



# Innovations in Distance Education and Accreditation: Department of Education's Consensus Rules

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# Rulemaking Mission

## Deregulation & Innovation

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Accreditation Revisions



Modernize Educational Measurements &  
Institutional Partnering

# Timeline

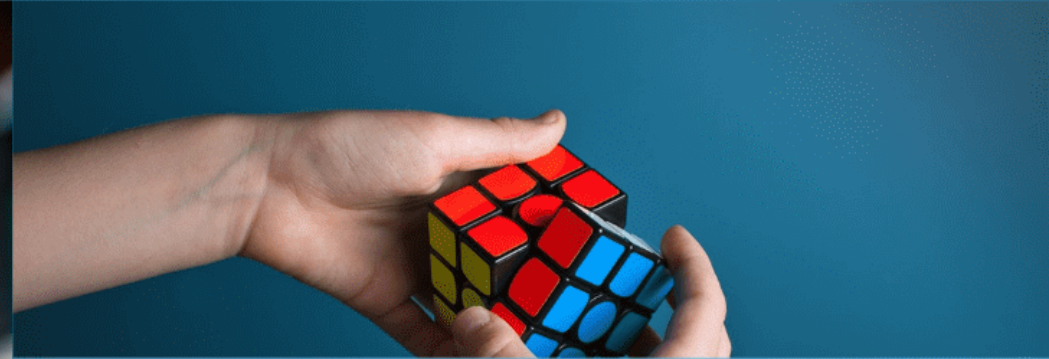
<b>July 2018</b>	<b>Announce Negotiated Rulemaking</b>
<b>September 2018</b>	<b>Public hearings</b>
<b>January 2019- to April 2019</b>	<b>Negotiations</b>
<b>April 2019</b>	<b>Consensus on all regulatory packages or “buckets”</b>
<b>Summer 2019</b>	<b>NPRM or NPRMS expected for public comment and clarification</b>
<b>November 1, 2019</b>	<b>Publish final rules</b>
<b>July 1, 2020</b>	<b>Effective date</b>



# Emphasis on Non-Traditional Delivery Models



Direct Assessment



Competency-Based Education



Subscription Programs





ED GOALS MET

# Direct Assessment

34 CFR 668.3 & 668.10

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- Replaced ED with the accreditor or the State as the adjudicator of the school's methodology for equating its modules to credit or clock hours.

## **Subscription-Based Program:**

New Concept for Title IV purposes

To be added to ED regulations in 2019

Term-based

Timing to start and end coursework is flexible and individualized

Student charged for term based on expectation of coursework for that term

Student enrollment status, for financial aid packaging, based on expected coursework

Student must complete prescribed credit hours (or equivalent) before eligible to receive a subsequent disbursement

**\*\* Examples – Rasmussen, Capella, Straighterline**

# **Student Aid Funding and Disbursements**

Determining Student Enrollment Status

Measuring an Academic Year

Variations on Non-Term and Non-Standard Term Models

Timing of Subsequent Disbursements

Satisfactory Academic Progress





# Return of Funds

## 34 CFR 668.22

For module-based program, student is not considered to have withdrawn if the student completed:

- 1) One module that includes 50 percent or more of the number of days in the payment period;
- 2) A combination of modules that when combined contain 50 percent or more of the number of days in the payment period; OR
- 3) Coursework equal to or greater than the coursework required for the institution's definition of a half-time student under 34 CFR 668.2 for the payment period.



# Written Arrangements

34 CFR 668.5

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## Consensus:

- **Maintained** 25 & 50% limitations
- **Added** requirement that ineligible institution demonstrate experience in the delivery and assessment of the program and effectiveness in meeting the stated learning objectives.



## Proposed:

- Eliminate the 25 & 50% limitations on the amount of a program an eligible institution can contract out to ineligible institution.





