UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

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SUBJECT: Changes to the Approval Process for Changing Accrediting Agencies

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Delegated to Perform the Functions and Duties of the Under Secretary and
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SUMMARY: This document provides guidance on changing accrediting agencies and supersedes GEN-22-10 and GEN-22-11.

Dear Colleague:

Currently, under section 496(h) of the Higher Education Act of 1965, as amended, (HEA) (20 U.S.C. 1099b(h)), an institution seeking to change its accrediting agency must submit all materials relating to the prior accreditation and materials demonstrating reasonable cause for changing the accrediting agency to the Secretary. The Department has implemented this statutory requirement via 34 CFR § 600.11, which requires an institution to provide all materials related to its prior accreditation or preaccreditation and materials demonstrating reasonable cause for changing its accrediting agency (or having multiple accrediting agencies), so that the Department can provide approval of the switching or adding of the accrediting agencies. The law and regulation do not dictate a robust or onerous process for receiving the Department's approval for a change in accrediting agencies or maintaining multiple accreditation. Therefore, consistent with statutory and regulatory obligations, the Department will conduct expeditious review of applications received except in rare cases where an institution lacks a reasonable cause for making a change.

Additionally, neither the law nor the regulation disincentivizes or prohibits an institution from changing an accrediting agency or choosing to have multiple accrediting agencies. Department guidance should therefore allow institutions the freedom to develop unique partnerships with accrediting agencies. This includes any decision to change an accrediting agency because of an institution's religious mission, shift in academic program offerings, compliance with a state law, desire to set stronger academic standards, or any other justifiable desire of the institution. Institutions have discretion to choose an accrediting agency, and the agency has the sole discretion whether to grant accreditation. The Department's lone interest in this matter relates to ensuring the institution is not switching accrediting agencies as a means of avoiding adherence to the Department's laws and regulations.

Accordingly, this announcement restates the basic obligations under 34 CFR § 600.11 for an institution to receive approval and clarifies where the Department does not have the authority to

withhold an approval. As such, this guidance supersedes earlier guidance provided on this subject in GEN-22-10 and GEN-22-11.

As soon as possible when an institution begins the process of obtaining a new accrediting agency an institution should notify the Department in writing of its intent to change its primary accrediting agency or to add a new accrediting agency. Institutions should submit this Reasonable Cause Request Certification to the Department which will serve as documentation of its prior accreditation, and materials demonstrating reasonable cause for changing or adding an accrediting agency to comply with 34 CFR § 600.11(a) or (b). The Department will find the cause to be reasonable and approve a change in accrediting agency, or adding an accrediting agency, if an institution submits all materials related to its prior accreditation or preaccreditation, as required by 34 CFR § 600.11(a)(1) and 34 CFR § 600.11(b), and it does not fall under the prohibitions in 34 CFR § 600.11(a)(1)(ii) or 34 CFR § 600.11(b)(2)(i). Accordingly, the Department will determine an institution's cause not to be reasonable if the institution:

- Has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months, unless such withdrawal, revocation, or termination has been rescinded by the same accrediting agency.
- Has been subject to a probation or equivalent, show cause order, or suspension order during the preceding 24 months.

Notwithstanding the foregoing, under 34 CFR § 600.11(a)(2), the Department may determine the institution's cause for changing its accrediting agency to be reasonable if the prior agency did not provide the institution its due process rights as defined in 34 CFR § 602.25, the agency applied its standards and criteria inconsistently, or if the adverse action, probation, show cause, or suspension order was the result of an agency's failure to respect an institution's stated mission, including its religious mission. In addition, under 34 C.F.R. § 600.11(b)(2)(ii), even if the institution is or has been subject to one of the negative actions described in (b)(2)(i), the Department may determine the institution's cause for seeking multiple accreditation or preaccreditation to be reasonable if the institution's primary interest in seeking multiple accreditation is based on that agency's geographic area, program-area focus, or mission.

Since the July 1, 2020, implementation of the Trump administration regulatory changes, which received consensus from negotiators, nationally recognized accrediting agencies can choose to conduct accrediting activities across the United States and institutions are free to select an agency whose geographic scope previously did not include the State in which the institution is located (see 34 CFR 602.11). State legislatures have taken action to ensure accrediting agencies do not place undue influence over institutions and that public institutions are free to seek a new accrediting agency (see recent changes to Florida law and North Carolina law).

State legislatures and governors have legitimate authority to manage their public institutions and under the Department of Education Organization Act, the Department has no power to interfere with that authority reserved to the States under 34 CFR 602.11 (see 20 USC 3403(a)). Because of this, if the institution otherwise meets the requirements set out in law and regulation, in these cases the Department will determine that an institution has reasonable cause and therefore

approve a change in accrediting agency for institutions that are required to do so based on State action. The HEA established the program integrity triad, balancing authority with regard to eligibility for Title IV funding across each member of the triad: States, accrediting agencies, and the Department. Congress has directed the Department to review and recognize accrediting agencies, but those agencies have the role of accrediting institutions and/or programs. The Department has no authority to substantively intervene in the decision of an institution or program to select a particular accrediting agency (or to intervene with a State to direct its public institutions to seek a new accrediting agency). The Department has the obligation to ensure accrediting agencies hold institutions accountable in accordance with the requirements of the HEA, but it may not invent new authorities for itself beyond this.

The Department also recognizes the significance of voluntary membership in accrediting agencies as required under 34 CFR § 602.14(a) but does not believe that an institution's change in accrediting agency due to State law compliance constitutes an involuntary membership. In fact, because accrediting agencies are no longer bound by regions in regulation, institutions have more options to choose from in seeking voluntary membership with accrediting agencies across the country.

In all cases, it is incumbent on the institution to provide accurate documentation and materials to demonstrate the reasonableness of the change or multiple accreditation. If the Department does not approve a change in accrediting agency within 30 days of the date of its receipt of a complete notice of this change and materials demonstrating reasonable cause, approval will be deemed to have been granted, unless the change or multiple accreditation is prohibited as described above.

Again, the law and regulation describe the requirements regarding what constitutes reasonable cause for changing an accrediting agency. It is not the Department's prerogative to infer any other meanings from the basic requirements or contrive a multi-step investigation. This guidance re-establishes a simple process that will remove unnecessary requirements and barriers to institutional innovation.

Other than existing statutory and regulatory requirements stated in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Sincerely,

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Delegated to Perform the Functions and Duties of the Under Secretary and
the Assistant Secretary for Postsecondary Education