LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

September 21, 2026

Aaron Washington
Office of Postsecondary Education
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

RE: ED-2025-OPE-1042-0002

Via *regulations.gov* and *aaron.washington@ed.gov*

Dear Aaron Washington,

The Lawyers' Committee for Civil Rights Under Law ("Lawyers Committee), together with the 31 undersigned organizations that work in furtherance of civil rights and educational access, submit this comment in response to the U.S. Department of Education (ED or Department) Office of Postsecondary Education's proposed rule on college accreditation. The Lawyers' Committee is a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy to mobilize the nation's leading lawyers as agents for change in the Civil Rights Movement. Today, the Lawyers' Committee uses legal advocacy to achieve racial justice, fighting inside and outside the courts to ensure that Black people and other people of color have the voice, opportunity, and power to make the promises of our democracy real. To that end, the Lawyers' Committee has participated as counsel or amicus curiae in cases addressing race discrimination in a wide range of areas, including education, employment, health care and fair housing. Given the rapidly changing economy and persistent racial inequality, it is a priority of the Lawyers' Committee to advocate for policies that make the promise of education a reality while reducing burdens on historically excluded communities.

Today, we write to convey our deep concern with the proposed changes to accreditation and urge the Department to review the impacts of these specific provisions. The rule would negatively impact higher education communities and impose particular harm on Black people, other people of color, and low-income individuals. The rule would create a new role for accreditors in policing viewpoints on college campuses and enforcing the Administration's ideological aims and flawed interpretations of civil rights laws. Such a role does not align with the purpose of accreditors and falls outside of their expertise. Further, these revisions exceed statutory limits on the Department's authority over the accreditation process. Congress designed the accreditation system to operate independently from direct federal control, expressly prohibiting ED from exercising "any direction, supervision, or control" over the "curriculum, program of instruction, administration, or personnel of any educational institution" or "over any accrediting agency or association," as stipulated by the Department of Education Organization Act of 1979.

As explained below, several provisions of the proposed rule raise serious concerns about the role of accreditors, and the Department's effort to use accreditors to enforce rejected interpretations of civil rights law and to limit academic freedom for higher education communities. For these reasons, we urge the Department to withdraw and revise several amendments in the proposed rule to preserve the independence of accreditors and ensure that changes to the accreditation system do not undermine civil rights protections or create additional barriers for historically excluded communities.

I. ACCREDITATION HAS LONG SERVED AS AN IMPORTANT SAFEGUARD FOR EDUCATIONAL QUALITY, INSTITUTIONAL ACCOUNTABILITY, AND EQUAL EDUCATIONAL OPPORTUNITY

For nearly six decades the system has served as an important mechanism for ensuring institutional quality, accountability, and student protections. The Department's proposed changes go beyond addressing shortcomings in the existing system and risk undermining the independence and protections that accreditation has long provided. Until now, accreditation has been viewed as an independent, bipartisan system allowing accreditors to serve as gatekeepers for Title IV funding while supporting quality education without partisan interference. The modern federal involvement in accreditation began with the Higher Education Act (HEA) of 1965, Pub. L. No. 89-329, 79 Stat. 1219. Under the HEA, Congress conditioned an institution's federal student aid funding (Title IV) on accreditation. This requirement has remained consistent through various reauthorizations of HEA.

Since HEA's inception, later codified in the Higher Education Opportunity Act (HEOA), Pub. L. No. 110-315, 122 Stat. 3078 (2008), federal law explicitly prohibited the Department from promulgating any regulation regarding the standards of an accreditation agency or association. 20 U.S.C. § 1099b(g). In doing so, Congress demonstrated its desire to maintain accreditors' independence from improper federal influence. HEOA's legislative history reflects a bipartisan concern that greater federal involvement in accreditation could undermine the autonomy of accreditors and higher education institutions.[1] Although the HEA grants the Department recognition power in deciding which agencies can become postsecondary accreditors,[2] this provision was carefully limited by design. Dating back to 1968, there has always been an independent advisory committee to assist the Department in developing criteria for accrediting

[1] Statements in the reauthorization of HEA of 1965 in HEOA.

