

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4054
OFFERED BY MR. FINE OF FLORIDA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Accreditation Choice
3 and Innovation Act”.

4 SEC. 2. ACCREDITING AGENCY RECOGNITION.

5 (a) CRITERIA REQUIRED.—Section 496(a) of the
6 Higher Education Act of 1965 (20 U.S.C. 1099b(a)) is
7 amended—

8 (1) in the matter preceding paragraph (1), in
9 the first sentence, by striking “or training” and in-
10 sserting “or skills development”;

11 (2) by amending paragraph (1) to read as fol-
12 lows:

13 “(1) the accrediting agency or association
14 (other than an accrediting agency or association de-
15 scribed in paragraph (2)(D)) shall be a State or na-
16 tional agency or association and shall demonstrate
17 the ability to operate as an institutional or pro-

1 grammatic accrediting agency or association within
2 the State or nationally, as appropriate;”;

3 (3) in paragraph (2)—

4 (A) in subparagraph (A)—

5 (i) in clause (i), by striking “prin-
6 cipal”; and

7 (ii) in clause (ii), by striking “its prin-
8 cipal” and inserting “a”; and

9 (B) in subparagraph (B), by striking “or”
10 at the end;

11 (C) in subparagraph (C)—

12 (i) by striking “its principal” and in-
13 serting “a”; and

14 (ii) by inserting “or” at the end; and

15 (D) by adding at the end the following:

16 “(D) is an entity (such as an industry-spe-
17 cific quality assurance entity) that has been—

18 “(i) determined by a State to be a re-
19 liable authority as to the quality of edu-
20 cation or skills development offered in such
21 State for the purposes of this Act; and

22 “(ii) designated (in accordance with
23 subsection (b)(1)) by such State as an ac-
24 crediting agency or association with re-
25 spect to such State for such purposes;”;

1 (4) in paragraph (3)—

2 (A) by amending subparagraph (A) to read
3 as follows:

4 “(A) subparagraph (A), (C), or (D) of
5 paragraph (2), then such agency or association
6 is—

7 “(i) distinctly incorporated or orga-
8 nized; and

9 “(ii) both administratively and finan-
10 cially separate from, and independent of,
11 any related, associated, or affiliated trade
12 association or membership organization, by
13 ensuring that—

14 “(I) the members of the board or
15 governing body of the accrediting
16 agency or association are not elected
17 or selected by the board or chief execu-
18 tive officer (or the representative of
19 such board or officer) of any related,
20 associated, or affiliated trade associa-
21 tion or membership organization;

22 “(II) among the membership of
23 the board or governing body of the ac-
24 crediting agency or association—

1 “(aa) if such board or body
2 is comprised of 5 or fewer mem-
3 bers, there is a minimum of one
4 member who is not also a mem-
5 ber of any related, associated, or
6 affiliated trade association or
7 membership organization (re-
8 ferred to in this subclause as a
9 ‘public member’) and who rep-
10 represents business (such as an
11 owner of a business (including a
12 small business), a chief executive
13 or operating officer of a business,
14 or another other business execu-
15 tive or employer with optimum
16 policymaking or hiring author-
17 ity); and

18 “(bb) if such board or body
19 is comprised of 6 or more mem-
20 bers, there is a minimum of 2
21 public members (at least one of
22 whom represents business (as de-
23 scribed in item (aa)) for every 6
24 members;

1 “(III) guidelines are established
2 for such members to avoid conflicts of
3 interest, including specific guidelines
4 to ensure that no such member is an
5 employee of any institution accredited
6 by the agency or association or has a
7 financial interest in any such institu-
8 tion;

9 “(IV) dues to the accrediting
10 agency or association are paid sepa-
11 rately from any dues paid to any re-
12 lated, associated, or affiliated trade
13 association or membership organiza-
14 tion; and

15 “(V) the budget of the accred-
16 iting agency or association is devel-
17 oped, determined, and maintained by
18 the accrediting agency or association
19 without any review by, consultation
20 with, or approval by any related, asso-
21 ciated, or affiliated trade association
22 or membership organization;”;

23 (B) by striking “or” at the end of subpara-
24 graph (B); and

25 (C) by striking subparagraph (C);

1 (5) in paragraph (4)—

2 (A) in subparagraph (A)—

3 (i) by inserting “(in the manner de-
4 scribed in subparagraph (B))” after “reli-
5 gious missions”; and

6 (ii) by striking “and” at the end; and

7 (B) by striking subparagraph (B) and in-
8 serting the following:

9 “(B) such accrediting agency or associa-
10 tion consistently applies and enforces standards
11 that respect the stated religious mission of an
12 institution of higher education by—

13 “(i) basing decisions regarding accred-
14 itation and preaccreditation on the stand-
15 ards of accreditation of such agency or as-
16 sociation; and

17 “(ii) not using as a negative factor
18 the institution’s religious mission based
19 policies, decisions, and practices in the
20 areas covered by subparagraphs (B), (C),
21 (D), (E), and (F) of paragraph (5), except
22 that the agency or association may require
23 that the institution’s or a program of
24 study’s curricula include all core compo-
25 nents required by the agency or association

1 that are not inconsistent with the institu-
2 tion’s religious mission; and

3 “(C) such agency or association dem-
4 onstrates the ability to review, evaluate, and as-
5 sess the quality of any instruction delivery
6 model or method such agency or association has
7 or seeks to include within its scope of recogni-
8 tion, without giving preference to or differen-
9 tially treating (such as through separate stand-
10 ards, procedures, or policies) a particular in-
11 struction delivery model or method offered by
12 an institution or program, except that in a case
13 in which an instruction delivery model allows
14 for the separation of the student from the in-
15 structor, the agency or association requires the
16 institution to have processes—

17 “(i) through which the institution es-
18 tablishes that the student who registers in
19 a course or program with such an instruc-
20 tion delivery model is the same student
21 who participates in the course or program
22 of study (including, to the extent prac-
23 ticable, the testing or other assessments
24 required under the course or program of
25 study), completes the course or program of

