Council of

Recognized Accrediting Commissions

September 18, 2026

Nicholas Kent
Under Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

RE: Docket ID: ID ED-2025-OPE-1042

Dear Under Secretary Kent:

The Council of Recognized Accrediting Commissions (C-RAC) appreciates the opportunity to provide comments in response to the Department of Education's (the Department's or ED's) Notice of Proposed Rulemaking (the NPRM or proposed rule), published on August 20, 2026, following the Accreditation, Innovation, and Modernization (AIM) negotiated rulemaking committee.

C-RAC represents five federally recognized institutional accrediting commissions that are responsible for accrediting over 2,000 postsecondary, degree-granting colleges and universities across the United States. C-RAC's members are the Accrediting Commission for Community and Junior Colleges (ACCJC), Higher Learning Commission (HLC), New England Commission of Higher Education (NECHE), The Commission on Colleges and Universities, and WASC Senior College and University Commission (WSCUC).

C-RAC supports ED's broader goal to update and modernize America's postsecondary quality assurance system through changes to current regulations as reflected in the proposed rule. C-RAC is particularly supportive of those provisions which C-RAC believes would provide additional flexibility and remove burdensome requirements for accreditors and institutions, such as those related to substantive change. C-RAC also supports efforts to better meet the needs of students, including: providing better protection in cases of institutional closures; enabling students to have more opportunities to transfer their credits from one institution to another and benefit from prior learning experience; and ensuring students and the public have more information regarding the quality and performance of institutions.

C-RAC is also pleased the proposed rule reflects the consensus agreement reached as part of negotiated rulemaking in which C-RAC participated. However, in several cases, the language in the preamble of the proposed rule is at odds with the regulatory language. C-RAC highlights those specific sections below as well as other areas in which we believe the final rule would benefit from further clarification.

§ 602.3 What definitions apply to this part?

The proposed rule amends the definition of "accrediting agency" to no longer require only the use of peer review to conduct accrediting activities. While C-RAC does not oppose this provision, C-RAC does believe that peer review is a crucial and defining aspect of accreditation. Through peer review, knowledgeable volunteers with significant expertise representing higher education and the public provide a comprehensive review of institutions to help drive institutional quality for students. C-RAC appreciates the further clarification of language in the proposed rule which states "the exclusion of the word "peer" does not preclude an agency from using peer review where it sees fit."

§ 602.13 Previously reserved section number. Under the regulation "Effect of recognition."

The proposed rule adds new provisions stating that an agency's recognition does not "confer immunity or any relief from Federal or State antitrust laws;" or "authorize collective action among accrediting agencies, institutions or programs that would otherwise be subject to oversight under Federal or State law." In the proposed rule, ED notes, "[w]hile the Department seeks to encourage collaboration amongst accrediting agencies, institutions, and other stakeholders, agreements to take collective action can limit competition and run afoul of antitrust regulation."

C-RAC appreciates ED's intent to continue to encourage "collaboration" and notes that under proposed § 602.15(d), agencies are being directed to "cooperate with other agencies and the Department in the development of common templates and forms for institutions or programs to submit when seeking to change accrediting agencies." For sake of consistency, ED may want to add language to the proposed regulation which clarifies the ability for agencies to collaborate and cooperate in ways that do not limit competition and run afoul of antitrust regulation.

§ 602.14 Purpose and organization.

As part of the proposed rule's revised definition of "separate and independent," an authorized representative of the agency is required to submit "a signed statement certifying that it has met the requirements to be "separate and independent" within each petition for recognition submitted to the Department, and includes in that statement information regarding any complaints received during the current recognition period that are material."

C-RAC believes the requirement for a signed statement makes it all the more important to clarify what is meant by "any complaints received during the current recognition period that are material." Given the placement in this section, is the intent that such complaints are just those "material" to "separate and independent" requirements? Also, what type of information does ED expect a signed statement to include with respect to such complaints?

§ 602.16 Accreditation and preaccreditation standards.

The proposed rule limits any additional accreditation standards established by agencies, to be those which are "lawful." C-RAC would like to assure the Department that no member of C-RAC has standards which would require an institution to violate Federal or State law. The proposed regulation also limits additional standards to those which are "consistent with ensuring institutional or programmatic quality and integrity as it deems appropriate." This is a reasonable expectation and consistent with current practice on the part of C-RAC members, each of whom will continue to determine which standards they believe are appropriate.

§ 602.17 Application of Standards in reaching accreditation decisions.

602.17(a)(2)(iii) Academic Freedom

With respect to provisions related to academic freedom, the NPRM creates confusion as to what role accreditors play versus institutions. Specifically, the preamble of the proposed rule states the "*accrediting agency* would be required to maintain academic freedom protections that are clearly articulated and applied…" This is contrary to the proposed regulatory language which states "[w]hen applying its standards …on faculty, evaluates whether an *institution* maintains.…academic freedom protections that are clearly articulated and applied consistently to faculty…" The proposed regulatory language is very clear, and C-RAC believes it is important for the final rule to be equally clear in this regard.