[2] U.S. Dep't of Educ., Off. of Postsecondary Educ., *History and Context of Accreditation in the United States* (May 8, 2025), https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/college-accreditation/overview-of-accreditation-united-states/history-and-context-of-accreditation-united-states.

agencies.[3] Today, this advisory committee is known as the National Advisory Committee on Institutional Quality and Integrity (NACIQI).

For over half a century, private accrediting agencies served as intermediaries to prevent centralized control of higher education.[4] The framework guiding accreditation has been largely consistent until the start of this administration. Executive Order 14279, *Reforming Accreditation to Strengthen Higher Education*, explicitly criticized accreditors for adopting diversity, equity, and inclusion (DEI) standards. The executive order further directed the Department to penalize accreditors that require institutions to engage in what the administration characterizes as "unlawful discrimination . . . under the guise of 'diversity, equity, and inclusion' initiatives." The executive order names the American Bar Association (ABA) as one such accreditor and has since recommended the ABA be stripped of law school oversight authority because of its DEI standards. While this recommendation predates this rulemaking, it provides important context for understanding how the rule, if finalized, may use federal recognition as leverage against accreditors whose standards help remove barriers for students historically been excluded from higher education.

II. THE DEPARTMENT'S PROPOSED REVISIONS WOULD THREATEN RATHER THAN PROTECT CIVIL RIGHTS AND ACADEMIC FREEDOM, AND WOULD UNDERMINE ACCREDITOR INDEPENDENCE

The proposed provisions relevant to these concerns include:

- **Section 602.17(a)(2)(iii):** requires an accrediting agency to evaluate whether an institution maintains academic freedom protections that are applied consistently to faculty regardless of appointment classification, race or other immutable characteristics, viewpoint, or ideology.
- **Section 602.17(a)(2)(v):** requires an accrediting agency to evaluate whether the institution maintains policies that protect the First Amendment to the Constitution of the United States.
- **Section 602.17(g):** prohibits accrediting agencies from having standards that require institutions or programs to violate Federal or State law, including by having policies that provide any preferences on the basis of race.
- **Section 602.17(a)(2)(vii)(A)-(C):** requires an accrediting agency to evaluate whether an institution maintains policies protecting civil and First Amendment rights.

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[3] New America, *Higher Education Accreditation* (Mar. 1, 2013), https://www.newamerica.org/insights/higher-education-accreditation/.

[4] *See* Bob Shireman, *Accreditation Drama—Coming to a Theater Very Near You*, Substack (Mar. 18, 2026), https://bobshireman714146.substack.com/p/accreditation-drama-coming-to-a-theater.

- **Section 602.17(a)(2)(viii):** requires accreditors to evaluate whether institutions have a policy that is designed to support, promote, and appropriately prioritize intellectual diversity and the free exchange of ideas amongst faculty
- **Section 602.18(b)(4):** requires an accrediting agency to adopt procedures that show that agency decisions are neutral with respect to viewpoint diversity and ideology with an exception for accreditors with religious missions.
- **Section 602.23(h):** requires that an accrediting agency doesn't have policies requiring institutions or programs to violate Federal or State law, including Title VI and Title IX. That includes policies that require preferences based on race, color, national origin, or sex in admissions, hiring, and the selection of contracts.

The Department should promote academic freedom, support the cultivation of spaces where ideas can freely reign, and protect civil and First Amendment rights. But this rule will not advance those stated goals. The provisions declare that academic freedom is under attack, repeating the false notion that postsecondary institutions have become echo chambers for "discriminatory ideology."[5] But higher institutions have long operated within a framework of legal and institutional safeguards that protect academic freedom and free expression.[6] By intruding into the essential freedoms of a university and those enjoyed by its faculty,[7] accreditation, innovation, and modernization proposed rule (AIM) poses a grave threat to the values the Department claims to protect. This proposal would serve to replace accreditors' independent academic judgment with regulatory enforcement power.

A. Proposed provisions on academic freedom, intellectual diversity, and viewpoint-neutrality create unclear and potentially conflicting obligations for accreditors (602.17(a)(2)(iii), 602.17(a)(2)(v), § 602.17(a)(2)(viii), 602.18(b)(4)).

