September 20, 2026

**<u>Via: www.regulations.gov</u>**

U.S. Department of Education
Office of Postsecondary Education
400 Maryland Avenue SW, 5th Floor
Washington, DC 20202

**RE: Docket ED-2025-OPE-1042; Notice of Proposed Rulemaking – Accreditation, Innovation, and Modernization**

These comments are submitted by the American Veterinary Medical Association (AVMA) in response to the U. S. Department of Education's ("ED" or the "Department") Notice of Proposed Rulemaking concerning recognition of accrediting agencies.[1] Founded in 1863, the AVMA is the national professional association for veterinarians with more than 111,000 veterinarian members. Although veterinary medicine is a relatively small profession, it has a disproportionately large – and positive – impact on society. Veterinarians improve the lives of animals, our clients, and the public, by caring for pets, horses, and food animals, and filling vital roles in public health, food safety, research and the military.

The AVMA has a long-standing commitment to veterinary medical education and accreditation, dating to 1906, with the formal establishment of the AVMA Council on Education (COE) in 1946. The COE has been recognized by the Department since 1952 as a programmatic accrediting body for veterinary medical education leading to the professional veterinary degree.

Today, accreditation remains a cornerstone of the AVMA's mission. Through the COE the AVMA aims to advance veterinary medicine through strong colleges/schools of veterinary medicine, high-quality educational programs, and the preparation of graduates who are equipped to serve patients, clients, communities, and society. Promoting minimum standards in veterinary medicine education is a service to the profession that is inextricable with serving the public; veterinary medical careers depend on trust, credibility, and competent patient care.

The quality of a veterinary education derived from AVMA COE accreditation is recognized across the United States. Forty-six states and the District of Columbia

[1] The AVMA Council on Education may submit separate comments from its perspective as an ED recognized programmatic accrediting agency.

specifically require graduation from an AVMA-accredited veterinary school in statute or regulation as part of the prerequisites for the primary pathway to veterinary licensure. Of these, 26 states reference AVMA accreditation in their statutory definition of an approved or recognized veterinary school or college within their veterinary practice acts, while 20 states and the District of Columbia reference AVMA accreditation in relation to education standards elsewhere in statute or in regulation. Regulatory changes affecting the identity or recognition of the accreditor therefore have potential consequences well beyond accreditation itself, including for graduates' eligibility for licensure and states' ability to administer their existing veterinary practice laws.

The AVMA also serves as an umbrella organization for autonomous commissions or councils composed of volunteers that operate under established policies and procedures and exercise independent decision-making authority. These bodies are responsible for certification of foreign veterinary medical school graduates, recognition of veterinary specialty organizations that establish specialty credentials, and accreditation of veterinary technology programs.

The AVMA agrees with aspects of the proposed rulemaking to update accreditation, including greater emphasis on student outcomes, allowing for innovation in education, and seeking to lessen the cost of the degree. Further, the AVMA COE has maintained complete decision and policy autonomy with respect to the AVMA, thus allowing our profession to have a long-standing history of independent accreditation services and decisions. All of these are key aspects of professional education accreditation, which ultimately serves to protect the public by ensuring the graduation of competent, day-one-ready practitioners.

We do view the proposed amendment to the definition of “separate and independent” in § 602.14 as problematic because it could directly and adversely affect both students and the public. For students, the proposed change could increase the cost of veterinary education and create uncertainty regarding access to federal educational loan programs. For the public, it could jeopardize graduates’ eligibility for professional licensure and, in turn, reduce access to veterinary care.

