



May 4, 2020

[Docket ID: ED-2018-OPE-0076](#)

Scott Filter
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

Dear Mr. Filter:

Western Governors University (WGU) is a private, nonprofit institution of higher education located in Salt Lake City, Utah, offering competency-based education (CBE) programs primarily online to students across the nation. WGU is accredited by the Northwest Commission on Colleges and Universities, serving more than 121,000 students nationwide with more than 178,000 graduates in all 50 states. WGU advocates for public policy that enables and empowers innovation on behalf of students, ensures academic quality, increases affordable access, supports accountability, and prioritizes student-centered support and graduate outcomes.

WGU recognizes the efforts that have gone into accomplishing these proposed rules throughout a lengthy and comprehensive negotiated rulemaking process. As a theme throughout the proposal, we strongly support the Department's reaffirmation of the regulatory triad in these rules as it realigns the roles and responsibilities of the federal government, state authorizing agencies, and accrediting bodies. We applaud the provisions in these proposed rules regarding appropriate assignment of accrediting agencies with monitoring program quality, as well as sections that will streamline processes within the regulatory triad and institutions of higher learning. The shared accountability among these entities promotes an appropriate regulatory balance and structure to ensure financial responsibility, administrative capability, consumer protections, and quality assurance for distance education and innovative learning models.

We appreciate this opportunity to express our perspective on the Distance Education and Innovation proposed rules. Below are specific comments, requests for clarification, and suggested recommendations for thoughtful consideration.

§ 600.2 – Definitions

WGU supports this proposed regulatory framework as it clearly defines essential aspects of quality higher education related to distance education and other innovative learning models. We welcome reducing the ambiguity around terms and definitions in balanced ways that keep benefits to students in the forefront.

The definition of “*academic engagement*” offers clarity and standardizes the use of the term throughout various regulations. Previously defined within Section 668 under return of Title IV provisions, this placement within Section 600 under institutional eligibility broadly expands

academic quality and accountability. Indeed, we appreciate and respect the consideration given to an institution's accrediting body to define "academic engagement" for students, the inclusion of asynchronous coursework, and other activities as "academic engagement."

The definition of "*credit hour*" maintains current standards, while allowing flexibility for other types of educational delivery that are not based on seat time. Adopting and codifying the existing sub-regulatory guidance in regulation is appropriate and reassuring. As a leading competency-based education provider, WGU supports the flexibility and consideration of additional and innovative academic delivery methods that allow students to access education in a way that fits into their lives while meeting their educational and career goals.

Perhaps the most important definition in this section deals with refining the definition of "*distance education*" itself. This definition makes it clear that a team approach to instruction is permissible and spells out the requirements for regular and substantive interaction. It also removes self-paced coursework from the definition of "correspondence course" a welcome change that reduces confusion between the different types of coursework. This definition modernizes language, removes references to outdated technology, and provides flexibility for types of instruction, relegating the authority to accrediting agencies to determine instructor qualifications and the appropriate use of technology for "regular interaction" with students. We strongly support the higher standard for "regular interaction" that requires both predictable opportunities for interaction *and* the prompt and proactive monitoring of student engagement. The expanded flexibilities and personalized learning opportunities offered as a result of this definition will undoubtedly offer more affordable and accessible pathways for students, while ensuring high-quality instruction. WGU applauds the high-quality standards and flexibility for innovative approaches to education offered through the definition of "distance education" under this section.

§ 600.7 - Conditions of Institutional Ineligibility

WGU supports the clarification offered in this section regarding enrollments in correspondence courses. The changes in this section will address the confusion that has been in the community concerning correspondence course enrollments for institutional eligibility for Title IV and HEA programs by specifying when a student should be counted as "enrolled in correspondence courses" during an award year. This level of specificity in regulation around correspondence course enrollments will foster innovative learning models and allow greater student access to various academic delivery models.

