

NACIQI Committee on Regulatory Relief

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In February 2017, President Donald Trump issued Executive Order 13777, “Enforcing the Regulatory Reform Agenda;” a broad-based order to examine unnecessary regulations throughout the U.S. Government. On June 22, 2017, Secretary Betsy DeVos put out a call for public comment seeking input on regulations that may be appropriate for repeal, replacement, or modification. During the June 2017 NACIQI meeting, Chairman Art Keiser responded to the Secretary’s call by forming a subcommittee to draft recommendations for review by the Committee for adoption, approval, and submission to the U.S. Secretary of Education related to regulatory relief in the accreditation space.

The subcommittee adopted the following working purpose statement:

The purpose of the subcommittee is to develop recommendations for NACIQI to provide advice to Secretary DeVos on an approach to accreditation that can promote innovation and reduce unnecessary regulatory burden, while ensuring quality and accountability.

The subcommittee held several teleconference meetings throughout late summer and fall. The recommendations are broken down into three general areas. The first seeks regulatory relief in the form of process changes within the current statutory framework. The second suggests specific statutory changes in light of an ever-changing higher education environment. The third is a recommendation related to the work of NACIQI and how it might better focus its work with accreditors.

Regulatory Relief: Comprehensive Implementation of a Risk Informed Model

In 2013 a group of four bi-partisan US Senators appointed a Task Force of higher education officials to examine federal regulations which apply to higher education and to provide recommendations for change. The American Council on Education provided staff support for the Task Force. In 2015 the Council published its final report entitled, “Recalibrating Regulation of Colleges and Universities: Report of the Task Force on Federal Regulation of Higher Education” (*Task Force*). The *Task Force* submitted a recommendation related to accreditation which states, “Provide unequivocal authority to accreditors for “*Differentiated Review*.” The goal of this recommendation is to reduce the regulatory burden on institutions with “*a record of stability and successful performance*,” (#39, p.55).

More recently, in April 22, 2016, the then Under Secretary of Education Ted Mitchell, sent a letter to accrediting agencies encouraging the creation of differentiated reviews. Since then, minimal action has occurred. The summary of Mitchell’s letter states:

This letter provides clarification for federally recognized accrediting agencies on the flexibility that they have in differentiating their reviews of institutions and programs, and encourages use of that flexibility to focus monitoring and resources on student achievement and problematic institutions or programs.

The Committee continues to see an opportunity to create efficiency and regulatory relief in a risk-informed approach to accreditation that would free up time and resources of accrediting agencies and the Department to focus on institutions that pose the greatest quality concerns. The current

47 statutory requirements, however, make implementing a risk-informed review framework nearly
48 impossible.

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50 ***The Committee recommends that the Secretary request enabling legislative language be***
51 ***drafted which allows accreditors to create and implement Risk Informed reviews.***

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53 This recommendation echoes a previous a NACIQI submitted a report entitled, “2015 Accreditation
54 Policy Recommendations” (2015 Report) which addressed the issue of deregulation and expedited
55 review. **The Committee would like to reaffirm the following recommendation and request that**
56 **legislative language be drafted to accomplish the following:**

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58 ***Grant accrediting agencies greater authority to develop standards tailored to institutional***
59 ***mission; to create different substantive tiers of accreditation; and to use different processes***
60 ***for different types of institutions, including expedited processes. (#5, p.6)***

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62 The goal of this framework is to lessen the reporting and documentation burden of campuses that
63 perform well on key student success measures and widely recognized benchmarks within their
64 institutional/program type and region and have a history of quality program reviews. In those cases, the
65 compliance reporting burden should be reduced for high-performing community colleges, four-year
66 colleges and universities, thus allowing them to focus on more strategic and specific areas of
67 institutional improvement. We see this recommendation applying equally to programmatic and
68 specialized accreditors.

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70 This approach, as well, will also allow accrediting agencies to focus more attention on struggling
71 institutions with the goal of moving them toward high-performance or seeking student-protection
72 strategies for failing institutions.

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74 There has been movement forward on this approach by some of the regional accrediting bodies. The
75 Western Association of Schools and Colleges Senior College and University Commission’s “Thematic
76 Pathway for Reaffirmation” and the Higher Learning Commission’s “Open Pathway” reviews serve as
77 emerging examples with promise.

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79 To help stimulate action toward this end, the Committee puts forth the following risk-informed
80 framework for consideration and discussion by all institutional and programmatic accreditors.

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82 Accrediting agencies should clearly define eligibility requirements for risk-informed processes and
83 should be based largely on student success and financial stability measures. Consideration should be
84 given to banding the eligibility requirements according to institutional type and mission which would
85 provide institutions and programs of all types and missions with the potential of qualifying for the risk-
86 informed process.

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88 Accreditors would want to determine the fundamental eligibility criterion. For instance, they may want
89 to take into account a previous reaffirmation status. Those campuses reaffirmed without conditions and
90 no subsequent concerning indicators may be considered eligible to apply for a risk-informed review.
91 Institutions reaffirmed with significant recommendations or sanctions would most likely not be eligible
92 for a risk-informed review process, however, accreditors may wish to develop an appeal for inclusion.

