Reform of Higher Education Accreditation

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On June 20, 2023, Lindsey Burke and Adam Kissel of The Heritage Foundation and Armand Alacbay and Kyle Beltramini of the American Council of Trustees and Alumni published "It's Time for Congress to Dismantle the Higher Education Accreditation Cartel." This article proposed three main proposals for reform, four additional proposals for changes in federal law, and additional proposals for changes in federal regulation and state law.

This document recommends specific changes that would implement the federal proposals. State legislators interested in the state proposals should contact Adam Kissel. Language in italics below is summarized from the Heritage/ACTA article.

Core Reforms

*Congress should **further remove the monopoly still enjoyed by regional accreditors**, allowing instead for these agencies to specialize in the oversight of particular types of institutions nationwide and allowing institutions the opportunity to choose agencies most appropriate for their mission: Repeal language at 20 U.S.C. § 1099b(a)(1) that permits accreditors to operate as regional institutions, requiring instead that they either be linked to a specific state, or be prepared to operate nationally.*

Further reform could be accomplished by changing 20 U.S.C. § 1099b(h) to allow schools to change accreditors more easily—which is readily accomplished by adding a presumption in favor of the institution's ability to change accreditors. Changing § 1099b(i) would allow institutions to be accredited by multiple accreditors without needing special approval.

20 USC 1099b

(a) Criteria required

No accrediting agency or association may be determined by the Secretary to be a reliable authority as to the quality of education or training offered for the purposes of this chapter or for other Federal purposes, unless the agency or association meets criteria established by the Secretary pursuant to this section. The Secretary shall, after notice and opportunity for a hearing, establish criteria for such determinations. Such criteria shall include an appropriate measure or measures of student achievement. Such criteria shall require that—

(1) the accrediting agency or association shall be a State~~, regional,~~ or national agency or association and shall demonstrate the ability ~~and the experience~~ to operate as an accrediting agency or association within the State~~, region,~~ or nationally, as appropriate;

[...]

(h) Change of accrediting agency

The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is in the process of changing its accrediting agency or association due to a show cause, suspension, or termination order by the agency or a court during the preceding 24 months, unless such order has been rescinded by the same accrediting agency or by a court~~, unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing the accrediting agency or association~~. In all other cases, the Secretary shall recognize the change of accreditation.

(i) Dual accreditation rule

The Secretary shall ~~not~~ recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is accredited, as an institution, by more than one accrediting agency or association~~, unless the institution submits to each such agency and association and to the Secretary the reasons for accreditation by more than one such agency or association and demonstrates to the Secretary reasonable cause for its accreditation by more than one agency or association~~. If the institution is accredited, as an institution, by more than one accrediting agency or association, the institution shall designate which agency's accreditation shall be utilized in determining the institution's eligibility for programs under this chapter and may change this designation at any time.

*Congress must **prevent accreditors from using their gatekeeping power to impose inappropriate regulations on institutions**. Federal law at 20 U.S.C. § 1099b(g) allows accreditors the unlimited right to adopt standards not otherwise covered in the HEA, an "elastic clause" immune from regulation. Accreditors, including programmatic ones, also mandate politicized standards, which can even conflict with federal law: Congress should amend the "elastic clause" such that an institution cannot lose eligibility to Title IV funding based on standards not enumerated in the HEA. Closing this loophole would go a long way toward eliminating accreditors' potential to intrude upon institutions' self-governance and ensuring that accreditors once again focus on issues of academic quality.*

In other words, Congress should require accreditors to offer a form of accreditation based only on the enumerated criteria of 20 USC § 1099b(a)(5)(A)-(J). Such an amendment would permit accreditors to maintain any standards they choose for their own purposes, while maintaining federally mandated standards for federal Title IV purposes.

*Further reform should include **penalties when accreditors violate autonomy** in governance, apply diversity pressures, or otherwise interfere with institutional academic freedom.*

20 USC 1099b

(a)(5) the standards for accreditation of the agency or association assess the institution's—

(A) [...]

