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Negotiators Reach Consensus on Accreditation Reform

Emily Rounds



The Department of Education (Department) recently wrapped up its negotiated rulemaking session on higher education accreditation. The Accreditation, Innovation, and Modernization (AIM) committee worked under a time crunch to craft regulations that would best serve their respective constituency groups. The group ultimately reached consensus, approving sweeping changes that will disrupt the accreditation system as we know it and affect how accrediting agencies, institutions, and students and faculty interact with each other and with the Department. Below are three of the biggest changes from the consensus language.

Transfer Credits

Transfer credits were a hot topic throughout the negotiated rulemaking. Negotiators ultimately accepted language that pressures colleges to accept more transfer credits from other institutions. Colleges will no longer be able to deny credit from another accredited college based on the school itself or the accreditor that oversees it. For example, a private college could not deny a student's credit because they took the course at a public institution, and a college accredited by the Higher Learning Commission could not reject credit from a school just because it is accredited by a different agency, like the Commission on Colleges and Universities. The text also states that institutions *must* accept transfer credits from other accredited schools unless the accepting college provides a written reason for denying the credit. If that happens, students will be able to appeal the decision.

This proposal is a win for students who seek a smoother transfer credit process. At the same time, the policy will create more work for institutions that need to reconsider their transfer credit policies, come up with a new plan for accepting or denying credits, and establish an appeals process for students. It is also not yet clear how this policy can be reconciled with the *Higher Education Act* (HEA), which states that the Secretary cannot dictate institutions' transfer credit policies. The Department will need to articulate how this regulatory language aligns with the statute.

Student Achievement

The AIM committee also approved robust language for how accreditors assess institutions' student outcomes. Accreditors must now review an institution's student success with respect to student achievement at the institution and program levels. The agencies must also assess institutions' performance based on minimum standards of the following metrics:

- State licensing or certification exam results;
- Program retention, completion, or graduation rates;

- Employment and continued education outcomes after graduation;
- Students' standardized test scores for admission to a higher degree; and
- A program's educational and economic returns in comparison to its tuition.

These changes task accreditors with more responsibility in assessing student outcomes. Many negotiators applauded these changes, but there was disagreement about the appropriateness of including students' standardized test scores for admission to a higher degree program and whether a college can reasonably be responsible for a student's performance on a test that may be taken years after graduation. Colleges do not train students to take these tests; for example, even if a student is on a pre-law track, they do not take an undergraduate class for credit about the LSAT, which they must take for admission to law school. As with the transfer credit language, the Department will need to articulate how these changes can be reconciled with the HEA, which states that the Secretary cannot establish or prescribe standards that accrediting agencies use to assess student achievement.

Intellectual Diversity, Academic Freedom, and Civil Rights

The most controversial topics during the negotiated rulemaking were those related to intellectual diversity, academic freedom, First Amendment rights, and civil rights. Some negotiators were strictly opposed to the Department's proposals to include these topics in regulatory text, while others argued that the language didn't go far enough. However, the committee was able to find middle ground that they agreed on. Accordingly, accreditors will now have a role in ensuring academic freedom protections for faculty on campuses, monitoring First Amendment and civil rights policies at public and private institutions, and checking whether institutions have policies to promote and measure intellectual diversity among faculty and students.

These changes are a significant expansion of accrediting agencies' oversight. Accreditors have not previously been tasked with protecting or ensuring First Amendment rights, civil rights, academic freedom, or intellectual diversity. These issues are complex, politically charged, and difficult to measure. Agencies will likely have to strengthen their staff with experts who know more about these topics and who can assess institutions' policies and enforcement. Similarly, institutions will have to pay close attention to how they measure and enforce these rights, freedoms, and intellectual diversity. They, too, may need to hire additional legal experts to ensure that they remain in compliance.

Conclusion

The Department views this negotiated rulemaking as a win, but it raises several concerns. Policies in the consensus text could conflict with the HEA, and accreditors are being asked to expand their oversight without additional resources to do so. Next, the Department will release a final draft of the regulatory text, likely later this summer, for public comment. During this period, the public can raise questions and concerns or voice support for the regulatory text. Once the Department reviews the feedback, it will publish the final rule, and we will wait to see how the policies play out with accreditors and on college campuses. One thing is for sure—these regulations will fundamentally change the accreditation system.