Another concerning feature of the proposal is its lack of clear definitions regarding academic freedom and intellectual diversity.[8] Empowering accreditors to enforce "viewpoint neutrality" standards without providing necessary parameters and guidance invites ideologically driven enforcement. In addition, the lack of adequate guidance is likely to yield inconsistent conclusions. One accreditor could conclude that an institution sufficiently protects free expression of diverse viewpoints, while another could find that the same policy inadequately promotes

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[5] U.S. Dep't of Educ., Off. of Commc'ns & Outreach, *U.S. Department of Education Reaches Consensus to Reform and Strengthen America's Higher Education Accreditation System* (May 21, 2026), https://www.ed.gov/about/news/press-release/us-department-of-education-reaches-consensus-reform-and-strengthen-americas-higher-education-accreditation-system.

[6] *See e.g. Sweezy v. New Hampshire*, 354 U.S. 234 (1957); *Keyishian v. Bd. of Regents of Univ. of N.Y.*, 385 U.S. 589 (1967).

[7] *Sweezy*, 354 U.S. at 263 (Frankfurter, J., concurring).

[8] U.S. Dep't of Educ., *2026 Negotiated Rulemaking AIM Session 2 Consensus Final* 48 (May 21, 2026) https://www.ed.gov/media/document/2026-negotiated-rulemaking-aim-session-2-consensus-final-114202.pdf.

intellectual diversity. Such inconsistency would undermine the legitimacy and reliability of the accreditation process while encouraging viewpoint-based enforcement.[9]

The absence of a definition of "intellectual diversity" likewise creates uncertainty. Unlike race, sex, religion, age, or disability (all of which are legally protected characteristics under law), intellectual diversity is not a generally recognized term. Intellectual diversity could mean anything from political affiliation to religious perspectives to methodological research approaches. Thus, institutions cannot predict what conduct satisfies the new requirement. Rather than promote a true exchange of perspectives and ideas, the inclusion of intellectual diversity within the amendments serves instead as a guise to promote the administration's preferred ideology across campuses.

The rule also represents a dramatic shift away from our current and longstanding understanding of academic freedom, which has been applied successfully in thousands of institutions for nearly 80 years, and toward the legitimizing of ideological interference in higher education.[10] The American Association of University Professors explains that academic freedom protects faculty independence in teaching, research, and expression.[11] Rather than protect the autonomy of faculty and institutions, the proposed regulation could censor classroom discussions and force universities to elevate particular viewpoints over others. This shift in approach to academic freedom provides a mechanism for the federal government to threaten the independence of accreditors and our nation's institutions.[12] The rule would undermine the primacy of scholarly merit as the sole criterion guiding academic decision-making and allow ideological viewpoint or even political affiliation to drive decisions.

***Recommendation*:** The Department should withdraw the proposed amendments to these regulatory provisions, which would impose federal requirements that risk undermining institutional autonomy, threatening civil rights, and limiting academic freedom the Department says it is protecting.

B. The proposed rule improperly places accreditors in the position of evaluating compliance with complex federal and state civil-rights requirements (602.17(a)(2)(vii)(A)-(C), 602.17(g), Section 602.23(h)).

The proposed section provides that accreditors must ensure their standards do not result in unlawful discrimination. It directs accreditors to identify "glaring violations," while simultaneously saying it does not intend to make accreditors arbiters of federal law. It is not clear

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[9] *Id.*

[10] Am. Ass'n of Univ. Professors, *AAUP Statement on the U.S. Department of Education's Overhauling of Federal Accreditation Rules for Colleges and Universities* (May 21, 2026), https://www.aaup.org/news/aim-committee-negotiated-rulemaking-statement.

