

August 23, 2024

The Honorable Miguel Cardona  
Secretary  
U.S. Department of Education  
400 Maryland Avenue SW  
Washington, DC 20002

Re: Docket ED-2024-OPE-0050

Dear Secretary Cardona,

On behalf of the American Association of Collegiate Registrars and Admissions Officers (AACRAO), I am writing to express concerns regarding the proposed [\*Program Integrity and Institutional Quality: Distance Education, Return of Title IV, HEA Funds, and Federal TRIO Programs\*](#) rule that was published on July 24, 2024. It is my hope that the Department of Education (Department) will take these comments into consideration as it implements the final rule.

#### **About AACRAO**

Founded in 1910, the American Association of Collegiate Registrars and Admissions Officers (AACRAO) is one of the oldest nonprofit higher education associations in the nation and represents over 15,000 higher education admissions and registration professionals from 2,300 institutions across the United States and 40 countries. Our mission is to provide guidelines and standards for the higher education community regarding record management, admissions, enrollment management, administrative information technology and student services.

#### **Disallowing Asynchronous Course Delivery for Clock-Hour Programs**

Distance education is a modality of course delivery that has a proven record of benefiting learners by allowing for greater flexibility of how, when, and where individuals learn while also giving them the opportunity to develop transferable skills in an increasingly virtual workplace. Furthermore, distance education can help minimize barriers for learners by offering services at lower costs and a greater variety of programs. All of these benefits are particularly important for non-traditional and low-income students who often have competing priorities such as caring for a family member or working.

In 34 CFR 600.2, the Department proposes removing the asynchronous option for learners enrolled in distance education courses under the definition of a clock-hour. While we understand that historically clock-hour programs have had an emphasis on hands-on learning, we are concerned that the Department's proposal will only serve to decrease access to higher education. As previously stated, distance education allows for greater flexibility which can be critical for certain learners. As it currently stands, clock-hour programs offered through distance education undergo rigorous screening to ensure they are of the same quality as other Title IV-eligible programs. If a student chooses to take an asynchronous course, they are

no less deserving of financial aid and they shouldn't be forced to pay out of pocket for an option that may truly be best for their individual circumstances.

Furthermore, we are concerned that 34 CFR 600.2 overlooks the great deal of variety that exists in how institutions deliver courses today. Some clock-hour programs are a hybrid of distance/asynchronous work (core knowledge building) and in-person work (hands on skill building). Is it the intention of the regulation to eliminate only 100% asynchronous distance education clock-hour programs or to also eliminate these hybrid programs which meet the needs of adult learners with other life obligations? In these hybrid distance education models, a single course could involve asynchronous, synchronous, online, and in-person components. Learners could be asked to watch pre-recorded modules at their own pace, join a weekly virtual lecture where everyone attends at a scheduled time, and also be asked to attend in-person labs where learners engage with the material hands-on. Removing asynchronous distance education courses under the definition of a clock-hour would not simply impact courses where individuals learn at their own pace from pre-recorded content without any in-person interaction. It would also impact any variation of a hybrid course that uses the clock-hour method for financial aid disbursement. It is for these reasons that AACRAO opposes the Department's proposal to disallow asynchronous course delivery for clock-hour programs. If the Department is intent on keeping this provision, then we recommend changing the language to narrowly impact the exact delivery modalities that are of concern.

#### **Definition of Distance Education and the Creation of Virtual Locations**

In 34 CFR 600.2, the Department proposes to create a "virtual locations" subcategory under "additional locations" for programs that are offered 100 percent through distance education, notwithstanding mandatory on-campus or residential periods of 90 days or less. AACRAO member institutions have already expressed confusion as to whether an institution would need to create a single virtual location for all of its distance education programs (containing multiple courses within each program), or if it would need to create a separate virtual location for each individual course within a program.

Additionally, we are concerned that the proposed regulations do not seem to accommodate hybrid courses. Currently, hybrid programs, those which require a student to attend instructional content on campus, are classified as exclusively online in the Integrated Postsecondary Education Data System (IPEDS). However, the Department's amended terminology includes the phrase "on campus or residential periods of 90 days or less." Under this definition, any course which has less than 90 days of on-campus instruction or residential experience would be considered a distance education course, but this isn't reflective of how these courses actually operate. Requiring institutions to create virtual locations for what are practically "hybrid" courses would negatively impact the momentum surrounding distance education and disincentivize institutions from offering these programs. While the Department's 2020 distance education and innovations regulations were designed with flexibility in mind, allowing institutions to serve students in ways that meet their needs, what the Department is now proposing does not provide institutions the same liberties.

Lastly, we are concerned that requiring institutions to establish virtual locations to host their distance education programs would onerously burden them with closed school discharges in the event they decide to restructure or discontinue their online programs. There are some situations, such as if an institution closes an online program that a student was attending who can't attend the program on-campus, that

would warrant a closed school discharge. However, this very narrow instance should be the only allowance for providing a remedy for these students at the expense of the institution.

### **Reporting Enrollment in Distance Education Courses**

In 34 CFR 668.41, the Department proposes to mandate institutions report enrollment in correspondence courses or distance education programs for the purposes of “expanded information to better answer questions about college access, persistence, completion, and success, and to better inform student-centered policies for distance education.” While we recognize the need for accurate data, we worry that the Department will unintentionally create confusion, data errors, and increase inequity between well-resourced and under-resourced institutions with this reporting requirement.

Students often enroll in non-linear, non-homogeneous ways, frequently choosing courses offered in different delivery modalities within the same term of enrollment. Furthermore, some individual course sections/classes (i.e., the same subject, number, and title offered more than once during a term) allow students to vary their preferred delivery modality throughout the term. For instance, a student may choose to engage with some content in person and other content online, either synchronously or asynchronously, with these choices varying from one student to another in the same section/class of the course.

The diverse nature of student course selection and institutional course modality offerings raises concerns about the utility of collected data. Without corresponding information from traditional courses, student-level data on distance education enrollment alone lacks a meaningful basis for comparison. Even if institutions were to report aggregate data on distance education enrollment and outcomes, the absence of standardized grading practices across courses and institutions would limit the data's value for analysis.

### **Attendance Taking in Distance Education Course**

The Department’s proposed amendments to § 668.22(b)(2) would require institutions to record a withdrawal date within 14 days of a learner’s last date of attendance. This would subject distance education courses to a level of scrutiny that in-person classes are not. Additionally, we are concerned that requiring institutions to automatically withdraw learners within 14 days after the last date of attendance overlooks certain learner populations and course types. For example, learners in the military may get deployed, or adult learners may need to care for a family member, resulting in them being absent for a period greater than 14-days. Furthermore, while the Department has recognized the unique requirements of doctoral dissertation courses, it fails to recognize that other courses, such as for-credit internships, that have no academic work or only require a final exam/paper, would be negatively impacted as well.

Thank you for your attention to this letter. It is AACRAO's hope that these comments can help inform the Department as it works to release the final rule.

Sincerely,

Melanie Gottlieb

A handwritten signature in cursive script that reads "Melanie Gottlieb". The signature is written in black ink and features a long, sweeping horizontal stroke at the end.

CC: David Musser  
Gregory Martin