(F) student support services, including protection of students' applicable civil and constitutional rights;

[...]

except that subparagraphs (A), (H), and (J) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection. For the purposes of institutions' eligibility for participation in programs under this chapter, subparagraphs (A) through (J) may not include–

(K) Any standard regarding the form or structure of institutional governance or ownership, including but not limited to the roles of elected and appointed State and Federal officials and legislative bodies, apart from ensuring that an institution is administratively capable and financially responsible;

(L) Any standard that would be unlawful for the Federal government to enforce, including any standard that requires an institution to violate a civil or constitutional right or the rights of institutional and individual academic freedom;

(M) Any standard that requires or encourages discrimination or differential treatment of students, faculty, or staff on the basis of sex, race, or ethnicity, including but not limited to student admissions, except as required by Federal law or a court order; or

(N) Any standard that requires or encourages prospective students, faculty, or staff to reveal a personal perspective regarding matters of race or ethnicity (a "diversity statement"), other than a certification that the person will comply with all applicable civil rights laws and court orders; and an accreditor of a public institution must require that the public institution report any use of a mandatory "diversity statement" in admissions, hiring, curriculum, or governance;

and the Secretary may fine an accreditor that investigates or issues an adverse action against an institution, in violation of any subparagraph (K) through (N).

[...]

(g) Limitation on scope of criteria

(1) Nothing in this chapter 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 chapter 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.

(2) Nothing in this chapter shall be construed to prohibit or limit any accrediting agency or association from adopting additional standards not provided for in this section. An institution of higher education is eligible for participation in programs under this chapter if it meets the standards of its accrediting agency or association under subparagraphs (a)(5)(A) through (J), regardless of any additional standards adopted by the agency or association.

(3) No accrediting agency or association may be determined by the Secretary to be a reliable authority as to the quality of education or training offered for the purposes of this chapter, unless the agency or association reports to the Secretary whether each institution seeking accreditation or reaccreditation has met the agency's or association's standards under subparagraphs (a)(5)(A) through (J), regardless of any additional standards adopted by the agency or association.

[...]

(p) Rule of construction

Nothing in subsection (a)(5) shall be construed to restrict the ability of—

(1) an accrediting agency or association to set, with the involvement of its members, and to apply, accreditation standards for or to institutions or programs that seek review by the agency or association, separately from standards required for participation in programs under this chapter; or
(2) an institution to develop and use institutional standards to show its success with respect to student achievement, which achievement may be considered as part of any accreditation review.

*Congress should **create an alternate path to Title IV fund eligibility**. Congress should work to decouple Title IV funding from accreditation, enabling a much broader range of entities to accredit and credential not only institutions but individual classes and courses of study, while opening other paths to Title IV Federal Student Aid eligibility, such as demonstrated outcomes consistent with an institution's mission. Congress could identify, or enable the Secretary of Education to identify, the kinds of outcomes that would enable alternative Title IV eligibility.*

*Relatedly, all-or-nothing Title IV Federal Student Aid eligibility gives institutions no incentive for stepwise improvement. While maintaining safe harbor for risk-taking innovations, Congress should **allow sliding amounts of eligibility based on performance**, geared to the type of institution and even type of program within an institution. Congress or the Secretary of Education could establish a list of outcomes (e.g., graduation rate, loan default rate, retention rate, test scores, graduate admissions, debt and income levels) from which accreditors could*

choose their preferred measures, and each institution could, in turn, choose the accreditor that employs measures best suited to the institution. Similarly, Congress could allow sliding amounts of regulatory relief and sliding amounts of risk-sharing (e.g., institutional responsibility for student loans, or various kinds of insurance) based on such outcomes.

20 USC 1099c

(a) General requirement

For purposes of qualifying institutions of higher education for participation in programs under this subchapter, the Secretary shall determine the legal authority to operate within a State, ~~the accreditation status, and~~ the administrative capability and financial responsibility of an institution of higher education, and either the accreditation status of the institution or alternative criteria established by the Secretary [or by Congress at XXX] in accordance with the requirements of this section.

(b) Single application form

The Secretary shall prepare and prescribe a single application form which—

> (1) requires sufficient information and documentation to determine that the requirements of eligibility~~, accreditation, financial responsibility, and administrative capability~~ of the institution of higher education are met;
>
> [...]
>
> (4) requires such other information as the Secretary determines will ensure compliance with the requirements of this subchapter with respect to eligibility~~, accreditation, administrative capability and financial responsibility~~; and

[...]

(h) […]

(2) (i) Whenever the Secretary withdraws the recognition of any accrediting agency, if an institution of higher education relied on accreditation for eligibility and met ~~that which meets~~ the requirements of ~~accreditation,~~ eligibility~~, and certification~~ on the day prior to such withdrawal, the Secretary may, notwithstanding the withdrawal, continue the eligibility of the institution of higher education to participate in the programs authorized by this subchapter for a period not to exceed 18 months from the date of the withdrawal of recognition.