[11] *Id.*

[12] *Supra* note 5.

how an accreditor would make these types of determinations without attempting to interpret federal civil rights law. Under this new rule, accreditors must evaluate institutions' policies and must determine whether those policies protect civil rights, and where applicable, First Amendment rights.[13] The Department's proposal would essentially require accreditors to now serve as adjudicators or regulators. These amendments charge accreditation agencies with a legal task that they lack the expertise, resources, and institutional competence to fulfill. We are concerned this provision seeks to require accreditors to advance this Administration's flawed and overly broad interpretations of antidiscrimination laws that have been repeatedly rejected by courts.

Traditionally, accreditation agencies assessed educational quality by evaluating curricula, faculty, fiscal and administrative capacity, student support services, student outcomes, and admissions practices.[14] These entities are not courts, administrative agencies, nor enforcers of civil rights. Determining whether a university has violated the First Amendment requires an understanding of constitutional law. Likewise, evaluating compliance with civil rights laws demands a level of legal expertise primarily held by courts and federal agencies. In neither instance would accreditors possess the knowledge and experience to assess these nuanced legal issues.

***Recommendation*:** ED should withdraw these amendments, which would put accreditors in a position where they must make decisions about law without expertise, creating a risk for the accreditors, the institutions they serve, and the underserved students who will be directly impacted.

III. THE DEPARTMENT'S PROPOSED STUDENT ACHIEVEMENT MEASURES RISK DEEPENING EXISTING RACIAL AND SOCIOECONOMIC INEQUITIES

The proposed provisions relevant to these concerns include:

- **Section 602.17(a)(1)(ii)(B):** directs accrediting agencies to assess program retention, completion, or graduation rates, including the extent to which grades reflect student learning through the program of study.
- **Section 602.17(a)(1)(ii)(D):** directs accrediting agencies to assess scores on relevant standardized assessments taken for admission.
- **Section 602.17(a)(1)(ii)(E):** directs accrediting agencies to assess economic returns aligned to the program's credential level, length, and occupational context relative to the total cost of attendance.

The Department of Education should ensure that students have access to institutions that are of high quality and yield good returns on investment. But the Department's approach of focusing on a narrow list of outcome-based standards while ignoring the diversity in conditions and backgrounds of students that schools serve has harmful effects that do not lead to better student

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[13] *Supra* note 4.

[14] 20 U.S.C. § 1099b(a)(5)(A)(2011).

outcomes. Instead, the proposal will perpetuate racial and socioeconomic disparities, potentially making it more difficult for underrepresented, lower income students to gain access to education.

A. Standardized assessment scores and other measures of student achievement must be considered in the context of unequal educational opportunity (602.17(a)(1)(ii)(D)).

Standardized assessment scores can provide information about student performance, but they are an incomplete measure of student achievement and institutional quality. Proposed § 602.17(a)(1)(ii)(D) would direct accreditors to assess "scores on relevant standardized assessments," administered for admission to higher-level degree programs. But standardized assessments vary significantly in their purpose and in what they measure, and their results can reflect conditions outside of an institution's control. Standardized assessment scores can also be an incomplete and inequitable predictor of student success in college. For example, assessments like the SAT and ACT are highly correlated to and reflect parental income more than academic talent.[15] This disparity is shaped by unequal access to resources that help students prepare for college, such as college preparation courses, advanced coursework, tutoring, and test preparation. Thus, differences in test scores, on their own and without further context, do not reflect how successful a school or its students are, but instead reflect the resources those students were able to access. Student success is shaped by many factors that these standardized assessment scores do not reflect, such as prior academic performance, resilience, leadership, motivation, and work experience. Schools under pressure to protect accreditation status may opt to prioritize high test scores in admissions, even where those scores reflect applicants' unequal access to opportunity, rather than a greater likelihood of academic success. It could make it even harder for students from low-income backgrounds, first generation students, students of color, and students with disabilities to gain access to higher education.

Recommendation: ED should revise proposed § 602.17(a)(1)(ii)(D) to provide clear guidance on when standardized assessments are appropriate measures of student achievement and how accreditors should factor in assessment based on the different populations an institution may serve. Failure to do so risks subjecting underserved students to inequitable treatment in their pursuit of higher education**.**

B. Completion measures could fail to account for student characteristics and institutional mission, which risks penalizing institutions that expand educational opportunity (602.17(a)(1)(ii)(B)).

