



July 9, 2019

Mr. Jean-Didier Gaina  
U.S. Department of Education  
400 Maryland Ave. SW, Mail Stop 294-20  
Washington, DC

20202.Re: Docket ID ED-2018-OPE-0076

Dear Mr. Gaina,

Thank you for the opportunity to comment on the Notice of Proposed Rulemaking (NPRM) regarding the Secretary's recognition of accreditation agencies. This NPRM, the product of a negotiated rulemaking effort from earlier this year that reached consensus, contains several provisions which will improve current rules related to substantive change, along with others that cause us concern pertaining to recognition of accrediting agency and the standards these agencies use.

Higher Learning Advocates is a non-profit advocacy organization working to shift federal policy from higher education to higher learning—education and training beyond high school that leads to a degree, credential, or employment. We work toward bipartisan federal policies that create transparent pathways to success, incentivize innovation, protect students and taxpayers, and improve outcomes.

### **Accreditation**

Accreditors hold the key to increasing educational quality in higher education. As a critical part of the higher education triad and a key gatekeeper to billions of annual expenditures in federal student aid, accreditors are uniquely positioned to ensure quality of learning, foster improvement, and set expectations for outcomes at institutions of higher education. Higher Learning Advocates believes much of what federal policy currently requires of accreditors is too focused on inputs and not enough on outputs, including student outcomes. As the Department of Education (ED) considers comments on the NPRM, we urge the Department to ensure any regulatory changes governing accreditors and their actions focus on students having an expectation of quality no matter where they choose to go to school. These efforts do not need to consist of bright lines that exist regardless of institutional missions and student profiles; however, changes should not be made which weaken the integrity of the accreditation process.

### ***Criteria used by the Secretary to recognize accrediting agencies***

As accrediting agencies are gatekeepers to federal student aid, the recognition and review process for approving them should be rigorous. Accrediting agencies must be able to accurately convey and demonstrate their ability to review, monitor, and evaluate institutions of higher education based on standards set forth in law; therefore, the process by which accreditors gain recognition must be equally robust and not subject to any shortcuts. While we support potential ways to simplify this process, it should not be at the expense of weakening it. With this framework in mind,

we are concerned by several of the NPRM's provisions related to recognition of accrediting agencies.

We are particularly troubled by three items and their interplay in the Department's proposed language. First, the NPRM seeks to remove "geographic area" from the existing scope of recognition to acknowledge that regional agencies currently accredit additional locations of main campuses outside of their stated geographic area of scope, and to establish a goal of fostering competition among accrediting agencies. Second, the language would also specify that agencies may decline to accept an application for accreditation from an institution in a state if it only accredits a branch campus or other additional location in that state. Third, the proposed language adds an exception to the requirement that agencies seeking initial recognition must have conducted at least two years of accrediting activities. The proposed language waives the two-year requirement in cases where the agency seeking initial recognition is an affiliate or division of an already-recognized agency.

Collectively, HLA believes these changes will only lower the expectation of quality by accreditors of their accredited institutions. Regional accreditors are membership associations that serve institutions in specific regions of the country and utilize peer-review and regional workforce and employment trends to best review and approve institutions under their purview. By encouraging regional accreditors to accredit institutions outside their region – and thereby enabling any institution of higher education to choose any regional accreditor they wish – could lead to a "race to the bottom" where poor-performing schools that are eligible would likely choose the regional accreditor with the least stringent requirements. Additionally, it is questionable how language that permits an accreditor to not accept an application outside of its geographic region would be implemented, raising operational confusion as to whether and how an institution would seek to be accredited. Eliminating the two-year requirement seems likely to result in unprepared and inexperienced organizations taking on an accreditation role. We do not support the Department's changes in these areas and urge that they are not included in any final regulation.

### ***Requirements for accreditation standards***

In addition to our concern about the NPRM's changes to agency recognition, we do not believe changes related to an agency's standards are in the best interests of students. The proposed language changes current regulations related to the requirement that agencies demonstrate having "sufficiently rigorous standards." Specifically, it removes the concept of requiring agencies to have standards that "effectively address the quality of the institution or program" and replaces it with language that requires agencies to have standards that "set forth clear expectations for institutions or programs it accredits" in the areas required under HEA, including "success with respect to student achievement...". Additionally, the NPRM would eliminate current regulatory language which requires agencies to demonstrate that its standards and policies were "widely accepted" by educators, licensing bodies, practitioners and employers.

HLA does not support either of these changes. As long as such institutions are eligible for federal student aid, the federal government has the right and responsibility to ensure students use their aid at institutions and programs that have rigorous standards and offer high-quality student outcomes. The specific impact of the change to setting forth clear expectations is unclear and will only cause confusion as to its express intent. Additionally, striking the requirement for input from its peers on an accreditor's standards and policies will put less emphasis on gaining wide acceptance for the rigor of an accreditor's work. Neither of these changes will advance student outcomes in postsecondary education or seek to break down barriers to innovation, but instead will only lower the focus on quality and rigor by accreditors.

## ***Requirements for accrediting agencies with regard to substantive change***

Unlike our concerns on the two previous areas, we generally support the NPRM's provisions related to substantive change. HLA believes that to respond to local workforce needs, institutions often work with employers and the business community to stand up a new program at the institution to help fulfill local workforce demand. Unfortunately, under current regulations, the creation of new programs can trigger substantive change, requiring a review and approval by its accreditor. This process can often be expensive and too lengthy to respond to quickly and evolving workforce needs. As a workaround, institutions often choose to offer such programs as non-credit courses or programs that are ineligible for federal student aid. As a result, the credentials that students receive may not be transferable or translatable to other employers or at institutions of higher education.

The NPRM seeks to remedy this situation by changing the conditions under which institutions must request accreditor approval for substantive changes to their programs. The proposed language requires the highest level of scrutiny for the highest-risk changes, while permitting lower-risk changes to be approved by agency senior staff only (vs. the entire accrediting body), or simply requiring reporting by the institution without any required approval by the accreditor.

Under the NPRM, the Department also proposes to remove the current prohibition on retroactive approvals of substantive changes. Instead, it sets parameters under which retroactive approval can be granted, provided the retroactive approval date does not pre-date the point at which the institution or program was considered compliant. The Department seeks to permit this retroactive approval to address circumstances where students who attend new programs prior to program approval do not receive the recognition of having attended an accredited program, which can have adverse impacts on future studies or entry into the workforce.

Lastly, the NPRM would require an accrediting agency to provide written notice of a final decision of probation or equivalent status, or an initiated adverse action, to ED and to states at the same time it notifies the institution or program of the decision, in place of the current notification timeframe of 30 days. Institutions would be required to disclose these actions to current and prospective students within 7 business days. Higher Learning Advocates believes these modifications to substantive change requirements will allow for local workforce needs to be better addressed and support them being maintained in a final regulation

Thank you for the opportunity to offer comments to the Department. We look forward to the outcome of this process.

Sincerely,



**Julie Peller**  
Executive Director  
Higher Learning Advocates