

LETTER *Published September 22, 2026 · 16 minute read*

Comments to the Department of Education on Accreditation Reform

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The Honorable Nicholas Kent
Under Secretary of Education
US Department of Education
400 Maryland Ave. SW
Washington, DC 20202

Docket ID: ED-2025-OPE-1042

Dear Under Secretary Kent:

Thank you for the opportunity to offer comments on the Department of Education's (Department) notice of proposed rulemaking (NPRM) regarding the Accreditation, Innovation, and Modernization (AIM) negotiated rulemaking. Accreditation is meant to validate academic and institutional quality, and as Title IV gatekeepers, accreditors are intended to be responsible stewards of taxpayer dollars. However, accreditation does not consistently fulfill these duties. Third Way has long advocated for accreditation reform to ensure the system works better for students, taxpayers, and institutions.

Some of the AIM committee's proposals described in this NPRM, such as improvements to the transfer credit process and ensuring that agencies evaluate institutions' student success, could genuinely improve accreditation. Other sections in this NPRM lack the clarity needed to understand how they would change the system. The preamble, regulatory impact analysis, and regulatory text are not consistently aligned in the NPRM, making it difficult to understand the Department's intent and offer substantive comment. Additionally, many proposals outlined in this NPRM would expand accreditors' responsibilities and oversight in ways that are unnecessary or for which they are ill-suited, creating a more burdensome, bureaucratic accreditation process.

The following recommendations outline where Third Way supports the Department's proposals and where we have concerns. We urge the Department to consider this feedback before implementing the final rule.

§600.11 Special Rules Regarding Institutional Accreditation or Preaccreditation

The Department's proposal would make it easier for institutions to change accreditors or be accredited by more than one agency. Third Way is concerned that this change would benefit underperforming institutions, which could be incentivized to switch accreditors to evade sanctions or obtain accreditation from multiple agencies as an insurance policy to maintain access to federal aid. In its explanation of the change, the Department states that "the

Secretary would 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.” By design, this means that poorly performing institutions and programs would face fewer consequences for their actions and, moreover, be granted a loophole that would allow them to maintain their accreditation and access to federal funds. With this new policy, underperforming colleges could easily be accredited by more than one agency, so that if they lose accreditation from one entity, they could continue to access Title IV dollars through another.

While the Department later states that the regulations “maintain the necessary and robust guardrails to prevent waste, fraud, and abuse,” it provides no explanation or description of these guardrails. We ask the Department to clarify the guardrails that are or will be put in place to protect students and taxpayer dollars. We also request that the Department explain how allowing underperforming institutions to employ multiple strategies to maintain accreditation is consistent with the goal of preventing waste, fraud, and abuse.

§602.12 Accrediting Experience

This change would eliminate the existing two-year experience rule for new accreditors and remove the requirement that new agencies accredit or preaccredit institutions or programs before seeking recognition from the Department. Third Way is concerned that lower recognition standards could lead the Department to approve untested accreditors that apply their own standards poorly and thus fail to promote strong student outcomes. The two-year experience rule for new agencies was not a silver bullet for weeding out bad actors, as two years is hardly a long track record on which to judge an agency’s quality. However, further reducing requirements for recognition would fail to hold new agencies to rigorous standards that ensure quality and compliance capability.

In its explanation of the proposed regulations, the Department states that the amendment to §602.12(a) will require an agency to “demonstrate that it has sufficient accreditation experience” before it applies for recognition. However, aspiring accreditors do not actually have to demonstrate any accreditation experience. They are required to show that they have “established a process to accept applications for accreditation” and “have granted accreditation to one or more institutions... or programs.” Still, there is no requirement for how long they have accredited the institution or program. Theoretically, an agency could grant accreditation and then apply for recognition the next day. If the Department wants to ensure that these organizations demonstrate “sufficient accreditation experience” before they apply, the regulations must reflect this. If the regulations do not ultimately require tangible accrediting experience, the Department needs to clarify that such experience is not relevant to starting the application process. However, we strongly encourage the Department to reconsider its decision to eliminate the two-year experience requirement.

