



What Federal Law says about Accreditation and Higher Education

In the United States, the practice of accreditation has been documented since the early 1900's. When federal legislation created the U.S. Department of Education (USDE) in 1979, it confirmed the independence of institutions of higher education, accrediting organizations, the federal government and state governments.

Responsibility for education remains in local hands

Congress established the USDE to protect the rights of state and local governments and public and private educational institutions in the areas of educational policies and program administration. It was not established to increase federal authority or diminish the responsibility for education reserved to the states.

The assignment of academic decisions to institutions and their specialized programs and accreditors is important to the success of higher education and competent teachers, nurses, engineers and other professionals in this country. It allows those professions the flexibility in training that today's workforce needs.

Federal law ensures the independence of institutions of higher learning and accreditors to make academic decisions that promote quality in higher education.

USDE has no authority over educational and accrediting bodies

The USDE is not authorized to exercise direction, supervision or control over the curriculum, instructional programs, administration or personnel of any educational institution or accrediting agency.¹

Accreditation Agency Independence

The 2008 Higher Education Opportunity Act (HEOA) affirmed these founding principles by explicitly requiring accrediting agency independence, especially with regard to standards setting, accreditation decisions and operations.²

The 2008 HEOA recognized the importance of academic decisions remaining with the institutions and the professions. Statutes defining the relationship between accrediting agencies and the Secretary of Education explicitly state that the Secretary:

- must respect the decisions of institutions and accreditors in academic matters
- must not use any recognition process or requirements for accreditors to regulate or intervene in academic decisions

¹ Pub. L. 96-88, title I, Sec 103, Oct. 17, 1979. 93 Stat. 670

² Pub. L. 110-315, Subpart 2 – Accrediting Agency Recognition, Sec. 496 (a) (3), August 14, 2008. Separate and independent is further confirmed by four definitional requirements in Sec. 496 (b).

The 2008 HEOA further clarifies the independence of accreditors in Section 496:

Subsection (g) Limitation on Scope of Criteria states that the Secretary cannot:

- establish criteria for accreditors or standards accreditors must use to assess any institution's success with respect to student achievement
- prohibit or limit any accreditors from adopting additional standards

Subsection (o) Regulations states that the Secretary cannot regulate standards.

Subsection (p) Rule of Construction notes that the ability of accreditors cannot be restricted:

- (1) to apply standards to institutions or programs that seek review by the accreditor
- (2) to develop and use standards to show success with respect to student achievement (which may be part of any accreditation review)

Subsection (a)(5) requires the Secretary to ensure accreditation standards assess academic programs and their results, but it does not give the Secretary authority to define or regulate accreditation standards.

Furthermore, ***subsection (m)*** states that the Secretary may not recognize accreditors that serve no federal purpose. The USDE does not "own" accreditation or higher education. It has authority to recognize accrediting organizations under specified conditions, but no authority to authorize or license their existence.

These principles create an environment where higher education and accreditation can effectively meet challenges and opportunities. Preserving these principles and building on the foundations they provide will lead to the kind of federal policy development needed to ensure future American achievement and productivity.

A Note About ASPA

This Quick Reference was developed by the Association of Specialized and Professional Accreditors (ASPA)—an advocate for quality in higher education through specialized and professional accreditation.



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