

What Does the Future Hold for Accreditation?

Accreditation's historic function has been to ensure the quality of education and in recent years, to serve as a gatekeeper to institutional access to Title IV, HEA funds. Accredited institutions receive almost \$121 billion in Title IV student aid and accrediting agencies share their role as gatekeeper with State agencies and the Department of Education. Over the various administrations, the role of accreditation has been scrutinized and many have concluded that there should be higher standards of review over institutions. A June 17, 2015 article about the accrediting process in *The Wall Street Journal* was titled, "The Watchdogs of College Education Rarely Bite."¹ Accreditors argue that their job is to allow colleges to improve the education they provide and not to terminate the accreditation of colleges.

Under the Bush Administration, Secretary of Education Margaret Spellings impaneled a commission to examine accreditation, which concluded that the accreditation process was too burdensome, too opaque, and focused too much time on input measures like faculty credentials and library holdings. As a result, Secretary Spellings aggressively campaigned to impose new rules on the agencies and to strengthen the recognition process. The Secretary wanted accreditors to pay more attention to student outcomes. But the emphasis on outcomes and accountability received push back from the higher education community and Congress, particularly from Senator Lamar Alexander (R-TN), a former Secretary of Education under President George H. W. Bush, because the Department of Education appeared to be exceeding its authority.

Much to the disappointment of members of the higher education community, the emphasis on outcomes and accountability continued to be emphasized under the Obama Administration. This time, however, the debate shifted to problems related to for-profit colleges and accrediting agencies were accused of not providing sufficient oversight. President Obama signaled his interest in improving the accrediting system in his 2013 State of the Union address when he asked Congress to explore incorporating measures of value and affordability into the existing system or by establishing new, alternative accreditation pathways for higher education models based on performance and results. In November 2015, the Department announced a series of executive actions and legislative proposals "to improve accreditation and to improve transparency and accountability."² These actions included requiring more information to be submitted to the Department by the accreditors and requiring accreditors to share publicly more information on why institutions were found to be out of compliance. The Department sought to improve the "rigor of accreditation and to provide the flexibility that can foster the innovation we need in higher education..."³

¹ Andrea Fuller and Douglas Belkin, "The Watchdogs of College Education Rarely Bite," *The Wall Street Journal*, June 17, 2015, available at the ACTA website,

https://www.goacta.org/news/the_watchdogs_of_college_education_rarely_bite.

² Strengthening Accreditation's Focus on Outcomes," Office of the Under Secretary, February 4, 2016, <https://sites.ed.gov/ous/2016/02/strengthening-accreditations-focus-on-outcomes/>, 2.

³ Ibid. 3.

In October 2015, the Obama Administration announced a new experiment to give low-income students access to boot camps, open online courses and other nondegree credentials. The Educational Quality through Innovative Partnerships (EQUIP) was designed to establish a pilot program that would give unaccredited providers access to federal financial aid. Eight pilot programs were selected in August 2016, but it was not until April 2018 that the first program received final approval to begin. After a very slow process, Brookhaven College, part of the Dallas County Community College District, was approved to collaborate with Straighterline, a for-profit online provider of self-paced courses, which will provide two-thirds of a Brookhaven associate's degree. [The federal rules currently limit the provision of coursework from an unaccredited entity to less than 50 percent.] The Council for Higher Education Accreditation (CHEA) serves as the quality-assurance entity. EQUIP has met with mixed reaction. Some praised the Department's willingness to try new models, while others expressed concern that it would allow abuse of federal funds.

