



## ALERTS

### Department Of Education Releases Proposed Changes To Accreditation Regulations

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On Jan. 7, the U.S. Department of Education released proposed changes to its rules on accreditation. The changes are broad, spanning four sections of Title 34 of the Code of Federal Regulations:

- [Part 602](#)—Accreditation
- [Part 600](#)—Institutional Eligibility
- [Part 674](#)—Religious Inclusion
- [Part 686](#)—TEACH Grants

The stated purposes of these measures are to reduce compliance requirements for accreditors, liberalize coursework standards for institutions, and promote innovation in higher education.

Substantive proposed changes include the following:

- The geographic ambit of regional accreditors could be no fewer than three states, but no more than nine states, all of which must be contiguous. If adopted, the proposed changes could render unlawful the current operations of four of the nation's six major regional accreditors: the WASC Senior College and University Commission (two states, including non-contiguous Hawaii), the Higher Learning Commission (19 states), the Southern Association of Colleges and Schools (11 states), and the Northwest Commission on Colleges and Universities (which includes

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non-contiguous Alaska). In that event, these regional accreditors—who are the sole accreditors for the majority of the “traditional” higher ed institutions in their component states—might have to drop states from their ambit or dissolve. This could leave hundreds of institutions across at least a dozen states unaccredited, and likely would force them to seek accreditation with national accreditors, who currently accredit relatively few traditional, nonprofit institutions. Proposed 34 C.F.R. § 602.11.

- The standardized “credit hour” definition would be removed. In its place, new rules would give leeway to accreditors and institutions, allowing them to determine how to evaluate and measure academic progress. The term “clock hour” would also be liberalized in the distance-education context. Proposed 34 C.F.R. §§ 600.2 & 602.2.
- Accreditors would have to demonstrate that their accreditation criteria and decisions are accepted by practitioners in the relevant vocational fields. Proposed 34 C.F.R. § 602.13.
- Accreditors would be required to establish clear standards for distance and correspondence education. Meanwhile, new rules would liberalize and more clearly define what distance education can entail. Proposed 34 C.F.R. §§ 600.2, 600.9, 602.16.
- New standards would govern accreditors’ ability to revoke accreditation. In particular, they would be required to provide noncompliant institutions with a reasonable opportunity and timeline for achieving compliance. Proposed 34 C.F.R. § 602.20.
- Institutions would enjoy a presumption of reasonableness when deciding to switch accreditors or use multiple accreditors, putting a heavier burden on the Department of Education to show an accreditation deficiency. This might entail more scrutiny on accreditors, to ensure that they do not revoke accreditation without due process, under inconsistent standards, or based on anti-religious bias. Proposed 34 C.F.R. § 600.11(a) & (b).
- The new rules would remove the current restrictions on certain religious institutions’ ability to receive certain benefits under federal loan programs. E.g., Proposed 34 C.F.R. §§ 674.9, 674.35, 674.36.
- TEACH Grant recipients, who are required to work for several years in low-income schools after graduating college, would be allowed to work for private schools that serve low-income students. Proposed 34 C.F.R. § 686.1.

The Department has released these proposed changes as a formal start to its much-anticipated “negotiated rulemaking” process [announced last summer](#). This process, more rigorous and lengthy than the better-known “notice and comment” approach, is designed to promote the active participation of and input from all manner of subject-matter stakeholders. There are several opportunities for public comment on the [schedule](#).

We will issue future updates on any notable developments.

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