If the proposed rules regarding “separate and independent” are finalized in substantially their current form and, among other changes, require an existing recognized programmatic accreditor affiliated with a professional association to transition to a different organizational structure, the Department must provide a clear, orderly process of sufficient length for that transition. An abrupt or poorly structured transition may jeopardize graduates’ eligibility for licensure; disrupt access to federal educational loan programs that assist healthcare education, create uncertainty for currently accredited veterinary programs; and delay accreditation and increase costs for programs already in the accreditation pipeline. A sufficient transition period is especially important because many states will require time to amend statutes and regulations that condition professional licensure on graduation from a program accredited by the currently recognized programmatic accreditor. The Department likewise will need sufficient time to review any newly established programmatic accrediting bodies created or restructured in response to the final rule and to ensure continuity of recognition throughout the transition.

These concerns about the proposed rule are not simply administrative. Accreditation is directly linked to educational quality, professional licensure, student financing, and public confidence in the qualifications of veterinary graduates. And these proposed changes will impact other healthcare professions beyond veterinary medicine. The practice acts and licensing regulations for multiple healthcare professions tie the ability to obtain licensure to graduation from a program accredited by a specified programmatic accreditor. These concerns will be multiplied across these healthcare professions and perhaps other professions as well. More than half of the 29 programmatic accrediting agencies currently recognized by ED are part of, or have substantial ties to, a related professional or trade association.

If a transition is required, it must preserve continuity, while necessary organizational, legal, regulatory, and operational changes are implemented. Therefore, we highlight the essential aspects of a transition here, with a more detailed discussion that follows.

At a minimum, the Department's transition should include the following to avoid significant disruption:

1. **MULTI-YEAR TRANSITION.** A multi-year transition period, operating under a framework developed by the Department that allows the orderly transition of an existing programmatic accrediting agency associated with a professional association to a new legal entity established for the purpose of continuing programmatic accreditation in the new environment;

2. **SHARED RESOURCES TRANSITION.** A reasonable period during which the accrediting agency and related professional association may continue utilizing currently permitted shared services, followed by a period where the accrediting agency pays fair market value for services, and then moves to operating in the new environment.

3. **TEMPORARY CONCURRENT RECOGNITION.** A period of concurrent recognition for both the currently recognized programmatic accreditor related to a professional association and a newly established programmatic accreditor set up for the purpose of transitioning accreditation to operation under the new rules. During this period, the Department should be authorized to provide immediate temporary reciprocal recognition to a programmatic accrediting body that is established for the purpose of "spinning off" the accreditation function from a related professional association with the same accreditation recognition status that was held by the related professional association.

4. **CONTINUITY OF RECOGNITION.** A defined, multi-year period beginning on the effective date of the final rule during which a successor entity may recognize, on a "grandfathered" basis, programs accredited by the existing recognized

accreditor or already in the pre-accreditation process. During this transition period, the existing recognized accreditor may likewise recognize accreditation decisions made by the successor entity. This transition period is essential to protect currently accredited programs, avoid significant and costly delays for programs already in the accreditation pipeline, and allow states sufficient time to amend laws and regulations that require graduation from a program accredited by a specifically named programmatic accreditor.

5. **DEPARTMENT-ESTABLISHED TRANSITION FRAMEWORK.**
   The Department should develop a framework to oversee the transition from a currently recognized programmatic accrediting body associated with a professional association to a newly established programmatic accrediting body established for the purpose of operating as a programmatic accreditor in the same field.

## DETAILED COMMENTS

### I. A MULTI-YEAR TRANSITION PERIOD IS REQUIRED TO AVOID DISRUPTION TO IMPORTANT PROFESSIONS THAT SERVE SOCIETY

Assuming, for the sake of argument, that the Department has statutory authority to expand the “separate and independent” provisions, the proposed rule omits any guidance or framework for recognized agencies to adapt to these new requirements. If the proposed rules are finalized in substantially the same form relative to the “separate and independent” provisions, there is a critical need for an orderly transition, as existing programmatic accreditors establish new organizations and transfer accrediting responsibilities to the new organizations that will operate in compliance with the new environment. If the separate and independent rule is finalized in the proposed form, the AVMA will work to set up a new organization and transition its current ED-recognized programmatic accreditor activity into the new organization. The AVMA would not be the only currently recognized programmatic accreditor to undertake this activity.

