

**Docket Number: ED-2018-OPE-0076**

The American Association of Community Colleges (AACC) is pleased to submit comments on the U.S. Department of Education's (ED) negotiated rulemaking agenda as announced in the July 31, 2018, *Federal Register*. These comments serve as a follow-up to David Baime's presentation at the Washington, DC, public hearings on September 6, 2018. AACC represents the nation's more than 1,100 community colleges.

This specific regulatory review is overdue and we commend ED for undertaking it. The broad legislative and regulatory authority governing the Higher Education Act (HEA) clearly has not kept pace with the changes and innovations in higher education since the law's last reauthorization in 2008. While there are limits to what can be accomplished solely through regulation, given that the HEA will likely not be reauthorized for a number of months at minimum, the current effort is appropriate. Hopefully, concrete progress will be achieved in fashioning improved regulations on this ambitious array of topics within the relatively limited amount of time for negotiations.

These comments do not cover all of the proposed topics, but rather those that are particularly relevant to community colleges and their students.

**Accreditation**

The July 31 negotiated rulemaking announcement emphasized accreditation, and rightly so. Accreditation plays an irreplaceable role in ensuring quality in higher education, both for campuses as well as the federal government. The importance of the role of accreditation in the Title IV "triad" has even grown over time, due in part to the heightened public expectations of institutions, as well as ongoing changes in higher education. Accreditation is the best way of guaranteeing that these changes are consistent with public goals and merit public support.

Therefore, the federal government's primary focus in recognizing accrediting agencies, and the attendant regulatory structure, should remain holding accrediting agencies accountable for ensuring academic quality. This ultimately comes down to concentrating on student learning and achievement, consistent with the institution's mission.

The accreditation process is governed by strict procedures, and federal oversight of agencies will inevitably be procedurally intensive as well. That said, far too much of the agencies' daily operations have been undertaken in response to federal requirements, rather than the colleges' activities. A thorough review of the relationship between accreditors and the government is healthy and should prioritize allowing accreditors to do what they do best: ensuring that institutions are in a constant state of improvement, resolutely focused on student learning.

Community college officials continue to express the view that ED's oversight of accreditors should better accommodate educational innovation, by giving them some greater latitude to accommodate new approaches in instruction and program delivery. In turn, this also means that accreditors have a responsibility to demonstrate that students are not only receiving a quality education, but that it is delivered at a fair price. The latter is important because the reality is that many of the yardsticks used to



account for institutional expenditures are being jettisoned. This moves accreditors into somewhat of a new role, but, given the resources at stake, on balance, it is necessary.

One specific concern of community colleges is the sub-regulatory guidance on “substantive change.” This has proven to be problematic for colleges and needs to be loosened, as changes that are essentially *pro forma* in nature are delayed for months because of this requirement.

It also is important that the “rule of construction” in Section 496(p) of the HEA be adhered to strictly. This provision safeguards that the standards by which colleges will be judged are generated through mutual interaction between colleges and accreditors, rather than by federally (i.e., externally) imposed standards.

Also, accreditors should be able to employ the terms and definitions that are most appropriate to their own organizational conventions. This standardization of terminology was imposed by the last administration and should be eliminated.

#### **Distance/Online Education**

Online learning continues to be refined and expanded at community colleges. Virtually all institutions offer online education of one sort or another, and many do it extensively, particularly given their service to older students. The HEA’s current statutory language requiring “regular and substantive interaction” between faculty and students is somewhat outdated, but remains the law. Greater clarification from ED of how this standard is to be applied on campuses would be of benefit. In addition, we do not think that this standard should be applied outside of the online education context, as is now being done.

#### **Competency-Based Education**

The use of competency-based education (CBE) continues to expand quickly on community college campuses. Unfortunately, because CBE has taken so many forms, it is broadly misunderstood by policymakers and the public. With the increasing adoption of CBE, the federal government needs to ensure both that regulations do not slow down its adoption, and that course charges are commensurate with the educational services delivered. In other words, along with incredible potential to serve students and other stakeholders extremely well, CBE also presents a potential for abuse. Accreditors necessarily will have a key responsibility in this area.

#### **Credit Hour**

The credit hour regulation has provoked a great deal of debate. ED’s regulation must balance the need for institutions to determine the amount of student learning that has taken place with the need for accountability in the expenditure of student aid funds. Accreditors clearly have an essential role in ensuring that students and taxpayers receive value for money, regardless of how academics are meted out.

Again, we commend and thank the department for undertaking this effort. AACCC will be nominating participants for negotiating sessions, and looks forward to helping shape improved regulations.