1 study, and receives the academic credit for
2 such course or program of study; and

3 “(ii) which are implemented in a man-
4 ner that is minimally burdensome to the
5 student;”;

6 (6) in paragraph (5)—

7 (A) by amending subparagraph (A) to read
8 as follows:

9 “(A) success with respect to student
10 achievement outcomes in relation to the institu-
11 tion’s mission and to the programs the institu-
12 tion offers, or the mission of a specific degree,
13 certificate, or credential program, which may
14 include different standards for different institu-
15 tions or programs of study, and which shall in-
16 clude—

17 “(i) standards for consideration of
18 student success outcomes measures, includ-
19 ing—

20 “(I) a comparison of the median
21 total price charged to students in a
22 program of study student cohort to
23 the value-added earnings of such co-
24 hort;

25 “(II) completion rates;

1 “(III) retention rates; and

2 “(IV) loan repayment rates;

3 “(ii) standards for consideration of
4 learning outcomes measures (such as com-
5 petency attainment and licensing examina-
6 tion passage rates); and

7 “(iii) standards for consideration of
8 labor market outcomes measures (such as
9 employability measures, earnings gains, or
10 other similar approaches); and”;

11 (B) by amending subparagraph (I) to read
12 as follows:

13 “(I) record of student complaints received
14 by, or available to, the agency or association,
15 and the institution’s process for resolving com-
16 plaints against the institution; and”;

17 (C) in the matter following subparagraph
18 (J), by striking “subparagraphs (A), (H), and
19 (J)” and inserting “subparagraph (J)”;

20 (7) in paragraph (6)(A)(ii), by inserting before
21 the semicolon at the end the following: “(including
22 any student complaints received by, or available to,
23 the agency or association)”.

24 (b) SECRETARIAL REQUIREMENTS AND AUTHOR-
25 ITY.—Subsection (b) of section 496 of the Higher Edu-

1 cation Act of 1965 (20 U.S.C. 1099b) is amended to read
2 as follows:

3 “(b) SECRETARIAL REQUIREMENTS AND AUTHOR-
4 ITY.—

5 “(1) STATE DESIGNATED ACCREDITING AGEN-
6 CY.—

7 “(A) APPROVAL OF STATE PLANS.—The
8 Secretary shall—

9 “(i) if a State’s plan with respect to
10 the State’s designation of an entity as an
11 accrediting agency or association for the
12 purposes described in subsection (a)(2)(D)
13 includes each of the elements listed in sub-
14 paragraph (B)—

15 “(I) subject to clause (ii)(I), ap-
16 prove the State’s designation of such
17 entity as such accrediting agency or
18 association for the purposes described
19 in subsection (a)(2)(D) for a 5-year
20 period, beginning not later than 30
21 days after receipt of the plan from
22 such State with respect to such des-
23 ignation;

24 “(II) submit to the State and the
25 authorizing committees, and make

1 publicly available, the Secretary’s re-
2 sponse to the State with respect to
3 such plan, including whether the plan
4 includes each of the elements listed in
5 subparagraph (B); and

6 “(III) publish in the Federal
7 Register, with a 30-day public com-
8 ment period, the plan submitted by
9 such State with respect to such des-
10 ignation, and the Secretary’s response
11 to such plan; and

12 “(ii) if, not later than 30 days after
13 the 30-day public comment period referred
14 to in clause (i)(III), a State revises the
15 State’s plan approved under clause (i)(I) to
16 incorporate one or more of the comments
17 received during such 30-day comment pe-
18 riod, and such revised plan includes each
19 of the elements listed in subparagraph
20 (B)—

21 “(I) revise the 5-year period de-
22 scribed in clause (i)(I) approving the
23 State’s designation of the entity as an
24 accrediting agency or association for
25 the purposes described in subsection

1 (a)(2)(D) to begin not later than 30
2 days after receipt of such revised
3 plan;

4 “(II) submit to the State and the
5 authorizing committees, and make
6 publicly available, the Secretary’s re-
7 sponse to the State with respect to
8 such revised plan, including whether
9 such revised plan includes each of the
10 elements listed in subparagraph (B);
11 and

12 “(III) publish in the Federal
13 Register, such revised State plan, and
14 the Secretary’s response to such re-
15 vised State plan.

16 “(B) REQUIRED PLAN ELEMENTS.—The
17 required elements of a State plan submitted
18 under subparagraph (A) with respect to the
19 designation of an entity as an accrediting agen-
20 cy or association are as follows:

21 “(i) A description of the process the
22 State used to select the entity for such des-
23 ignation.

1 “(ii) A justification of the State’s de-
2 cision to select the entity for such designa-
3 tion.

4 “(iii) A description of any require-
5 ments (in addition to the requirements of
6 this section), that the State required the
7 entity to comply with as a condition of re-
8 ceiving and maintaining such designation,
9 including a requirement for the entity to
10 use, to the extent practicable during such
11 designation, the common terminology de-
12 veloped pursuant to paragraph (3).

13 “(iv) A copy of the standards, policies,
14 and procedures of the entity that the State
15 considered in selecting the entity for such
16 designation.

17 “(v) The State’s assessment of how
18 the standards for accreditation of the enti-
19 ty will be effective in meeting the require-
20 ments of subsection (a)(5).

21 “(vi) Evidence that at least one other
22 State has determined that such entity is a
23 reliable authority as to the quality of edu-
24 cation offered for the purposes of this Act.

1 “(vii) An assurance that the State will
2 comply with the monitoring requirements
3 described in subparagraph (C).

