



April 24, 2023

Dr. Nasser H. Paydar
Assistant Secretary for Postsecondary Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Via electronic submission at regulations.gov

Re: Comments on Notice of Intent to Establish Negotiated Rulemaking Committees,
Docket ID ED-2023-OPE-0039

Dear Assistant Secretary Paydar:

On behalf of the American Association of Colleges of Osteopathic Medicine (AACOM), I am pleased to submit written comments on the U.S. Department of Education's (ED) recent notice of intent to establish negotiated rulemaking (Neg-Reg) committees on a variety of regulatory matters pertaining to Title IV, Higher Education Act (HEA) programs.

AACOM leads and advocates for the full continuum of osteopathic medical education to improve the health of the public. Founded in 1898 to support and assist the nation's osteopathic medical schools, AACOM represents all 38 accredited colleges of osteopathic medicine (COMs)—educating more than 35,000 future physicians, 25 percent of all U.S. medical students—at 62 teaching locations in 35 U.S. states, as well as osteopathic medical education professionals and trainees at U.S. medical centers, hospitals, clinics and health systems.

AACOM supports ED's goals to protect students and promote principles of accountability across Title IV programs. Therefore, we encourage ED to convene Neg-Reg committees to evaluate two topics: (1) state authorization regulations in 34 C.F.R. § 600.9(a) through (c); and (2) third-party servicers (TPS) regulations in 34 C.F.R. § 668.2.

- AACOM has serious concerns with the existing state authorization regulations, which continue to cause undue financial and administrative burdens on osteopathic medical schools and students.
- Although AACOM is relieved that ED is planning to significantly revise its subregulatory guidance on the requirements and responsibilities for TPS and institutions of higher education (GEN-23-03), we believe the Neg-Reg process is a more appropriate avenue to alter compliance obligations for institutions of higher education and TPSs because it provides a more fulsome opportunity for ED to gather critical feedback from experts and affected parties.

Unintended Consequences of State Authorization on Medical Education

AACOM strongly urges ED to convene a Neg-Reg committee to evaluate the unintended consequences of the existing state authorization regulations, including those related to postsecondary distance education, because they disparately burden COMs and fail to accommodate the unique characteristics of medical education. AACOM recommends that U.S. medical schools, and the clinical rotations of their students, be exempted as a condition of Title IV eligibility.

- The implementation of state authorization provisions 34 C.F.R. 600.9(a) through (c) have significantly increased the financial and administrative burdens for AACOM's member institutions as they work to offer robust learning experiences for medical students during core clinical rotations in the third and fourth year of medical school.
- Osteopathic medical students attend four years of medical school, followed by graduate medical education training which lasts between three and seven years. Students typically spend the first two years of their medical education at the institution to receive academic instruction in the medical sciences, obtain a core set of clinical examination skills and train in ethics and professional responsibility. These mandatory two years of lectures, laboratory training and other learning experiences prepare students for core clinical rotations during years three and four.
- With increasing competition for clinical training opportunities, COMs, many of which are located in rural areas, may lack sufficient in-state options and send their students out of state to complete their core clinical rotations. Some schools also participate in multi-state consortium training models to enhance educational experiences and produce physicians capable of practicing in a variety of clinical settings. These students regularly receive remote instruction from their medical school.
- ED must be mindful of the unique nature of remote medical instruction. Medical schools that send their third- and fourth-year students to out-of-state rotations should not be subject to the financial and administrative costs of registration for their distance learning.

If an exemption from state authorization regulations is not provided for U.S. medical schools, AACOM seeks clarifying language to ensure that COMs do not face undue administrative burdens and fees that further complicate distance education requirements. AACOM recommends that the exemption explicitly confirm that students enrolled in out-of-state core clinical education rotations are considered to be enrolled at the main campus of their medical institution and not deemed enrolled in distance education or correspondence courses.

- While state reciprocity agreements have helped address some of the expressed concerns of state authorization on clinical rotations while promoting the integrity of

Title IV funding, they do not alleviate the burdens placed on COMs in states that do not participate in a reciprocity agreement.

- AACOM encourages clarifying language to the definition of "additional location" in 34 C.F.R. § 600.2 to make it consistent with previous ED interpretations, which explain that for state authorization purposes, "in the case of an additional location of an institution where a student cannot complete more than 50 percent of a program, the student is considered to be enrolled at the main campus of the institution, and thus, no additional State authorization would be required."

