



May 4, 2020

Gregory Martin
U.S. Department of Education
400 Maryland Ave. SW
Mail Stop 294-42
Washington, D.C. 20202

RE: Distance Education Notice of Proposed Rulemaking (NPRM) ED-2018-OPE-0076

Dear Mr. Martin,

On behalf of the 1.7 million members of the American Federation of Teachers and the members of the American Association of University Professors, including more than 270,000 faculty and staff in higher education, we urge the Department of Education—in this time of unprecedented educational and societal upheaval—to put the needs of our nation’s college students before the needs of distance education opportunists. Specifically, we are asking that you rescind this proposed rule in order to maintain existing rules protecting the role of faculty and student interaction and outsourcing. The Education Department has a responsibility to avoid making changes to distance education that would open the door to education without teachers, leaving students entirely reliant on software, apps, games and prerecorded video.

The department is attempting to write new rules on a wide range of topics all at once, appointing negotiators who appeared to have been selected not for their subject-matter expertise but for their ties to the for-profit college industry, disregarding consensus proposals that were reached, and on a deeply truncated timeline—in the middle of a global pandemic—for commenting on issues that strike at the core of what a college education is. The COVID-19 pandemic has tested the limits of distance education. Via these tests, it is clearer than ever that interaction between students and faculty is the heart of education, and that when students select an institution in which to invest their time and money, they expect an ongoing relationship with that institution, and not a third-party contractor.

The department should not weaken the definition (600.2) of what constitutes “regular and substantive interaction” between instructors and students, including the definition of an instructor. Regular and substantive interactions between students and subject-matter experts, specifically interaction initiated regularly by

the instructor, is the crucial difference between distance education courses and correspondence courses. Regular and substantive interaction requirements must be upheld to prevent abuse of students, particularly veterans, who may be taken advantage of by unscrupulous programs looking to turn financial aid dollars into personal profit. Congress has specifically created additional limitations in taxpayer funding of correspondence courses, and this definition must be upheld in the final rule. To do otherwise would undermine both educational quality and congressional intent.

Likewise, as part of these proposed rules, the department would expand opportunities for competency-based education (CBE) programs and undermine meaningful instruction by replacing it with standardized exams. CBE has proved to be unsuccessful for undergraduates, particularly in the case of Western Governors University where only 28.8 percent of undergraduates completed their degree after six years. Clearly, CBE is no substitute for class time with a qualified instructor. The CBE model has spread rapidly with more than 600 colleges offering or planning to offer such programs.¹ The idea that further deregulation is needed in this environment, when CBE has grown rapidly under current regulations, doesn't make sense. It would be dangerous to students and to faculty who are trying to design high-quality programs to weaken the consensus language by expanding CBE programs.

We also have concerns relating to the outsourcing of educational programs (section 668.5 Written Arrangements to Provide Educational Programs), and strongly oppose any further weakening of these standards. This proposal to allow increased outsourcing of core educational responsibilities to unaccredited entities is especially perverse. The point of accreditation is that students and taxpayers are paying for education that has gone through some baseline level of oversight. When institutions outsource their programs—particularly when they outsource the education itself, including curriculum design, hiring and instruction—they bypass the normal regulatory process. We urge the department to restore the current requirement that accreditors thoroughly review and approve all outsourcing arrangements, even those below the 25 percent threshold.

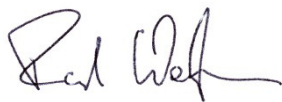
The combination of loosening distance education rules and outsourcing merge in the growing use of online program management (OPM) companies. When brick-and-mortar institutions look to move a program online (or create a new online program), OPM companies offer a financially beneficial arrangement, but the quality of the education may suffer. As our members well know from their employers'

¹ <https://www.insidehighered.com/news/2015/09/10/amid-competency-based-education-boom-meeting-help-colleges-do-it-right>

contracts, OPM companies often take an exorbitant share of the revenue from the programs of study they operate; have demonstrated predatory recruiting practices; and often are run by former for-profit college executives who have moved to the unregulated world of providing services to institutions.² During the COVID-19 pandemic, we know that colleges and universities are struggling with the precipitous move to distance education, and therefore it is more important than ever that the distance education and outsourcing rules uphold important standards of quality to counterbalance perverse incentives to deliver fast, low-quality facsimiles of higher education.

The Department of Education must not gut the meaning of college. The interaction of faculty and students is the most important piece of a college education, and the department should not weaken safeguards regarding this interaction as it does in these proposed rules.

Sincerely,



Randi Weingarten
President, AFT



Rudy Fichtenbaum
President, AAUP

RW:RF:emc opeiu #2 afl-cio

² <https://tcf.org/content/about-tcf/tcf-analysis-70-university-opm-contracts-reveals-increasing-risks-students-public-education/>