(ii) Whenever an institution of higher education fails one or more eligibility criteria established by the Secretary [or by Congress at XXX] in lieu of accreditation, if the institution of higher education met the other requirements of eligibility on the day prior to the determination of

failure, the Secretary may, notwithstanding the failure regarding the criteria, continue the eligibility of the institution of higher education to participate in the programs authorized by this subchapter for a period not to exceed 24 months from the date of the determination of failure.

[...]

[Add a new section (i) and renumber following sections accordingly]

(i) PARTIAL ELIGIBILITY

(1) Partial eligibility may include partial eligibility of the institution or the full or partial eligibility of educational programs within the institution.
(2) If an institution of higher education chooses to base eligibility on criteria established by the Secretary [or by Congress at XXX] in lieu of accreditation, the Secretary may deem the institution partially eligible on the basis of thresholds established by the Secretary [or by Congress at XXX].

~~(1)~~(3) An institution's accrediting agency may establish policies and criteria within the applicable standards of 20 USC 1099b(a)(5)(A) through (J) to establish a recommendation of partial eligibility for institutions and to issue such recommendations to the Secretary. When considering adverse actions, an accreditor should consider a recommendation to restrict an institution's eligibility as an alternative to suspension or withdrawal of accreditation. The Secretary may accept, modify, or reject such a recommendation with respect to eligibility.

Listed below are several additional federal reforms beyond the core reforms above.

Federal Reforms in Law

*Congress should **allow or facilitate alternative accreditors**. 20 U.S.C. § 1099b(a)(2)(A) requires accreditors to be membership associations that have accreditation "as a principal purpose." There is a moral hazard in being a member of the organization that serves as one's accreditor; everyone approves each other and is wary of innovators. But business associations, state authorizers under their own accreditation plans, and new accreditors focused on startups, short-term programs, sub-program accreditation, competency-based education, or innovations are all reasonable evaluators of fundamental capabilities and qualities. Business and trade associations are particularly well-suited to certify achievement in skills and competencies in degree programs as well as non-credit certificate programs.*

20 USC 1099b(a)(2) such agency or association—

(A) (i) for the purpose of participation in programs under this chapter, has a voluntary membership of institutions of higher education and has as a ~~principal~~ purpose the accrediting of institutions of higher education; or

(ii) for the purpose of participation in other programs administered by the Department of Education or other Federal agencies, has a voluntary membership and has as a ~~its principal~~ purpose the accrediting of institutions of higher education or programs;

(B) is a State agency approved by the Secretary for the purpose described in subparagraph (A); or

(C) is an agency or association that, for the purpose of determining eligibility for student assistance under this subchapter, conducts accreditation through (i) a voluntary membership organization of individuals participating in a profession, ~~or~~ (ii) an agency or association which has as a ~~its principal~~ purpose the accreditation of programs within institutions, which institutions are accredited by another agency or association recognized by the Secretary, or (iii) another type of entity determined by the Secretary to be a reliable type of authority as to the quality of education or training offered for the purposes of this chapter or for other Federal purposes;

Prohibit DEI requirements and interference in governance. *Congress should require accreditors to respect students' freedom of conscience by insisting that institutions (other than faith-based institutions) not restrict or punish a student who cannot serve a client due to potential violations of the student's religion or conscience.*

Require accreditors to enforce academic freedom and free speech standards. *When an institution violates its academic freedom or free speech policy (or other constitutional or civil rights as applicable), the institution's accreditor must at least investigate and report the outcome to the department.*

20 USC 1099b

(c)

[remove "and" from (8)]

(10) confirms that its standards for accreditation under 20 USC 1099b(a)(5)(A) through (J) do not

(A) require or prohibit –

(I) any particular viewpoint on a social or political issue; or

(II) any form or particular aspect of governance; and

(B) do not require support or a commitment to supporting the disparate treatment of any individual or group of individuals on the basis of sex, race, or ethnicity, except as required by Federal law or a court order;

(11) evaluates complaints from any party that an institution it has accredited or preaccredited has violated an applicable civil or constitutional right or has violated its own policy regarding free speech or academic freedom. The accreditor must react to a finding of a violation as it would for other similar instances of noncompliance. The accreditor must report each finding of a violation to the Secretary; and

(12) requires each institution it accredits, other than religious institutions, to accommodate students' freedom of conscience by not restricting or punishing a student who, in the course of the student's educational program, does not serve a client due to potential violations of the student's religion or conscience.

[...]