As an organization that has accredited veterinary schools for 120 years, the AVMA is deeply invested in the success of veterinary education and in ensuring that students are well prepared to serve the public and care for their animals. We are concerned that, without an orderly and sufficiently long transition period, students, currently accredited programs, programs pursuing accreditation, and ultimately the public could face significant negative consequences. There must be time for state law and regulations to be amended. As noted, the AVMA is the only recognized (in statute or regulation) accreditor of veterinary schools in 46 states and the District of Columbia. In those jurisdictions, graduation from an AVMA COE-accredited veterinary school is tied to eligibility for veterinary licensure. If the AVMA’s programmatic accreditation recognition status abruptly ends without an extended, orderly transition period, veterinary graduates may not be eligible for licensure. That disruption would affect not only students and recent graduates, but also every veterinary school currently accredited by the AVMA COE. The consequences would extend to veterinary schools that are currently pursuing accreditation. An abrupt end to the AVMA COE's programmatic accreditation activities could interrupt those schools' progress and potentially require them to begin a new accreditation process with another accreditor, resulting in substantial additional costs, delays, and uncertainty for institutions and their students. Taken together, these effects could negatively impact the pipeline of veterinarians entering the veterinary workforce. Anything that unnecessarily constrains that pipeline, particularly at a time when rural and underserved communities already face challenges accessing veterinary services, would be utterly inconsistent with the Administration's efforts to expand the veterinary workforce to serve rural America and public health. *See* https://www.usda.gov/sites/default/files/documents/usda-rural-veterinary-action-plan.pdf*.*

### A. Shared Resources Transition

To enable continuity of accreditation and an orderly transition, shared resources between the current ED recognized accrediting agency and a related professional association should be permitted for a reasonable interim period. This could also include a period where the accrediting body is required to pay fair market value for the shared resources and there is no compromise of the independence and confidentiality of the accreditation process. Otherwise, there will be disruption.

For example, in accordance with current law, the AVMA absorbs approximately 40% to 50% of the AVMA COE's incurred expenses related to the accreditation of U.S. colleges of veterinary medicine. The AVMA does not fully charge the COE's budget for the substantial indirect costs for shared services that AVMA provides. The COE's budget is therefore able to significantly exclude these substantial expenses, and those savings are passed on to the programs that hold or seek accreditation from the COE. The accreditation fee each year is calculated based on the prior year's COE budgeted expenses – excluding the costs covered by AVMA – divided by the total number of programs with an assigned accreditation status.

The AVMA views supporting the COE in this way as consistent with its mission to advance the science and practice of veterinary medicine to improve animal and human health, and its vision to advance the veterinary profession in a way that meets the needs of society. Assuring quality veterinary education that serves and protects students and the public is the guiding principle of AVMA accreditation services.

The business operations of the COE are primarily supported through AVMA-provided shared services, with most of these expenses not charged to the COE's budget. Accounting and financial management for the accreditation activities are supported by the AVMA; special communications needs are supported by the

AVMA; information technology and hardware support along with website activities are supported by the AVMA; and publication needs are supported by the AVMA. The AVMA provides the COE with office space and meeting rooms; human resources services, and support for meeting logistics. This shared services model is much more efficient and less costly than if the COE were an entirely separate organization that could not utilize any of the services or other support that the AVMA provides.

Unwinding shared services may also harm employees of accrediting agencies in two ways. First, accrediting agencies that decouple from related associations are unlikely to be able to secure equal or better services (such as insurance plans and other benefits) at the same or less cost. Second, employees whose 401K plans are on a vesting schedule may not be fully vested in their retirement plans when the unwinding occurs, even though the employees would essentially be performing the same duties. Requiring these benefits to unwind by July 1, 2027, or on any schedule, would financially penalize employees through no fault of their own.