§602.14 Purpose and Organization

Third Way supports the Department’s proposal to strengthen requirements that accreditors operate “separate and independent” of trade associations and professional organizations. We share the Department and negotiators’ concerns about conflicts of interest that may arise when these entities share resources, especially staff. We hope that this move mitigates credential inflation over time. To strengthen this proposal and ensure it is applied to its fullest extent, we ask the Department to detail how it will oversee this separation and ensure that accreditors operate independently from associations and professional organizations. We encourage the Department to identify which of its staff members will be responsible for enforcing these regulations. The Department should also make clear how often these staff members will be checking to ensure that accreditors and associations are not sharing resources.

§602.16 Accreditation and Preaccreditation Standards

Changes to §602.16 would strengthen the requirements for accreditors to evaluate student outcomes—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 accreditors to tailor those standards for each institution. We support this proposal and believe it is a step in the right direction to ensure that accreditors hold institutions and programs accountable for student success metrics. It would clarify expectations for accreditation agencies and ensure that accreditation is a reliable measure of quality assurance for students and taxpayers alike. We urge the Department to retain these provisions in the final rule.

§602.17 Application of Standards in Reaching Accreditation Decisions

This section proposes some of the most significant changes to the accreditation system. We have concerns about changes to §602.17 that would unnecessarily expand accreditors’ oversight and require more clarity from the Department. Further, we believe that many of the details included in proposed §602.17, should they be preserved, belong in other sections of the regulations.

Student Success

As noted in the previous comments on §602.16, changes to standards for student success are important to helping accreditation fulfill its goal of quality assurance. We appreciate the Department’s proposal to require agencies to set minimum expectations for student

success and the list of student success metrics in the proposed regulations, such as state licensing exam results and post-completion outcomes.

However, this section of proposed §602.17 reads like substantive accreditation standards—the kinds §602.16 is designed to contain—rather than procedural rules about how agencies apply standards. The proposal amends §602.17(a) to “tie” the process to §602.16 but goes on to elaborate substantive expectations like student achievement metrics, faculty qualifications, academic freedom, intellectual diversity, program length, and more, within §602.17 itself. This creates a structural mismatch because substantive standards are being articulated in a procedural section. A large portion of §602.17 is framed as instructions to agencies about “applying its standards,” but in substance, they define what the standards must require. They are, in effect, new accreditation standards and should thus be moved to a more appropriate section. Some provisions are genuinely procedural and belong in §602.17, including compliance determination processes, measures to reduce unnecessary barriers, and the accuracy and integrity of agency representations.

If the aforementioned parts of the proposed §602.17 were moved to §602.16, the proposal would have greater structural coherence and be more consistent with the existing regulatory architecture. Should those changes be made, we would further suggest that the Department remove the metric, “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.” We do not believe that this metric would help an accreditor assess an institution’s academic quality. Students would have to self-report their test scores, and institutions would have to spend significant time requesting and collecting those results. Data would be limited and likely incomplete or biased due to the self-reported metrics. Additionally, a student’s degree coursework may not be relevant to a standardized test taken for entry to a further degree, particularly one they may choose to pursue years after completing their bachelor’s degree. A student could graduate with a bachelor’s in English literature and later take courses at a community college to apply for medical school. This student’s MCAT score cannot reasonably reflect the academic quality of their English degree. College degrees are also not test preparation courses. A history major does not prepare students to take the LSAT. The other metrics the Department has included in the draft regulatory text are strong, and we encourage accreditors to focus on those instead.

Academic Freedom

This section is also prescriptive regarding the content of new standards accrediting agencies must apply, and those details are out of place in §602.17. Either way, the addition of academic freedom standards drastically expands accreditor oversight of colleges. With these changes, accreditors would be required to maintain academic freedom protections for faculty, evaluate institutions’ First Amendment policies at public and private institutions,

and establish a policy on intellectual diversity that assesses student and faculty perceptions of viewpoints. There is a lack of clarity here on whether accreditors are expected to maintain protections for faculty, as written in the proposal, or to evaluate the protections *an institution* maintains. In any case, these are sweeping changes to accreditors' responsibilities. During the AIM Committee meetings, the Department was clear that accreditation is not working as it should. If the goal of these regulations is to hold institutions accountable and improve quality assurance for students and taxpayers, tasking agencies with more work they are not equipped—nor appropriately legally positioned—to perform is not the answer.

