

Comparison of Accreditation Provisions in Bills to Reauthorize the Higher Education Act



Comparison of

- **Current Law**
- **S. 1642 passed July 24, 2007**
- **H.R. 4137 passed February 7, 2008**

Topic	Current Law	S. 1642 (passed July 24, 2007)	H.R. 4137 (passed February 7, 2008)
<p>Student Achievement</p>	<p>Current law requires accreditors to examine institution or program success with regard to student achievement by taking into account the school's mission along with certain forms of evidence, "including, as appropriate, consideration of course completion, State licensing examinations, and job placement rates." [20 U.S.C. § 1099b(a)(5)]</p> <p>Current law also requires institutions to publish completion or graduation rates for "certificate- or degree-seeking, full-time undergraduate students." [20 U.S.C. § 1092(a)(1)(L)]</p>	<p>The Senate bill would require accreditors to have standards that assess "success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of State licensing examinations and job placement rates." [491]</p> <p>In addition the bill prohibits the Secretary from promulgating any additional regulations with respect to this subsection. [491]</p>	<p>The House bill would require accreditors to have standards that assess "success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of State licensing examinations, course completion and job placement rates." [496]</p> <p>In addition, the bill prohibits the Secretary from promulgating any additional regulations with respect to this subsection. [496]</p>
<p>Transfer of Credit</p>	<p>Current law generally is silent on transfer of credit. The 1998 Higher Education Act reauthorization called for a U.S. Department of Education study to evaluate policies or practices instituted by federally recognized accreditors regarding treatment of</p>	<p>The Senate bill would require that accreditors review institutions to confirm that they have a transfer of credit policy that establishes the criteria regarding transfer of credit earned at another institution and that the policy is publicly disclosed. The rule of</p>	<p>The House bill is identical to the Senate bill. It would require accreditors to confirm that institutions have a transfer of credit policy that establishes the criteria regarding transfer of credit earned at another institution and that the policy is publicly</p>

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Transfer of Credit (continued)	transfer of credit from one higher education institution to another. [Pub. L. No. 105-244, § 804 (Oct. 7, 1998)]	construction applies (please see below). [491]	disclosed. The rule of construction applies (please see below). [496]
Disclosure Requirements - Accreditation Process	Under current law, accreditors must disclose to the public “upon request” a summary of any review that results in a final accrediting decision involving denial, termination, or suspension of accreditation, together with comments of the affected institution. [20 U.S.C. § 1099b(a)(8)] Current law also requires accreditors, as part of their operating procedures, to disclose accreditation standards and procedures and accreditation status of each institution under its jurisdiction, including whether the institution is being considered for accreditation or reaccreditation. [20 U.S.C. § 1099b(c)(5), (6)]	The Senate bill would require accreditors to “make available to the public and the State licensing or authorizing agency, and submit to the Secretary a summary of agency or association actions, including (A) the award of accreditation or reaccreditation, (B) final denial, withdrawal, suspension, or termination of accreditation, or placement on probation of an institution, and any findings made in connection with the action taken, together with the official comments of the affected institution and (C) any other adverse action taken with respect to an institution.” Current law requiring accreditors to disclose their accreditation standards and procedures remains unchanged. [491]	The House bill differs from the Senate bill by not treating probation as an adverse action and thus not requiring that the action be made available to the public. It would require accreditors to “make available to the public and the State licensing or authorizing agency, and submit to the Secretary a summary of agency or association actions, including (A) the award of accreditation or reaccreditation...; (B) final denial, withdrawal, suspension, or termination of accreditation, and any findings made in connection with the action taken, together with the official comments of the affected institution; and (C) any other adverse action taken with respect to an institution;” Current law requiring accreditors to disclose their accreditation standards and procedures remains unchanged. [496]
Accreditation Due Process	Current law requires accreditors to apply procedures that comply with “due process” (procedural	The Senate bill would require accreditors to “establish and apply review procedures	The House bill differs from the Senate bill in that probation is not appealable. It would require

