September 21, 2026

The Honorable Nicholas Kent
Under Secretary of Education
U.S. 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 comment on the U.S. Department of Education's (Department) Notice of Proposed Rulemaking on Accreditation, Innovation, and Modernization. The American Council of Trustees and Alumni (ACTA) is an independent, nonpartisan nonprofit committed to promoting academic excellence, academic freedom, and accountability at America's colleges and universities. As we work with thousands of trustees, alumni, faculty, and students across the nation, accreditation reform is an issue that directly affects our mission.

Reform is long overdue, and ACTA commends the Department's dedication to this difficult task. We were happy to support President Trump's call to modernize accreditation to "focus on delivering high-quality academic programs at a reasonable price" in Executive Order 14279 and enthusiastically support the Department's stated goals of producing regulations that encourage academic rigor, defend academic freedom, reduce institutional costs, further innovation, and protect board governance.[i] As a mission-driven organization, ACTA approaches this proposed rulemaking with a singular focus: Will these changes ensure that students receive a high-quality college education at an affordable price?

For much of the early history of American higher education, accreditors enabled innovation. Indeed, the voluntary system of peer review that arose in the late nineteenth century was instrumental in helping colleges and universities standardize curricular and degree requirements, facilitate student credit transfers, identify best practices in governance, and elevate academic quality.[ii] It was this history of service that led Congress to entrust accreditors with the responsibility of acting as gatekeepers of federal funding.

Sadly, higher education accreditation has strayed from its core statutory mandate under Section 496 of the Higher Education Act. Rather than primarily serving as reliable authorities on educational quality, accreditors have frequently acted as self-serving guilds, abusing their monopolistic control over access to Title IV funding to impose ideological conformity and erode institutional autonomy while refusing to hold underperforming institutions accountable. A system that once prioritized academic rigor and innovation has become an exercise in costly bureaucratic compliance.

This is not a new problem. As early as 1992, the Education Department's inspector general noted that "billions of dollars available to students each year through loans and grants are at risk, in part because the recognition process does not assure that the accrediting agencies use appropriate and effective policies to accredit schools."[iii] In 2002, former Senator and President of the University of Northern Colorado Hank Brown testified before the U.S. House Education Subcommittee on 21st Century Competitiveness that accreditation provided internal campus constituencies an opportunity to "lobby for more money from the trustees," but was ineffective at safeguarding academic quality.[iv] ACTA first highlighted the rising threat to institutional autonomy and self-governance posed by the politicization of institutional and programmatic accreditors nearly 20 years ago.[v]

This decades-long decline must be reversed. The Department's proposed regulations represent a vital structural shift that would be a catalyst for the revitalization of higher education quality assurance. ACTA strongly supports the vast majority of these reforms. To ensure these policies achieve their intended goals without inadvertently compromising institutional autonomy or driving up administrative costs, we offer the following recommendations.

Protecting Academic Freedom, Intellectual Diversity, and the Free Exchange of Ideas - § 602.17(a)(2) and § 602.18(b)(4)

Free inquiry and intellectual diversity are essential elements of education. How these principles are expressed is best left to each institution to determine. To do otherwise would threaten the incredible diversity of institutions that American higher education has cultivated. Through our work with trustees, ACTA has seen firsthand the damage that can be done when external actors such as accreditors attempt to unilaterally impose their own understanding of what key principles (such as diversity) should look like. With this in mind, we are concerned that the Department's language may be misconstrued by accreditors or litigious actors to undermine structured, mission-specific academic models.

Throughout 602.17, the Department requires that accreditors defer to an institution's or program's religious mission when reviewing policies relating to academic freedom, free inquiry, and intellectual diversity. The Department is right to recognize the importance of missions, as these statements ought to serve as the framework that a governing body uses to assess an institution or program's success. However, by limiting protections for institutions and programs with religious missions, the Department would appear to allow accreditors to continue to unduly interfere with private institutions and programs with specialized missions—such as Great Books colleges, specialized technical programs, or classical academies. We are worried the Department's mandate that academic freedom protections be applied regardless of "viewpoint or ideology" may be interpreted to allow faculty to refuse to teach an approved syllabus or to demand the inclusion of non-germane topics or those opposed to an institution's mission under the guise of "academic freedom" or "viewpoint neutrality."

