

Accreditation Provisions of the Higher Education Opportunity Act of 2008 (PL 110-315)



Comparison of

- *Prior Law*
- *Higher Education Opportunity Act of 2008*

Topic	Prior Law	Higher Education Opportunity Act of 2008 (PL 110-315)
Student Achievement	<p>Prior law required 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>Prior law also required 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 new law requires 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, consideration of course completion, and job placement rates”</p> <p>In addition, the bill prohibits the Secretary from promulgating any additional regulations with respect to this subsection. [495]</p>
Transfer of Credit	<p>Prior law generally was 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 transfer of credit from one higher education institution to another. [Pub. L. No. 105-244, § 804 (Oct. 7, 1998)]</p>	<p>The new law requires accreditors to confirm, “as a part of the agency’s ... review for accreditation or reaccreditation, that the institution has transfer of credit policies that are publicly disclosed; and that include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.” [488 and 495]</p> <p>Within one year of enactment of the Higher Education Opportunity Act, the Secretary is to publish on the College Navigator Website, among other things “The number of degree- or certificate-seeking undergraduate students enrolled at the institution who have transferred from another institution.” [133]</p>

<p>Public Information</p>	<p>Under the prior law, accreditors had to 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)] Prior law also required 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 was being considered for accreditation or reaccreditation. [20 U.S.C. § 1099b(c)(5), (6)]</p>	<p>The new law requires accreditors to make “available to the public and the State licensing or authorizing agency, and submits to the Secretary, a summary of agency or association actions, including the award of accreditation or reaccreditation of an institution; final denial, withdrawal, suspension, or termination of accreditation of an institution, and any findings made in connection with the action taken, together with the official comments of the affected institution; and any other adverse action taken with respect to an institution or placement on probation of an institution.” [495]</p>
<p>Due Process</p>	<p>Prior law required accreditors to apply procedures that complied with “due process” (procedural 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>The new law requires accreditors to “apply review procedures throughout the accrediting process ...which comply with due process procedures that provide for adequate written specification of requirements, including clear standards for an institution ... and identified deficiencies at the institution or program examined.” The law would also allow “for sufficient opportunity for a written response, by an institution or program, regarding any deficiencies identified by the agency or association to be considered...prior to final action in the evaluation and withdrawal proceedings.”</p> <p>Upon the written request and with the right to representation and participation by counsel, the new law provides “an opportunity for the institution or program to appeal any adverse action ... prior to such action becoming final at a hearing before an appeals panel that shall not include current members of the agency’s or association’s underlying decision-making body that made the adverse decision; and is subject to a conflict of interest policy;” The new law has a new process for financial matters “through which an institution ... before a final adverse action based solely upon a failure to meet a standard ... pertaining to finances, may ... seek review of significant financial information that was unavailable to the institution ... prior to the determination of the adverse action, and that bears materially on the financial deficiencies identified” by the accreditor. [495]</p>

<p>Distance Education</p>	<p>Prior law allowed accreditors to review distance education programs without separate accreditation standards. Accreditors had to apply and enforce consistently standards that ensured that an institution’s courses or programs – including distance education courses or programs – were of sufficient quality to achieve the stated objective for which the courses or programs are offered. [20 U.S.C. § 1099b(a)(4)]</p>	<p>Under the new law, accreditors are not required to have separate standards for the evaluation of distance education. Institutions offering distance education are required to have processes to establish that “the student who registers in a distance education ... program is the same student who participates in and completes the program and receives the academic credit.” [495]</p> <p>An accreditor recognized by the Secretary, is not “required to obtain the approval of the Secretary to expand its scope of accreditation to include distance education ... provided that the agency or association notifies the Secretary in writing of the change in scope.” If the enrollment of an institution that offers distance education that is accredited by such agency or association increases by 50 percent or more within any one institutional fiscal year, that accreditor must be reviewed by NACIQI at the next available meeting. [495]</p> <p>The Secretary of Education shall have the “National Research Council of the National Academy of Sciences to conduct a statistically valid evaluation of the quality of distance education programs, as compared to campus-based education programs. The evaluation will include identification of success with respect to student achievement...the benefits and limitations ... by assessing access, job placement rates, graduation rates, and other factors related to persistence, completion, and cost.” The National Research Council will provide an interim report, due June 30, 2009 and a final report is due June 30, 2010. [1107]</p>
<p>Missions of Religious Institutions</p>	<p>Prior law required accreditors to consider student achievement in relation to institutional mission but otherwise did not address accreditation standards related to institutional mission. [20 U.S.C. § 1099b(a)(5)(A)]</p> <p>Prior law provided that if an institution had had its accreditation withdrawn, revoked, or otherwise terminated, the Secretary could 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</p>	<p>The new law requires accreditors “to apply and enforce standards that respect the stated mission of the institution of higher education, including religious missions....” [495] This is in addition to the conditions in the prior law.</p>

