

**From:** Carolyn Fast, primary negotiator, Civil Rights Organizations and Consumer Advocates  
**To:** Department of Education and Negotiated Rulemaking Committee  
**Date:** January 16, 2024  
**Re:** Questions for Department regarding proposed 34 CFR § 602.20(h)

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The Department proposes new regulatory language at § 602.20(h) that provides that under certain circumstances -- such as a natural disaster, or where following the accreditor's standards "creates an undue hardship on students" -- accrediting agencies could grant institutions an extended timeline for coming into compliance with accrediting agency standards of up to three years, plus the possibility of a good-cause extension. I write to seek clarification of the proposed provision.

- If a school was compliant with accrediting agency standards, and then became subject to one of the conditions listed in § 602.20(h), would § 602.20(h) permit the agency to grant the school up to three years (plus good-cause extension) prior to any action by the accrediting agency? Or would the agency be required to place the school on some negative action (*e.g.*, warning), but pursuant to § 602.20(h), the agency could provide up to three years (plus good-cause extension) for the school to come into compliance after the warning, before loss of accreditation?
- If a school was noncompliant with agency standards and on warning, and then became subject to a condition listed in § 602.20(h), could that school be granted up to three years (plus good-cause extension) on warning status prior to action by the agency, even if the three years is a longer timeframe than the agency's policies ordinarily might allow? Could the agency take the institution off warning and place it under the three-year timeframe, and then reconsider the warning status after that timeframe?
- If a school was noncompliant but hadn't yet been placed under any negative action (*e.g.*, the school had reported data that fell short of student achievement standards, but hadn't yet been issued a warning notice), and then became subject to a condition listed in § 602.20(h), could that school be granted up to three years (plus good cause extension) with no negative action? Or would the agency have to move forward with the warning as planned, but extend the timeframe for that warning to up to three years (plus good cause extension)?
- If a school was noncompliant and was on probation, and that probation order was under appeal, could the agency use the three-year timeframe authority to vacate the order on appeal?
- If a school was noncompliant and was one year into its probation (set at a maximum of, say, two years), could the agency use the three-year timeframe authority to add three more years to that institution's probation action? (Meaning that the institution could stay in noncompliance for as long as five or more years, plus potential good cause extension?)

Additionally:

- Would the Department consider the COVID-19 pandemic to be a "catastrophic event," and at least in 2020 a "significant and documented national economic change," making every college in the country (or at least every college that doesn't operate entirely online anyway) eligible for the three-year (plus good-cause extension) time frame authority?

- Would the Department accept that students could face an “undue hardship” from the withdrawal of accreditation, resulting in the loss of federal financial aid, making every Title IV-participating college eligible for the three-year (plus good-cause extension) time frame authority?