34 CFR 600.2

**REGULAR & SUBSTANTIVE INTERACTION  
WITH INSTRUCTORS**



# "Instructors"

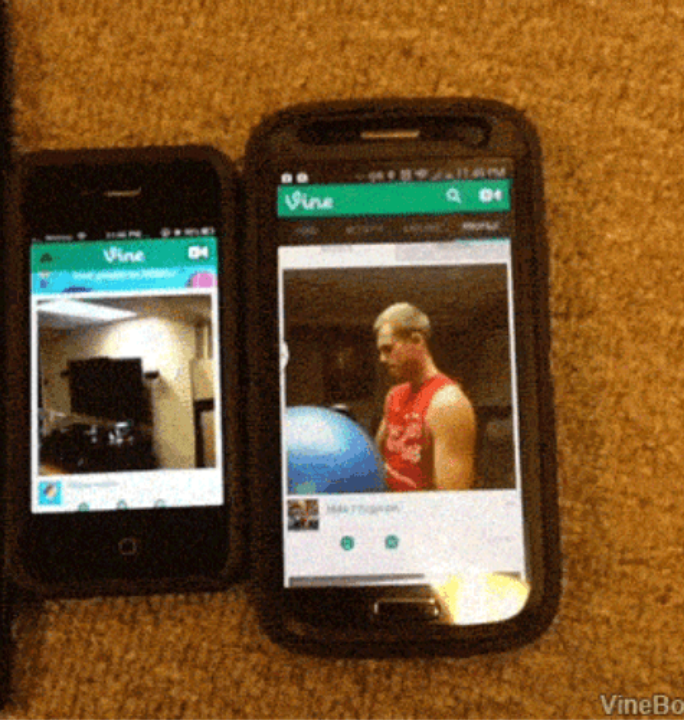
34 CFR 600.2

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Accreditor defines but  
"instructor" must be:

- Individual responsible for actually "delivering course content" and
- Meet accreditor's established qualifications for instruction.





# "Substantive" Interaction

34 CFR 600.2

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Engaging students in teaching, learning, and assessment, consistent with the content under discussion, and also includes **at least two** of the following:

- Providing direct instruction;
- Assessing or providing feedback on a student's coursework;
- Providing information **or responding to questions** about the content of a course or competency;
- Facilitating a group discussion regarding the content of a course or competency; or
- Other instructional activities approved by the institution's or program's accrediting agency.



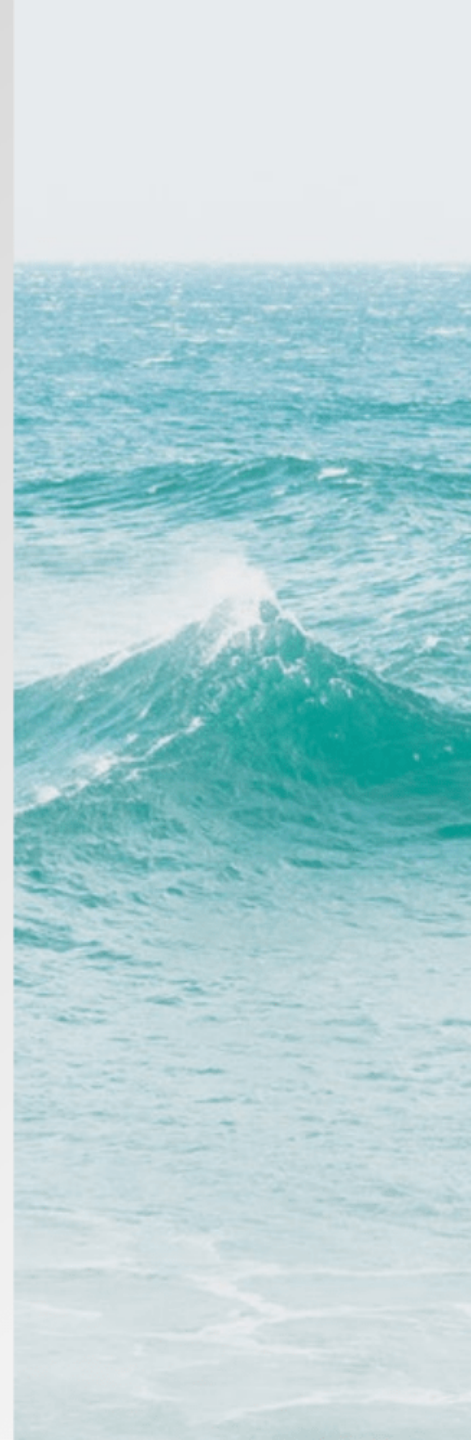
# "Regular" Interaction

34 CFR 600.2

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Prior to student's completion of course or competency:

- **Providing the opportunity** for substantive interactions with student on predictable and regular basis commensurate with the length of time and the amount of content in the course or competency; and
- Monitoring student's academic engagement and success and ensuring that instructor is responsible for promptly and proactively engaging in substantive interaction with the student when needed, on the basis of such monitoring, or upon request by the student.







