



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
ACCREDITATION GROUP

July 19, 2022

Institutional Accrediting Agencies:

Recently, the Department of Education (Department) has received inquiries regarding the “voluntary membership” requirement for federally recognized accrediting agencies in 34 C.F.R. § 602.14(a). In this letter, we respond to those inquiries and clarify the voluntary membership requirement of the accreditation regulations.

Historically, accreditation in the United States began with a voluntary association of institutions of higher education that sought to develop a consensus on the content of the educational programs offered by postsecondary educational institutions and on the distinctions between educational offerings at secondary and postsecondary institutions.¹ By the 1970s, most institutions of higher education voluntarily participated in the accreditation process to ensure a mark of quality and a common level of academic standards for their respective institutions.²

Congress, in creating the overall statutory schema for higher education starting with the Higher Education Act of 1965 (HEA), recognized the importance of an institution of higher education's voluntary membership in an accrediting agency or accrediting association beginning with the Higher Education Amendments Act of 1992.³ Indeed, a voluntary association for quality assurance, as opposed to a compelled one, or even one centralized through or by the federal government, is one of the unique features of American higher education. This voluntary association is intended to engender a willing and cooperative environment for the review and improvement of educational programs at American institutions of higher education.

Similarly, through the Higher Education Amendments Act of 1992, Congress established the concept of the program integrity triad, consisting of States, accrediting agencies, and the Department. The members of the triad work together to ensure quality in higher education, but with distinct principal areas of responsibility for each member.

The Department, following the statutory schema of the 1992 HEA reauthorization, included the voluntary requirement in its initial accreditation regulations in 1994.⁴ Today, “voluntary membership” remains a requirement for the Secretary’s recognition of accrediting agencies under § 602.14(a)(2), (a)(3), and (a)(4). As used in § 602.14, the word “voluntary” is important

¹ CRS report, *An Overview of Accreditation of Higher Education in the United States* at 1, available at <https://crsreports.congress.gov/product/pdf/R/R43826/10>.

² *Id.* at 2.

³ See 20 USC § 1099b(a)(2) (1994).

⁴ See 59 FR 3580 (January 24, 1994), available at <https://www.govinfo.gov/content/pkg/FR-1994-01-24/pdf/FR-1994-01-24.pdf>.

in defining the expected nature and quality of the relationship between an accrediting agency and the institutions it accredits.

Because the requirement of voluntary association between accrediting agencies and institutions has been an accepted norm, the Department has not previously had reason to further consider the requirement. However, Florida law SB 7044, which took effect on July 1, 2022, requires public institutions in Florida to seek new accrediting agencies, which potentially undermines the voluntary nature of the relationship and the independent roles of the various actors in the triad. Thus, the Department has reexamined the issue of voluntary membership in two circumstances: when institutions seek to change accrediting agencies (or seek multiple accreditation) and when the Department reviews accrediting agencies as part of the recognition process.

Under 20 USC 1099b(h) and (i) and § 600.11(a) and (b), institutions must submit materials to the Department demonstrating reasonable cause for changing their accrediting agency or for having multiple accrediting agencies. This requirement provides critical protections for students and taxpayers by ensuring that institutions do not switch accrediting agencies simply to evade accountability, avoid open inquiries, or seek approval from an agency with less rigorous standards. In a Dear Colleague Letter (DCL) published today, the Department has clarified that institutions must submit to the Department such materials *and* receive Departmental approval *prior to* submitting their application to a new accrediting agency.⁵ The Department has further clarified that, as part of its review, it will consider the rationale provided, the institution's history of compliance, and past accrediting agency actions.⁶ Because the Department only recognizes accrediting agencies that have a voluntary membership of institutions of higher education, in reviewing for "reasonable cause" for changing or adding accreditors, the Department will also consider whether the materials provided support a finding that the institution's membership in the new accrediting agency would be voluntary. Following its review of the materials, the Department will notify the institution whether the Department has determined there is reasonable cause for the change (or multiple accreditation).

As required under § 602.14, the Department will also examine the issue of voluntariness when it conducts its agency recognition review. Even if the Department has found, based on the information available to the Department at the time of review, reasonable cause under § 600.11, ***agencies should conduct their own independent evaluation of whether an institutional change of accrediting agencies (or multiple accreditation) is voluntary.*** Because an accrediting agency's relationships with its member institutions are case- and fact-specific, the agency may come to a different conclusion than the Department. To help avoid a finding of noncompliance with § 602.14, agencies should consider whether accrediting an institution will compromise the voluntary nature of their membership **prior to** approving a membership application.

Even if the Department has found reasonable cause with respect to an agency's member institutions pursuant to a review under § 600.11, it will again consider all relevant factors, based on the most recently available information, when conducting a recognition review under § 602.14. If, after having reviewed all the relevant factors, the Department determines that an

⁵ <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2022-07-19/procedures-institutions-seeking-approval-request-change-or-add-accrediting-agencies>

⁶ <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2022-07-19/guidance-institutions-seeking-change-or-add-accrediting-agencies>

accrediting agency does not have a voluntary membership, as required for recognition by the Department under section 1099b(a)(2) of the HEA and § 602.14(a), the Department will be unable to recognize the accrediting agency.

We hope that this letter provides clarification regarding these questions to the accreditation community, and we thank you for your engagement with the Department as we all work to address and participate in a changing landscape consistent with existing law.

Sincerely,

/s/

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