.33, and any supporting documentation;

(3) The agency's response to the draft analysis;

(4) Any written third-party information the Department received about the agency on or before the established deadline;

(5) Any agency response to third-party information; and

(6) Any other information Department staff relied upon in developing its analysis.

(d) (1) At least 30 days before the Advisory Committee meeting, the Department publishes a notice of the meeting in the Federal Register inviting interested parties to make oral presentations before the Advisory Committee.

(2) Within 10 business days after publication of the notice described in paragraph (d) (1) of this section, the agency must publish the meeting notice on the agency's website to include instructions on how the public can participate.

(e) The Advisory Committee considers the materials provided under paragraph (c) of this section in a public meeting and invites Department staff, the agency, and other interested parties to make oral presentations during the meeting. A transcript is made of all Advisory Committee meetings.

(f) The written motion adopted by the Advisory Committee regarding each agency's recognition will be made available during the Advisory Committee meeting. The Department will provide each agency, upon request, with a copy of the motion on recognition at the meeting. Each agency that was reviewed will be sent an electronic copy of the motion relative to that agency as soon as practicable after the meeting.

(g) After each meeting of the Advisory Committee, the Advisory Committee forwards to the senior Department official its recommendation with respect to each agency, which may include, but is not limited to—

(1)(i) For an agency that is fully compliant, approve initial or renewed recognition; or

(ii) In the case of non-compliance—

(A) Continue recognition with a required compliance report to be submitted to the Department within 12 months from the decision of the senior Department official;

(B) In conjunction with a finding of exceptional circumstances and good cause, continue recognition for a specified period in excess of 12 months pending submission of a compliance report; or

(C) Deny, limit, suspend, or terminate recognition.

(iii) In the case of substantial compliance, grant initial recognition or renewed recognition and recommend a monitoring report with a set deadline to be reviewed by Department staff to ensure that corrective action is taken, and full compliance is achieved or maintained (or recommend for action by staff under § 602.33 if it is not); or

(iv) Grant or deny a request for expansion or contraction of scope; or

(v) Revise or affirm the scope of the agency.

(2) [Reserved]

29. Amend § 602.35 by:

- a. Revising paragraphs (a) and (c)(2); and
- b. Removing the parenthetical authority citation at the end of the section.

The revisions read as follows:

§ 602.35 Responding to the Advisory Committee's recommendation.

(a) Within 10 business days following the publication of transcripts of the Advisory Committee meeting, the agency and Department staff may submit written comments to the senior Department official on the Advisory Committee's recommendation. The agency must simultaneously submit a copy of its written comments, if any, to Department staff. Department staff must simultaneously submit a copy of its written comments, if any, to the agency.

* * * * *

(c) * * *

(2) Within 10 business days of receipt by the Department staff of an agency's comments or new evidence, if applicable, or of receipt by the agency of the Department staff's comments, Department staff, the agency, or both, as applicable, may submit a response to the senior Department official. Simultaneously with submission, the agency must provide a copy of any response to the Department staff. Simultaneously with submission, Department staff must provide a copy of any response to the agency. No additional comments or new documentation may be submitted after the responses described in this paragraph (c)(2) are submitted.

30. Amend § 602.36 by:

- a. Revising paragraphs (a), (b), (d), (e), (h), and (i); and
- b. Removing the parenthetical authority citation at the end of the section.

The revisions read as follows:

§ 602.36 Senior Department official's decision.

(a) The senior Department official makes a decision regarding recognition of an agency based on the record compiled under §§ 602.31, 602.32, 602.33, 602.34, and 602.35 including, as applicable, the following:

- (1) The materials provided to the Advisory Committee under § 602.34(c).
- (2) The transcript of the Advisory Committee meeting.
- (3) The recommendation of the Advisory Committee.
- (4) Written comments and responses submitted under § 602.35.
- (5) New documentation submitted in accordance with § 602.35(c)(1).
- (6) A communication from the Secretary referring an issue to the senior Department official's consideration under § 602.37(e).

(b) In the event that statutory authority or appropriations for the Advisory Committee ends, or there are fewer duly appointed Advisory Committee members than needed to constitute a quorum, and under extraordinary circumstances when there are serious concerns about an agency's compliance with subpart B of this part that require prompt attention, the senior Department

official may make a decision on an application for renewal of recognition or compliance report on the record compiled under § 602.31 or § 602.32 after providing the agency with an opportunity to respond to the final staff analysis. Any decision made by the senior Department official under this paragraph (b) from the Advisory Committee may be appealed to the Secretary as provided in § 602.37.

* * * * *

(d) Except with respect to decisions made under paragraph (f) or (g) of this section and matters referred to the senior Department official under § 602.37(e) or (f), the senior Department official notifies the agency in writing of the senior Department official's decision regarding the agency's recognition within 90 days following the publication of transcripts of the Advisory Committee meeting or conclusion of the review under paragraph (b) of this section.

