Accreditation Needs Reform. ED's Forthcoming Proposed Rule Misses the Mark

By Robbie Ha, Higher Education Senior Policy Analyst

Introduction

This summer has already brought the most consequential changes to higher education policy in nearly two decades, driven by last year's One Big Beautiful Bill. Yet, the Trump administration's actions on accreditation, which weren't born out of the reconciliation bill, have received far less attention.

Don't mistake the relative quiet for insignificance. Within a few weeks, the Department of Education (ED) is expected to publish its proposed rule on accreditation, and its contents are already largely known. Under the terms of negotiated rulemaking, the proposed rule must closely mirror the 163-page draft regulatory language that the Accreditation, Innovation, and Modernization (AIM) committee approved by consensus in May. Once released, the comment period will likely last only 30 days, so stakeholders who value consumer protection, academic freedom, and student supports in higher education should begin preparing their public comments now.

Accreditors are charged with ensuring academic quality, evaluating American colleges and universities on factors like student achievement, faculty, and curriculum — the core elements that shape students' educational experiences. Department-recognized accreditors also determine whether institutions and programs have access to the federal financial aid system, worth roughly $120 billion in federal grants, work-study funds, and student loans each year.

At first glance, many of the draft regulatory changes appear technical. Some provisions ostensibly advance goals with broad bipartisan support, including strengthening accreditor oversight of student outcomes and improving credit transferability. Buried within the technical language, however, are structural changes to the accreditation system that would redefine the role of accreditors and make good on then-candidate Trump's 2024 campaign pledge to use accreditation as his "secret weapon" to reshape higher education.

Taken together, the draft language's provisions weaken accreditors' role as independent watchdogs for consumer protection and educational quality. At the same time, they assign accreditors a new role for which they lack the resources, expertise, and guidance to handle: enforcing this administration's legally flawed interpretations of "academic freedom," "viewpoint and ideological neutrality," and "civil rights." On paper, these requirements may sound protective. In practice, however, they are elastic enough to give the administration discretion to target whatever it considers politically objectionable — a tactic it has already used to take aim at diversity, equity, and inclusion (DEI) programs. The ambiguity of these requirements and the threat of severe penalties for noncompliance would also likely push both accreditors and institutions to preemptively self-censor lawful speech, curricula, and supports that help every student succeed.

While too many institutions and accreditors have already succumbed to political pressure rather than resisting these efforts, stakeholders cannot afford to stay silent — especially at a time when policymakers at both the federal and state levels continue to erode consumer protections and academic independence.

Should the regulations take effect in July 2027 as currently drafted, the fallout will land hardest on the students EdTrust was founded to serve: students of color and those from low-income families. But every student stands to lose when education is no longer grounded in the freedom to learn and teach without fear of political retribution.

A Quick Primer on Accreditation

Accreditation is one part of the "program integrity triad," alongside ED and state governments, that together serve as American higher education's quality guardrails. Established under the Higher Education Act of 1965 (HEA), the triad was designed to ensure that federal student aid, or "Title IV" funding, flows only to institutions and programs that meet standards for quality and integrity. Each member plays a distinct oversight role: ED primarily evaluates institutions' financial and administrative capacity; states focus on consumer protection; and accrediting agencies assess and promote academic quality.

For the administration, accreditation is a particularly powerful policy lever because access to federal financial aid depends on it. If a university or college loses accreditation, it generally also forfeits access to the federal financial aid dollars that are a critical revenue source for many. That would be a death knell for many institutions. The stakes are equally high for accreditors; if an accreditor loses recognition from the Department, it can no longer serve as a gatekeeper for federal financial aid, effectively eliminating its primary value to the institutions that fund it via membership dues.

Unlike most gatekeepers of federal funding, however, accreditors are independent, nongovernmental organizations. In fact, Congress designed the accreditation system to operate independently from direct federal control, explicitly 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. The draft regulatory language would test that independence.

The Case for Accreditation Reform Is Real

To be clear, this is not a defense of the status quo. There is broad bipartisan consensus that the accreditation system is not working as well as it should. For instance, accreditors often fail to hold institutions accountable for poor student outcomes. More than 35% of accredited colleges graduate fewer than half of their students, yet fewer than 1% ultimately lose accreditation. Accreditors have also been notably ineffective at encouraging credit transfers between institutions, both within and across their boundaries. According to a 2017 Government Accountability Office report, students who transfer colleges lose, on average, nearly half (43%) of their credits.