We do not believe that the AVMA is unique in this aspect. These concerns with unwinding shared services will likely be the same across many programmatic accreditors. This means that if the ability for ED recognized programmatic accreditors to have shared services agreements with related associations is abruptly ended, there will be significant disruption and negative impact for the public.

### B. Temporary Concurrent Recognition by ED With Reciprocal Accreditation Status

If the proposed change to the “separate and independent” provision is retained, it is essential that the regulation permit a period of concurrent, reciprocal accreditation with ED recognition for both the currently recognized programmatic accreditor that is related to a professional association and a new legal entity established by the related professional association for the purpose of transitioning to operate under the new rules. The proposed rules provide that while “an application for recognition can be filed without recognition of a program or institution, it will not be granted until at least one program or institution is accredited by the agency.” Moreover, only after the new, separate accrediting agency is established as a legal entity can state laws be amended to identify the new accreditor by name in practice acts and regulations, and it may take several years before all states have made that change. Some state legislatures do not convene on an annual basis.

Currently recognized programmatic accreditors associated with a professional membership association would establish new entities to operate under the new rules to carry forward the necessary accrediting activities. These new entities will need time to apply to ED for recognition. The final rules and ED transition framework should provide the ability for the currently recognized accrediting agencies, with the approval of the accredited schools, to transfer accreditation records and other materials to the new legal entity established by the related association for the purpose of continuing accreditation operations under the new rules. To do otherwise would cause unintended disruption. This is underscored by the fact that the Department does not have the capacity to review all of the new separate accrediting agencies that will be required, or to re-review changes to current programmatic accreditors if structural changes are required to be made within the same year, for all of the ED programmatic accreditation agencies that are part of the same legal entity as a related association. A multi-year phased implementation period with a "grandfathering" structure for recognized accreditors is therefore essential, as a practical matter.

In addition, the "spun-off" accreditor would be unable to keep the identical rules and standards as the current accreditor because of the need to come into compliance with the substantive changes to ED's accreditation recognition regulations if finalized in the proposed form. A transition period of dual, reciprocal accreditation by the related association and the new, spun-off entity, with both recognized by ED, would avoid the severe negative impacts of an abrupt switch.

The regulations should specifically authorize the recognition of an accreditor which is established by and organized separate from a related professional association for purposes of operating under the new rules. For a defined transition period, the new accreditor should be permitted to work in cooperation with the currently recognized accreditor, with each recognizing existing program accreditations on a reciprocal, "grandfathered" basis. This will provide for continuity until the new entity can stand up and become ED recognized and the current ED recognized accreditor can wind down. The continuity this would enable is critical not only for accredited programs but also for the pre-accreditation process. Without reciprocity, developing programs in the pipeline may not be able to finalize accreditation and would therefore face significant and costly delays.

There should also be an interim transition period in which some functions are performed by the new, separate, accrediting agency, while others (such as site visits) are still performed by the related professional association prior to a full transfer of all accreditation activities.

There is no other approach that will protect students' ability to obtain professional licensure under state law, protect programs in pre-accreditation status, provide continuity for currently accredited programs, and ensure the public is served.

### C. DEPARTMENT FRAMEWORK

Under whatever combination of regulation and guidance that is required, the Department should develop a transition framework to oversee the transition from a currently recognized programmatic accrediting body associated with a professional association to a newly established programmatic accrediting body established by the professional association for the purpose of operating as a programmatic accreditor in the same field under the new rules.

The proposed rule includes very limited provisions for transition but seems geared for rapid implementation. Unless a final rule allows for a phased, multi-year implementation period with provisions that clearly support a transition structure, the regulation will be impossible for many currently recognized accrediting agencies to meet, with significant harm to those that rely on recognized accreditors, including students, schools and the public.