(e) The senior Department official's decision may include, but is not limited to, approving for recognition; approving with a monitoring report; denying, limiting, suspending, or terminating recognition following the procedures in paragraph (g) of this section; granting or denying an application for an expansion of scope; granting or denying an application for a contraction of scope; revising or affirming the scope of the agency; or continuing recognition pending submission and review of a compliance report under §§ 602.32 and 602.34 and review of the report by the senior Department official under this section.

(1)(i) The senior Department official approves recognition if the agency has demonstrated compliance or substantial compliance with the criteria for recognition listed in subpart B of this part. The senior Department official may determine that the agency has demonstrated compliance or substantial compliance with the criteria for recognition if the agency has a compliant policy or procedure in place but has not had the opportunity to apply such policy or procedure.

(ii) If the senior Department official approves recognition, the recognition decision defines the scope of recognition and the recognition period. The recognition period does not exceed five years, including any time during which recognition was continued to permit submission and review of a compliance report.

(iii) If the scope of recognition is less than that requested by the agency, the senior Department official explains the reasons for continuing or approving a lesser scope.

(2)(i) Except as provided in paragraph (e)(3) of this section, if the agency fails to comply with the criteria for recognition listed in subpart B of this part, the senior Department official denies, limits, suspends, or terminates recognition.

(ii) If the senior Department official denies, limits, suspends, or terminates recognition, the senior Department official specifies the reasons for this decision, including all

criteria the agency fails to meet and all criteria the agency has failed to apply effectively.

(3)(i) If the senior Department official concludes an agency is noncompliant, the senior Department official may continue the agency's recognition, pending submission of a compliance report that will be subject to review in the recognition process, provided that—

(A) The senior Department official concludes that the agency will demonstrate compliance with, and effective application of, the criteria for recognition within 12 months from the date of the senior Department official's decision; or

(B) The senior Department official identifies a deadline more than 12 months from the date of the decision by which the senior Department official concludes the agency will demonstrate full compliance with, and effective application of, the criteria for recognition, and also identifies exceptional circumstances and good cause for allowing the agency more than 12 months to achieve compliance and effective application.

(ii) In the case of a compliance report ordered under paragraph (e)(3)(i) of this section, the senior Department official specifies the criteria the compliance report must address, and the time period for achieving compliance and effective application of the criteria. The compliance report documenting compliance and effective application of criteria is due not later than 30 days after the end of the period specified in the senior Department official's decision.

(iii) If the record includes a compliance report required under paragraph (e) (3) (i) of this section, and the senior Department official determines that an agency has not complied with the criteria for recognition, or has not effectively applied those criteria, during the time period specified by the senior Department official in accordance with paragraph (e) (3) (i) of this section, the senior Department official denies, limits, suspends, or terminates recognition, except, in extraordinary circumstances, upon a showing of good cause for an extension of time as determined by the senior Department official and detailed in the senior Department official's decision. If the senior Department official determines good cause for an extension has been shown, the senior Department official specifies the length of the extension and what the agency must do during it to merit a renewal of recognition.

* * * * *

(h) If relevant and material information pertaining to an agency's compliance with recognition criteria, but not contained in the record, comes to the senior Department official's attention while a decision regarding the agency's recognition is pending before the senior Department official, and if the senior Department official concludes the recognition decision should not be made without consideration of the information, the senior Department official either—

(1) (i) Does not make a decision regarding recognition of the agency; and

(ii) Refers the matter to Department staff for review and analysis under § 602.31, § 602.32, or § 602.33, as appropriate, and consideration by the Advisory Committee under § 602.34; or

(2)(i) Provides the information to the agency and Department staff;

(ii) Permits the agency to respond to the senior Department official and the Department staff in writing, and to include additional documentation relevant to the issue, and specifies a deadline;

(iii) Provides Department staff with an opportunity to respond in writing to the agency's submission under paragraph (h)(2)(ii) of this section, specifying a deadline; and

(iv) Issues a recognition decision based on the record described in paragraph (a) of this section, as supplemented by the information provided under this paragraph (h).

(i) No agency may submit information to the senior Department official, or ask others to submit information on its behalf, for purposes of invoking paragraph (h) of this section. Before invoking paragraph (h) of this section, the senior Department official will take into account whether the information, if submitted by a third party, could have been submitted in accordance with § 602.31, § 602.32, or § 602.33.

* * * * *

31. Amend § 602.37 by:

a. Revising paragraphs (g) and (h); and

b. Removing the parenthetical authority citation at the end of the section.

The revisions read as follows:

§ 602.37 Appealing the senior Department official's decision to the Secretary.