4 “(C) STATE MONITORING.—

5 “(i) IN GENERAL.—A State that has
6 designated an entity as an accrediting
7 agency or association for the purposes de-
8 scribed in subsection (a)(2)(D) shall sub-
9 mit to the Secretary, and to the State au-
10 thorizing entity, as appropriate, a report at
11 the end of the 5-year period for which the
12 entity has received such designation, which
13 shall include, with respect to each program
14 of study or institution that has been ac-
15 credited by such entity during such period,
16 and disaggregated by type of credential,
17 certification, or degree—

18 “(I) the number and percentage
19 of students who have successfully ob-
20 tained a postsecondary education cre-
21 dential, certification, or degree offered
22 by such program or institution;

23 “(II) the number and percentage
24 of students who were enrolled and did
25 not successfully obtain such a creden-

1 tial, certification, or degree within 150
2 percent of the program length; and

3 “(III) the results of the State’s
4 assessment described in subparagraph
5 (B)(v).

6 “(ii) COUNTING TRANSFER STU-
7 DENTS.—For purposes of clause (i)(I), a
8 student shall be counted as obtaining a
9 credential, certification, or degree offered
10 by a program of study or institution that
11 was accredited by the entity during the pe-
12 riod for which the report under this sub-
13 paragraph is being submitted, if the stu-
14 dent obtains such credential, certification,
15 or degree after transferring to another in-
16 stitution during such period.

17 “(2) AUTHORITY TO PROVIDE AN ACCELER-
18 ATED PATH TO RECOGNITION.—With respect to a
19 prospective accrediting agency or association that
20 submits to the Secretary an application for initial
21 recognition under this Act, the Secretary may pro-
22 vide such recognition to such agency or association
23 within 2 years after receipt of such application, if
24 such application—

1 “(A) demonstrates that the agency or asso-
2 ciation—

3 “(i) has at least one year of experi-
4 ence in making accreditation or
5 preaccreditation decisions; and

6 “(ii) has policies in place that meet all
7 the criteria under subsection (a) for rec-
8 ognition covering the range of the specific
9 degrees, certificates, institutions, and pro-
10 grams of study for which the agency or as-
11 sociation seeks such recognition; and

12 “(B) provides an assurance that if the
13 agency or association receives such recognition,
14 the agency or association will submit to the
15 Secretary monitoring reports regarding accredi-
16 tation or preaccreditation decisions, as appro-
17 priate.

18 “(3) DEVELOPMENT OF COMMON TERMI-
19 NOLOGY.—

20 “(A) IN GENERAL.—Not later than 18
21 months after the date of enactment of the Ac-
22 creditation Choice and Innovation Act, the Sec-
23 retary shall—

24 “(i) convene a panel of experts to de-
25 velop common terminology for accrediting

1 agencies or associations to use in making
2 accrediting decisions with respect to pro-
3 grams of study and institutions, such as a
4 common understanding of monitoring,
5 warning, show cause, and other relevant
6 statuses, as appropriate;

7 “(ii) publish in the Federal Register
8 with a 60-day public comment period, the
9 recommendations for such common termi-
10 nology; and

11 “(iii) if the panel revises any rec-
12 ommendations published pursuant to
13 clause (ii) based on the comments received
14 during the 60-day public comment period,
15 publish such revised recommendations in
16 the Federal Register not later than 60
17 days after such 60-day comment period.

18 “(B) FEDERAL ADVISORY COMMITTEE
19 ACT.—Chapter 10 of title 5, United States
20 Code, shall not apply to the panel convened
21 under this paragraph.

22 “(C) TERMINATION.—The panel convened
23 under this paragraph shall terminate on the
24 date that is 60 days after the 60-day public

1 comment period referred to in subparagraph
2 (A)(ii).”.

3 (c) OPERATING PROCEDURES REQUIRED.—

4 (1) ON-SITE INSPECTIONS AND REVIEWS.—

5 Paragraph (1) of section 496(c) of the Higher Edu-
6 cation Act of 1965 (20 U.S.C. 1099b(c)) is amend-
7 ed—

8 (A) by inserting “(which may vary based
9 on institutional risk consistent with policies pro-
10 mulgated by the agency or association to deter-
11 mine such risk and interval frequency as au-
12 thorized under subsection (p))” after “inter-
13 vals”; and

14 (B) by striking “, including those regard-
15 ing distance education”.

16 (2) MECHANISM TO IDENTIFY INSTITUTIONS
17 AND PROGRAMS EXPERIENCING DIFFICULTIES.—

18 Section 496(c) of the Higher Education Act of 1965
19 (20 U.S.C. 1099b(c)) is further amended—

20 (A) by redesignating paragraphs (2)
21 through (9) as paragraphs (3) through (10), re-
22 spectively; and

23 (B) by inserting after paragraph (1) the
24 following:

1 “(2) develops a policy process to identify any
2 institution or program of study accredited by the
3 agency or association that is not meeting the stand-
4 ards for accreditation of the agency or association,
5 with a focus on the standards assessing an institu-
6 tion’s or program of study’s student success out-
7 comes described in subsection (a)(5)(A)(i), which
8 shall include—

9 “(A) not less than annually, evaluating the
10 extent to which such an identified institution or
11 program of study continues to be in compliance
12 with such standards or other indicators; and

13 “(B) as appropriate, requiring the institu-
14 tion or program of study to submit a plan, on
15 an annual basis, to the accrediting agency or
16 association to—

17 “(i) address and remedy performance
18 issues with respect to such compliance; and

19 “(ii) ensure that such plan is success-
20 fully implemented;”.