Completion is an important measure of student achievement, and ED appropriately recognizes institutional mission and provides accreditors some flexibility in evaluating completion

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[15] Krista Mattern, Justine Radunzel & Matt Harmston, *ACT Composite Score by Family Income*, ACT, Inc. (Aug. 2016), https://www.act.org/content/dam/act/unsecured/documents/R1604-ACT-Composite-Score-by-Family-Income.pdf.

outcomes. But proposed amendment does not provide sufficient direction for distinguishing between completion outcomes that reflect institutional performance and those shaped by differences in the students' that institutions serve and the pathways they take through higher education. For example, community colleges serve different student populations and have a different mission than selective four-year colleges. Community colleges primarily award associate degrees and certificates, and often serve more students who are older, lower income, first-generation, full-time employees, and parents. These characteristics do not mean that completion is a poor measure of institutional performance; rather, they underscore that the population served should be considered when interpreting completion outcomes as a metric of accountability. An institution serving many part-time, transfer, and working students may have different completion patterns than a highly selective four-year institution, even where both institutions provide high-quality educational opportunities. The Department's proposed approach can create harmful incentives. If accreditors place excessive weight on completion and graduation rates, it may incentivize institutions to deny admission to the families that have the most to gain from higher education. Completion outcomes reflect institutional performance, but they can also reflect differences in student populations, attendance patterns, transfer behavior, and other circumstances that are particularly relevant to institutions serving students who have historically faced barriers to higher education.

Colleges and universities should be held accountable for supporting students in completion of their credentials. But this requires more than a single quantitative calculation. If the Department wants to meaningfully consider completion outcomes it should use a measure that considers context, including demographic characteristics, debt to earnings ratios, program length, and whether the institutions have a pattern of low completion rates.

Recommendation: We support holding institutions accountable for whether students successfully complete their programs. We know that Black students, other students of color, and low-income students have historically faced disproportionate harm when institutions fail to provide a quality education. At the same time, differences in completion rates should not be treated as standalone evidence of institutional quality. We suggest the Department make it clear that accreditors should consider completion outcomes alongside other measures of institutional performance and examine whether institutions are effectively supporting the students they enroll.

C. Economic-return measures risk incorporating existing labor-market inequities into assessments of educational quality (602.17(a)(1)(ii)(E)).

A framework that places disproportionate weight on economic returns risks reducing the value of higher education to graduates' immediate employment outcomes, while ignoring the larger missions that colleges and universities serve. The benefits of higher education go well beyond wages. They include "higher salaries, job satisfaction, job security, and job benefits," as

well as positive emotional and physical health outcomes.[16] Higher education also helps students develop critical thinking, problem solving, and communication skills that are important within and outside the labor market. Education also has additional post-completion outcomes that benefit communities and society more broadly. College graduates are more likely to be employed, volunteer, contribute to charity, vote in Presidential elections, and rely less on government programs and services.[17] They are also more likely to have higher lifetime earnings, less likely to experience poverty or incarceration, and more likely to live healthier lives.[18] Research on students who completed STEM training or apprenticeship programs found that students had higher life satisfaction and optimism,[19] which underscores the benefits that come from educational completion outside of pecuniary gains. We do, however, recognize that earnings are important for Black students, other students of color, and low-income students. These students have historically faced barriers to economic mobility and continue to experience disparities in earnings post-completion. But the Department's provisions do not account for the role that racial discrimination and other inequalities have in degree enrollment and how the labor market can shape outcomes post-completion.

A standard that focuses on post-completion earnings also rests on a flawed assumption that students pursue higher education for the same reasons. Students attend college with diverse goals, and different colleges have different missions. The goals of students that pursue areas of study like social work or teaching differ significantly from students pursuing higher paying careers. For example, the goals of students at an arts school like Juilliard are not the same as the goals of students at a STEM-focused school such as MIT. A rule that treats post-graduate earnings as a proxy for educational quality risks mischaracterizing schools as less valuable simply because they prepare students for careers that may have significant societal value but are lower paying. Such an accreditation standard can create damaging incentives for schools to provide less support for public service careers, contrary to student preferences and to broader public interest.