Under the Trump Administration, the Department of Education is also calling for greater accountability, transparency, and innovation but suggests a different pathway by limiting the role of accreditors. Diane Auer Jones, delegated to perform the duties of Under Secretary and Assistant Secretary for Postsecondary Education, said in an interview with *Inside Higher Education*, that the Trump Administration's goal is to reduce compliance requirements for accreditors, which would allow them to focus on educational quality and encourage innovation. This point of view is in keeping with the current Administration's efforts to undo policies and procedures promulgated under the Obama Administration. The Trump Administration believes that the accreditors have been asked to do too much and hopes to more clearly define the college oversight roles of the accrediting agencies, state governments, and federal regulators, which will allow them to "stay in their lanes" and focus on their strengths.⁴

To begin overhauling accreditation, the Department released a plan on July 31, 2018, in the *Federal Register*,⁵ to establish a negotiated rulemaking process in 2019 where members of the higher education community will consider changing the recognition process for accrediting agencies with the goal of encouraging innovative approaches. The negotiators will be asked to consider eliminating the definition of credit hour, examining regular and substantive interaction requirements for online programs, and looking at the standards for implementing competency-based programs, all of which have been difficult for institutions to comply with. The negotiators will also look at the federal rules for the outsourcing to nonaccredited providers. Ms. Jones said that the discussion should take into consideration the lessons learned from the EQUIP experiment.

While the Department moves on with its agenda, the reauthorization of the *Higher Education Act* continues to be pushed ahead until after the midterm elections this fall. The *Higher*

⁴ "Trump Administration Official Describes Plan to 'Rethink' Higher Education through Upcoming Rule-Making Sessions," July 30, 2018, *Inside Higher Education*, <https://www.insidehighered.com/news/2018/07/30/trump-administration-official-describes-plan-rethink-higher-education-through>.

⁵ 83 FR July 31, 2018, 36814-36816, <https://ifap.ed.gov/fregisters/attachments/FR073118NegotiatRuleCommitPublicHearings.pdf>.

Education Act expired on September 30, 2013 and has continued to be extended. Like many issues, the Democrats and Republicans cannot agree on the federal government's role in holding institutions accountable and keeping higher education affordable. While the majority of the members of Congress would like to focus on accountability, transparency, and innovation, not surprisingly, the Republicans and Democratic proposals released thus far seem to take these goals in different directions.

The House Committee on Education and the Workforce passed H.R. 4508, the *Promoting Real Opportunity, Success, and Prosperity through Education Reform (PROSPER Act)*, on December 17, 2017, by a vote of 23 to 17, which called for a major overhaul of the *Higher Education Act*. The *PROSPER Act*, a 500-page bill, which is quite controversial and unpopular in the higher education community, has not been scheduled for a floor vote at this time. In terms of accreditation, the *PROSPER Act* would make major changes in how accreditors are recognized by the Secretary of Education. For instance, instead of requiring accreditors to assess 10 specific areas, it would require assessing only student learning and educational outcomes. It would require the posting of the adverse actions taken against institutions and would require accreditors to develop a mechanism to identify at-risk institutions.

The *PROSPER Act* would also allow new entities to become accreditors but would limit it to entities that have “as a principal purpose the accrediting of institutions of higher education or programs.” This “principle purpose” qualifier would prevent entities with industry-specific knowledge to accredit courses or programs, which many believe would prevent meaningful accreditation reform. [Many agree that the *Higher Education Reform and Opportunity Act (HERO)*, S. 2228, introduced by Senators Mike Lee (R-UT) and Ron DeSantis (R-FL), would create a stronger system of higher education by establishing an alternative accreditation system that would authorize states to create an alternative, state-run process for the accreditation of institutions that would like to participate in the Title IV, HEA programs. The *HERO Act* would decouple federal financial aid from accreditation and enable entities with industry-specific knowledge, trade associations, nonprofits, and universities to accredit courses and programs. Similarly, Senators Michael Bennet (D-CO) and Marco Rubio (R-FL) introduced S. 615, the *Higher Education Innovation Act*, which would establish an alternative, outcome-based quality review process to authorize “innovative, high quality education providers” to participate in Title IV.]

