



ACTA
AMERICAN COUNCIL OF
TRUSTEES AND ALUMNI

Board of Directors

Mark Ridenour, Chairman
John Altman
Janice Rogers Brown
Heidi Ganahl
Reuben Jeffery III
Paul S. Levy
Judith Messina
Michael B. Poliakoff
Karrin Taylor Robson
Stuart Taylor, Jr.
Stephen Joel Trachtenberg
Edwin D. Williamson

Anne D. Neal
Senior Fellow
Joshua T. Katz
Scholar-in-Residence
Solveig Gold
*Senior Fellow in Education
& Society*

Council of Scholars

George E. Andrews
Pennsylvania State University
Mark Bauerlein
Emory University
Marc Zvi Brettler
Duke University
William Cook
SUNY–Geneseo
Paul Davies
William & Mary
David C. Doughty, Jr.
Christopher Newport University
Niall Ferguson
Stanford University
Allen C. Guelzo
Princeton University
Sidney L. Gulick III
University of Maryland
Robert “KC” Johnson
CUNY–Brooklyn College
Anatoly M. Khazanov
University of Wisconsin
Alan Charles Kors
University of Pennsylvania
Jon D. Levenson
Harvard Divinity School
Molly Levine
Howard University
George R. Lucas, Jr.
U.S. Naval Academy
Matthew A. Malkan
UCLA
Michael Podgursky
University of Missouri
James A. Sellers
Pennsylvania State University

April 25, 2025

The Honorable Linda E. McMahon
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary McMahon:

President Trump as a candidate placed accreditation at the top of the list of issues in education to address, and his executive order of April 23, 2025, “Reforming Accreditation to Strengthen Higher Education,” acknowledges the long-overdue need for an overhaul to the broken accreditation system. The long-term need for lasting cultural change on campus can come only from the vigilant oversight of trustees, supplemented and made more durable by statutory reform for which the DOE would be the most important advocate. But important changes can be implemented immediately. Below, we also offer recommendations **that can be effected without statutory change** and use the powerful momentum of the executive order. In addition we also include recommendations for longer-term statutory change:

I. Require accreditors to offer a “base model” of accreditation that adheres strictly to the ten original standards of the HEA.

Title 20 of the U.S. Code, section 1099b(a)(5) prescribes ten standards by which accreditors must evaluate institutions. These ten more than amply address the universe of issues that can determine academic quality and institutional strength. Yet the HEA also contains an “elastic clause” that should ultimately be removed from statute, because it is precisely what accreditors have used to justify the discriminatory standards cited in the executive order. But even before Congress acts to eliminate this elastic clause, the Secretary has the capacity to constrain the regulatory overreach of the accreditors.

By requiring accreditors to offer institutions the option to be accredited under a **streamlined model that incorporates only the original ten standards of HEA**, the DOE would prevent accreditors from abusing their status as gatekeepers to federal funds. Colleges and universities would no longer be at risk of the existential threat of the loss of federal funding, for failing to abide by arbitrary accreditor standards not explicitly tied to the enumerated scope of HEA. This protocol for accreditors’

PROMOTING ACADEMIC FREEDOM AND EXCELLENCE

1730 M Street NW, Suite 600 Washington, DC 20036

T (202) 467-6787; (888) ALUMNI-8 F (202) 867-6784 info@GoACTA.org GoACTA.org

review could be strictly monitored by NACIQI and the Department of Education for the accreditors' meticulous compliance. This would have the added benefit of preventing accreditors from attempting an end-run in the future by creating and applying new, objectionable standards by another name. Should an accreditor do so, any such standards would be merely optional for institutions, with no effect upon maintaining their eligibility for federal funding.

A further measure would be to insist that Congress eliminate the "elastic clause" by striking from 20 U.S.C. § 1099b(g) the sentence, "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." This would discourage accreditors from ever attempting to use their federal gatekeeping status as a cudgel to coerce institutions to comply with standards never contemplated by Congress.

II. End the regional accreditation monopoly by rescinding the Biden-era guidance discouraging institutions from changing accreditors.

The executive order calls for the Secretary to "streamline the process for higher education institutions to change accreditors to ensure institutions are not forced to comply with standards that are antithetical to institutional values and mission." The most direct way to do so would be to rescind immediately the Department's Dear Colleague Letter GEN-22-10, "Guidance for Institutions Seeking to Change or Add Accrediting Agencies," (July 19, 2022) and its corresponding guidance on voluntary membership, as well as GEN-22-11, "Procedures for Institutions Seeking Approval of a Request to Change or Add Accrediting Agencies," (July 19, 2022, updated Sept. 26, 2022)—collectively, "the 2022 DCLs."