* * * * *

(g) If relevant and material information pertaining to an agency's compliance with recognition criteria, but not contained in the record, comes to the Secretary's attention while a decision regarding the agency's recognition is pending before the Secretary, and if the Secretary concludes the recognition decision should not be made without consideration of the information, the Secretary either—

(1)(i) Does not make a decision regarding recognition of the agency; and

(ii) Refers the matter to Department staff for review and analysis under § 602.31, § 602.32, or § 602.33, as appropriate; review by the Advisory Committee under § 602.34; and consideration by the senior Department official under § 602.36; or

(2)(i) Provides the information to the agency and the senior Department official;

(ii) Permits the agency to respond to the Secretary and the senior Department official in writing, and to include additional documentation relevant to the issue, and specifies a deadline;

(iii) Provides the senior Department official with an opportunity to respond in writing to the agency's submission under paragraph (g)(2)(ii) of this section, specifying a deadline; and

(iv) Issues a recognition decision based on all the materials described in paragraphs (e) and (g) of this section.

(h) No agency may submit information to the Secretary, or ask others to submit information on its behalf, for purposes of invoking paragraph (g) of this section. Before invoking paragraph (g) of this section, the Secretary will take into account whether the information, if submitted by a third party, could have been submitted in accordance with §602.31, §602.32, or §602.33.

* * * * *

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

32. The general authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001-1003, 1070g, 1085, 1088, 1091, 1092, 1094, 1099c, 1099c-1, 1221e-3, and 1231a, unless otherwise noted.

* * * * *

33. Amend §668.43 by revising paragraph (a)(11), (c), and (d)(3) to read as follows:

§668.43 Institutional and programmatic information.

(a) * * *

(11) A description of the transfer of credit policies established by the institution, which must include a statement of the institution's current transfer of credit policies that includes, at a minimum—

(i) The timeline by which a transcript must be submitted for timely review so that a prospective student can make an informed decision prior to making a nonrefundable financial commitment, enrollment, or registration;

(ii) Any established criteria the institution uses regarding the transfer of credit earned at another institution and any types of institutions or sources from which the institution will not accept credits;

(iii) A list of institutions with which the institution has established an articulation agreement; and

(iv) Written criteria used to evaluate and award credit for prior learning experience including, but not limited to, service in the armed forces, paid or unpaid employment, or other demonstrated competency or learning; and

(v) A statement regarding whether the institution considers credit earned in a non-degree program, or hours completed in a non-credit program, for transfer or articulation to a degree program;

* * * * *

(c) (1) If the institution has made a determination under paragraph (a) (5) (v) of this section that the program's curriculum does not meet the State educational requirements for

licensure or certification in the State in which a prospective student is located, or if the institution has not made a determination regarding whether the program's curriculum meets the State educational requirements for licensure or certification, the institution must provide notice to that effect to the student prior to the student's enrollment in the institution in accordance with §668.14(b)(32).

(2) If the institution makes a determination under paragraph (a)(5)(v) of this section that a program's curriculum does not meet the State educational requirements for licensure or certification in a State in which a student who is currently enrolled in such program is located, the institution must provide notice to that effect to the student within 14 calendar days of making such determination.

(3) If a student timely provides a transcript to an institution during the period described in paragraph (a)(11)(i) of this section, the institution must—

(i) Inform the student of the credit that will be awarded for courses on that transcript;

(ii) Inform the student of the credit that the institution declines to award for courses on that transcript; and

(iii) Disclose the estimated time and, when applicable, courses that would be needed to replace the courses for which the institution declined to award credit under paragraph (c)(3)(ii) of this section.

(4) If the institution declines to award credit to a student pursuant to its transfer of credit policy under 34 CFR 602.24(e)(4), the institution must provide to the student a written rationale specific to each course that does not result in transfer credit.

(5)(i) Disclosures under paragraphs (c)(1) through (4) of this section must be made directly to the student in writing, which may include through email or other electronic communication.

(ii) Disclosures under paragraph (c)(3) of this section must be provided to the student by the earlier of the date that the student—

(A) Signs an enrollment agreement;

(B) Completes registration; or

(C) Makes a nonrefundable financial commitment to the institution.

(iii)(A) For purposes of paragraphs (c)(1) and (2) of this section, an institution must make a determination regarding the State in which a student is located in accordance with the institution's policies or procedures, which must be applied consistently to all students.

(B) The institution must, upon request, provide the Secretary with written documentation of its determination of a student's location under paragraph (c)(5)(iii)(A) of this section, including the basis for such determination.

(C) An institution must make a determination regarding the State in which a student is located at the time of the student's initial enrollment in an educational program and, if applicable, upon formal receipt of information from the student, in accordance with the institution's procedures under paragraph (c)(5)(iii)(A) of this section, that the student's location has changed to another State.

* * * * *

(d) * * *

(3) *Distribution to prospective students.* The institution must provide the relevant information to access the website maintained by the Secretary to any prospective student, or a third party acting on behalf of the prospective student, before the prospective student signs an enrollment agreement, completes registration, or makes a nonrefundable financial commitment to the institution.

* * * * *