Overview of the Trump Administration's Draft Accreditation Rules: Loosening Federal Approval while Tightening Federal Control of Accreditors

EducationCounsel | **April 10, 2026**[1]

On 4/6/2026, the U.S. Department of Education (USED) released a discussion draft of new regulations that would represent the most significant overhaul of higher education accreditation in a generation. Accreditation plays an integral role in federal quality assurance: accreditors are nongovernmental, independent agencies that, under the Higher Education Act (HEA), must approve any institution of higher education before the institution can gain access to federal student aid, including Pell grants and student loans. The proposal would simultaneously move the accreditation system in two different directions: It loosens accreditation's key gatekeeping function of granting institutions access to Pell grants and student loans, while also placing those gatekeepers (and therefore higher education institutions) under an unprecedented level of federal control. On one hand, the proposed rules would make it much easier to create new accreditors, much easier for colleges to switch or add accreditors, and much easier for accreditors to accommodate shorter, cheaper, or less traditional programs. At the same time, the proposed rules would dictate in far greater detail how accreditors must handle a range of issues including student outcomes; ties between programmatic accreditors and professional associations; credit transfers; governance and tenure; and could provide Secretarial authority to investigate policies that seek to support diversity, equity, and inclusion.

In key respects, the proposed regulations appear to exceed the HEA's statutory limits on the Secretary's authority, encroach on the independent standard-setting authority Congress reserved to accreditors, and raise concerns regarding the First Amendment rights of accreditors and institutions of higher education, faculty, and students.

1. New accreditors would have a much easier path to federal recognition under the draft regulations, opening the door to federal student aid access with less scrutiny.

The first of the draft's three most consequential shifts comes at the front end of the system: who gets to become a federally recognized accreditor in the first place. Current rules are designed to ensure that an accreditor has a track record before it is allowed to serve as a federal gatekeeper. In practical terms, that means a would-be accreditor generally must already have accredited or preaccredited at least one institution or program; must already have experience overseeing the kinds of institutions, programs, or credentials for which it wants recognition; and must have conducted accrediting activities for at least two years. The draft lowers each of those bars. It would let an accreditor move through the recognition

[1] NOTE: On 4/28/26, we updated the title of this document from "Trump Administration's Draft Accreditation Rules Seek to Tighten Federal Control of Accreditors, But Would Also Open the Federal Aid Floodgates to New Entrants."

process before it has actually granted accreditation, relax the two-year experience requirement into a looser ‘totality of the circumstances’ test, and allow initial recognition based on whether an institution or program is likely to rely on the accreditation for federal-program eligibility within two years after recognition. It also makes it easier for postsecondary institutions to switch or add accreditors even after probation, show-cause, suspension, or withdrawal, unless USED concludes that the move is based on evasion, delay, or abuse. The combined effect is to make it much easier for a newly formed organization with a thin track record to become a federal gatekeeper and begin accrediting institutions and for institutions to shop for an accreditor with the lowest bar to entry.

For students and taxpayers this is a critical change, because federally-recognized accreditation is the link institutions need to access federal student aid on behalf of their students. A system with fewer barriers to entry for accreditors is also a system with less protection from predatory institutions or fly-by-night operations that seek accreditation to gain access to Pell grants and student loans provided under Title IV of the HEA. Under the draft regulations, a newly formed organization seeking to be an accreditor with minimal operating history and at least one willing institution to serve as the recipient of its accreditation would have a chance at becoming a federal gatekeeper to federal financial aid – making it much easier for all sorts of untested entities to gain access to federal student aid dollars. These changes raise both policy and legal issues. The existing “two-year rule” is not codified in the HEA. But the HEA does require an accreditor to show “ability and experience,” requires institutions to show “reasonable cause” when switching or adding accreditors, and authorizes the Secretary of Education to act when an accreditor agrees to accredit an institution that is still under serious interim action by another accreditor. The proposed regulations minimize these requirements to the point where it is questionable whether they comply with the statute.

2. The draft would push accreditors to focus on outcomes, ROI, and lower-cost models, but would also dictate specifics of how that must be done to an extent that likely exceeds legal authority.

The second major shift in the draft regulations is to make student outcomes the organizing principle for accreditors’ recognition of institutions in a way current regulations do not. It would require standards backed by “objective, reliable, and comparable” evidence; encourage minimum performance expectations where feasible; require accreditors to spell out what counts as success and failure with respect to student outcomes; require accreditors to permit institutions to use standardized assessments as evidence of student outcomes; contemplate measures of educational or economic return relative to tuition and fees; require cost-benefit analysis for facilities and student services; and bar accreditors from categorically blocking short-term occupational programs or otherwise burdening lower-cost and innovative models without justification. The draft does not prohibit tenure outright, but it pushes accreditors to scrutinize whether faculty employment systems make it too hard for institutions to address poor performance, adapt staffing, or control long-term personnel costs. All of the specificity in these proposals is more prescriptive than anything enumerated in statute or previously contemplated in regulation.

In some key respects, the proposed regulatory changes attempt to focus accreditation more explicitly on student outcomes, and USED is firmly within its legal authority to require that accreditors assess outcomes as part of their standards. However, the proposed regulations as drafted appear to go far beyond that statutory authority in both scope and specificity. While the HEA instructs the Secretary to require "an appropriate measure or measures of student achievement," the same section also prevents USED from establishing criteria that "specifies, defines, or prescribes" the standards accreditors use to assess student achievement; basing recognition on criteria outside of what is laid out in statute; and promulgating regulations that set out additional accreditor standards beyond what is enumerated in the HEA. By directing accreditors to use particular kinds of outcome evidence, adopt specific metrics, and define success-and-failure triggers, the proposal moves from requiring accreditors to assess student achievement to prescribing the standards they must use—a step the HEA likely bars the Secretary from taking.