21 (3) PROCEDURES WITH RESPECT TO SUB-
22 STANTIVE CHANGES.—Paragraph (5) of section
23 496(c) of the Higher Education Act of 1965 (20
24 U.S.C. 1099b(c)) (as redesignated by paragraph
25 (2)(A)) is amended to read as follows:

1 “(5) establishes and applies or maintains poli-
2 cies to ensure that any substantive change of an in-
3 stitution described in subparagraph (B) after the
4 agency or association has granted the institution ac-
5 creditation or preaccreditation status does not ad-
6 versely affect the capacity of the institution to con-
7 tinue to meet the agency’s or association’s standards
8 for such accreditation or preaccreditation status,
9 which shall include policies that—

10 “(A) require the institution to obtain the
11 agency’s or association’s approval of the sub-
12 stantive change before the agency or association
13 includes the change in the scope of the institu-
14 tion’s accreditation or preaccreditation status;
15 and

16 “(B) define substantive change to in-
17 clude—

18 “(i) any change in the established
19 mission or objectives of the institution;

20 “(ii) any change in the legal status,
21 form of control, or ownership of the insti-
22 tution, including the acquisition or addition
23 of any other institution or new location
24 where more than 50 percent of a program
25 of study is offered;

1 “(iii) changing the credential level of-
2 ferred by a program of study that was pre-
3 viously accredited by the agency or associa-
4 tion when the program of study offered a
5 different credential level; and

6 “(iv) the entering into a contract
7 under which another institution or an or-
8 ganization not eligible to participate in
9 programs under this title offers more than
10 25 percent but less than 50 percent of the
11 instruction of a program of study of the in-
12 stitution with such accreditation or
13 preaccreditation status;”.

14 (4) PUBLIC AVAILABILITY.—Section 496(c) of
15 the Higher Education Act of 1965 (20 U.S.C.
16 1099b(c)) is further amended—

17 (A) in paragraph (8) (as redesignated by
18 paragraph (2)(A))—

19 (i) in the matter preceding subpara-
20 graph (A), by inserting “, on the agency’s
21 or association’s website,” after “public”;
22 and

23 (ii) in subparagraph (C), by inserting
24 before the semicolon at the end the fol-
25 lowing: “, and a summary of why such ac-

1 tion was taken or such placement was
2 made”;

3 (B) in paragraph (9) (as so redesignated),
4 by striking “and” at the end;

5 (C) in paragraph (10)(B) (as so redesign-
6 nated), by striking the period at the end and in-
7 serting the following: “, including an assurance
8 that the institution does not deny a transfer of
9 credit based solely on the accreditation of the
10 institution at which the credit was earned;”;
11 and

12 (D) by adding at the end the following:

13 “(11) such agency or association shall make
14 publicly available, on the agency or association’s
15 website, a list of the institutions of higher education
16 or program of study accredited by such agency or
17 association, which includes, with respect to each
18 such institution or program of study—

19 “(A) the year accreditation was first grant-
20 ed;

21 “(B) the most recent date that accredita-
22 tion or reaccreditation was granted; and

23 “(C) the anticipated date of the institu-
24 tion’s next evaluation for reaccreditation;”.

1 (5) PROHIBITION ON ASSESSMENT OF ELECTED
2 OR APPOINTED OFFICIALS.—Section 496(c) of the
3 Higher Education Act of 1965 (20 U.S.C. 1099b(e))
4 is further amended by adding at the end the fol-
5 lowing:

6 “(12) confirms that the standards for accredita-
7 tion of the agency or association do not assess the
8 roles (including actions or statements) of elected and
9 appointed State and Federal officials and legislative
10 bodies; and”.

11 (6) PROHIBITION OF PRACTICES THAT RESULT
12 IN CREDENTIAL INFLATION.—Section 496(c) of the
13 Higher Education Act of 1965 (20 U.S.C. 1099b(e))
14 is further amended by adding at the end the fol-
15 lowing:

16 “(13) confirms that an institution’s or program
17 of study’s compliance with a standard for accredita-
18 tion of the agency or association does not require
19 the institution or program to take any action (such
20 as developing a new program of study) that would
21 result in a violation of any other such standard (in-
22 cluding the standards for consideration of student
23 success outcomes described in subsection (a)(5)(A)(i)
24 that relate to comparing the median total price

1 charged to students in a program of study student
2 cohort to the value-added earnings of such cohort).”.

3 (d) LIMITATION ON SCOPE OF CRITERIA.—Section
4 496 of the Higher Education Act of 1965 (20 U.S.C.
5 1099b) is further amended by amending subsection (g) to
6 read as follows:

7 “(g) LIMITATION ON SCOPE OF CRITERIA.—

8 “(1) IN GENERAL.—The Secretary shall not es-
9 tablish criteria for accrediting agencies or associa-
10 tions that are not required by this section.

11 “(2) INSTITUTIONAL ELIGIBILITY.—An institu-
12 tion that is in compliance with the standards of its
13 accrediting agency or association that assess the in-
14 stitution in accordance with subsection (a)(5) shall
15 meet the accreditation requirements for certification
16 as an institution of higher education under section
17 102 and subpart 3 of this part, regardless of any ad-
18 ditional standards adopted by the agency or associa-
19 tion for purposes unrelated to participation in pro-
20 grams under this Act.”.

21 (e) CHANGE OF ACCREDITING AGENCY.—Section
22 496 of the Higher Education Act of 1965 (20 U.S.C.
23 1099b) is further amended by amending subsection (h) to
24 read as follows:

1 “(h) CHANGE OF ACCREDITING AGENCY OR ASSOCIA-
2 TION.—

3 “(1) IN GENERAL.—With respect to an institu-
4 tion or program of study that is not subject to a cov-
5 ered action and that seeks to change its accrediting
6 agency or association for a reason not related to any
7 such covered action (such as compliance with State
8 law)—

9 “(A) the Secretary shall recognize the ac-
10 creditation of such institution or program of
11 study while the institution or program is in the
12 process of changing its accrediting agency or
13 association as long as, not later than 10 days
14 before the start of such process, the institution
15 or program of study provides written notifica-
16 tion to the Secretary of such process; and

17 “(B) such institution or program may
18 make such a change without the approval of the
19 Secretary as long as, not later than 10 days
20 after the accreditation decision by the new ac-
21 crediting agency or association, the institution
22 or program and such new accrediting agency or
23 association, provide written notification to the
24 Secretary of the effective date of the accredita-

1 tion by such agency or association of such insti-
2 tution or program.