With these concerns in mind, we strongly urge the Department to clarify that the academic freedom and intellectual diversity requirements shall not be interpreted to impair a program or institution's authority to prescribe mission-specific pedagogical requirements or subject-matter standards. We believe that this can be accomplished by modifying language in subsection (a)(2) to specify that academic freedom and intellectual diversity protections must be clearly articulated with respect to institutional or programmatic missions. Because this change would apply to all institutional or programmatic missions, language referring to religious missions would be duplicative and can be struck for the sake of clarity, though preserving it would do no harm.

Recommendations:

- Revise subsection **(a)(2)(iii)** to read, "academic freedom protections that are clearly articulated *with respect to institutional* mission and applied consistently to faculty regardless of appointment classification, race or other immutable characteristics, viewpoint, or ideology~~, unless the institution has a religious mission~~."
- Revise subsection **(a)(2)(vii)(A)** to read, "academic freedom protections that are clearly articulated *with respect to institutional mission* and applied consistently to faculty regardless of appointment classification, race or other immutable characteristics, viewpoint, or ideology~~, unless the institution has a religious mission~~."
- Revise subsection **(a)(2)(vii)(B)** to read, "*subject to the institution's mission,* academic freedom and freedom of inquiry protections for faculty in teaching, scholarship and research within the subject matter of a course, and research within their academic discipline, including conditions under which a range of academic perspectives may be expressed and examined without adverse action based on lawful viewpoints unrelated to professional or academic competence~~, unless the institution has a religious mission~~."
- Revise subsection **(a)(2)(viii)** to read, "A policy that is designed to support, promote, and appropriately prioritize intellectual diversity and the free exchange of ideas amongst faculty *with respect to the institution's or program's mission*, to include elements that address intellectual inquiry and student learning, and measures student and faculty perceptions on the range of viewpoints and perspectives offered by the institution or program~~, unless the institution or program has a religious mission. If an institution or program has a religious mission, the policy shall include elements that address intellectual inquiry and student learning that are consistent with the institution's religious mission~~."

Curbing Undue Intrusions into Board Governance - § 602.23(j)

ACTA considers § 602.23(j) to be one of the most critical governance safeguards in the proposed rule. Fiduciary management by lay governing boards is the bedrock of public higher education governance in the United States. Accreditors have repeatedly weaponized their overly vague governance standards to threaten public universities' access to Title IV funding when state governors or boards of trustees exercised their statutory authority. For example, in 2023 when the University of North Carolina at Chapel Hill Board of Trustees voted to explore the creation of a new School of Civic Life and Leadership, the president of the Southern Association of Colleges and Schools Commission on Colleges (now operating as The Commission on Colleges and Universities) publicly declared that she would "either get them to change it, or the institution will be on warning."[vi] Though the Commission eventually backed down, this is a clear instance of an accreditor acting as a self-appointed arbiter of institutional governance capable of overriding a board's statutory authority. Accreditors should not be empowered to override public accountability and insulate university administrations from legitimate board oversight.

However, because this section prevents accreditors from "reviewing aspects of institutional governance," we are concerned that a strict interpretation of this regulation would prevent accreditors from determining whether states or boards have overstepped their statutory authority. We request that the Department clarify this statement to note that accreditors' review of institutional governance shall be limited to ensuring their compliance with state and federal laws. Though this section focuses on public institutional governance, private nonprofit boards are just as vulnerable to accreditor overreach.[vii] We ask the Department to consider amending this section to state that accreditors shall not penalize or place on probation any public or private nonprofit institution for actions taken by its governing board that fall within the board's statutory, charter, or legal authorities.

