

**Department of Education Guidance on Accreditation  
and Eligibility Requirements for Distance Education**

NOTE: Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

The purpose of this announcement is to make accrediting agencies and institutions aware that, on August 31, 2020<sup>1</sup>, the U.S. Department of Education (the "Department") rescinded Dear Colleague Letter-06-17 (the "DCL") and to inform agencies and institutions of the Department's requirements with respect to institutional eligibility for distance education, which currently are waived until after the national emergency related to COVID-19 ends. The now-rescinded DCL is attached to this announcement for your convenience.

Since it was published in September 2006, the DCL has been interpreted to establish a 50 percent threshold for institutions related to distance education and an institution's ability to participate in Title IV, HEA programs. Under this interpretation of the DCL, if an institution did not offer more than 50 percent of its courses via distance education, did not have more than 50 percent of its students enrolled in distance education, or did not offer more than 50 percent of an educational program via distance education, its distance education programs were not required to be evaluated or approved by an accrediting agency with distance education in its scope of recognition.

After review, the Department has determined that this interpretation of the DCL conflicted with institutional eligibility requirements under 34 CFR § 668.8(m). 34 C.F.R. § 668.8(m) requires that a program offered in whole or in part through telecommunications is eligible for Title IV, HEA program purposes if the program is offered by an institution that is accredited by an agency that has accreditation of distance education within the scope of its recognition. Therefore, subject to the flexibilities provided by the Secretary in response to the national pandemic, before an institution offers *any* distance education programs that can be eligible for Title IV, the institution must be evaluated and accredited for its effective delivery of distance education programs by a recognized agency that has distance education within its scope of recognition.

Institutions that wish to offer distance education programs should confirm that their institutional accrediting agency has distance education within its scope of recognition. Institutions should work with their accrediting agency to determine the agency's requirements for evaluating whether the institution is capable of effective delivery of distance education programs. After an institution has been approved to offer distance education by its accrediting agency, an institution may offer distance education programs without further accreditor approval – unless and until a program goes above 50 percent of distance education or the institution itself goes over 50 percent for distance education delivery. Exceeding the 50 percent threshold for distance education would then trigger the requirement for approval by the institution's accrediting agency of a substantive change pursuant to 602.22(a)(1)(ii)(C).

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<sup>1</sup>Notice of the Rescission of Outdated Guidance Documents, 85 Fed. Reg. 54148 (August 31, 2020), [www.federalregister.gov/documents/2020/08/31/2020-19144/notice-of-the-rescission-of-outdated-guidance-documents](http://www.federalregister.gov/documents/2020/08/31/2020-19144/notice-of-the-rescission-of-outdated-guidance-documents).

As explained throughout this announcement, in response to the national pandemic, the Secretary exercised authority under the HEROES Act, 20 U.S.C. § 1098bb, to waive through the end of the payment period that begins after the date on which the federally declared national emergency related to COVID-19 is rescinded, the requirement that institutions must have obtained approval by their accreditor to offer distance education programs and that accrediting agencies must have distance learning in their scope in order for their member institutions to provide distance learning instruction, including in excess of 50 percent of a program or to more than 50 percent of its students.<sup>2</sup> In many circumstances, that means that the waiver will extend through the end of the academic term that begins after the term (or break between terms) during which the federally declared national emergency related to COVID-19 is rescinded. Please see 34 C.F.R. § 668.4 for payment periods that are not measured by academic term.

Once the current flexibilities regarding distance education provided by the Secretary in response to the national pandemic expire, an accrediting agency will be required to have distance education included in its scope of recognition if it accredits an institution that offers *any* portion of a program via distance education. The Department also reminds accrediting agencies that, notwithstanding the flexibilities provided in response to the national pandemic, their policies must require approval of a substantive change whenever an accredited institution increases distance education to exceed more than 50 percent of a program or of the institution's overall delivery of education.

Accrediting agencies should be aware that 34 C.F.R. § 602.27(a)(4) outlines the process for having distance education added to an accrediting agency's scope of recognition, which requires only written notification to the Department. Distance education will be added to an agency's scope of recognition upon receipt of the official notification.

An agency's application of its distance education policies and procedures will be included during its next renewal of recognition review. If there is a problem identified regarding the application of its distance education standards, the Department reserves the right to conduct a mid-cycle review under 34 C.F.R. § 602.33.

If accrediting agencies have any questions or concerns relating to this notification, please contact the Director of the Department's Accreditation Group, Herman Bounds, at [Herman.Bounds@ed.gov](mailto:Herman.Bounds@ed.gov). If institutions have any questions or concerns relating to this notification, please e-mail [AskAFED@ed.gov](mailto:AskAFED@ed.gov).

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<sup>2</sup> 85 Fed. Reg. 79856, 79860 (December 11, 2020).  
<https://www.federalregister.gov/documents/2020/12/11/2020-27042/federal-student-aid-programs-student-assistance-general-provisions-federal-perkins-loan-program>