



Policy on Contractual Arrangements Involving Courses and Programs

Preamble

This policy speaks to matters that govern institutions engaged in or planning to engage in contractual arrangements either to receive or to deliver credit-bearing courses and programs.

This document addresses a wide range of contractual arrangements through which an accredited institution might share in the development and delivery of courses/programs, might purchase or use courses/programs developed by accredited or non-accredited entities, and/or might contract to provide its courses/programs through an international entity.

This policy, outlining good practices in contractual arrangements involving courses and programs, is based on the following basic assumptions:

1. An accredited institution is responsible for any activities conducted in its name.
2. Unless exceptions are stated explicitly, these Good Practices supplement but do not supplant the accrediting commission's stated criteria, standards, and requirements for accreditation.
3. The accredited institution bears the responsibility to assure that a non-accredited party to the contract does not claim for itself or infer any accredited status other than that held by the accredited institution.
4. In implementing any contractual relationship, the accredited institution complies with the accrediting commission's policies on substantive institutional change.

Contractual Arrangements for Academic Services with Non-accredited Partners

When an institution seeks to outsource academic program components to an institution or organization not eligible to participate in Title IV financial aid programs (e.g., an entity not accredited by an agency recognized by the U.S. Department of Education), the institution must enter into a written agreement with the contractual partner and determine the percentage of the educational program services that will be provided by the institution and those that will be provided by the contractual partner. These services include, but are not limited to, activities such as instruction; oversight of instruction, including establishing academic qualifications for instructional personnel; curriculum design and development, including final authority for curriculum; establishment of academic requirements; assessment of student learning and outcomes; and program administration.

(For further guidance, see the Department's Written Arrangements Between Title IV-Eligible Institutions and Ineligible Third-Party Entities Providing a Portion of an Academic Program: <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2022-06-16/written-arrangements-between-title-iv-eligible-institutions-and-ineligible-third-party-entities-providing-portion-academic-program>)

Depending on the percentage of the program determined to be provided by the non-accredited contractual partner, the institution is required to:

- **If 25% or less will be provided by the contractual partner:** Provide notification to the Commission within 30 days of entering the agreement.
 - NOTE: If an institution (1) is on probation or equivalent status, (2) has been subject to negative action by the Commission over the prior three academic years, or (3) is under a provisional certification, the institution must receive prior approval before entering into any written arrangement under which an institution or organization not certified to participate in Title IV financial aid programs offers any of one or more of the accredited institution's educational programs.
- **If greater than 25% but less than 50% of the program will be provided by the contractual partner:** Submit a substantive change proposal requiring Commission approval.
- **If 50% or greater of the program will be provided by the contractual partner:** Per federal regulations, educational programs are not eligible for Title IV, even if approved by the Commission, if they are provided through contractual arrangements wherein 50% or more of the educational program is being provided by the non-Title IV entity.

Good Practices in Contractual Arrangements

1. *Good Practices in Writing the Contract.*

- 1.a. The contract is executed by the duly designated officers of the contracting parties, each legally qualified to commit the contracting entity to a binding contract.
- 1.b. The contract clearly establishes
 - the nature of the services to be performed by each party
 - the period of the agreement
 - the conditions under which the contract will be reviewed
 - the conditions under which the contract can be renewed
 - the conditions under which the contract can be terminated, including appropriate protection for enrolled students in such situations
 - the venue(s) for addressing perceived breaches of the contract

- the entity students can hold legally liable for failure to deliver what is promised
- 1.c. The contract clearly states financial arrangements
- that reflect appropriate distribution of income for the services provided by each of the parties
 - that assure each entity's capacity to give a full, accurate accounting for all revenue and expenditures involved in the contractual relationship
 - that meet all legal requirements for federal and state student aid programs that might be used by students or the accredited contracting entities
- 1.d. The contract explicitly defines
- the educational courses/program(s) included in the contract
 - how the faculties of accredited entities will periodically review the courses and programs
 - how student support services necessary to the courses/program(s) will be delivered
 - how student access to the learning resources requisite for the course/program(s) will be assured
- 1.e. The contract is
- filed with the Commission for approval as required by Commission policy and/or federal or state regulations
 - available on request by the Commission and its teams
2. ***Contractual arrangements for provision of courses/programs by organizations not accredited by an agency recognized by the U.S. Department of Education***
- 2.a. The contract follows the good practices outlined above.
- 2.b. The courses/programs are consistent with the accredited institution's stated educational mission and purposes.
- 2.c. The accredited institution has faculty whose credentials meet requirements of the accrediting commission and who are qualified by experience and/or training to review the content of the courses/programs.
- 2.d. The accredited institution follows all of procedures established by its governance and its accrediting commissions for approval of the courses/programs.
- 2.e. The accredited institution not only has the contractual obligation for but also has the capacity to and maintains control over:

- advertising and recruitment,
- admissions,
- appointment of faculty,
- content and rigor of courses/program(s),
- evaluation of student work,
- award of credits/certificates/degrees.

3. ***Additional contractual good practices for provision of courses/programs through international entities.***

- 3.a. The contract follows the good practices outlined above.
- 3.b. The contract is in English and the primary language of the international contracting entity.
- 3.c. The contract specifically provides that the U.S. institution controls the international program in conformity with the Policy on Good Practice in Overseas International Education Programs for Non-U.S. Nationals and the requirements of the U.S. institution's accreditation(s).
- 3.d. The contract specifies the appropriate legal jurisdiction for redress of grievances by the contracting parties and by students, faculty, administrators, and staff.

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