A similar discrepancy between the proposed regulatory text and preamble exists in the NPRM with respect to standards related to intellectual diversity and research misconduct. Again, the proposed regulatory language is clear and should be reflected in the final rule.

602.17(a)(3) Cost/Benefit Analysis

The proposed rule reflects language agreed upon during negotiated rulemaking related to undertaking cost/benefit analysis of expenditures for facilities, equipment and supplies as well as student support services. During the negotiated rulemaking process, ED representatives suggested that an institution would be expected to conduct the cost/benefit analysis, and agencies would not be required to "second-guess" this analysis.

Under the "affordability and innovation section" of the proposed rule, ED also implies *institutions* would be responsible for the cost/benefit analysis and notes "if some *institutions* prove to be incapable of conducting credible cost/benefit analyses, the number of accredited institutions could fall…"

However, the proposed regulatory language (below) is not clear, as the lead-in to clause (i) does not specifically identify who is to undertake the analysis:

> "(a) The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if it demonstrates that when reviewing institutions in accordance with the standards the agency establishes under § 602.16, it—
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> …(3) When applying its standards according to § 602.16(a)(1)(iv) and (vi):
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> …(i) A cost/benefit analysis, which means a review by the agency of the institution's budget, resource utilization and allocation, and, if existing, its business/strategic plan, continuous improvement strategic plan, and review of whether the institution considers whether the expected benefits of the institution's activities justify the associated financial, administrative, and opportunity costs and the impact of capital expenditures on future operating expenses;"

In other sections of the proposed rule, ED states it is the responsibility of accreditors to do the analysis. Most notably, under section VIII, Regulatory Impact Analysis, ED notes "[a]n agency would now be required to perform a cost-benefit analysis for each institution it accredits. There are about 50 accreditors and 5,001 Title IV postsecondary institutions. We estimate each cost benefit analysis would take an average of 150 hours. This results in 750,150 additional burden hours."

The final rule should clarify that institutions, not accreditors, are expected to conduct cost/benefit analyses per the intent of the provisions described by ED during negotiated rulemaking.

Also within this section, ED states the reason for the cost/benefit analysis is "to review and ensure institutions have sufficient flexibility in instructional staffing policies and policies regarding integrity of scholarly activity." In the proposed rule, ED also notes:

> "The addition of this language is intended to provide relief for students and taxpayers who have suffered increased debt burdens through costly standards of accreditation, whether that be decreasing the number of students allowed in a classroom at once, requiring increased student to teacher ratios where not necessarily required, or decreasing the number of courses a professor is required to teach, thereby adding additional hiring costs.
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> These regulations would allow greater institutional flexibility to control costs and to make cost efficiency a factor that accrediting agencies consider when evaluating whether to implement certain standards, and in evaluating whether changes made by a recognized program or institution are justifiably necessary to the quality of the program at the cost proposed.
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> The intent is not to require burdensome analyses for every expenditure, but to encourage prudent, evidence-based decision-making."

C-RAC believes these descriptions create uncertainty and confusion with respect to ED's expectations of accreditors and institutions as the proposed regulatory language relates only to cost/benefit of facilities, equipment and supplies as well as student support services. None of these areas are reflected in ED's comments in the proposed rule.

§ 602.22 Substantive changes and other reporting requirements

The proposed rule strikes "high-impact, high-risk" from the definition of substantive change and amends the current regulatory list of substantive changes that require accreditor approval. C-RAC has long advocated for reducing unnecessary and burdensome requirements and strongly supports these changes to the regulations, which would further benefit from ED clarifying the ability of accreditors to define substantive changes beyond the proposed list.

§ 602.23 Operating procedures all agencies must have.

§ 602.23(j) Governance

The proposed rule states that agencies **"**must refrain 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."

However, in the NPRM, ED describes the reason for this language as follows:

> "We propose § 602.23(j) to direct accrediting agencies to refrain from interfering with institutional governance decisions that fall within the rightful purview of State

governments, boards of trustees, or similar governing bodies, limiting their role to advisory purposes only."

It is not clear what ED means regarding "limiting their role to advisory purposes only." C-RAC would ask that ED clarify this point in the final rule.

§ 602.24 Additional procedures certain institutional agencies must have.

§ 602.24(c) Teach-out

The proposed rule expands the instances in which a teach-out agreement (versus a plan) is required. Such agreements are already an important tool used by our agencies to protect students in cases where an institution is clearly struggling. C-RAC members appreciate the Department's strengthening of the teach-out provisions and will move swiftly to align our respective policies.

Again, thank you for the opportunity to submit these comments, and please know that once finalized, C-RAC is committed to working with the Department, states, and institutions in implementing these regulations in ways that limit burden while maximizing benefit to students.

Please contact the Chair of C-RAC, Dr. Mac Powell, by phone at (425) 892-0214 or by email at mac@accjc.org if C-RAC can provide additional information or lend our expertise.

Sincerely,

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