Such a framework must address practical issues. An existing ED recognized programmatic accrediting agency related to a professional association cannot simply be lifted out of an association and separately incorporated as an otherwise largely unaltered new legal entity – a so-called “lift and shift” transaction – without also making changes to the structure and governing documents to meet changed regulatory provisions in a final rule. For continuity and avoiding disruption, the ED transition framework should contain provisions making it relatively easy and simple for a new entity designed to continue the operations of an existing ED-recognized programmatic accreditor to make such changes. This would allow a more rapid standup of a new accrediting agency that provided needed continuity.

The AVMA and other recognized programmatic accreditors associated with professional associations operate to ensure quality education for their respective professions to meet societal needs. If obligated to transition under a new set of rules, we will operate with the intention of doing so in a manner that best serves the public, students and their education, as well as the schools. The Department should work with the AVMA, and other professional association-related accreditors, to support any necessary transitions in a manner that avoids societal disruption, protects students and schools. Such a transition framework will ensure that the Department is in control of the process, while avoiding easily foreseeable unintended adverse consequences.

## II. THE PROPOSED NEW “SEPARATE AND INDEPENDENT” REQUIREMENT IS CONTRARY TO THE HEA, UNNECESSARY, AND UNWORKABLE

In the materials above, the AVMA offers an approach for making the proposed rules for the separate and independent requirements workable in a transitionary environment if they are finalized as proposed. However, the AVMA does not believe the new “separate and independent” proposed rules are consistent with the Higher Education Act and are unnecessary and unworkable as proposed.

The AVMA COE’s recognition is under 34 CFR § 602.14(a)(3) (“An accrediting agency that— (i) Has a voluntary membership; and (ii) Has as its principal purpose the accrediting of institutions of higher education or programs, and the accreditation it offers is used to provide a link to non–HEA Federal programs in accordance with § 602.10.”).

The AVMA's recognition as an accreditor arises from a category that, both by statute and current regulation, does not include "separate and independent" requirements. 20 USC § 1099b(a)(2)(A)(ii); 34 CFR § 602.14(a)(3).

The Preamble to the proposed rule explains that the Department proposes to "apply the 'separate and independent' requirements contained in Section 496(b) of the HEA in the same manner across all agencies," as "[t]his separation is critical to ensuring the independence of accrediting bodies, ensuring that the priorities of such organizations focus primarily on students and educational outcomes, rather than the interests of a relevant trade association." However, Congress considered in the HEA which categories of accreditors should have "separate and independent" requirements, and which should not. The Department lacks authority to override Congress's statutory judgment, and by changing these classifications by regulation to now impose a "separate and independent" provision on accreditors such as the AVMA that qualify for recognition without that statutory condition.

Even for the categories of accrediting agencies for which the statute imposes a "separate and independent" requirement, the statute defines separate and independent so as not to prohibit shared services or other operational connections, so long as (1) the members of the accreditor are not chosen by the related association's Board or CEO,; (2) at least one-seventh of accreditor members are public members, with guidelines to avoid conflicts of interest; (3) dues to the accreditor are paid separately from dues to the related association; and (4) the budget of the accreditor is determined by the accreditor without consultation with or review by any other entity. 20 USC § 1099b(b).

The current regulation, at 34 CFR § 602.14(b), largely mirrors the statutory definition and provides a reasonable standard in § 602.14(c) for "separate and independent":

> The Secretary considers that any joint use of personnel, services, equipment, or facilities by an agency and a related, associated, or affiliated trade association or membership organization does not violate the 'separate and independent' requirements in paragraph (b) of this section if—
>
> (1) The agency pays the fair market value for its proportionate share of the joint use; and
>
> (2) The joint use does not compromise the independence and confidentiality of the accreditation process.

