



## **Policy Update: ED Solicits Nominations for Accreditation and Innovation Negotiated Rulemaking Committee**

*Lewis-Burke Associates LLC – October 15, 2018*

On October 15, the Department of Education (ED) announced its intention to establish a negotiated rulemaking committee to prepare proposed regulations for student aid programs under Title IV of the *Higher Education Act* (HEA). ED is requesting nominations for individual negotiators to serve on the committee who represent stakeholder constituencies for the issues to be negotiated. ED also announced the creation of three subcommittees and requested nominations for individuals with relevant expertise to participate on the subcommittees.

ED's request for negotiator nominations follows its July 31 announcement of its intention to begin rulemaking, its request for written comments on topics for consideration by the negotiated rulemaking committee, and three public hearings where comments were also solicited. As a result of these comments and feedback, ED has decided to establish a single *Accreditation and Innovation* negotiated rulemaking committee and three topic-based subcommittees. Additionally, ED noted that they are scheduling additional days for the committee meetings and will use "redlined regulatory text as the starting point of negotiations instead of issue papers" to streamline the process and ensure proper attention to each topic. ED intends to select negotiators for the committee who represent the interests significantly affected by the topics proposed for negotiations and reflect the diversity of higher education institutions.

The *Accreditation and Innovation Committee* will address ED's recognition of accrediting agencies, related institutional eligibility for title IV aid, barriers to innovation, as well as various technical corrections. The specific topics for negotiation will likely include:

- Requirements for accrediting agencies in their oversight of member institutions and programs.
- Criteria used by the Secretary of Education to recognize accrediting agencies, emphasizing criteria that focus on educational quality and deemphasizing those that are anticompetitive.
- Simplification of the ED's recognition and review of accrediting agencies.
- Clarification of the core oversight responsibilities amongst each entity in the regulatory triad, including accrediting agencies, States, and the Department to hold institutions accountable.
- Clarification of the permissible arrangements between an institution of higher education and another organization to provide a portion of an education program.
- The roles and responsibilities of institutions and accrediting agencies in the teach-out process.
- Elimination of regulations related to programs that have not been funded in many years.
- Needed technical changes and corrections to program regulations that have been identified by the Department.

The subcommittees will address the specified issues and make recommendations to the *Accreditation and Innovation Committee*. Subcommittees are not authorized to make decisions for the *Accreditation*

*and Innovation Committee*. The three subcommittees that will be formed are:

- *Distance Learning and Educational Innovation Subcommittee*
- *Faith-Based Entities Subcommittee*
- *TEACH Grants Subcommittee*

Topics that the *Distance Learning and Educational Innovation Subcommittee* is likely to address include but are not limited to state authorization requirements as they relate to distance education, the definition of “regular and substantive interaction,” the definition of the term “credit hour,” competency-based education, and other issues. ED intends to select individuals for this subcommittee with expertise in several issues including direct assessment programs, distance education, and competency-based education.

The topics that the *TEACH Grants Subcommittee* is likely to address include but are not limited to the simplification and clarification of TEACH Grant program requirements to minimize inadvertent grant-to-loan conversions of TEACH grants. ED intends to select individuals for this subcommittee with expertise in several issues including teacher education programs, student financial aid, and high-need teacher education programs.

The topics that the *Faith-Based Institutions Subcommittee* is likely to address include but are not limited to requirements for accrediting agencies to honor institutional mission, provisions of the regulations regarding the eligibility of faith-based entities to participate in title IV, and other issues. ED intends to select individuals for this subcommittee with expertise in several issues including Federal Work Study programs, title IV, HEA discretionary grant programs, accreditation, and other areas.

ED plans to seat as negotiators individuals for organizations or groups representing various constituencies including students, financial aid administrators at postsecondary institutions, accrediting agencies (including national, regional, and programmatic), higher education institutions, and other constituencies.

Nominations for negotiators to serve on the committee and subcommittees are due on or before November 15, 2018. The *Accreditation and Innovation Committee* will meet in the Washington, DC area in early 2019 for three sessions: January 14-16, February 19-22, and March 25-28.

*Sources and additional information:*

- The full solicitation, with requested nomination details, can be found at <https://www.federalregister.gov/documents/2018/10/15/2018-22506/negotiated-rulemaking-committee-negotiator-nominations-and-schedule-of-committee>.