Cost-Benefit Analyses

Additionally, this section describes how institutions and agencies must engage in cost-benefit analyses of institutional student support services and facilities. We cannot fully comment on this proposal because the NPRM presents conflicting details about this section. In the preamble, the Department states that agencies conduct these analyses. Later in the document, in the Regulatory Impact Analysis (RIA), the Department explains the regulations' impact on affordability and innovation. It states, "If some institutions prove to be incapable of conducting credible cost/benefit analyses, the number of accredited institutions could fall, but this is unlikely." This implies that the institutions are conducting the cost-benefit calculations, not the accreditors. But later in the RIA, the Department calculates the burden of §602.17 for accrediting agencies and states that agencies would "be required to perform a cost-benefit analysis for each institution." Under §602.17(3)(i) in the regulatory text, the Department states that accreditors will review an institution's resources and perform the analyses. However, that could mean that institutions are responsible for the calculations and accreditors just review the analyses. The explanations and details of §602.17 are inconsistent in the document. We ask the Department to clarify which entity is responsible for these analyses.

Lastly, we are concerned that the costs associated with accreditors enforcing academic freedom and conducting cost-benefit analyses could be passed on to students. To execute these new responsibilities, agencies would likely have to hire additional legal counsel and staff. This could be costly, and accreditors may have to raise dues from institutions and programs. Institutions could then pass the costs down to students in the form of their tuition bill. While the Department has continuously expressed a desire to lower tuition costs, this could very likely have the opposite effect.

§602.23 Operating Procedures All Agencies Must Have

Changes to §602.23 would expand an accreditors' role in assessing legal compliance at the federal and state levels. This is another significant expansion of agencies' responsibilities beyond traditional accreditation functions. Again, the Department is asking accreditors to serve as legal experts, which they are not. Most accreditors oversee institutions and programs across different states and would face legal complexities when determining their policies and standards for each state. Additionally, we believe that this change could be duplicative and add administrative burden and bureaucracy for accrediting agencies. For example, institutions already agree to follow all federal laws when they sign a Program Participation Agreement. One of the Department's stated goals is to eliminate bureaucratic reporting requirements and tasks, but this would have the opposite effect.

§602.28 Regard for Decisions of States and Other Accrediting Agencies

In its amendment to §602.28, the Department must define "adverse action." As currently written, institutions and programs could lose accreditation any time a state or federal agency takes an "adverse action" against them. Without a clear definition, this regulation could be abused, and institutions or programs could lose access to Title IV funding because of an action unrelated to academic quality. For example, if the federal government cancels a grant or opens an investigation into a school that is not grounded in law, these could be considered adverse actions. We encourage the Department to define the term and limit it to actions relevant to accreditation (such as academic quality) and to actions grounded in the law.

§602.31 Procedures for Submitting Applications for Recognition and Renewal of Recognition

While Third Way appreciates the Department's heightened attention to accreditors that oversee a large volume of federal dollars, lowering the standard of review for other agencies could let bad actors slip through the cracks. Under the proposed changes to §602.31, agencies could undergo different review processes with the Department. Agencies whose institutions receive a "substantial portion" of Title IV funding would be required to complete a comprehensive review each cycle. We request that the Department clarify the definition of "substantial portion" rather than leave it to the Secretary's discretion.

Other agencies that do not meet the "substantial portion" bar would be required to submit a comprehensive application at least once every third review cycle. This is also concerning, as it could allow bad actors to avoid Department oversight and continue operating outside such bounds for multiple years. We recommend that the Department consider changing this to at least every other year, rather than every three years. With more accreditors likely

to enter the marketplace due to other changes to these regulations, the Department should thoroughly and promptly review each agency.

§602.32 Procedures for Review of an Expansion of Scope, a Contraction of Scope, Compliance Reports, or Increases in Headcount Enrollment

Changes to this section raise concerns that poor-performing accreditors could continue to gain access to federal dollars. With the proposed amendments to §602.32, accreditors would be able to change their scope easily without a comprehensive review from the Department. This means that bad actors could morph into other agencies over time to maintain access to federal aid. If an agency's original business model as an accreditor does not work, it can change its scope and target a different set of institutions or programs. While this change streamlines bureaucratic processes for accreditors, it does so at the expense of critical oversight and puts taxpayer dollars at risk of exploitation. The Department should reconsider these proposals and take an active role in changes of scope to hold accreditors accountable and to prioritize students and taxpayers.