Recommendation: The Department should revise the proposed amendment to ensure that the review of economic returns account for racial, gender, and socioeconomic disparities in labor-market outcomes. The proposed amendment appropriately recognizes occupational context, but the Department should clarify that accreditors may also consider labor-market disparities that influence graduates' earnings outside of institutional or program quality.

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[16] Nat'l Acads. of Scis., Eng'g, & Med., *Monitoring Educational Equity* 67 (2019), https://doi.org/10.17226/25389.

[17] Ass'n of Pub. & Land-Grant Univs., *How Do College Graduates Benefit Society at Large?*, APLU, https://www.aplu.org/our-work/4-policy-and-advocacy/publicuvalues/societal-benefits/ (last visited June 9, 2026).

[18] OiYan Poon, *Admissions for Democratic Merit: An Evidence-Based Analysis and Possibilities for Equity*, Thurgood Marshall Inst. (Aug. 2025), https://tminstituteldf.org/democratic-merit-college-admissions-equity/.

[19] Yung Chun et al., *Can Training and Apprentice Programs in STEM Increase Worker Life Satisfaction and Optimism?*, 11 Int'l J. STEM Educ. art. 6 (2024), https://link.springer.com/article/10.1186/s40594-023-00461-4.

IV. THE DEPARTMENT'S PROPOSED CHANGES TO ACCREDITOR RECOGNITION AND INSTITUTIONS' ABILITY TO CHANGE ACCREDITORS RISK WEAKENING INSTITUTIONAL ACCOUNTABILITY AND SAFEGUARDS FOR STUDENTS

The proposed provisions relevant to these concerns include:

- **Section 600.11(a) and (b):** Revises existing process rules governing institutions who change or add accrediting agencies to make the process easier unless the Secretary determines the change is sought for specified improper purposes.
- **Section 602.11(b)(2) and (3):** Prohibits the Secretary from restricting or penalizing institutions from changing accreditors.
- **Section 602.12(a) through (c):** Revises the requirements for new accrediting agencies seeking federal recognition by eliminating the existing two-year experience requirement.

Accreditation is one of the federal government's principal consumer protection mechanisms to hold accountable institutions of higher learning that deliver poor educational quality, leave students with unaffordable debt, or fail to produce meaningful educational outcomes. Any proposal that lowers barriers to becoming a federally recognized accreditor must therefore be evaluated through its impact on educational opportunity, civil rights, and the protection of students who have historically borne the greatest consequences when accountability systems fail. Unfortunately, the proposal set forth by the Department does the exact opposite. The proposal weakens federal recognition standards for new accrediting agencies without requiring that those agencies possess the capacity, independence, and experience necessary to hold institutions accountable. The Department's proposed changes to open the market to new competition is misguided and risks creating a "race to the bottom" in accountability, weakening one of the few safeguards designed to protect students from institutional failure.

The Department's proposal fails to acknowledge a critical lesson from recent higher education history: when accreditation and federal oversight break down, students of color bear a disproportionate share of the resulting harm. A substantial body of research demonstrates that Black students are disproportionately recruited by low-performing and predatory institutions, particularly in the for-profit sector, where weak oversight has too often translated into poor completion rates, low post-graduation earnings, and unsustainable debt burdens.[20] These students are more likely to finance their education through borrowing, more likely to leave school without a credential, and more likely to experience loan default when institutions fail to deliver the

[20] Student Borrower Prot. Ctr., *Mapping Exploitation: Examining For-Profit Colleges as Financial Predators in Communities of Color* (July 2021), https://protectborrowers.org/wp-content/uploads/2021/07/SBPC-Mapping-Exploitation-Report.pdf; TICAS, *Understanding Black Students' Experiences and Outcomes at For-Profit Colleges* (Mar. 2026), https://www.lawyerscommittee.org/wp-content/uploads/2026/03/TICAS-Black-Students-at-For-Profits-Report-March-2026.pdf.

educational value they promise.[21] The proposed amendment create a loophole where bad actors have the opportunity to scam students.