(k) Religious institution rule

Notwithstanding subsection (j), the Secretary shall allow an institution that has had its accreditation withdrawn, revoked, or otherwise terminated, or has voluntarily withdrawn from an accreditation agency, to remain certified as an institution of higher education under section 1002 of this title and subpart 3 of this part for a period sufficient to allow such institution to obtain alternative accreditation, if the Secretary determines that the reason for the withdrawal, revocation, or termination—

(1) is related to the religious mission or affiliation of the institution; and
(2) is not related to the accreditation criteria provided for in this section that do not conflict with the religious mission or affiliation of the institution.

Congress should reduce the need for federal financial aid in order to reduce the importance of accreditation as a gatekeeper for this aid. College has become too expensive, which has increased the prominence of accreditors. To decrease the need for postsecondary credentials and therefore any gatekeepers for financial aid, Congress should require federal agencies to omit any job requirement for a postsecondary credential unless the agency can demonstrate that such a degree or credential is necessary for the job.

20 U.S. Code Subchapter IV - ADMINISTRATIVE PROVISIONS

Part B - General Administrative Provisions

§ 3491 - Postsecondary credentials

The Secretary will not require any postsecondary credential for any job, or give preference to any job candidate on the basis of having a postsecondary credential, unless the hiring manager demonstrates to the Secretary that such a credential is necessary for the job. For the purposes of this section, a postsecondary credential is any degree or other credential that is primarily made available to students who hold a secondary school diploma or equivalent.

Federal Reforms in Regulation

While any regulatory reform could be a reform in a reauthorized Higher Education Act (HEA), the Department of Education could achieve the following reforms whether the HEA is amended or not. The Department of Education should:

Make provisional accreditation for start-ups easier. *This reform would acknowledge that innovation involves calculated risks and as such, should permit different tracks for different kinds of new institutions. To avoid situations where the Department of Education sits on a decision for years, the regulation would establish a timeline and a deadline for approval (with automatic approval if the department has made no decision by the deadline). Similarly, accreditors should fast-track approval or pre-approval of innovations, perhaps using outcomes or projected outcomes, such as program return-on-investment as measures of viability. Furthermore, the Department of Education should set an even higher bar before changes are deemed "substantive" and must be reported and approved by accreditors.*

Strengthen religious liberty protections*. Current regulations at 34 CFR § 602.18 purportedly protect an institution's religious mission, but paragraph (b)(3) of that regulation permits an accreditor to "require that the institution's or program's curricula include all core components required." This proviso permits abuse of power by accreditors and should be revised.*

§ 602.17 Application of standards in reaching accreditation decisions.

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 the agency demonstrates that it—

(a) Evaluates whether an institution or program—

[...]

(3) Maintains requirements that either— ~~at least~~

(A) conform to commonly accepted academic standards, or the equivalent, including pilot programs in § 602.18(b); or

(B) demonstrate a plausible theory of success.

(I) To meet this criterion, the accrediting agency must present the institution's or program's theory of success to the Secretary with a recommendation of approval.

(II) The Secretary must respond with an approval, denial, or request for modification within 120 days. If the Secretary does not respond within 120 days, the institution or program is deemed to be approved by the Secretary and eligible for accreditation or preaccreditation by the accrediting agency.

(III) The accrediting agency must approve, deny, or request modification of the proposed innovative program or institution within 120 days after the Secretary's response or non-response. If the agency does not do so, the institution or program is deemed to be preaccredited by the agency for at least two years.

(IV) If an institution is preaccredited by means of this process, it must have a teach-out plan approved by the agency before the institution may admit students.

[...]

§ 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, although the agency may establish different sets of standards for different types of institutions or programs;

(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 that do not conflict with the institution's religious mission;

[...]

(c) Nothing in this part prohibits an agency, when special circumstances exist, to include innovative program delivery approaches or, when an undue hardship on students occurs, from applying equivalent written standards, policies, and procedures that provide alternative means of satisfying one or more of the requirements set forth in 34 CFR 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—

[...]

(4) The agency requires institutions or programs seeking the application of alternative standards to demonstrate the need for an alternative assessment approach if applicable, that students will receive equivalent benefit, and that students will not be harmed through such application any more than the harm of not applying such alternative standards.

(d) 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, 602.20, 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 either that the institution or program has a plausible theory of success that will return the institution to compliance within three years, or that the circumstances requiring the period of noncompliance are beyond the institution's or program's control, such as—

[...]

[...] and

(4) The institution or program demonstrates to the satisfaction of the agency that the period of noncompliance will not—

(i) Contribute to 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.