# Employer Influence on Academics

34 CFR 668.5(f)

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*Workforce responsiveness.* Nothing in this or any other section shall prohibit an institution utilizing written arrangements from aligning or modifying their curriculum or academic requirements in order to meet the recommendations or requirements of industry advisory boards that include employers who hire program graduates, widely recognized industry standards and organizations, or industry-recognized credentialing bodies, including making governance or decision-making changes as an alternative to allowing or requiring faculty control or approval or integrating industry-recognized credentials into existing degree programs

# Employer Role With Accreditors

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## MAY:

- Include employers on its evaluation, policy, and decision-making bodies. (34 CFR 602.15(a)(4));
- Require institutions to meet the recommendations of employers. 34 CFR 602.16(g)(3);
- Allow an institution to be out of compliance with its standards, including placement standards, in cases where there are "[s]ignificant and documented local or national economic changes, such as an economic recession or closure of a large local employer." 34 CFR 602.18(c)(1)(iii).

## MUST:

- Seek ED recognition for the first time, must present ED with letters of support from at least 3 employers or practitioners. 34 CFR 602.32(b)(1).

## **Refined Role for Accreditors**

- Often characterized as an “easing” but that may be a misnomer
- Increased responsibility to review and develop policies re Direct Assessment and Subscription-Based Programs
- Increased flexibility and responsibility to consider employer role in developing programs, including:
  - Faculty qualifications for career programs
- Increased flexibility and responsibility to develop “alternative standards” for “innovative programs”
  - To be published
  - To be justified to achieve “equivalent goals” or equivalent benefits” to students
- Increased flexibility for staff-level review of certain substantive changes, including new or modified programs
- Increased responsibility to develop and implement policies re credit hour and “credit hour equivalency”





## **Major Issues for Success of these Innovations**

- Market response to the programs:
  - Student and Families
  - Employers
  - Effects on job-preparation of graduates
- Niche Markets:
  - Graduate vs undergraduate level
  - Degrees vs degree-completion
  - Employer-sponsored arrangements
- Transferability of credits
- Effects on cost, affordability and student debt



# Mark DeFusco

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Mark DeFusco has a long and varied career in the education industry. He began his career with the Apollo Group and later was CEO at the private equity backed Vatterott Colleges. He moved to Wall Street where he was Managing Director at Berkery Noyes, LLC, a leading Education Investment Bank. He returned to University of Southern California, where he earned his Ph.D., serving as Senior Research Associate at the Pullias Center for Higher Education. There he researched the industry and provided high end operational assessments of top US Colleges and Universities. Currently, he serves as CEO/ President of Bay State College, a wholly owned subsidiary of Ambow Education (NYSE:AMBO), a global leader in international higher education.



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Yolanda Gallegos established her law firm, Gallegos Legal Group, over 20 years ago and has represented private sector schools throughout the country for 30 years. Her practice focuses on guiding postsecondary schools through critical events such as governmental and accreditor investigations and operational adjustments required in response to regulatory changes. She is a frequent speaker and writer on a variety of regulatory topics affecting higher education including her chapter on the Violence Against Woman Act regulations, which was published by Thomson Reuters in its book, "Emerging Issues in College and University Security."



**GALLEGOS**  

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**LEGAL GROUP**





# Jonathon Glass

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Jonathon focuses his practice on higher education law, with concentrated emphasis on the institutional eligibility and financial responsibility requirements for institutions to participate in the Title IV federal student aid programs. He has advised a great many institutions and investors regarding the constantly changing regulatory requirements that apply to sales and acquisitions and the recertification process. He has also represented many institutions in proceedings before the U.S. Department of Education's case teams and administrative law judges.

The Cooley logo consists of a solid red square. Inside the square, the word "Cooley" is written in a white, sans-serif font. The letter 'C' is capitalized and the rest of the letters are lowercase. The logo is positioned in the lower right area of the slide.

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