These shortcomings stem in large part from a structural conflict of interest embedded in the accreditation system. Accreditors are composed of and funded by many of the same institutions they accredit. As a result, accreditors face strong incentives to preserve institutional access to federal aid rather than impose meaningful sanctions when performance falls short.

The draft regulatory language contains several provisions intended to address these longstanding concerns; some of these resemble reforms proposed during the Biden administration. The central flaw, however, is that the draft language simultaneously undermines accreditors' already limited ability to hold institutions accountable while redirecting their attention toward enforcing politically motivated requirements that fall outside their traditional mission.

The Draft Regulatory Language Would Weaken Accreditors' Consumer Protection and Educational Quality Assurance Role

The Education Department argues that the proposed changes to § 602.17(a)(1)(ii) will "emphasiz[e] merit and student outcomes" by requiring accreditors to establish minimum expectations for a range of student outcome measures, including "educational and economic returns aligned to the program's credential level, length, and occupational context relative to the total cost of attendance." EdTrust and others have long argued that the higher education accountability system too often allows federal financial aid dollars to flow to institutions that produce poor economic outcomes, particularly for students from underrepresented backgrounds, who have the most to lose. Viewed in isolation, these provisions could be a meaningful step toward stronger accountability. Whether they can withstand legal scrutiny, however, is another question.

The HEA explicitly limits ED's authority to dictate how accreditors assess and define student achievement for the institutions they oversee. During discussions with the AIM committee, ED officials and negotiators repeatedly acknowledged these statutory constraints, prompting a series of semantic maneuvers that moved the requirements from § 602.16, which governs accrediting standards, to § 602.17, which governs how those standards are applied. They also characterized these new changes as merely "directional" rather than mandatory thresholds. Yet even this level of direction appears prohibited by a separate federal statute — a constraint that reportedly did not trouble the ED and Office of Management and Budget attorneys who reviewed the language.

Regardless of the intent behind these "directional" changes, they are undermined by other technical changes in the draft rule that collectively weaken accreditors' ability to enforce *any* standard:

Sanctioned Institutions Could Shop for a New Accreditor – § 600.11

Under the draft language, an institution's request to change or have multiple accreditors would be automatically approved unless ED actively intervenes. At the same time, ED would eliminate existing safeguards that prohibit institutions from changing or having multiple accreditors if, within the prior two years, their accreditation was withdrawn, revoked, or terminated, or if they had been subject to a probation, show-cause, or suspension order.

As a result, institutions facing accreditation sanctions — including those related to poor student outcomes — could avoid heightened scrutiny by switching to a less rigorous accreditor. By removing these guardrails, the proposal weakens accreditors' ability to hold institutions accountable and increases the risk of accreditation shopping.

Untested Accreditors Could Win Federal Recognition – [§ 602.12]()

Under the draft language, newly created accreditors could apply for federal recognition as soon as they establish accreditation standards and operating procedures and receive an application from at least one institution. While an agency would still need to accredit at least one institution before gaining recognition, the proposal removes the longstanding requirement that new accreditors have at least two years of experience making accreditation decisions before seeking recognition.

By lowering the bar for recognition, ED risks admitting unproven accreditors into the federal quality assurance system, thereby weakening confidence in accreditation as a safeguard for students and taxpayers. This concern is amplified by the presence of aspiring accreditors such as the National Association for Academic Excellence (NAAE), which New America has reported is comprised of former for-profit college officials linked to lawsuits and fraud allegations.

ED Could Second-Guess Accreditor Enforcement Decisions – § 602.26(h)

Under the draft language, ED would have the authority to continue an institution's Title IV eligibility while an adverse accreditation action is under appeal, arbitration, or judicial review.

Following pushback from negotiators, ED narrowed this provision from an earlier proposal that would have allowed it to continue federal aid indefinitely if it determined that an accreditor had failed to follow its own policies when revoking accreditation.