3. The regulations could allow the federal government to use accreditation as a tool to exert control over diversity, equity, inclusion, speech, and governance.

The third major shift in the proposal would establish baseline federal expectations about how accreditors treat civil rights issues, speech, and governance. This would empower USED to use accreditor recognition reviews as a much more active federal tool to shape the policies and practices of institutions of higher education. Particularly in light of related actions by the Administration, opening this door may have a chilling effect on accreditors (and institutions) pursuing lawful diversity, equity, and inclusion objectives that fear running afoul of these broad prohibitions and losing federal recognition. The draft says accreditors may not require institutions to violate federal or state law, including through race-based preferences. It would require accreditors to avoid penalizing institutions for viewpoints or ideologies unrelated to accreditation standards and it would bar accreditors from applying standards in ways that interfere with public institutions' First Amendment obligations or with similar free-speech protections that private institutions voluntarily promise. It tells accreditors to stay out of governance matters in the "rightful purview" of state government. It also would let the Department override an accreditor's adverse action for Title IV purposes (and continue to grant the institution access to federal student aid) if the accreditor "violated its own policies" in issuing that adverse action.

While it is clearly true that accreditors should not be permitted to pressure or require institutions to engage in any unlawful conduct, the Administration's accreditation executive order and its interpretation of federal law advanced in recent letters to accreditors raise concerns that it may leverage these new regulatory provisions to investigate and punish potentially lawful practices that advance legitimate campus diversity, equity, and inclusion goals. Notably, in this context, the HEA also requires that accreditation standards "respect the stated mission of the institution[s] of higher education" being accredited. Federal nondiscrimination law confers important deference to colleges' and universities' development of their institutional missions, which often reflect diversity aims.

In addition, the HEA expressly prohibits USED from requiring additional standards beyond those set out in statute, stating: "Nothing in this Act shall be construed to permit the Secretary to establish criteria for accrediting agencies or associations that are not required by this section." The HEA also prohibits the Secretary from "promulgat[ing] any regulation with respect to the standards of an accreditation agency or association" listed in the statute. In sum, using recognition review to prohibit or pressure accreditors away from lawful diversity-related standards may risk exceeding the Secretary's authority and, in some applications, raises First Amendment and academic freedom concerns.

4. Provisions covering programmatic accreditors seek to weaken limits on occupational entry.

In addition to the three most significant shifts described above, the discussion draft also seeks to create clear separation between programmatic accreditors and professional associations. Current rules are narrow and based on the HEA's four "separate and independent" requirements: independent board selection, a minimum number of public members, separate dues, and an independently determined budget. The proposed regulations would take a much more expansive view of the potential for conflicts of interest: they would bar office space shared by such accreditors and professional associations, require annual training and CEO certification, create complaint systems, require website disclaimers stating that the accreditor is not affiliated with any professional or membership organization, and impose a demanding substantive test whenever an accreditor adopts standards that increase credentialing requirements or reduce access to a profession.

From a policy perspective, unnecessary programmatic accreditation requirements may raise program costs, slow entry into professions, and track the interests of incumbent providers (and licensed professionals) more closely than the interests of students or the public. However, this section of the proposed regulations is also susceptible to legal challenge given how precisely the HEA enumerates the four "separate and independent" criteria. The proposed regulations make a large jump from implementing the statutory definition to replacing it with a much broader one which may not be supported under the HEA.

5. The draft regulations include transfer and teach-out provisions that would help some students, but their effect on price and completion would likely be narrow.

The final notable shift in the draft regulations would create a presumption that credits from an institution accredited by any nationally recognized accreditor should transfer to any other institution accredited by any other recognized accreditor – at least into general education or elective credit. It would require the receiving institution to tell the student what it would cost to repeat or replace any denied credits. It also adds stronger disclosure rules around closures, teach-outs, and transfer options, including requiring that more information be provided to students about loan discharge, records, and terms offered by teach-out institutions. Current law and regulations already require public transfer policies and criteria and already impose substantial teach-out duties, but they stop short of the draft's transfer presumption and some of its additional disclosures.

Those changes could spare some students from losing credits unnecessarily, especially in general education and elective coursework. They are unlikely to do much, however, about the most expensive transfer barriers: major requirements, sequencing rules, clinical components, and licensure-linked coursework. Students often lose time and money on transfer credits that are not counted toward a major or degree requirement, and are instead counted toward general credit requirements or treated as elective credit. The legal footing for the proposed transfer provisions is also suspect. The HEA requires accreditors to confirm that institutions have publicly disclosed transfer policies and criteria. The draft regulations go further by imposing a substantive presumption about which credits must transfer and how accepting institutions must treat them, which may be outside the scope of ED's authority.

What would happen if these regulations were adopted and implemented as drafted?

The discussion draft, if adopted as final regulations and implemented, would fundamentally reshape the current accreditation model. The threshold for becoming a recognized accreditor would drop sharply; institutions would have many more opportunities to shop for accreditors; and a much wider range of educational providers would have a path to Pell grants and federal student loans through newly recognized accreditors. At the same time, accreditors would operate under a far more detailed federal rulebook on outcomes, diversity initiatives, speech, governance, transfer, and professional gatekeeping. Those two goals pull in opposing directions: easy entry into accreditation combined with heavy-handed federal control over accreditor judgment once approved.

The HEA contemplates the opposite – a high bar for accreditor recognition balanced with independent accreditation decisions based on limited statutory criteria. A regime built on effectively open entry plus highly prescriptive federal supervision does not fit neatly with that statutory design, which is why the most likely outcomes are either major revisions to this proposal before it is finalized or litigation initiated by accreditors, institutions, or state attorneys general if adopted as written.