§ 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 put at high risk ~~adversely affect~~ the capacity of the institution to continue to meet the agency's or Secretary's standards. The agency meets this requirement if—

(i) The agency requires the institution to obtain the agency's approval of the substantive change before the agency includes the change in the scope of accreditation or preaccreditation it previously granted to the institution. If the agency does not within 90 days approve or deny the request or ask for more information, the agency will deem the change to be approved for at least two years; and

(ii) The agency's definition of substantive change covers high-impact~~, high-risk~~ changes that entail high risk of a substantially higher proportion of students failing to complete their intended course of study or high risk of the institution failing to meet the Secretary's standards of administrative capability and financial responsibility, including at least the following, when high impact and high risk:

(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.

(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) 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.~~

(E~~F~~) A ~~substantial increase in the number of clock hours or credit hours awarded, or a~~n increase in the level of credential awarded~~,~~ for successful completion of the same ~~one or more~~ program~~s~~.

(F~~G~~) The acquisition of any other institution or any program or location of another institution.

(GH) 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.

(HI) The addition of a new location or branch campus, except as provided in paragraph (c) of this section. The agency's review must include assessment of the institution's fiscal and administrative capability to operate the location or branch campus, the regular evaluation of locations, and verification of the following:

(1) Academic control is clearly identified 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 engaged in long-range planning for expansion.

(IJ) 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.

(K) Addition of each direct assessment program.

(2)

(i) For substantive changes under only paragraph (a)(1)(ii)(C), (E), (F), (H), or (J) 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)(J) of this section, tThe 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 when high impact and high risk). If the agency does not within 90 days approve or deny the request or ask for more information, the agency will deem the change to be approved for at least two years.:

(1) A change in an existing program's method of delivery.

(2) An aggregate change of 25 percent or more of the clock hours, credit hours, or content of a program since the agency's most recent accreditation review.

(3) The development of customized pathways or abbreviated or modified courses or programs to—

(i) Accommodate and recognize a student's existing knowledge, such as knowledge attained through employment or military service; and

(ii) Close competency gaps between demonstrated prior knowledge or competency and the full requirements of a particular course or program.

(4) 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~~I~~) 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 that includes—

(1) Clearly identified academic control;

(2) Regular evaluation of the locations;

(3) Adequate faculty, facilities, resources, and academic and student support systems;

(4) Financial stability; and

(5) Long-range planning for expansion.

(d) The agency must have an effective mechanism for conducting, at reasonable intervals, visits to a representative sample of additional locations approved under paragraphs (a)(1)(ii)(G~~H~~) and (H~~I~~) of this section.

(e) 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 for accreditation purposes as the effective date of its approval of that substantive change if the accreditation decision is made within ~~3~~90 days of the change in ownership. Except as provided in paragraphs (d) and (f) of this section, an agency may require a visit before granting such an approval.

[...]

34 CFR 668.5

(c)(3)

(i) The ineligible institution or organization provides 25 percent or less of the educational program, including in accordance with 34 CFR 602.22(b)(4); or

(ii)

(A) The ineligible institution or organization provides ~~more than 25 percent but~~ less than or equal to 50 percent of the educational program~~, in accordance with 34 CFR 602.22(a)(1)(ii)(J)~~;

Offer fast-track reaccreditation *and* ***longer reaccreditation periods****. Institutions that meet certain benchmarks should be allowed minimal reaccreditation requirements and very long periods of accreditation. This reform would save the significant expense of more frequent accreditation of institutions that are clearly performing well. Substantive changes would still need to be reported and approved.*

§ 602.19 Monitoring and reevaluation of accredited institutions and programs.

(a) The agency must reevaluate, at regularly established intervals, the institutions or programs it has accredited or preaccredited. The agency should offer an automatic extension of the accreditation period to an institution that demonstrates that it has met student outcome benchmarks established by the agency and that certifies, without needing to demonstrate, continued compliance with the agency's standards.

Easier recognition of new accreditors*. Regulations should facilitate rather than discourage new entrants among traditional kinds of accreditors.*

§ 602.12 Accrediting abilityexperience.

(a) An agency seeking initial recognition may must demonstrate that it has accrediting ability if it demonstrates that it has—

(1) Granted accreditation or preaccreditation prior to submitting an application for recognition—

(i) 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;

(ii) That covers the range of the specific degrees, certificates, institutions, and programs for which it seeks recognition; and

(iii) In the geographic area for which it seeks recognition; and

(2) Conducted accrediting activities, including deciding whether to grant or deny accreditation or preaccreditation, for at least two years prior to seeking recognition, unless the agency seeking initial recognition is affiliated with, or is a division of, an already recognized agency.