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Accreditation Due Process (continued)	<p>fairness), including (1) adequate specification of requirements and deficiencies at the institution under examination; (2) notice of an opportunity for a hearing; (3) right to appeal any adverse decision against such institution; and (4) right to representation by counsel for any such institution. [20 U.S.C. § 1099b(a)(6)]</p>	<p>throughout the accrediting process, including evaluation and withdrawal proceedings which comply with due process procedures that provide for (A) adequate specification of requirements and deficiencies at the institution or program examined, (B) an opportunity for a written response to be included prior to final action, (C) upon the written request, an opportunity to appeal any adverse action, including ... placement on probation, at a hearing prior to such action becoming final.” In the event of an appeal, an appeals panel shall not include anyone who was on the underlying decision-making body that made an adverse decision; and panel members are subject to a conflict of interest policy. The institution has the right to representation by counsel during an appeal.”[491]</p>	<p>accreditors to “establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings which comply with due process procedures that provide for (A) adequate specification of requirements ... and deficiencies at the institution... or program examined; (B) an opportunity for a written response... to be included prior to final action...;” (C) upon the written request, an opportunity to appeal any adverse action, ...at a hearing prior to such action becoming final. In the event of an appeal, “an appeals panel that shall not include anyone who was on the underlying decision-making body that made an adverse decision; and panel members are subject to a conflict of interest policy.” The institution has the right to representation by counsel during an appeal. [496]</p>
Distance Education	<p>Current law allows accreditors to review distance education programs without separate accreditation standards. Accreditors must apply and enforce consistently standards that ensure that an institution’s courses or programs – including distance education courses or programs – are of sufficient quality to achieve the stated objective for which the courses or</p>	<p>The Senate bill would permit accreditors to address the quality of an institution’s distance education offerings without a requirement to establish separate standards, procedures or policies for the evaluation of distance education. [491] Accreditors must require institutions to establish “that the student who registers for a distance education course or program is the same student who</p>	<p>The House bill is identical to the Senate bill. It would permit accreditors to address the quality of an institution’s distance education offerings without a requirement to establish separate standards, procedures or policies for the evaluation of distance education. Accreditors must require institutions to establish “that the student who registers for a distance education course or</p>

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Distance Education (continued)	programs are offered. [20 U.S.C. § 1099b(a)(4)]	participates in and completes the program and receives the academic credit." [491]	program is the same student who participates in and completes the program and receives the academic credit." The House bill would permit accreditors, upon notification to the Secretary, to expand their scope to include accrediting distance education programs. [496]
Missions of Religious Institutions	<p>Current law requires accreditors to consider student achievement in relation to institutional mission but otherwise does not address accreditation standards related to institutional mission. [20 U.S.C. § 1099b(a)(5)(A)]</p> <p>Current law provides that if an institution has had its accreditation withdrawn, revoked, or otherwise terminated, the Secretary may allow an institution to remain certified as an institution of higher education for purposes of federal student financial aid programs for a period sufficient to allow the institution to obtain alternative accreditation if the Secretary determines that the reason for withdrawal, revocation, or termination is related to the institution's religious mission or affiliation and is not related to the accreditation criteria required by law. [20 U.S.C. § 1099b(k)]</p>	The Senate bill requires accreditors to consider student achievement in relation to institutional mission and adds "including religious missions." [491]	The House bill requires accreditors to "consistently apply and enforce standards that respect the stated mission of the institution of higher education, including religious missions." [496]

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Review of Federally Required Institutional Disclosures	Current law does not address accreditor review of federally required institutional disclosures.	The Senate bill would require accreditors' on-site evaluation for accreditation or reaccreditation "to include a review of the federally required information the institution or program provides its current and prospective students." [491]	The House bill does not address accreditors' review of federally required institutional disclosures. [496]
National Advisory Committee on Institutional Quality and Integrity	Current law establishes an advisory committee of 15 members that advises the Secretary concerning recognition of accreditors for federal purposes. The committee is appointed by the Secretary. [Public Law 102-325 Section 114 of the Higher Education Act, as amended (HEA)]	The Senate bill eliminates the National Advisory Committee on Institutional Quality and Integrity and would establish an Accreditation and Institutional Quality and Integrity Advisory Committee which would advise the Secretary with respect to recognition of accrediting agencies. The Committee would have 15 members, five appointed by the Secretary, five appointed by the Speaker of the House of Representatives and five appointed by the President pro tempore of the Senate. [105]	The House bill retains the National Advisory Committee on Institutional Quality and Integrity but changes the number of its members and the appointment process. The Committee would have 18 members, six appointed by the Secretary, six appointed by the House of Representatives (three by the majority leader and three by the minority leader) and six appointed by the Senate (three by the majority leader and three by the minority leader). The Committee cannot recommend denial of recognition of an accrediting organization for "any reason other than a reason set forth in section 496." [114]
Monitoring Growth	Current law does not address monitoring growth.	The Senate bill requires accreditors as a part of their reviews to monitor "the growth of programs at institutions that are experiencing significant enrollment growth." [491]	The House bill is identical to the Senate bill. It requires accreditors as a part of its review to "monitor the growth of programs at institutions that are experiencing significant enrollment growth." [496]