3 “(2) COVERED ACTION DEFINED.—For pur-
4 poses of this subsection, the term ‘covered action’
5 means one or more of the following, when used with
6 respect to an institution or program of study:

7 “(A) A pending or final action brought by
8 a State agency to suspend, revoke, withdraw, or
9 terminate the institution’s legal authority to
10 provide postsecondary education in the State.

11 “(B) A decision by a recognized accred-
12 iting agency or association to deny accreditation
13 or preaccreditation to the institution or pro-
14 gram of study.

15 “(C) A pending or final action brought by
16 a recognized accrediting agency or association
17 to suspend, revoke, withdraw, or terminate the
18 accreditation or preaccreditation of the institu-
19 tion or program of study.

20 “(D) Probation or an equivalent status im-
21 posed on the institution or program of study by
22 a recognized accrediting agency or association.

23 “(E) The institution is in the process of a
24 substantive change (as described in subsection
25 (c)(5)).”.

1 (f) DUAL ACCREDITATION RULE.—Section 496 of
2 the Higher Education Act of 1965 (20 U.S.C. 1099b) is
3 further amended by amending subsection (i) to read as
4 follows:

5 “(i) DUAL ACCREDITATION RULE.—

6 “(1) RECOGNITION BY SECRETARY.—The Sec-
7 retary shall recognize the accreditation of any other-
8 wise eligible institution of higher education if the in-
9 stitution of higher education is accredited, as an in-
10 stitution, by more than one accrediting agency or as-
11 sociation.

12 “(2) DESIGNATION BY INSTITUTION.—If the in-
13 stitution is accredited, as an institution, by more
14 than one accrediting agency or association, the insti-
15 tution—

16 “(A) shall—

17 “(i) designate which agency’s or asso-
18 ciation’s accreditation shall be utilized in
19 determining the institution’s eligibility for
20 participation in programs under this Act;
21 and

22 “(ii) the period such agency’s or asso-
23 ciation’s accreditation shall be so utilized;
24 and

1 “(B) after the period described in subpara-
2 graph (A)(ii), the institution may designate a
3 different agency’s or association’s accreditation
4 to be utilized in accordance with subparagraph
5 (A)(i).”.

6 (g) RELIGIOUS INSTITUTIONS RULE.—Section 496 of
7 the Higher Education Act of 1965 (20 U.S.C. 1099b) is
8 further amended by amending subsection (k) to read as
9 follows:

10 “(k) RELIGIOUS INSTITUTION RULE.—

11 “(1) IN GENERAL.—Notwithstanding subsection
12 (j), the Secretary shall allow an institution that has
13 had its accreditation withdrawn, revoked, or other-
14 wise terminated, or has voluntarily withdrawn from
15 an accreditation agency, to remain certified as an in-
16 stitution of higher education under section 102 and
17 subpart 3 of this part for a period sufficient to allow
18 such institution to obtain alternative accreditation, if
19 the Secretary determines, in accordance with para-
20 graph (2), that such withdrawal, revocation, or ter-
21 mination—

22 “(A) is related to the religious mission or
23 affiliation of the institution; and

24 “(B) is not related to the accreditation cri-
25 teria provided for in this section.

1 “(2) ADMINISTRATIVE COMPLAINT FOR FAIL-
2 URE TO RESPECT RELIGIOUS MISSION.—

3 “(A) IN GENERAL.—

4 “(i) INSTITUTION.—If an institution
5 of higher education believes that an ad-
6 verse action of an accrediting agency or as-
7 sociation fails to respect the institution’s
8 religious mission in violation of subsection
9 (a)(4)(B), the institution—

10 “(I) may file a complaint with
11 the Secretary to review the adverse
12 action of the agency or association;
13 and

14 “(II) prior to filing such com-
15 plaint, shall notify the Secretary and
16 the agency or association of an intent
17 to file such complaint not later than
18 30 days after—

19 “(aa) receiving the adverse
20 action from the agency or asso-
21 ciation; or

22 “(bb) determining that dis-
23 cussions with or the processes of
24 the agency or association to rem-
25 edy the failure to respect the reli-

1 religious mission of the institution
2 will fail to result in the with-
3 drawal of the adverse action by
4 the agency or association.

5 “(ii) ACCREDITING AGENCY OR ASSO-
6 CIATION.—Upon notification of an intent
7 to file a complaint and through the dura-
8 tion of the complaint process under this
9 paragraph, the Secretary and the accred-
10 iting agency or association shall treat the
11 accreditation status of the institution of
12 higher education as if the adverse action
13 for which the institution is filing the com-
14 plaint had not been taken.

15 “(B) COMPLAINT.—Not later than 45 days
16 after providing notice of the intent to file a
17 complaint, the institution shall file the com-
18 plaint with the Secretary (and provide a copy to
19 the accrediting agency or association), which
20 shall include—

21 “(i) a description of the adverse ac-
22 tion;

23 “(ii) how the adverse action fails to
24 respect the institution’s religious mission
25 in violation of subsection (a)(4)(B); and

1 “(iii) any other information the insti-
2 tution determines relevant to the com-
3 plaint.

4 “(C) RESPONSE.—

5 “(i) IN GENERAL.—The accrediting
6 agency or association shall have 30 days
7 from the date the complaint is filed with
8 the Secretary to file with the Secretary
9 (and provide a copy to the institution) a
10 response to the complaint, which response
11 shall include—

12 “(I) how the adverse action is
13 based on a violation of the agency or
14 association’s standards for accredita-
15 tion; and

16 “(II) how the adverse action does
17 not fail to respect the religious mis-
18 sion of the institution and is in com-
19 pliance with subsection (a)(4)(B).

20 “(ii) BURDEN OF PROOF.—

21 “(I) IN GENERAL.—The accred-
22 iting agency or association shall bear
23 the burden of proving that the agency
24 or association has not taken the ad-
25 verse action as a result of the institu-

1 tion’s religious mission, and that the
2 action does not fail to respect the in-
3 stitution’s religious mission in viola-
4 tion of subsection (a)(4)(B), by show-
5 ing that the adverse action does not
6 impact the aspect of the religious mis-
7 sion claimed to be affected in the
8 complaint.