§ 600.20 – Approval of New Programs

WGU commends the requirements placed on the Secretary to provide timely review of new program applications, as well as removing the requirement for subsequent approval of additional educational programs. These changes will offer students greater and more timely access to programs by enabling institutions to develop programs more quickly in response to workforce needs and promote program offerings to students earlier. We strongly support the benefits to student access and the shared accountability offered by the Department through the revisions to this section. The Department has removed redundancies and appropriately delegated to the recognized accrediting agencies' role in ensuring program quality while minimizing the impact any delays from the Department may cause in program approval processes.

§ 668.2 – Subscription-Based Programs

We understand this definition of subscription-based programs applies only to direct assessment programs, with a vision toward higher adoption of such programs, and optional for CBE and other self-paced programs.

A long-standing exemplar of college affordability, WGU offers subscription-based programs as a student incentive to accelerate time to degree completion in our CBE academic delivery model. Our fixed price tuition is set at the credit hour equivalency of a full-time student, with unlimited learning opportunities during the term, and a minimum expectation of completing a full-time course load, internally referred to as on-time-progress (OTP), for the six-month payment period.

With continuous year-round enrollment and new terms beginning the first day of every month, students can complete their CBE degree requirements on any given day. The WGU academic year is twelve months in length, comprised of two six-month payment periods. In this structure, the nonstandard term financial aid delivery model is a better approach for WGU students, citing the reasons articulated in the NPRM preamble language.

Arguably, certain flexibility of the non-term financial aid delivery model has advantages and disadvantages for students, as noted in the preamble language. Regardless, institutions currently have options to choose the financial aid delivery model, depending on its academic delivery structure. As proposed in these regulations, subscription-based programs would have only one pathway, something akin to the non-term financial aid delivery model. WGU respectfully disagrees with this heavy-handed approach and recommends retaining the flexibility of institutional choice under the current regulations.

With respect to the definition of a full-time student, we agree that allowing a retake of a previously passed course in a CBE program is nonsensical, and we support maintaining that disallowance in final regulation. We also agree that students in CBE programs should have the flexibility to incrementally add courses during the nonstandard term, as long as they already successfully completed the necessary credits for the aid awarded and disbursed within the agreed upon enrollment level (e.g. full-time) during that payment period. This approach is cost effective for students and constrains aid eligibility within maximum timeframes. If the student starts a course late in the term and is unable to successfully complete in that term, the course rolls into another term registration. The simplicity of measuring credit hours attempted and completed at the end of the nonstandard term for satisfactory academic progress purposes is less burdensome than the complexities associated with tracking individual students in a non-term model.

- ▶ **WGU recommendation:** Continue to allow institutional flexibility of choice in term or non-term financial aid delivery models, regardless of tuition pricing structure. Add conforming requirement in § 668.34 to measure cumulative SAP after every term in a subscription-based program. Further comments and recommendations provided on this topic to conform with proposed § 668.34 and § 668.164.

§ 668.3 – Academic Year – Asynchronous Coursework

We support forward-looking innovative learning models and the clarification offered in this section regarding a “week of instructional time” and “academic year.” For institutions such as WGU that offer programs asynchronously through distance education, this provision provides regulatory transparency around compliance thresholds. In addition, clear regulatory compliance standards for institutions will permit and promote additional innovation in quality academic delivery methods that are in the best interest of student access, affordability, and workforce responsiveness.

§ 668.5 – Written Arrangements to Provide Educational Programs

The proposed changes under this section would increase the flexibility of institutions to provide relevant educational program offerings and modify our curriculum based on recommendations from industry advisory boards. We support the additional clarity this section provides regarding requirements for programs offered asynchronously through distance education. As a result of the flexibility and clarity around institutional compliance, this regulation will provide increased opportunity for educational innovation and workforce responsiveness. More importantly, students will have increased access to quality programs, as well as reduced cost of attendance and time to completion, especially for students with previously learned skills. This section further supports a balanced regulatory triad and allows for workforce responsiveness by clarifying the requirements for institutions in seeking and receiving approval from accrediting agencies as the arbiters of academic program quality for workforce partnerships.

- ▶ **WGU recommendation:** Eliminate the requirement that an ineligible institution “demonstrate experience in the delivery and assessment of the program” and show that the program has been “effective” before it can enroll students. This requirement is ambiguous, difficult to meet, and artificially restrains innovation.