Recommendations:

- If within the scope of the current consensus, revise subsection **(j)** to read, "The agency shall not penalize or place on probation any public or private nonprofit institution for actions taken by its governing board that fall within the board's statutory, charter, or legal authority."
- If the former suggestion is outside the scope of the current consensus, revise subsection **(j)** to read, "The agency *must* only review aspects of institutional governance of public institutions *to ensure their compliance with* State *and Federal* law*s*, including the appointment of institutional directors or officers by elected or appointed State officials."

Combating Conflicts of Interest and Credential Inflation - § 602.14, § 602.15(e), and § 602.31(d)

ACTA strongly supports these structural firewalls. Programmatic accreditors have operated in close coordination with professional membership associations. These structures create an environment prone to conflicts of interest, as trade groups can use accrediting leverage to mandate higher degree levels for professional entry, thereby increasing student debt and driving up institutional costs without improving clinical or educational outcomes. Penalizing anticompetitive credential inflation protects both students and taxpayers by disincentivizing conditions that may lead to market manipulation.

Prioritizing Student-Oriented Accreditation Practices - § 602.16(a)(1) and § 602.17(a)(1)

ACTA applauds the Department's push to modernize accreditation by demanding that accreditors assess basic metrics on student outcomes. We have long criticized traditional accreditation for evaluating inputs rather than actual academic rigor and graduate capability. Prioritizing student outcomes ensures that accreditors evaluate whether programs deliver genuine economic value and high-quality instruction.

Student Transfers and Administrative Bloat - § 602.15(c), § 602.17(a)(3), § 602.24(e), § 668.43, and Regulatory Impact Analysis
ACTA share's the Department's goal of lowering institutional costs. However, there is a fundamental tension between this objective and the operational impact of these proposed rules. As detailed in the Department's Regulatory Impact Analysis, the proposed regulations will impose 8,602,256 total burden hours across institutions, accreditors, and students, resulting in over $490.3 million in annualized compliance and paperwork costs. A significant portion of this burden stems from § 602.17(a)(3)(i), which mandates that accreditors conduct a cost-benefit analysis of an institution's budget. While the regulatory text specifies that this analysis "means a review by the agency," some language in the preamble refers to the possibility that "some institutions [may] prove to be incapable of conducting credible cost/benefit analyses." If institutions are forced to hire external consultants or additional compliance staff to generate cost-benefit reports for accreditors, the Department will have directly increased the very administrative bloat it seeks to reduce We would request that the Department clarify the preamble to ensure that this responsibility would not be delegated to institutional staff.

Even if accreditors carry out all the required burden hours, they will likely still pass this new expense on to institutions in the form of increased membership fees, which will likely cause institutions to recoup this new expense by raising tuition or mandatory fees. To minimize any added costs to students, we would ask the Department to provide standardized templates for these reports to lower compliance costs and require that these reports utilize existing federal data streams, such as the Integrated Postsecondary Education Data System (IPEDS) and College Scorecard, rather than forcing institutions to build custom reporting portals.

In addition to the cost-benefit analysis, the Department's proposed transfer credit regulations under § 602.24(e) and § 668.43 introduce an unprecedented operational burden that directly undermines the goal of reducing college costs. While ACTA supports credit mobility and transparency for transfer students, the burden hours for this task will overwhelm the administrative capacity at all but the most elite and prosperous universities. This will compel institutions to expand their administrative staff, driving up the very costs that balloon student tuition. Institutions with specialized programs, including those with religious missions, will be most affected by this new rule, as they will be forced to decide between affordability and mission fidelity.

Facilitating credit transfers was one of the foundational tasks of early accreditors, and the Department is right to remind accreditors that they have surrendered this task too easily. We are simply worried that the burden imposed will contribute to administrative bloat. We ask that the Department consider streamlining these disclosure requirements and permitting institutions to utilize standardized, category-based rationales when denying credit transfers. Accreditors should also be encouraged to assist credit transfers by building upon existing articulation databases and regional transfer agreements alongside tracking and publicizing transfer credit data to allow for increased public accountability.