Mission of Religious Institutions (cont.)	institution to obtain alternative accreditation if the Secretary determined that the reason for withdrawal, revocation, or termination was related to the institution's religious mission or affiliation and was not related to the accreditation criteria required by law. [20 U.S.C. § 1099b(k)]	
Review of Federally Required Institutional Disclosures	Prior law did not address accreditor review of federally required institutional disclosures.	The new law does not address accreditors' review of federally required institutional disclosures. This was proposed in the Senate version of the bill but removed in conference.
National Advisory Committee on Institutional Quality and Integrity	Prior law established an advisory committee of 15 members that advised the Secretary concerning recognition of accreditors for federal purposes. The committee was appointed by the Secretary. [Public Law 102-325 Section 114 of the Higher Education Act, as amended (HEA)]	The new law changes the appointment process for the Committee. The Committee consists of 18 members. "Six members shall be appointed by the Secretary; six members shall be appointed by the Speaker of the House of Representatives ...and six members shall be appointed by the President pro tempore of the Senate." The House and Senate appointments are evenly divided between the majority and the minority. The term of the current members of the Committee expired on August 14, 2008. No new members can be appointed prior to January 31, 2009. The next meeting will likely be in June 2009. [114]
Monitoring Growth	Prior law did not address monitoring growth.	The new law requires accreditors to "monitor the growth of programs at institutions that are experiencing significant enrollment growth." [495]
Ombudsman	In the prior law, there was no ombudsman.	The ombudsman was proposed in the House version of the bill but removed in conference.
Rule of Construction	Under prior law, there was no the rule of construction.	The new law applies the rules of construction to subsection (a)(5) of section 495 which includes student achievement. In addition, there are rules of construction for articulation agreements and transfer of credit. There are additional rules of construction concerning the relationship between accreditors and institutions which state: "Nothing in subsection (a)(5) shall be construed to restrict the ability of— “(1) an accrediting agency or association to set, with the involvement of its members, and to apply, accreditation standards for or to institutions or programs that seek review by the agency or association; or “(2) an institution to develop

Rule of Construction (cont.)		and use institutional standards to show its success with respect to student achievement, which achievement may be considered as part of any accreditation review.” [486A] [488] [495]
Negotiated Rulemaking	Prior law did not address recognized legitimacy of designated representatives from the higher education community.	The new law requires that the Secretary appoint non-federal negotiators who are individuals “with demonstrated expertise or experience in the relevant subjects under negotiation.” [494D]
Articulation Agreements	Prior law did not address articulation agreements.	<p>The new law requires the Secretary to carry out a program, to develop, enhance and implement comprehensive articulation agreements. The articulation agreements are to be widely available. The strategies to be employed in developing these may include “common course numbering; a general education core curriculum; management systems regarding course equivalency, transfer of credit, and articulation.” [486A]</p> <p>The Secretary of Education is also to conduct a study of articulation agreements. The study will consider the extent to which articulation agreements have developed and been implemented, “the number and types of institutions participating in articulation agreements; the cost-savings to the participating institutions and to the students; what strategies are being employed, including common course numbering, general education core curriculum, and management systems; the effective use of technologies to contain costs, maintain quality of instruction, and inform students; and...barriers to the implementation of articulation agreements.” The Secretary of Education will provide a final report by January 1, 2013. [1104]</p>
Accrediting Standards for Students with Intellectual Disabilities	Prior law did not address accrediting standards for students with intellectual disabilities.	The National Technical Assistance Center is to “convene a workgroup to develop and recommend model criteria, standards, and components of programs ... that are appropriate for the development of accreditation standards.” [777]

<p>Degree Mills</p>	<p>Prior law did not address degree mills.</p>	<p>The new law includes a definition of a "diploma mill," which is defined as an entity that offers, for a fee, a credential used to represent that the individual has completed a program of postsecondary education; and requires little or no education or coursework to obtain the credential and lacks accreditation. [103]</p> <p>“The Secretary shall maintain information and resources on the Department’s website to assist students, families, and employers in understanding what a diploma mill is and how to identify and avoid diploma mills.” The Secretary shall continue to collaborate with the other federal agencies to “prevent, identify, and prosecute diploma mills; and broadly disseminate to the public information about diploma mills, and resources to identify diploma mills.”[123]</p>
<p>States as Accreditors</p>	<p>Under prior law, a state could have served as a federally recognized accreditor only if it was recognized by the Secretary for that purpose on or before October 1, 1991, and had been continuously recognized since that date. [20 U.S.C. §§ 1099b(a)(2)(B), (a)(3)(C)]</p>	<p>The new law does not amend current law regarding states as accreditors.</p>