At first glance, this narrower provision may appear largely redundant. Existing accreditation processes already provide institutions with extensive due process protections. This feature of the accreditation system can, itself, limit accreditors' ability and willingness to impose sanctions on institutions. Accreditors are required to maintain appeals and arbitration procedures, and institutions generally retain both their accreditation and access to Title IV funding while those proceedings are underway. If an accreditor is ultimately found to have violated its own policies, the adverse action can be reversed through those established processes.

The greater concern is that this provision codifies a new avenue for ED intervention in accreditation decisions. The draft language does not explain the circumstances under which the Department would choose to exercise — or decline to exercise — this authority. As a result, this provision introduces a new layer of federal subjectivity into the accreditation process and creates uncertainty about when institutions will face the consequences of an accreditor's adverse action. In doing so, it risks undermining accreditors' independent role within the triad and weakening the consistency and credibility of the accreditation system to ensure educational quality for students.

ED's Competition Rationale Misunderstands the Accreditation Market

ED officials argue that reducing barriers to entry for new accreditors and easing accreditor switching will encourage accreditors to compete, provide students with more information about institutional and program quality, and lead institutions to seek out high-standard accreditors to "differentiate themselves" from lower-quality competitors. Its theory of change, however, overlooks several structural features of the accreditation market:

- **Accreditors compete for institutions, not students.** In most competitive markets, firms improve quality because they are competing for consumers. In accreditation, the consumer is the *institution*. Students do not choose accreditors; institutions do. As a result, accreditors compete for the institutions whose dues sustain their operations. When institutions can shop among accreditors, competition would, naturally, reward accreditors that reduce compliance burdens, expedite reviews, and rarely sanction institutions.

- **Students generally do not distinguish among accreditors.** ED's theory of change assumes that institutions will seek out more rigorous accreditors to signal quality to prospective students. In reality, most students and families evaluate institutions based on factors such as cost, academic programs, location, reputation, and outcomes. Few students know which accreditor oversees a particular institution, and fewer still make enrollment decisions on that basis. For most students, accreditation functions as a binary signal: either an institution is accredited and eligible for federal aid, or it is not.

- **The institutions most likely to switch accreditors are not the strongest performers.** High-performing institutions derive their reputations from longstanding brands, strong outcomes, and market recognition. The rigor of their accreditor plays little role. Institutions facing heightened scrutiny for poor student outcomes, by contrast, have every incentive to find a more accommodating one. Removing barriers to accreditor switching therefore risks increasing demand for less rigorous oversight rather than stronger accountability.

By encouraging accreditors to compete for institutions, ED risks creating the very incentives that could drive a race to the bottom in accreditation standards, even as it frames these changes as promoting market innovation and accountability. Notably, when pressed by negotiators to support its assumptions, ED acknowledged that its position rests on "economic theories" rather than empirical evidence and further conceded that it is "not possible for the Department to estimate the causal effect of accreditor switching on student outcomes." Yet the Department simultaneously dismissed concerns about a race to the bottom as a "red herring cliché" and asserted that such outcomes are inconsistent with its observations — an odd claim from an agency that conceded it cannot measure such causal effects. The proposal therefore asks stakeholders to accept a significant restructuring of the accreditation system based largely on theoretical assumptions, while providing little evidence that increased accreditor competition will improve student outcomes or strengthen institutional accountability.

The Draft Regulatory Language Would Undermine Accreditation's Role as a Safeguard for Academic Freedom

There is a reason accreditors exist as independent entities, distinct from both the federal government and states: to protect higher education from political interference. Their role is to ensure that teaching, learning, and research are evaluated by academic experts rather than by changing political priorities or ideological preferences.

The importance of this independence is well established. Both history and Congress have repeatedly affirmed the principle of academic freedom and the need to shield educational decision-making from government control. Indeed, accreditors have historically acted to restrain some of the most damaging political impulses directed at American higher education, though observers note that this protective capacity has "atrophied" in recent years.

The draft language would further weaken that capacity by effectively transforming accreditors into enforcers of the administration's interpretation of academic freedom, viewpoint neutrality, and the First Amendment.