§668.43 Institutional and Programmatic Information

Third Way applauds the AIM Committee for spearheading important changes in the credit transfer process. Students should not have to repeat comparable coursework, and they should be able to make informed enrollment decisions by knowing which credits will or will not transfer to another institution. This proposal would increase transparency for transfer students and could save them thousands of dollars by eliminating the need to repeat coursework. It would also expedite the transfer credit process by ensuring that institutions respond to students' requests promptly and with an explanation if the credit is not accepted for transfer. We ask that the Department additionally consider publishing transfer credit data in a publicly accessible database. Metrics could include the percentages of credits that are accepted and denied at each institution per year. Data could also show which types of transfer credits are typically accepted, and which are more difficult to transfer. This would further increase transparency for students and show policymakers and researchers the impact of this policy.

Net Budget Impact

Lastly, Third Way expresses concern over the Department's stated net budget impact of this proposal. The NPRM does not estimate a significant net budget impact on the Title IV, HEA federal student aid programs. However, previous analyses from the Congressional Budget

Office (CBO) do not align with that assumption.¹ The policies outlined in this NPRM would make it much easier for new accreditors to obtain and maintain recognition from the Department. The *Accreditation Choice and Innovation Act*, which the House Committee on Education & the Workforce marked up in 2025, would have done the same, and CBO estimated that the legislation would increase federal aid spending by \$437 million over the next 10 years.² CBO cited three main causes of the budget impact: new agencies would accredit institutions that are not currently accredited, meaning federal dollars would be allocated to institutions that did not previously receive student aid; existing accreditors would weaken their standards to deter their institutions from switching to another agency; and fewer institutions would lose accreditation.³ While not identical to these regulations, we believe that the outlined policy changes in this NPRM would have consequences similar to those of the legislation—and would certainly have a significant and tangible budget impact. We strongly encourage the Department to review its calculations and reconsider this proposal's net budget impacts.

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Third Way thanks the Department for the opportunity to comment on this NPRM. We agree with the foundational premise that the accreditation system needs to be reformed. To that end, we appreciate the AIM Committee's proposals to improve the credit transfer process and strengthen the way accreditors assess student achievement. These amendments would bring about meaningful changes for students and taxpayers alike.

However, many proposals in this NPRM miss the mark. Changes outlined here would expedite the recognition and review processes for agencies without critical oversight measures to weed out bad actors and prevent waste, fraud, and abuse. Others would make it easier for underperforming institutions to maintain access to Title IV funds, despite sanctions or consequences imposed by their agencies. The proposal would also task accreditors with responsibilities, such as enforcing freedom of speech and viewpoint diversity, that they are not equipped to carry out. At best, this proposal could allow some new accreditors to enter the marketplace and bring value to institutions and students. At worst, it could expedite the recognition process for bad actors, help poor-performing colleges maintain accreditation, and waste billions of taxpayer dollars. Accreditation needs reform, but this proposal has significant flaws that subvert its stated aims.

Sincerely,

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ENDNOTES



- 1.** Congressional Budget Office. “H.R. 4054, Accreditation Choice and Innovation Act Cost Estimate.” 24 Oct. 2025, <https://www.cbo.gov/publication/61826>. Accessed 14 Sept. 2026.
- 2.** Congressional Budget Office. “H.R. 4054, Accreditation Choice and Innovation Act Cost Estimate.” 24 Oct. 2025, <https://www.cbo.gov/publication/61826>. Accessed 14 Sept. 2026.
- 3.** Flores, Antoinette. “Handing Accreditation Over to States Would Raise Costs, Weaken Quality CBO Find.” New America, 17 Nov. 2025, <https://www.newamerica.org/insights/handing-accreditation-over-states-would-raise-costs-weaken-quality-cbo-finds/>. Accessed 14 Sept. 2026.