9 “(II) INSUFFICIENT PROOF.—
10 Any evidence that the adverse action
11 results from the application of a neu-
12 tral and generally applicable rule shall
13 be insufficient to prove that the action
14 does not fail to respect an institu-
15 tion’s religious mission.

16 “(D) ADDITIONAL INSTITUTION RE-
17 SPONSE.—

18 “(i) IN GENERAL.—The institution
19 shall have a 30-day period beginning on
20 the date on which the agency or associa-
21 tion’s response is filed with the Secretary
22 to file with the Secretary (and provide a
23 copy to the agency or association) a re-
24 sponse to any issues raised in the response
25 of the agency or association.

1 “(ii) WAIVER OF RIGHT TO RE-
2 SPOND.—An institution that does not file
3 such a response during the 30-day period
4 described in clause (i) shall be deemed to
5 have waived the institution’s right to re-
6 spond to the response of the agency or as-
7 sociation.

8 “(E) SECRETARIAL ACTION.—

9 “(i) IN GENERAL.—Not later than 30
10 days after the institution submits a re-
11 sponse pursuant to subparagraph (D)(i),
12 or, in the case of an institution that waives
13 the institution’s right to respond in accord-
14 ance to subparagraph (D)(ii), 30 days
15 after the date on which the agency or asso-
16 ciation’s response is filed with the Sec-
17 retary—

18 “(I) the Secretary shall review
19 the materials to determine if the ac-
20 crediting agency or association has
21 met its burden of proof under sub-
22 paragraph (C)(ii)(I); or

23 “(II) in a case in which the Sec-
24 retary fails to conduct such review—

1 “(aa) the Secretary shall be
2 deemed as determining that the
3 adverse action fails to respect the
4 religious mission of the institu-
5 tion; and

6 “(bb) the accrediting agency
7 or association shall be required to
8 reverse the action immediately
9 and take no further action with
10 respect to such adverse action.

11 “(ii) REVIEW OF COMPLAINT.—In re-
12 viewing the complaint under clause (i)(I)—

13 “(I) the Secretary shall consider
14 the institution to be correct in the as-
15 sertion that the adverse action fails to
16 respect the institution’s religious mis-
17 sion and shall apply the burden of
18 proof described in subparagraph
19 (C)(ii)(I) with respect to the accred-
20 iting agency or association; and

21 “(II) if the Secretary determines
22 that the accrediting agency or associa-
23 tion fails to meet such burden of
24 proof—

1 “(aa) the Secretary shall no-
2 tify the institution and the agen-
3 cy or association that the agency
4 or association is not in compli-
5 ance with subsection (a)(4)(B),
6 and that such agency or associa-
7 tion shall carry out the require-
8 ments of item (bb) to be in com-
9 pliance with subsection (a)(4)(B);
10 and

11 “(bb) the agency or associa-
12 tion shall reverse the adverse ac-
13 tion immediately and take no fur-
14 ther action with respect to such
15 adverse action.

16 “(iii) FINAL DEPARTMENTAL AC-
17 TION.—The Secretary’s determination
18 under this subparagraph shall be the final
19 action of the Department on the complaint.

20 “(F) RULE OF CONSTRUCTION.—Nothing
21 in this paragraph shall prohibit—

22 “(i) an accrediting agency or associa-
23 tion from taking an adverse action against
24 an institution of higher education for a
25 failure to comply with the agency or asso-

1 ciation’s standards of accreditation as long
2 as such standards are in compliance with
3 subsection (a)(4)(B) and any other appli-
4 cable requirements of this section; or

5 “(ii) an institution of higher education
6 from exercising any other rights to address
7 concerns with respect to an accrediting
8 agency or association or the accreditation
9 process of an accrediting agency or asso-
10 ciation.

11 “(G) REGULATIONS AND GUIDANCE.—

12 “(i) IN GENERAL.—The Secretary
13 may only issue regulations and guidance
14 under this paragraph that explain or clar-
15 ify the process for providing a notice of an
16 intent to file a complaint under this para-
17 graph, and for preparing and filing such a
18 complaint, a response to such complaint by
19 an accrediting agency or association, and a
20 response by an institution to a response
21 filed by an accrediting agency or associa-
22 tion.

23 “(ii) CLARIFICATION.—The Secretary
24 may not issue regulations, guidance, or
25 otherwise determine or suggest, when dis-

1 cussions to remedy the failure by an ac-
2 crediting agency or association to respect
3 the religious mission of an institution of
4 higher education referred to in subpara-
5 graph (A)(i)(II)(bb) have failed or will
6 fail.”.

7 (h) INDEPENDENT EVALUATION.—Section 496(n)(3)
8 of the Higher Education Act of 1965 (20 U.S.C.
9 1099b(n)(3)) is amended by striking the last sentence.

10 (i) REGULATIONS.—Section 496(o) of the Higher
11 Education Act of 1965 (20 U.S.C. 1099b(o)) is amended
12 by inserting before the period at the end the following:
13 “, or with respect to the policies and procedures of an ac-
14 creditation agency or association described in paragraph
15 (2) or (5) of subsection (c) or how the agency or associa-
16 tion carries out such policies and procedures”.