Policing Academic Freedom, Viewpoint Neutrality, and First Amendment Compliance

The draft regulatory language proposes the following changes:

- **Academic Freedom**
  - Requires accreditors to evaluate whether an institution maintains academic freedom protections among its faculty – *§ 602.17(a)(2)(iii)*, *§ 602.17(a)(2)(vii)(A)*, and *§ 602.17(a)(2)(vii)(B)*
  - Requires accreditors to evaluate whether an institution maintains policies "regarding the integrity of scholarly activity" – *§ 602.17(a)(2)(vi)*
- **Viewpoint, Ideology, and Intellectual Neutrality**
  - Requires accreditors to evaluate whether an institution maintains policies "designed to support, promote, and appropriately prioritize intellectual diversity" among faculty, including measures of "student and faculty perceptions on the range of viewpoints and perspectives" – *§ 602.17(a)(2)(viii)*
  - Requires accreditors to ensure their decisions are "neutral with respect to viewpoint and ideology that are unrelated to its accrediting policies or standards" – *§ 602.18(b)(4)*
- **First Amendment**
  - For public institutions, requires that accreditors' "standards, policies, and enforcement practices" don't impede them from fulfilling their First Amendment obligations – *§ 602.15(f)*
  - For public institutions, requires accreditors to evaluate whether they maintain policies that protect the First Amendment – *§ 602.17(a)(2)(v)*

Although these requirements appear protective on paper, in practice they are poised to exert significant pressure on both accreditors and institutions to interpret and enforce academic freedom and constitutional protections according to the political priorities of the federal government. For instance, the administration has repeatedly suggested — most notably in its 2025 Compact for Academic Excellence in Higher Education — that activities traditionally protected by the First Amendment could lose that protection when associated with speech, curricula, or policies it considers politically objectionable.

This concern is compounded by the coercive penalties attached to these vague requirements. ED itself has struggled to articulate clear standards for compliance, at one point suggesting that a mere "sniff test" would suffice to determine whether an institution or accreditor has met its obligations. Yet, the consequences of failing that test are severe: institutions risk losing access to Title IV funding, while accreditors risk losing recognition as Title IV gatekeepers.

Faced with such high stakes, institutions and accreditors would have powerful incentives to avoid regulatory scrutiny. This would likely lead to self-censorship of viewpoints, limited inquiry, and discouragement of teaching subjects deemed objectionable by the administration. Thus, under the guise of promoting ideological diversity, the draft language would undermine the very foundation of academic freedom: the ability to debate, dissent, and engage with competing ideas without political interference.

This pressure would likely accelerate a trend already underway in American higher education. Increasingly, institutions have adopted "neutrality" pledges and narrowed their mission statements to avoid political scrutiny, often at the expense of defending their institutional autonomy and their obligation, as recipients of taxpayer dollars, to advance educational opportunity and success.

The draft language also ignores a practical reality: accreditors are not constitutional law enforcement agencies. Accreditation review teams are composed primarily of professors, academic administrators, and subject-matter experts. They are trained to assess educational quality, institutional effectiveness, governance, and student outcomes — not to adjudicate complex First Amendment questions.

To minimize the risk of losing federal recognition under these vague and coercive requirements, accreditors would have little choice but to divert substantial resources toward compliance. Rather than investing in educational quality assurance or advancing ED's stated goals for student outcomes and success, accreditors may find themselves hiring lawyers and creating new compliance infrastructures. This outcome is also ironic given ED's stated objective of reducing "unnecessary financial, compliance, and administrative burdens." The draft language would almost certainly produce the opposite result.

Creating a Shield for State Political Interference

The draft regulatory language would also shield state lawmakers who encroach on academic freedom and institutional governance from accreditor scrutiny:

- **State overreach into accrediting standards:** This provision prohibits accrediting standards that "encourage, direct, or otherwise require institutions or programs to violate Federal or State law ...." – § 602.17(g)

- **State overreach into institutional governance:** This provision prohibits accreditors from "reviewing aspects of institutional governance of public institutions that are established by State law, including the appointment of institutional directors or officers by elected or appointed State officials." – § 602.23(j)

This means that if a partisan state legislature decides to micromanage a university's curriculum, dismantle tenure, or stack a university board with political operatives — actions that are currently happening and often undermine lawful programs and initiatives designed to uplift under-represented students — the accreditor would be legally required to look the other way.

The Draft Regulatory Language Would Further Codify the Administration's Anti-DEI Campaign

Like its approach to academic freedom, the draft language would provide the administration with a means to advance its legally flawed interpretation of civil rights law and its broader anti-DEI agenda. In doing so, it would undermine the ability of accreditors and institutions to ensure that every student, regardless of race, gender, sexual orientation, or socioeconomic status, can access the resources, mentorship, and opportunities they need to succeed.