Fostering Competition and Streamlining Recognition - § 600.11, § 602.11, § 602.12, and § 602.31

The system of regional accreditation created captive markets, leaving institutions with no realistic alternative if their accreditor made unreasonable or ideologically driven demands. The Department's proposal introduces a number of long-overdue reforms to address this issue, including eliminating regional boundaries, setting clear timelines for Department staff to review key decisions, and removing artificial barriers to entry for new, innovative accreditors. ACTA hopes that these reforms will help create a marketplace where accreditors will be focused on preserving academic quality and be far less likely to abuse their gatekeeping authority. Furthermore, ACTA supports the requirements under § 600.11 for institutions seeking to change accrediting agencies or hold multiple accreditations. This ensures that governing boards have the mobility necessary to align their institution with an accreditor that respects its specific academic mission.

However, the Department must maintain a careful balance between enabling institutional mobility and preventing bad actors from evading legitimate enforcement actions. While guardrails do remain in place throughout the regulations, are concerned that the wording of § 600.11(b)(2) could be interpreted in a way that would prevent the Secretary from acting against poorly performing institutions. Given that the process of revoking accreditation is often a yearslong process, we recommend that this language be revised to note that the Secretary will not solely determine having multiple accrediting agencies to be unreasonable due to disciplinary actions taken up to but not including a full revocation of accreditation.

Recommendation:

- Revise **§ 600.11(b)(2)** to read "The Secretary will not *solely* 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."

Conclusion

The Department's proposed regulations represent a crucial and necessary step toward reforming American higher education. We urge the Department to adopt these proposed regulations and consider incorporating our specific recommendations. ACTA stands ready to assist the Department in any way that we can.

Warm regards,

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[i] Reforming Accreditation to Strengthen Higher Education, Exec. Order No. 14279, 90 Fed. Reg. 17529 (Apr. 23, 2025), *available at* https://www.federalregister.gov/documents/2025/04/28/2025-07376/reforming-accreditation-to-strengthen-higher-education.

[ii]Susan D. Phillips and Keven Kisner, "Accreditation: An Introduction to a Contested Space," in *Accreditation on the Edge: Challenging Quality Assurance in Higher Education,* ed. Susan D. Phillips and Kevin Kinser (Johns Hopkins University Press, 2018), 1–30; Elaine El-Khawas, *Accreditation in the United States: Origins, Developments and Future Prospects* (UNESCO/International Institute for Educational Planning, 2001), 13–75, https://unesdoc.unesco.org/ark:/48223/pf0000129295.

[iii] H.R. REP. NO. 447, 102d Cong. 74 (1992), *reprinted in* 1992 U.S.C.C.A.N. 334, 407.

[iv] *Assuring Quality and Accountability in Postsecondary Education: Assessing the Role of Accreditation: Hearing Before the Subcomm. on 21st Century Competitiveness of the H. Comm. on Educ. & the Workforce*, 107th Cong. (2002), *available at* https://www.govinfo.gov/content/pkg/CHRG-107hhrg83028/pdf/CHRG-107hhrg83028.pdf.

[v] American Council of Trustees and Alumni, *Why Accreditation Doesn't Work and What Policymakers Can Do About It* (July 2007), https://www.goacta.org/wp-content/uploads/ee/download/why_accreditation_doesnt_work.pdf.

[vi] Editorial Board, "Questions for UNC's Accreditor," *Wall Street Journal*, February 28, 2023, https://www.wsj.com/articles/unc-accreditor-chapel-hill-belle-wheelan-southern-association-of-colleges-and-schools-commission-on-colleges-ef4e02f6; Editorial Board, "The University of North Carolina Fight Escalates," *Wall Street Journal*, February 12, 2023, https://www.wsj.com/articles/the-university-of-north-carolina-fight-escalates-unc-belle-wheelan-sacs-higher-education-college-accreditation-free-expression-d2077882.

[vii] Adam Kissel, "Resist the Throttling of Religious Colleges," *Philanthropy Magazine*, Summer 2019, https://www.philanthropyroundtable.org/magazine/7-resist-the-throttling-of-religious-colleges/.