17 (j) RISK-BASED REVIEW PROCESSES OR PROCE-
18 DURES; WAIVER.—Section 496 of the Higher Education
19 Act of 1965 (20 U.S.C. 1099b) is further amended—

20 (1) by striking subsections (p) and (q); and

21 (2) by adding at the end the following:

22 “(p) RISK-BASED OR DIFFERENTIATED REVIEW
23 PROCESSES OR PROCEDURES.—

24 “(1) IN GENERAL.—Notwithstanding any other
25 provision of law (including subsection (a)(4)(A)), an

1 accrediting agency or association shall establish risk-
2 based processes or procedures for assessing compli-
3 ance with the accrediting agency or association’s
4 standards (including policies related to substantive
5 change and award of accreditation statuses) under
6 which the agency or association—

7 “(A) creates a system for understanding
8 the performance of each institution and pro-
9 gram of study being reviewed by such agency or
10 association in comparison with the performance
11 of other similarly situated institutions or pro-
12 grams of study (which may include the past
13 performance of the institution or program with
14 respect to meeting the accrediting agency or as-
15 sociation’s standards, including the standards
16 relating to the student success outcomes de-
17 scribed in subsection (a)(5)(A)(i));

18 “(B) with respect to each institution and
19 program of study designated as high-risk, as
20 determined using the accrediting agency or as-
21 sociation’s system described in subparagraph
22 (A), requires the institution and program of
23 study to submit the annual plans described in
24 subsection (c)(2)(B) to the agency or associa-
25 tion that address the performance issues of

1 such institution or program of study that re-
2 sulted in such designation;

3 “(C) with respect to each institution and
4 program of study whose performance meets or
5 exceeds the standards of the accrediting agency
6 or association, as determined using the system
7 described in subparagraph (A), reduces any
8 compliance requirements with respect to such
9 standards that are not assessing the institution
10 or program of study in accordance with sub-
11 section (a)(5) (such as on-site inspections); and

12 “(D) may require an institution or pro-
13 gram of study that is required to submit an an-
14 nual plan under subsection (c)(2)(B) (such as
15 an institution or program that has a high-risk
16 designation described in subparagraph (B)) and
17 that has not improved as required by such an-
18 nual plan, to take actions to avoid or minimize
19 the risks that may lead to revocation of accredi-
20 tation (such as limiting certain program of
21 study enrollment or recommending to the Sec-
22 retary to limit funds under this title for such an
23 institution or program).

24 “(2) PROHIBITION.—Any risk-based review
25 process or procedure established pursuant to this

1 subsection shall not discriminate against, or other-
2 wise preclude, institutions of higher education based
3 on institutional sector or category, including an in-
4 stitution of higher education’s tax status.”.

5 (k) DEFINITIONS.—Section 496 of the Higher Edu-
6 cation Act of 1965 (20 U.S.C. 1099b) is further amended
7 by adding at the end the following:

8 “(q) DEFINITIONS.—For purposes of this section:

9 “(1) PROGRAM LENGTH.—The term ‘program
10 length’ means the minimum amount of time in
11 weeks, months, or years that is specified in the cata-
12 log, marketing materials, or other official publica-
13 tions of an institution of higher education for a full-
14 time student to complete the requirements for a spe-
15 cific program of study.

16 “(2) PROGRAM OF STUDY.—

17 “(A) IN GENERAL.—The term ‘program of
18 study’ means an eligible program at an institu-
19 tion of higher education that is classified by a
20 combination of—

21 “(i) one or more CIP codes; and

22 “(ii) one credential level, determined
23 by the credential awarded upon completion
24 of the program.

1 “(B) CIP CODE.—The term ‘CIP code’
2 means the six-digit taxonomic identification
3 code assigned by an institution of higher edu-
4 cation to a specific program of study at the in-
5 stitution, determined by the institution of high-
6 er education in accordance with the Classifica-
7 tion of Instructional Programs published by the
8 National Center for Education Statistics.

9 “(C) CREDENTIAL LEVEL.—

10 “(i) IN GENERAL.—The term ‘ creden-
11 tial level’ means the level of the degree or
12 other credential awarded by an institution
13 of higher education to students who com-
14 plete a program of study of the institution.
15 Each degree or other credential awarded
16 by an institution shall be categorized by
17 the institution as either undergraduate cre-
18 dential level or graduate credential level.

19 “(ii) UNDERGRADUATE CREDEN-
20 TIAL.—When used with respect to a cre-
21 dential or credential level, the term ‘under-
22 graduate credential’ includes credentials
23 such as an undergraduate certificate, an
24 associate degree, a bachelor’s degree, and a
25 post-baccalaureate certificate (including

1 the coursework specified in paragraphs
2 (3)(B) and (4)(B) of section 484(b)).

3 “(iii) GRADUATE CREDENTIAL.—

4 When used with respect to a credential or
5 credential level, the term ‘graduate creden-
6 tial’ includes credentials such as a master’s
7 degree, a doctoral degree, a professional
8 degree, and a postgraduate certificate.

9 “(3) PROGRAM OF STUDY STUDENT COHORT.—

10 “(A) IN GENERAL.—The term ‘program of
11 study student cohort’ means the cohort of indi-
12 viduals who completed a specific program of
13 study at an institution of higher education dur-
14 ing the same award year, except that such co-
15 hort shall only include an individual who re-
16 ceived Federal financial aid under this title dur-
17 ing the period the individual was enrolled in
18 such program of study.

19 “(B) SMALL COHORTS.—With respect to
20 such a program of study student cohort that
21 has fewer than 30 individuals, the Secretary
22 shall aggregate additional years of data for the
23 program of study in order to achieve a cohort
24 of at least 30 individuals.

1 “(4) RELIGIOUS MISSION.—The term ‘religious
2 mission’—

3 “(A) means a published institutional mis-
4 sion that is approved by the governing body of
5 an institution of higher education and that in-
6 cludes, refers to, or is predicated upon religious
7 tenets, beliefs, or teachings; and

8 “(B) may be reflected in any of the institu-
9 tion’s policies, decisions, or practices related to
10 such tenets, beliefs, or teachings (including any
11 policies or decisions concerning housing, em-
12 ployment, curriculum, self-governance, or stu-
13 dent admission, continuing enrollment, or grad-
14 uation).

