

# U.S. Department of Education proposes regulations related to accreditation, state authorization, and other Title IV topics in "kitchen sink" rule-making

June 20, 2019

On June 12, 2019, the U.S. Department of Education (ED) published a [notice of proposed rule-making](#) (NPRM) in the Federal Register related to the recently completed negotiated rule-making that addressed accreditation, state authorization, distance education, and other topics. The negotiated rule-making process occurred over the course of four months starting in January 2019. The negotiators reached consensus, which means ED was generally committed to use the agreed-upon language in the NPRM. The NPRM does not appear to cover all topics that were included in the consensus language from the negotiated rule-making process. ED may issue additional NPRMs. Comments on the June 12 NPRM are due to ED by July 12, 2019.

The NPRM focuses on accreditation, state authorization, and a few additional matters. Rather than propose sweeping changes to the Title IV regime, this rule-making proposes many incremental improvements and clarifications agreed upon during the negotiated rule-making process. Much of the NPRM deals with ED's standards and process for recognition of accreditors, but some provisions deal directly with institutions or have concrete implications for institutions. For example, the proposed regulations would:

- Allow institutions to seek institutional accreditation from multiple accreditors.
- Abolish the distinction between regional and national accreditors and allow accreditors to accredit institutions without regard to historic regional boundaries.
- Simplify substantive change rules and allow for retroactive approval of a substantive change.
- Clarify that the self-study process should be iterative and focused on institutional improvement.
- Provide accreditors flexibility to establish the methods by which institutions must verify 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.

- **Extend the timeline by which institutions must reestablish compliance with accreditor standards if found out of compliance.**
- **More specifically address the obligation of accreditors to respect the religious mission of the institutions it accredits.**
- **Allow accreditors to have alternative standards, policies, and procedures in the interest of innovation or to address undue hardship to students, provided certain criteria are met.**
- **Clarify rules related to changes in ownership, preaccreditation, teach-outs, teach-out plans, and teach-out agreements.**
- **Limit financial exposure, including in terms of Title IV liability, when an institution acquires the location of an unaffiliated institution that closed and facilitate an institution's ability to add a location for Title IV purposes where the location is the site of an unaffiliated institution that closed, or is closing and the institution is conducting an approved teach-out.**

The NPRM also amends, in significant respects, regulations that address state authorization rules and required consumer disclosures. See our prior advisory, [State authorization redux: New rules would retain disclosure requirements for professional licensure programs](#). We will address these state authorization and consumer disclosure changes further in future advisories as warranted.

If ED issues final rules by November 1, 2019, the new regulations will take effect July 1, 2020.

We are available to answer questions.

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