§ 668.10 - Direct Assessment Program

WGU supports the changes offered in this section to clarify, simplify, and streamline the requirements for direct assessment programs. By only requiring the Department’s approval for an institution’s first direct assessment program, the Department will ensure that the institution has administrative capacity to deliver the program, while empowering accrediting agencies to ensure ongoing program quality.

§ 668.13 – Certification Procedures

WGU supports the proposed changes in this section and recognizes the shared accountability offered by the Department to make a timely response to institutions. This provision will remove ambiguity and uncertainty for institutions applying for month-to-month eligibility. Providing provisional recertification and removing unnecessary processing delays will also allow institutions to move forward with new programs in a timely and responsive manner.

§ 668.14 – Program Participation Agreement

WGU supports the clarity and flexibility provided as a part of this section by aligning program length with occupational licensure requirements. Students will ultimately benefit by having access to appropriate levels of information and accurate outcomes data that will provide them a pathway to their careers. As students have opportunities to pursue educational programming across state lines and as programs continue to conform to national standards, this furthers the need for additional occupational licensure reciprocity on a nationwide basis.

§ 668.22 – Treatment of Title IV Funds When a Student Withdraws

WGU supports the clarifying language that a student is not considered to have withdrawn if the student completes all the requirements for graduation before completing the days in the period he or she was scheduled to complete. This regulatory provision is sensible and otherwise beneficial to students enrolled in CBE programs, where learning is constant, and time varies.

§ 668.34 – Satisfactory Academic Progress

WGU supports the clarification that an institution may establish a program's maximum time frame in credit hours or in calendar time; that a pace for evaluation for a non-term credit or clock hour program is not required due to the requirements that students complete half of the hours and weeks of instruction in an academic year before a subsequent disbursement of aid can be made; and that an institution may calculate a student's pace in a direct assessment or CBE term-based program. Based upon our recommendation for institutional flexibility of choice in financial aid delivery models, subscription-based programs shall measure cumulative SAP at the end of each term.

- ▶ **WGU recommendation:** Continue to allow institutional flexibility of choice in term or non-term financial aid delivery models, regardless of tuition pricing structure; and measure cumulative SAP after every term in a subscription-based program.

§ 668.111 – Scope and Purpose and § 668.113 – Request for Review

We support the additional clarification of regulatory responsibilities and affirmation of accrediting agencies' responsibilities in monitoring program quality as provided in these sections. By relying on an institution's accrediting agency for final audits and program review determinations, this section aligns requirements, reduces redundancies, and enhances process transparency for institutions, granting them greater flexibility and resources to invest in serving students.

§ 668.164 – Disbursing Funds

WGU opposes the proposed regulation to delay aid disbursement to a student in a subscription-based program until the student has completed the appropriate number of credit hours (or the equivalent) in conformance with the requirements in the proposed definition of subscription-based program.

Generally, institutions utilizing innovative learning models seldom originate single term loan periods, and typically only at the end of an academic program. Requiring two equal disbursements in a single term greater than 4.5 months is difficult to fathom and leads to a very

frustrating student experience just prior to graduation. Subscription-based programs should be allowed one disbursement for single term loans greater than 4.5 months.

- ▶ **WGU recommendation:** Continue to allow institutional flexibility of choice in term or non-term financial aid delivery models, regardless of tuition pricing structure; allow one disbursement for a single term loan period greater than 4.5-month subscription-based program.

In closing, thank you for your consideration of our comments on these proposed rules, and congratulations on reaching consensus during a protracted and extensive negotiated rulemaking process. We welcome the opportunity to engage in discussions about our complex, technical recommendations for subscription-based programs. Please feel free to contact Bob Collins, Vice President of Financial Aid, directly at robert.collins@wgu.edu. When promulgated in the Federal Register, we encourage the Department to allow institutions to early adopt these final regulations prior to July 1, 2021.

Respectfully submitted,



Scott Pulsipher
President
Western Governors University