The proposed rule eliminates that standard entirely. Instead, for all recognized accreditors, it rescinds the acceptable joint use provision in paragraph (c) and adds a new element of the definition in proposed § 602.14(b)(3): "the agency has established and implemented mandatory conflict of interest controls for each member of the decision -making body in accordance with § 602.15(e)." The cited "controls" would require that "The agency has clear and effective controls, including guidelines, to— …(4) Disallow shared resources, such as personnel, services, equipment, facilities, or information technology, nor have office space in the same building as any related, associated, or affiliated trade association or professional organization."

The Preamble to the proposed rule acknowledges that negotiators who developed the proposed rule "were concerned that accrediting agencies that share joint use or personnel services, equipment, or facilities with a related, associated, or affiliated trade association would be penalized, even if there was no interaction between the two bodies," but that the "Department reiterated its position that, at minimum, accrediting agencies must avoid conflicts of interest by having separate personnel services, equipment, or facilities with a related, associated or affiliated trade association."

There is no explanation, however, of why the Department's longstanding acceptance of a fair market value arrangement for joint use that "does not compromise the independence and confidentiality of the accreditation process" is no longer a viable standard. If "the independence and confidentiality of the accreditation process" are maintained, this new strict firewall requirement is unnecessary. Besides, under the current process, programmatic accreditors are regularly scrutinized by NACIQI through the recognition process to ensure that any such arrangements do not impact accreditation decisions.

The AVMA COE sets standards and makes accreditation decisions independently from the AVMA. Per the AVMA's Bylaws, the COE has "autonomous authority to evaluate schools and colleges offering a professional degree in veterinary medicine, according to established standards; make accreditation decisions; and assign a classification of accreditation to each such school or college." The AVMA scrupulously respects the autonomy of the COE in establishing accreditation standards and making accreditation decisions, and AVMA does not interfere with, seek to influence, or consult about accreditation matters. The only information the AVMA Board has about accreditation decisions is information that is publicly available. The sole role of AVMA under the COE's Rules of Practice and Procedure is for the AVMA Board to receive notice of any appeal by a CVM of an adverse accreditation decision of the COE and for the AVMA Board to appoint the members of an appeal hearing panel, comprised entirely of former COE members, to review such appeal.

The proposed changes would also create an unworkable new standard to implement in any near-term framework. It would create substantial adverse impacts, given the reliance on interests of the recognized accreditors and to their many stakeholders on the current structure.

As a practical matter, for the many professional associations that have accreditation arms, the new strict firewall standard that prohibits any shared resources invites substantial risks unless the accreditation arm is "spun off" and stood up as a separate legal entity. The Preamble's request for feedback on "the amount of time and resources it would take to unwind the sharing of resources" such as "401K, health insurance, and other areas" implies that even those basic forms of corporate overhead support will not be permitted. The proposed rule does not address, for example, whether a related association could even share software licenses with an accreditation agency, or whether a related association could maintain an accreditation agency as an autonomous and independent subsidiary.

For accrediting agencies such as the COE, which has relied for years on having 40% to 50% of its expenses paid by the AVMA through shared services, the proposed rule would likely double its operating costs. Even the process of moving an accrediting agency to a new legal entity would be an expensive and lengthy undertaking. The Department itself estimates the economic costs of the proposed rule at over $490 million. Because accreditation services are funded by fees paid by accredited programs, these costs will be passed on to the programs, institutions and, predictably, to the students, raising the costs of their education and/or requiring the institutions to make cuts in the services and resources offered to students.

This is contrary to the Department's stated objectives. In the Preamble to the proposed rule, the Department states its desire to "reduce administrative costs that are negatively impacting college affordability," and to "to promote high-quality, high value, and affordable education for students."

The Department's other regulatory actions also state the Department's objectives to reduce costs. For example, in the Preamble to its Final Rule on the Reimagining and Improving Student Education (RISE) Federal Student Loan Program, the Department stated that its regulation was "intended, among other objectives, to promote affordability" and that "Congress intended these changes to put downward pressure on tuition and reduce costs to decrease the debt burden on students." 91 Fed Reg. 23769 (May 1, 2026). The imposition of a "separate and independent" requirement on accrediting agencies that have not been subject to that requirement, and the unnecessary proposed addition of a stricter "separate and independent" standard would have the opposite effect. This provision is not authorized by the statute for which the Department is regulating, is contrary to the Department's stated purposes, and is not consistent with the objectives and priorities of the current Congress. Instead, it would needlessly increase costs.