On July 26, 2018, all 17 House Committee on Education and the Workforce Democrats introduced H.R. 6543, *Aim Higher Act*, which reflects the Democrats' vision for the reauthorization of the *Higher Education Act*. The bill would streamline the accountability framework by tasking the Department with ensuring compliance; making States responsible for tracking student complaints, ensuring facilities are safe and adequate, and ensuring that programs meet state licensure requirements; and freeing accreditors to focus on academic quality; thus strengthening the role of each member of the triad. The bill would require accreditors to focus on two new student achievement outcomes – completion/graduation and workforce participation; to make the accreditation process and institutional outcomes more transparent so that students and families can make informed decisions; and to strengthen the Department's oversight of accrediting agencies by strengthening the guidelines for how the

Department would perform its oversight of accreditors. “The Department would have the authority to veto accreditor-set standards it deems too low.”⁶ [A recent OIG report found that the Department did not provide reasonable assurance that the Department recognized only accrediting agencies meeting Federal recognition criteria.⁷] The House Democrats would also seek to strengthen the accountability measures by changing the 90/10 rule to 85/15 and to prohibit institutions that spend half of their tuition revenue on instruction from using federal funds for marketing, recruiting or lobbying.

On the other side of the aisle, the Senate Health, Education, Labor and Pensions (HELP) Committee did not produce a reauthorization bill in the Spring as promised because the Democrats and Republicans fundamentally disagree about how to hold institutions accountable and ensure that a higher education is affordable and accessible to low-income and minority students. Nevertheless, Chairman of the HELP Committee Lamar Alexander (R-TN) released a White Paper on “Higher Education Accountability,” on February 1, 2018, which discussed the accountability requirements for Title IV participation. Senator Alexander stated that accrediting agencies are responsible for ensuring academic quality, States are responsible for basic authorization and consumer protection issues, and the Department holds institutions accountable through the program participation agreement. Senator Alexander sought comments on the effectiveness of such measures as cohort default rates, 90/10, and gainful employment. The White Paper suggests that the current accountability measures may be dated and should be modernized and simplified with the goal of creating more effective accountability measures.⁸

On February 1, 2018, the Senate Democratic Caucus released the “Senate Democratic Caucus Higher Education Reauthorization Principles,” which outlines their priorities. The point of view of the Senate Democrats is that the triad should be strengthened to protect consumers, focus on outcomes, and promote continuous quality improvement at all institutions. The “Reauthorization Principles” state that “in particular, accreditation must be improved to serve as an effective gatekeeper of federal dollars and a centralized mechanism for improving college quality. Accreditors must identify, collect, and analyze key data indicators on student achievement, avoid conflicts of interest, and rigorously hold low-performing institutions to high standards.” The “Reauthorization Principles” also call for increased accountability standards “to close loopholes in the law, correct market failure, stop predatory behavior, and hold all schools accountable.”⁹

Both the Republican and Democrat Senators accuse each other of refusing to draft legislation through a partisan process. The Senate standoff prevents any chances of reauthorization this

⁶ Aim Higher Act, Bill Summary, <http://democrats-edworkforce.house.gov/imo/media/doc/Aim%20Higher%20Act%20--%20Bill%20Summary.pdf>, 5.

⁷ U.S. Department of Education, Office of Inspector General, ED-OIG/A09R0003, “U.S. Department of Education’s Recognition and Oversight of Accrediting Agencies, June, 27, 2018, <https://www.oversight.gov/sites/default/files/oig-reports/a09r0003.pdf>.

⁸ Senate HELP Committee, “Higher Education Accountability,” February 1, 2018, <https://www.alexander.senate.gov/public/cache/files/cfd3c3de-39b9-43dd-9075-2839970d3622/alexander-staff-accountability-white-paper.pdf>.

⁹ Senate Democratic Caucus, “Higher Education Act Reauthorization Principles,” February 1, 2018, <http://cecu.informz.net/cecu/data/images/GR%20Uploads/Senate%20Democrats%20HEA%20Priorities.pdf>.

year. The only thing we know now is where the two parties and the two houses stand. In the meantime, the Department is moving ahead with negotiated rulemaking in order to attain its goals that would normally be part of the reauthorization process.

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