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Accreditation Ombudsman	Current law does not provide for an Accreditation Ombudsman.	The Senate bill would not amend current law.	The House bill provides for the Assistant Secretary for Postsecondary Education to appoint an Accreditation Ombudsman. The Ombudsman shall review and attempt to resolve complaints concerning the accreditation process, including complaints within the Department of Education and with institutions, accreditation organizations and other participants in the process. In addition the Ombudsman will compile and analyze data on institutions and accrediting organization complaints. [497]
Rules of Construction	Under current law, there are no rules of construction affecting accreditation.	The Senate bill prohibits “the Secretary to establish any criteria that specifies, defines, or prescribes the standards that accrediting agencies or associations shall use to assess any institution’s success with respect to student achievement.” And the Secretary shall not promulgate any regulation with respect to student achievement. The bill further prohibits the Secretary or the committee from requiring “particular policies, procedures, or practices by institutions of higher education with respect to transfer of credit ...” [477] [491]	The House bill is identical to the Senate bill with regard to applying the rule of construction to student achievement and to transfer of credit. It goes further and applies a rule of construction to articulation agreements. There are additional rules of construction which clarify that accrediting organizations will use standards set with their members to review institutions and than an institution may set standards for student achievement that the accreditors must consider. [488] [496]

* This information not provided in CHEA HEA Update 42.

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Negotiated Rulemaking	Current law does not address recognized legitimacy of designated representatives from the higher education community.	The Senate bill would not amend current law.	The House bill requires that non-federal negotiators be ‘individuals who are nominated by groups ...who have recognized legitimacy as designated representatives of major stakeholders, sectors, and constituencies in the higher education community.’ [494]
Articulation Agreements	Current law does not address articulation agreements.	The Senate bill would not amend current law.	The House bill requires the Secretary to carry out a program for States, in cooperation with institutions, to develop and implement comprehensive articulation agreements among institutions. The Secretary is to conduct a study to review the articulation agreements and will consider the extent to which States and institutions have articulation agreements, the types of articulation agreements developed, the cost-savings to the participants, best practices, innovative strategies and the barriers to articulation agreements. This program shall not limit the academic freedom or choices of institutions of higher education. The rule of construction applies (please see above). [486A]
Accreditation Process	Current law does not address these provisions.	The Senate bill would not amend current law.	The House bill contains provisions that (1) require accreditors not to take an adverse action based on any undocumented or unpublished policy or practice and (2) require

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Accreditation Process (continued)			<p>creditors to "review and take into consideration the institutions response in any review or determination" and put in writing a response to institutional comments on an accreditation determination. [496]</p>
Accrediting Standards for Students with Intellectual Disabilities	<p>Current law does not address accrediting standards for students with intellectual disabilities.</p>	<p>The Senate bill calls for the Secretary to enter into a cooperative agreement to assist in the creation of accreditation standards for higher education institutions that offer postsecondary programs for students with intellectual disabilities. The goal of the agreement is to develop criteria, standards and procedures to be used to accredit these programs. [774]</p>	<p>The House bill calls for the Secretary to enter into a cooperative agreement to assist in the creation of accreditation standards for higher education institutions that offer postsecondary programs for students with intellectual disabilities. The goal of the agreement is to develop criteria, standards and components for postsecondary programs. The House bill is different from the Senate bill. [770]</p>
Degree Mills	<p>Current law does not address degree mills.</p>	<p>The Senate bill would not amend current law.</p>	<p>The House bill includes a definition of a "diploma mill" and a task force to determine the characteristics of a "fraudulent degree-granting institution." The task force will develop a plan to protect the federal government against the use of diploma mill credentials to gain federal employment and present additional legislation on degree mills for Congress to consider. [851]</p>

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