The Department's expensive proposal also comes at a time of new federal limits on student borrowing. The RISE rule implements Congress's decision to cap federal student loans for professional degrees at $50,000 per year and $200,000 over the course of the student's professional program. This is not the time to propose provisions, such as the separate and independent provisions, that will raise costs that are passed on to students.

Notably, institutional accreditors were all required to be separate and independent from related trade or membership organizations back in 1992 when the HEA was amended and the statutory language was added regarding the separate and independent requirement. While these amendments were enacted in 1992, it took eight years before the regulations were developed and implemented in 2000. Effectively, this provided recognized institutional accrediting agencies with many years to navigate their separations. In addition, the statutory amendments authorized the Department to waive the separate and independent requirement under certain conditions for accreditors that had been recognized prior to October 1991. The proposed rules include no provision allowing this flexibility, but they should.

The reason that Title VII of the Public Health Service Act (PHSA) and other non-HEA sources of federal funding are linked to programmatic accreditation is that institutional accreditors do not set degree-specific curricular standards and lack the specialized expertise to set standards for or ensure the development of required competencies for professions. By contrast, programmatic accreditors utilize subject matter experts to develop standards and make accreditation decisions. The need for programmatic accreditation by subject matter experts – practitioners, academics, and researchers – is especially crucial for health care professions, including veterinary medicine. This is why so many of the currently recognized programmatic accreditors are connected to associations in the health care fields with a keen eye on protecting the public.

If association-linked accreditors lose ED recognition before a completed transition of accreditation to a newly established and wholly separate accrediting agency and before that new agency is granted ED recognition, the impacts could be severe for accredited programs, their students, and their graduates. The programs, their students, their graduates, and their faculty could lose access to vital federal funding. Many of the association-linked accrediting agencies accredit educational programs for healthcare professionals. Title VII of the Public Health Service Act (PHSA) provides Health Professions Student Loans (HPSLs) to students, scholarships for disadvantaged students, rural physician training grants, faculty loan repayments and fellowships, and other forms of federal financial assistance that can depend on programmatic accreditation by an ED-recognized accreditation agency. Between two-thirds and three-quarters of colleges of veterinary medicine receive HPSL funding for their students. In addition, HEA Title IV loans are available to U.S. students who study outside the U.S. at programs that are accredited by a recognized agency. If the provisions of the proposed rule lead accrediting agencies to decide to withdraw from ED recognition, that would not affect the need for programs to continue with those accrediting agencies so that their graduates can obtain licenses. However, programs would lose access to these important sources of federal funding, and fewer students would be able to attend these programs to prepare to enter licensed professions.

The proposed rule would amend 34 CFR § 602.15 to add a requirement that any measure by an accreditor that increases the cost of required education or that otherwise restricts access to employment in a profession may result in loss of recognition unless the accreditor demonstrates to the Department by clear and convincing evidence that the restriction is necessary to protect the public interest, the expected public benefits outweigh the costs to the public from reduced access to the profession, and no less restrictive alternative would adequately protect the public interest. As discussed above, the Department's proposed rule would itself produce those negative results, raising costs and reducing access to professional education, but the Department has not provided evidence that its proposes changes to the "separate and independent" provisions are needed to protect the public, that the benefits would exceed the costs, or that a less restrictive alternative – i.e., the current regulations on recognition of accreditors – do not adequately protect the public interest. These aspects of the proposed rule fail to meet the Department's own yardstick.

For all these reasons, the proposed rule's "separate and independent" provisions should not be included in the final rule.

Sincerely,

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