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Proposed Regulations Would Impact Accrediting Agencies, Department of Education, and States

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The Department of Education has initiated a far-reaching notice of proposed rulemaking that could make significant changes to higher education. The rulemaking was announced by Secretary DeVos today. This action is based on a Negotiated Rulemaking, so in theory, there was a consensus from a wide range of participants on these actions. The proposed rules could significantly affect student aid, disclosure obligations, remote education, and religious-based colleges and universities. Comments on the proposals are due 30 days after publication of the Notice of Proposed Rulemaking in the Federal Register, which is scheduled to occur on June 12, 2019. Comments will thus be due on July 12, 2019, so time is of the essence.

The proposed regulations would affect accrediting agencies by:

- Revising the requirements for accrediting agencies in their oversight of member institutions and programs to be less prescriptive and provide greater autonomy and flexibility in order to facilitate agility and responsiveness and promote innovation;
- Revising the criteria used by the Secretary to recognize accrediting agencies to focus on education quality and allow competition;
- Revising the Department's process for recognition and review of accrediting agencies;

The proposed regulations would also impact the roles of the Department of Education and the States by:

- Clarifying the core oversight responsibilities among each entity in the regulatory triad--accrediting agencies, States, and the Department--to hold institutions accountable;
- Establish the roles and responsibilities of institutions and accrediting agencies in the teach-out process;

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- Establish that the Department recognizes an institution's legal authorization to operate postsecondary educational programs when it is exempt from State authorization under the State constitution or by State law as a religious institution with a religious mission; and
- Revise the State authorization requirements for institutions offering distance education or correspondence courses.

An unpublished version of the Notice of Proposed Rulemaking is available at **download the unpublished**, and after publication in the Federal Register, the Notice will be available at here. If you have an interest in supporting, opposing or seeking modifications to these proposed changes, the Butzel Long Education Industry Team can assist you.

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