A. The proposed changes could increase opportunities for accreditor shopping and create incentives for a race to the bottom in accountability (600.11(a) and (b), 602.11(b)(2) and (3)).

The Department's proposal would create incentives for institutions to seek out accrediting agencies that require the least demanding standards and impose the fewest consequences for poor performance. Previous administrations have recognized the danger of accreditor shopping, which can allow institutions facing scrutiny to evade meaningful oversight by switching to more accommodating agencies.[22] By lowering barriers to entry for new accreditors while simultaneously promoting greater institutional mobility between accrediting agencies, the Department risks accelerating a race to the bottom in accountability.[23] Such a dynamic would not benefit students; it would reward accreditors that compete on leniency rather than rigor. Students of color, first-generation students, and low-income students are particularly vulnerable to the consequences of weak oversight as they are disproportionately targeted by institutions that engage in predatory practices and offer educational programs with poor outcomes.[24]

B. Eliminating the two-year rule without adequate evidence risks weakening educational quality safeguards (602.12(a) through (c)).

The Department characterizes the existing two-year operating requirement as an unnecessary obstacle to innovation, yet it has offered little evidence establishing that this safeguard has impeded the emergence of high-quality accreditors. The requirement serves an important public purpose by ensuring that accrediting agencies possess the operational capacity, expertise, governance structures, and experience necessary to carry out their responsibilities effectively. Before granting federal recognition to an accreditor, the public should have confidence that the

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[21] S. Hayes & A. Lowe, *Combating Exploitative Education: Holding For-Profit Schools Accountable for Civil Rights Violations* (Dec. 2020), https://protectborrowers.org/wp-content/uploads/2020/12/Combating-Exploitative-Education_2020.pdf.

[22] U.S. Dep't of Educ., Off. of Postsecondary Educ., *Dear Colleague Letter GEN-22-10: Guidance for Institutions Seeking to Change or Add* Accrediting *Agencies* (July 19, 2022), https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2022-07-19/guidance-institutions-seeking-change-or-add-accrediting-agencies.

[23] U.S. Dep't of Educ., Off. of Postsecondary Educ., *Dear Colleague Letter GEN-25-03: Changes to the Approval Process for Changing Accrediting Agencies* (May 1, 2025), https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2025-04-30/changes-approval-process-changing-accrediting-agencies; *see also*, U.S. Dep't of Educ., Off. of Postsecondary Educ., *Regulatory Guidance Relating to the Criteria and Process for Initial Recognition of an Accrediting Agency* (Feb. 27, 2026) https://www.federalregister.gov/documents/2026/02/27/2026-03953/regulatory-guidance-relating-to-the-criteria-and-process-for-initial-recognition-of-an-accrediting.

[24] Toby Merrill et al., *For-Profit Schools' Predatory Practices and Students of Color: A Mission to Enroll Rather than Educate*, Harv. L. Rev. Blog (July 30, 2018), https://harvardlawreview.org/blog/2018/07/for-profit-schools-predatory-practices-and-students-of-color-a-mission-to-enroll-rather-than-educate/.

agency has demonstrated an ability to apply standards consistently and independently. Eliminating this requirement weakens a longstanding quality-control mechanism without providing evidence that students will benefit from the change. In the absence of such evidence, the Department has not shown that reducing these protections is necessary, reasonable, or consistent with its obligation to safeguard educational quality.

Recommendation: The Department should withdraw the proposed amendments and keep the current regulatory framework in place. The Department has not adequately explained how these amendments will strengthen educational quality or accountability. The proposed amendments risk creating a loophole for bad actors to exploit students by loosening needed safeguards in college accreditation.

V. CONCLUSION AND RECOMMENDATIONS

Thank you for the opportunity to provide a comment on the proposed amendments to higher education accreditation. We urge the Department to withdraw or revise the provisions identified and protect safeguards. If you have any questions or need additional information, please contact Chazz Robinson, Education Policy Advisor at crobinson@lawyerscommittee.org, or Michael Pillera, Director of the Educational Opportunities Project at mpillera@lawyerscommittee.org.

Respectfully submitted,

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