



FROM: Reagan Dugan, Director of Higher Education Initiatives, Defending Education

TO: Office of Postsecondary Education, U.S. Department of Education

RE: Public Comment on Notice of Proposed Rulemaking, "Accreditation, Innovation, and Modernization: The Secretary's Recognition of Accrediting Agencies"

DOCKET NO. ED-2025-OPE-1042-0002

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Introduction

Defending Education (DE) is a national grassroots organization dedicated to securing a high-quality, value-neutral education for every American student. Our work draws on sustained research on accreditation standards and practices in higher education, including how accrediting agencies impose ideological conformity requirements on institutions and use accreditor authority to override governance structures that state legislatures have established by statute. The Secretary's regulations governing recognition of accrediting agencies, codified at 34 CFR Part 602 pursuant to 20 U.S.C. 1099b, are the primary regulatory framework through which these practices are checked. DE therefore has a direct interest in this rulemaking, informed by our ongoing research and advocacy on accreditation standards, agency oversight, and institutional governance across multiple higher-education sectors.

DE writes in support of the Department of Education's ("Department's") proposed rule under Docket ID ED-2025-OPE-1042-0002, and offers the following comments to help ensure the accreditation recognition framework operates as effectively as the AIM Committee negotiators intended as it moves toward implementation. Below, we highlight several provisions of the proposed rule that DE views as particularly important improvements to the current recognition framework, along with supporting evidence from our own research.

I. Faculty Academic Freedom and Viewpoint Neutrality (§ 602.17(a)(2)(iii), (vii))

DE supports the requirement that accrediting agencies evaluate whether institutions maintain "academic freedom protections that are clearly articulated and applied consistently to faculty regardless of appointment classification, race or other immutable characteristics, viewpoint, or ideology, unless the institution has a religious mission." DE's own AccreditedED report on the Council on Social Work Education (CSWE) documents how accrediting agencies have used standards tied to ideology as a condition for accreditation. CSWE's 2022 Educational Policy and Accreditation Standards require that "faculty and administrators model anti-racist and anti-oppressive practice and respect for diversity and difference," a mandate that appears alongside similar language woven throughout the accreditor's required competencies for faculty conduct.¹

¹ Defending Education, "AccreditedED: Social Work Programs Steeped in Anti-Racism, DEI, Critical Race Theory, Privilege and Anti-Oppressive Practices," December 8, 2025, <https://defendinged.org/investigations/accredited-social-worker-programs-steeped-in-anti-racism-dei-critical-race-theory-privilege-and-anti-oppressive-practices/>.

II. Intellectual Diversity Requirement (§ 602.17(a)(2)(viii))

DE supports the proposed rule that rightly requires accrediting agencies to evaluate whether an institution maintains “a policy that is designed to support, promote, and appropriately prioritize intellectual diversity and the free exchange of ideas amongst faculty.” DE’s AccreditedED report on the American Bar Association (ABA) documents that ABA Standard 303(c) mandates that all law students receive instruction “on bias, cross-cultural competency, and racism” at both the beginning and end of their program.² Schools have had discretion previously only over the delivery method, not the content or ideological framework. This has served to make a particular viewpoint a mandatory condition of accreditation. The proposed rule closes that gap.

III. Bans on Race-Based Accreditation Standards (§ 602.17(g); § 602.23(h))

DE supports both of these provisions, which bar accrediting agencies from maintaining standards that “encourage, direct, or otherwise require institutions or programs to violate Federal or State law, including by having policies that provide any preferences based on race,” and from requiring institutions to provide “unlawful preferences to students, faculty, staff, contractors, or any employees based upon... race, color, national origin, or sex.” Such standards were previously standard fare for certain accrediting agencies. DE’s AccreditedED report on the ABA, for example, indicates that ABA Standard 206 required accredited law schools to “demonstrate by concrete action a commitment to diversity and inclusion,” including maintaining a student body, faculty, and staff that are “diverse with respect to gender, race, and ethnicity.”³ This standard was only recently suspended after sustained pushback from within and without the legal community. This Department’s proposed rule would ensure accrediting agencies cannot institute similar provisions in the future.

Conclusion

Defending Education supports this rule in full and respectfully requests that the Department proceed to finalize it as proposed.

Respectfully submitted,

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Defending Education

² Defending Education, “AccreditedED: American Bar Association,” April 16, 2026, <https://defendinged.org/investigations/accredited-american-bar-association/>.

³ *Ibid.*