The 2022 DCLs were indisputably in response to Florida Senate Bill 7044, signed March 9, 2022 by Governor Ron DeSantis, aimed at breaking up the monopoly of the Southern Association of Colleges and Schools Commission on Colleges control over Florida institutions. SB 7044 sought to accomplish this by requiring Florida public colleges and universities to apply for institutional accreditation from a different agency every cycle, typically every five years. Since then, North Carolina has passed a similar law, with Texas also considering the same.

Under the 2022 DCLs, prior to applying for accreditation with a new accreditor, an institution must first notify the Department in writing of its intent to apply and send materials demonstrating reasonable cause for changing accreditors. Institutions may only submit their application to the new accreditor after the Department has made a reasonable cause determination, which can take up to 90 days. More importantly, the Department's guidance to accreditors indicated that the Department would not consider legislatively-mandated changes in accreditation—such as those occasioned by the Florida bill—to be "voluntary" for the purposes of determining reasonable cause.

The 2022 DCLs revoked and superseded earlier guidance, "Guidance for Schools Seeking New Accreditation" (August 5, 2016), which allowed for institutions to apply to a new accreditor before the Department made its reasonable cause determination. Rescinding the 2022 DCLs and

reinstating the 2016 policy would keep institutions from being held captive by accreditors whose standards are incompatible with their mission.

III. Direct Congress to amend the HEA to enshrine in statute the objectives of the April 23 executive order.

We are pleased to see that the executive order calls for accreditors to ensure that institutions “prioritize intellectual diversity amongst faculty in order to advance academic freedom, intellectual inquiry, and student learning.” To bolster this directive, we recommend that the administration call for Congress to enshrine this in statute within the HEA. Specifically, Congress could amend 20 U.S.C. § 1099b(a)(5) to include an eleventh criterion for accreditors seeking recognition, one to ensure that institutions they accredit will ban all forms of discrimination, including, but not limited to the use of diversity screening instruments for faculty hiring, honor intellectual diversity, and base admissions, hiring, promotion, and tenure strictly on the basis of academic merit. To be clear, this would properly require accreditors who wish to remain recognized by the Secretary to revoke accreditation from any institution that uses a diversity screening instrument as part of the faculty hiring process. This would also require accreditors to monitor for success or failure in achieving intellectual diversity, which could be demonstrated by survey of faculty political affiliation.

IV. Direct Congress to amend the HEA to incorporate clear measures of academic quality.

Moreover, with respect to the executive order’s call for a new, student-oriented approach to accreditation, committed to academic rigor, open paths for innovation, cost-effectiveness, and intellectual diversity, the following amendments to § 1099b(a)(5) that the Department of Education could advocate would definitively incorporate these quality measures into the accreditors’ procedures:

- Requiring disclosure of the grade distribution of each program within the institution, showing the percentages of each letter grade awarded and measures that the institution takes to control grade inflation, which is corrosive of academic standards.
- Requiring disclosure of results of nationally-normed licensure and professional examinations (e.g., teacher licensure examinations (Praxis), CPA examinations, Fundamentals of Engineering exam, American Chemical Society exam, and nationally normed value-added assessments of core collegiate skills, including but not limited to the Collegiate Learning Assessment and the Proficiency Profile, as appropriate for the mission and programming of the institution.
- At a minimum, requiring evidence of core curriculum requirements for coursework and demonstrated proficiency in expository writing, with attention to spelling, punctuation, and grammar; quantitative literacy at the collegiate level; knowledge and understanding of the fundamentals of American history and government.

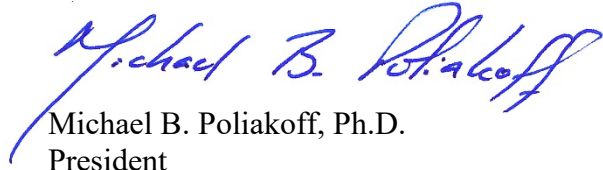
The Honorable Linda McMahon

April 25, 2025

Page 4

- Requiring accreditors to establish criteria appropriate to the type and size of the institution for the ratios of spending on administration and on student services, each relative to spending on instruction.

Respectfully,

A handwritten signature in blue ink that reads "Michael B. Poliakoff". The signature is fluid and cursive, with the first name "Michael" and last name "Poliakoff" being more prominent than the middle initial "B.".

Michael B. Poliakoff, Ph.D.
President