The administration has repeatedly treated DEI programs, or any race-conscious initiatives for that matter, as presumptively unlawful, even though many such programs remain lawful and serve important educational purposes. The draft language is poised to become another tool for the administration to do so, requiring accreditors to evaluate institutional compliance with vaguely defined civil rights obligations while prohibiting standards that could be construed as encouraging violations of federal or state law, including policies with "**any** preferences on the basis of race" (emphasis added). The draft language:

- Requires accreditors to evaluate whether an institution maintains policies that "protect civil rights" among faculty – §602.17(a)(2)(vii)

- Prohibits accrediting standards that "encourage, direct, or otherwise require institutions or programs to violate Federal or State law, **including by having policies that provide any preferences on the basis of race**" (emphasis added) – § 602.17(g)

- Prohibits accreditors from having policies that "require institutions or programs to violate any Federal or State law," including Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments Act of 1972 – § 602.23(h)

These provisions codify a strategy the administration is already pursuing in accreditation: pressuring accreditors to abandon DEI-related standards by suggesting that such requirements may violate federal law. Most notably, Under Secretary Nicholas Kent sent letters earlier this year to the Middle States Commission on Higher Education (MSCHE) and the Commission on Accreditation in Physical Therapy Education (CAPTE), asserting that their DEI standards were unlawful under the administration's misinterpretation of Students for Fair Admissions v. Harvard and its implications for Title VI, even though both accreditors had already suspended those standards during the early months of the second Trump administration.

The draft language would also pressure accreditors to align their activities with the administration's enforcement priorities. Rather than serving as independent evaluators of educational quality, accreditors would be expected to act on allegations from the administration regarding institutions' compliance with federal law. This, too, has already occurred. Last year, ED used public letters to pressure the accreditors of Harvard University and Columbia University to take action against those institutions based on alleged noncompliance with federal civil rights law. By codifying these expectations directly into regulation, ED would intensify that pressure.

In light of these changes, it bears repeating what we've consistently said throughout this administration's multipronged attack on DEI: programs that support Black, Latino, and Native students — alongside veterans, students from rural communities, students with disabilities, and other traditionally under-represented groups — are crucial. They help identify and close equity gaps, increase graduation rates, and foster environments where all students can achieve their full potential and have a shot at the American Dream. And as students of color now comprise nearly half of all higher education enrollment, silencing their voices, erasing their histories, and dismantling programs vital to their success will only deepen racial and economic inequities, widen achievement gaps, and weaken the nation's workforce.

What Stakeholders Should Do Now

Stakeholders should begin preparing now for ED's public comment period, which will start once the proposed rule is released. The comment process will provide an important opportunity to document the likely consequences of these changes for students, institutions, and accreditors. The consensus draft, negotiators' proposals, and additional analyses are already available on ED's negotiated rulemaking page and can inform substantive feedback.

Public comments, however, are only one avenue for engagement.

Once these regulations are finalized, accreditors themselves will likely revise their standards and policies to comply. Most accreditors solicit public input during that process. Stakeholders should take advantage of those opportunities — which are separate from ED's public comment period — to advocate for policies that expand educational opportunity and promote student success, while also reminding accreditors of the independence that Congress deliberately afforded them. Accreditor autonomy was designed to protect higher education from political interference. It should be used for that purpose.

Stakeholders also cannot rely solely on accreditors. As the forthcoming regulations are set to weaken accreditors' ability to function as independent watchdogs for educational quality and consumer protection, states will face increasing pressure to fill this gap. State policymakers should strengthen their own oversight capacity and invest in the agencies and systems that support accountability across higher education. At the same time, they must resist efforts by political actors to use state power to encroach on academic freedom and institutional autonomy.

Finally, opponents of these changes cannot afford to cede the broader conversation around equity and opportunity. For years, critics have attempted to reframe "equity" and "DEI" as forms of injustice, rather than what they actually are: a commitment to the equal opportunity promised in this country's founding ideals and enshrined in constitutional amendments and civil rights law. This narrative did not emerge on its own, and it will not be corrected through silence.