Third-Party Servicers

AACOM urges ED to abandon its efforts to amend TPS requirements through subregulatory guidance and to convene a Neg-Reg committee to issue revised TPS regulations. The Neg-Reg committee should (1) make explicit that the exemption for course-sharing consortiums and arrangements between Title IV-eligible institutions includes medical education clinical collaborations; and (2) make clear that centralized applications services and other trade association support services are also excluded.

- AACOM and the Association of American Medical Colleges expressed serious concerns in our [public comments](#) with the breadth and ambiguity of GEN-23-03 and the harm it could cause to U.S. medical education. We share ED's sentiment to make postsecondary education more affordable, student loans more manageable and the relationship between institutions and their contractors more transparent, particularly in the critical areas of online program managers (OPMs).
- AACOM agrees with ED's decision to delay the effective date of the guidance letter while it carefully reviews public comments and considers revisions to the guidance. Moreover, we are relieved that James Kvaal's April 11, 2023 blog post (the Blog) clarifies that clinical or externship opportunities, which are covered under different existing regulations, will not be considered TPS activities.

To further abate serious concerns across the medical education community, AACOM requests that ED explicitly clarify in revised TPS regulations that the exclusion of course-sharing consortiums referenced in the Blog includes medical education clinical collaborations, which include non-Title IV entities like doctors and hospitals. AACOM has serious concerns with any guidance that may be interpreted to result in a reduction of the willingness of hospitals, clinics or doctors' offices to host clinical opportunities for medical students during the third and fourth years of medical school.

- The national [physician workforce shortage](#) is matched by a shortage of preceptors who train our health care professionals. Clinical training for medical students takes place in a variety of settings including hospitals, clinics and doctors' offices. These preceptors evaluate and assess how students are progressing in the studies required by their medical schools' curriculum. Preceptors typically receive

academic appointments with medical schools but may or may not receive financial remuneration.

- Placing additional administrative burdens on these preceptors will only decrease the pool. The current GEN-23-03 can be interpreted to include preceptors as TPSs and impose requirements on them that will further discourage participation in medical education.
- Stronger assurances in regulatory text are necessary to eliminate any doubt that the concept of instructional content, which was added to the list of TPS activities in GEN-23-03, does not include hospitals, clinics and doctors' offices that provide clinical experiences for medical students. The Fall 2023 Neg-Reg is an opportunity to provide assurances that ED is not imposing new barriers to training medical students that exacerbates the current and projected workforce shortage.

AACOM urges ED to develop regulations that exclude centralized application portals and other health education association services from the scope of TPS requirements. AACOM has serious concerns with future TPS guidance or regulations that do not expressly exclude the services described below, which could result in significant barriers to those seeking to become physicians.

- AACOM operates a centralized application portal, AACOMAS, that allows prospective medical students to apply to Doctors of Osteopathic Medicine (DO)-granting medical schools. Because the Blog did not reference centralized application portals, AACOM remains concerned that our centralized application portal, among other services, could be deemed TPS activity under the expanded guidance's recruitment and application related activities section.
- AACOMAS reduces barriers to applying to medical school and ensures prospective medical students can easily apply to a wide variety of programs. The service reduces costs and administration for medical school applicants by decreasing the number of applications, transcripts and fees while streamlining the verification of academic information.
- The intended and primary beneficiaries of AACOMAS are the applicants who pay for these services, however osteopathic programs may receive indirect benefits through applicants' use of AACOMAS services including some of the activities described in GEN-23-03.
- AACOM also provides and supports numerous services for prospective and current medical school students that indirectly benefit schools, including:
 - Multi-COM fairs for prospective medical students
 - Residency fairs to support medical students
 - An Academic Recognition Program dedicated to supplementing medical school instruction around health equity and health disparities
 - An Osteopathic Health Policy Internship Program to train medical students on health policy

AACOM strongly encourages any future TPS framework to take into consideration the unique aspects of U.S. medical education. ED should evaluate the potential negative effect of compliance obligations, such as securing annual independent audits and joint liability, on small, nonprofit organizations that provide college access, college persistence and other services that help many first-generation students and students of color secure an undergraduate degree.

- Implementing a one-size-fits-all approach could harm our students, our institutions and the communities we serve.
- TPS guidance conflicts with ED's goals of protecting students and taxpayers and advancing equitable outcomes for all students.

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Thank you for your consideration of our views. We look forward to working with ED as you develop the topics and objectives of the Fall 2023 Neg-Reg. If you have questions or require further information, please contact Julie Crockett, AACOM Director, Government Relations, at jcrockett@aacom.org.

Sincerely,



David Bergman, JD
Vice President, Government Relations
AACOM