15 “(5) TOTAL PRICE.—With respect to a student
16 who received Federal financial assistance under this
17 title and who completes a program of study, the
18 term ‘total price’ means the total amount, before
19 Federal financial assistance under this title was ap-
20 plied, a student was required to pay to complete the
21 program of study. A student’s total price shall be
22 calculated by the Secretary as the difference be-
23 tween—

24 “(A) the total amount of tuition and fees
25 that were charged to such student before the

1 application of any Federal financial assistance
2 provided under this title; minus

3 “(B) the total amount of grants and schol-
4 arships described in section 480(i) awarded to
5 such student from non-Federal sources for such
6 program of study.

7 “(6) VALUE-ADDED EARNINGS.—

8 “(A) VALUE-ADDED EARNINGS.—

9 “(i) IN GENERAL.—The term ‘value-
10 added earnings’ mean—

11 “(I) the median annual earnings
12 of a program of study student cohort,
13 as adjusted pursuant to clause (iii)
14 (as appropriate), minus

15 “(II) the product of—

16 “(aa) the poverty line appli-
17 cable to a single individual, (as
18 determined under section 673(2)
19 of the Community Services Block
20 Grant Act (42 U.S.C. 9902(2)))
21 for the year in which such earn-
22 ings were measured; and

23 “(bb) the applicable percent-
24 age described in clause (ii).

1 “(ii) APPLICABLE PERCENTAGE.—The
2 applicable percentage described in this
3 clause is—

4 “(I) in the case of a program of
5 study student cohort for program of
6 study that awards an undergraduate
7 credential, 150 percent; and

8 “(II) in the case of a program of
9 study student cohort for a program of
10 study that awards a graduate creden-
11 tial, 300 percent.

12 “(iii) GEOGRAPHIC ADJUSTMENT.—
13 Except in the case of a program of study
14 student cohort in which 50 percent or
15 more of the individuals in such cohort par-
16 ticipated exclusively online, the Secretary
17 shall adjust the median annual earnings of
18 a program of study student cohort by the
19 regional price parity index of the Bureau
20 of Economic Analysis for the metropolitan
21 statistical area in which the institution of-
22 fering such program is located.

23 “(B) ANNUAL EARNINGS.—

24 “(i) ANNUAL EARNINGS.—The term
25 ‘annual earnings’ means the earnings of an

1 individual who is in a program of study
2 student cohort, who is working, and who is
3 not enrolled at an institution, measured—

4 “(I) in the case of an under-
5 graduate certificate, post-bacca-
6 laurate certificate, or graduate cer-
7 tificate, 1 year after completion of
8 such program;

9 “(II) in the case of an associates
10 or masters degree, 2 years after com-
11 pletion of such program; and

12 “(III) in the case of bachelor’s
13 degree, doctoral degree, or profes-
14 sional degree, 4 years after completion
15 of such program.

16 “(ii) EXCEPTION.—The Secretary
17 may, as the Secretary determines appro-
18 priate based on the characteristics of a
19 program of study, extend the applicable
20 measurement period under clause (i) for a
21 program of study that—

22 “(I) requires completion of an
23 additional educational program (such
24 as a residency or fellowship) after
25 completion of the program of study in

1 order to obtain licensure or board cer-
2 tification associated with the creden-
3 tial awarded for such program of
4 study; and

5 “(II) when combined with the
6 program length of such additional
7 educational program for licensure or
8 board certification, has a total pro-
9 gram length that exceeds the applica-
10 ble measurement period under clause
11 (i) for such program of study,
12 except that in no case shall the annual
13 earnings of an individual be measured
14 more than 1 year after the individual com-
15 pletes such additional educational pro-
16 gram.”.

17 **SEC. 3. NATIONAL ADVISORY COMMITTEE ON INSTITU-**
18 **TIONAL QUALITY AND INTEGRITY (NACIQI).**

19 Section 114 of the Higher Education Act of 1965 (20
20 U.S.C. 1011c) is amended—

21 (1) in subsection (b)—

22 (A) in paragraph (2), by redesignating
23 subparagraphs (A) through (C) as clauses (i)
24 through (iii), respectively, and adjusting the
25 margins accordingly;

1 (B) by striking “Individuals” and inserting
2 the following:

3 “(A) IN GENERAL.—Individuals”;

4 (C) in clause (ii), as so redesignated, by
5 striking “and training” and inserting “and
6 skills development”;

7 (D) by adding at the end of paragraph (2)
8 the following:

9 “(B) DISQUALIFICATION.—No individual
10 may be appointed as a member of the Com-
11 mittee if such individual has a significant con-
12 flict of interest, such as being a current regu-
13 lator (such as a State authorizer), that would
14 require the individual to frequently be recused
15 from serving as a member of the Committee.”;
16 and

17 (E) in paragraph (3)—

18 (i) by striking “Except as provided in
19 paragraph (5), the term” and inserting
20 “The term”; and

21 (ii) by adding at the end the fol-
22 lowing: “If, during a term of office of a
23 member of the Committee, the member has
24 a changed circumstance that results in
25 such member having a significant conflict

1 of interest (as described in paragraph
2 (2)(B)), such member shall vacate such of-
3 fice and a new member shall be appointed
4 to serve the remainder of such term in ac-
5 cordance with this paragraph.”

6 (2) in subsection (c)—

7 (A) in paragraph (4), by adding “and” at
8 the end;

9 (B) in paragraph (5), by striking “; and”
10 at the end and inserting a period; and

11 (C) by striking paragraph (6);

12 (3) in subsection (d)(2), by inserting at the end
13 the following: “The name of any member of the
14 Committee who has been recused with respect to an
15 agenda item of the meeting shall be included in such
16 agenda.”;

17 (4) in subsection (e)(2)(D), by striking “, in-
18 cluding any additional functions established by the
19 Secretary through regulation”; and

20 (5) in subsection (f), by striking “September
21 30, 2024” and inserting “September 30, 2028”.

22 **SEC. 4. RULE OF CONSTRUCTION.**

23 Nothing in this Act, or the amendments made by this
24 Act, shall be construed to prevent religious accreditors

- 1 from holding and enforcing religious standards on institu-
- 2 tions they choose to accredit.