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94 Accreditors may consider collecting annual and mid-cycle review data from institutions to determine
95 whether any red flags arise which would constitute an accreditor's immediate inquiry. Data collected
96 for these reporting cycles could heavily rely on existing data sets, thus keeping to a minimum the
97 institutional reporting burden such as IPEDS and the College Scorecard.

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99 It seems reasonable that two key areas of data collection may need to be considered: student success
100 and financial stability. For example, student success data may include rates and trends related to
101 enrollment, retention, course completion, graduation, relevant State licensure examinations, job
102 placement, student loan repayment, and possibly other areas. As well, institutional financial stability
103 data may include annual audit submissions and other sector relevant financial indicators.

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105 Mid-cycle data reviews would examine data to see if there are any concerning trends. Any unusual or
106 cautionary findings may trigger an immediate inquiry or may disqualify an institution from benefiting
107 from risk-informed review.

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109 Additional red-flags triggering an immediate review may include student complaints or other unsolicited
110 information brought to the attention of the accreditor through other sources.

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112 In summary, the risk-informed review process would provide significant reporting relief to those
113 institutions that consistently perform well within their institutional type cluster. It would still require
114 that accreditors annually review routinely collected data to look for unusual variations that might result
115 in an institutional inquiry. As well, the mid-cycle review would take a closer look at those same issues
116 over time. This abbreviated reporting would allow accreditors to focus more attention on at-risk
117 institutions which would result in a better use of accreditation resources.

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119 The risk-informed approach would accomplish much of what Mitchell suggested in his 2016 letter when
120 he writes:

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122 *Differentiation of terms of recognition: An agency may provide a shorter period of recognition*
123 *(i.e., fewer years) for an institution or program that has met the threshold standards but for*
124 *which the agency continues to have concerns, and a longer period of recognition for an*
125 *institution or program that has regularly exceeded the standards with no ongoing concerns.*
126 *More frequent monitoring or unannounced visits can be applied for institutions or programs with*
127 *less satisfactory reviews. Accreditors may also develop tiers of recognition, with some*
128 *institutions or programs denoted as achieving the standards at higher or lower levels than*
129 *others.*

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131 It should be noted that the *Task Force* report offers a good resource on the risk-informed approach in
132 Appendix III, (pp. 59-89). The Appendix not only provides an implementation framework for a risk-
133 informed model but cites examples of other government agencies which operate in a risk-informed
134 manner.

135 136 **Specific Statutory Considerations**

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138 It is the Committee's desire that current law and regulations align with the ever-changing higher
139 education environment. Criticism is often voiced at higher education institutions because they lack
140 innovation and market responsiveness; however, much of the current statutory and regulatory
141 requirements placed on institutions do not allow for institutions to act as quickly as they wish.

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In keeping with the desire to update current statutory and regulatory requirements, **the Committee would also like to affirm the following recommendations from the *Task Force* report and request legislative language be drafted which will:**

Strike the definition of “credit hour.” Education Department has, through regulation, created a federal definition of “credit hour.” It represents an inappropriate intrusion into the academic process. It also discourages the use of innovative models for measuring learning that are not tied to seat time. (#40, p.55)

Approval of “substantive change” by accreditors. Limit the kinds of “substantive changes” that would require approval by accreditors. Established institutions should have flexibility to make changes necessary to address their needs and those of their students. (#41, p.55)

“Additional procedures” requirement regarding branch campuses. Limit “additional procedures” to only those cases where there are substantive changes or when branch campuses are up for accreditation reviews. (#42, p.55)

Recommendations concerning NACIQI

The *2015 Report* provided several recommendations concerning the work of NACIQI with the goal of improving the reviews and reducing the regulatory burden on accrediting agencies. For example, the following recommendation sought a path toward focusing on institutional success measures under the guidance of accreditors rather than on accretor’s technical compliance.

Re-focus NACIQI reviews to direct greater attention to assessing the role of an accrediting agency in assessing the health and well-being and the quality of institutions of higher education, rather than on technical compliance with the criteria for recognition. These reviews should be supported by staff analysis that focuses on the effectiveness of the accrediting agency in performing its work, rather than technical compliance. (#3, p.6)

The Committee recommends the drafting of legislative language which will that *support ongoing adjustments to NACIQI’s work to accommodate this newly developing risk-informed procedures and consider ways in which it might be implemented for institutional, programmatic, and specialized accrediting agencies within the advisory capacity of the Committee.*

178 National Advisory Committee on Institutional Quality and Integrity, *REPORT TO THE U.S. SECRETARY OF*
179 *EDUCATION: Higher Education Act Reauthorization: 2015 Accreditation Policy*
180 *Recommendations*. July 2015.

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182 *RECALIBRATING REGULATION OF COLLEGES AND UNIVERSITIES: Report of the (2013) Task Force on*
183 *Federal Regulation of Higher Education*. American Council on Education. 2015.

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185 Mitchell, Ted. Letter to Federally Recognized Accrediting Agencies. *Flexibility in Application of*
186 *Accrediting Agency Review Processes; and Emphases in Departmental Review of Agency*
187 *Effectiveness*. April 22, 2016.

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