(b)

(1) A recognized agency seeking an expansion of its scope of recognition must follow the requirements of §§ 602.31 and 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 for which it seeks the expansion of scope and has engaged and can show support from relevant constituencies for the expansion. A change to an agency's primary geographic service area of accrediting activities does not constitute an expansion 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.

(c) An agency that cannot demonstrate experience in making accreditation or preaccreditation decisions at the time of its application for recognition may demonstrate its accrediting ability by demonstrating that it has accreditation and preaccreditation policies in place that meet all the criteria for recognition covering the range of the specific degrees, certificates, institutions, and programs for which it seeks recognition.

(2d) An agency that cannot demonstrate experience in making accreditation or preaccreditation decisions under the expanded scope at the time of its application for recognition or of its application for review for an expansion of scope may—

(i) If it is an institutional accrediting agency, be limited by the Secretary in the number of institutions to which it may grant accreditation in general or under the expanded scope for a designated period of time, as appropriate; or

(ii) If it is a programmatic accrediting agency, be limited by the Secretary in the number of programs to which it may grant accreditation in general or under that expanded scope for a certain period of time, as appropriate; and

(iii) Be required to submit a monitoring report regarding accreditation decisions made in general or under the expanded scope, as appropriate.

The Department of Education should entertain and investigate complaints against accreditors and prohibit retaliation. Accreditors should entertain and adjudicate complaints from any party, and require increased reporting of complaints and resolutions. Institutions should be permitted to appeal any adverse action to the Department.

PART 602—THE SECRETARY'S RECOGNITION OF ACCREDITING AGENCIES

Subpart D—Department Responsibilities

§ 602.60 How does the Department handle complaints?

(a) A person or institution that believes an accreditor is out of compliance, or an institution that wishes to appeal an adverse action by an accreditor, may submit a complaint or appeal to the Secretary via the Assistant Secretary for Postsecondary Education.
(b) If the Secretary determines that the complaint or appeal has merit, the Secretary will open an investigation. The Secretary may contact the accreditor for information prior to determining whether the complaint or appeal has merit. The Secretary will provide due process to the accreditor and to the complainant or appellant.
(c) If the Secretary determines that the accreditor is out of compliance, the Secretary may fine the accreditor, and the Secretary will take the same steps normally taken when an accreditor is found by other means to be out of compliance.
(d) If an appeal is successful, the Secretary will treat the institution as though the adverse action does not exist, for the purposes of participation in programs under this chapter.
(e) No accreditor may retaliate against a person or institution that files a complaint or appeal.
(f) The Secretary will publicly report when it opens an investigation and will publicly report the outcome of the investigation.

Reform the standardized "credit hour" definition *to facilitate innovation. The current regulatory definition of "credit hour" was established in 2010, based on the HEA use of credit hour as a proxy for learning--but not as an actual measure of learning. Accrediting agencies held institutions to various credit hour standards prior to that regulation. Accrediting agencies tend to use the new definition as a measure of student progress, despite its imperfections. Student progress should be measured in terms of demonstrated progress, not by seat time.*

§ 600.2 Definitions.

Credit hour: Except as provided in 34 CFR 668.8(k) and (l), a credit hour is an amount of student progress in achievement ~~work~~ defined by an institution, as approved by the institution's accrediting agency or State approval agency, that is consistent with commonly accepted practice in postsecondary education and that -

(1) Reasonably approximates not less than -

(i) The expected progress in achievement resulting from o~~O~~ne hour of classroom or direct faculty instruction and a minimum of two hours of out-of-class student work each week for approximately fifteen weeks for one semester or trimester hour of credit, or ten to twelve weeks for one quarter hour of credit, or the equivalent amount of work over a different period of time; or

(ii) At least an equivalent amount of expected progress in achievement resulting from work as required in paragraph (1)(i) of this definition for other academic activities as established by the institution, including laboratory work, internships, practica, studio work, and other academic work leading to the award of credit hours; or

(2) Is the actual progress in achievement equivalent to the expectation in paragraph (1) of this definition; and

(3~~2~~) Permits an institution, in determining the amount of achievement or expected achievement ~~work~~ associated with a credit hour, to take into account a variety of delivery methods, measurements of student work, academic calendars, disciplines, and degree levels.