

United States Senate

May 15, 2020

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, DC 20202

Dear Secretary DeVos,

We write to urge the Department of Education to continue giving colleges and universities flexibility in implementing distance education programs in response to the coronavirus pandemic. This public health emergency has created unprecedented challenges for our institutions of higher learning, many of which were forced to close their doors, send students home, and transition to online learning for the first time. The Department responded by waiving distance education reporting and approval procedures for programs that begin between March 5 and June 1, 2020, regulatory flexibility that allows these institutions to continue to receive federal financial aid dollars absent the usual oversight. We urge the Department to extend this waiver until the national emergency is over, so that colleges and universities can continue their distance education programs until public health guidance indicates that campuses can safely reopen and in-person classes resume in full. The public also deserves assurance that, when the national emergency ends, the Department will resume its pre-pandemic monitoring and oversight of programs that transition online without the proper reporting and approval procedures.

The Department of Education can enable colleges and universities to properly adhere to public health guidance by immediately extending flexibility on Department and accreditor approval of distance education programs through summer 2020 and the 2020-2021 academic year. On March 5 and April 3, 2020, the Department issued and updated guidance that waived its and accreditors' distance education review requirements, to allow institutions to quickly transition to online classes while maintaining eligibility for federal financial support. These requirements established procedures for the Department and outside quality assurance agencies to review postsecondary education programs to ensure they meet certain quality requirements. The waiver, however, applied only to programs that begin on or between March 5 and June 1, 2020.¹ We urge the Department to extend this waiver to programs that begin after June 1 and continue through the summer and the 2020-2021 academic year. If the Department does not extend this waiver, schools will be forced to decide between immediately re-opening on an entirely in-person basis or failing to qualify for federal financial aid; the Department must not force institutions to make that choice.

At the same time, however, the Department must ensure there is some institutional oversight of online programs and that students are receiving, quality educational offerings through distance education. We were disappointed that, when the Department originally issued the waiver, it did not put in place

¹ U.S. Department of Education, Office of Postsecondary Education, *Guidance for interruptions of study related to Coronavirus (COVID-19)*, Mar. 5, 2020, <https://ifap.ed.gov/electronic-announcements/030520Guidance4interruptionsrelated2CoronavirusCOVID19>; U.S. Department of Education, Office of Postsecondary Education, *UPDATED Guidance for interruptions of study related to Coronavirus (COVID-19)*, Apr. 3, 2020, <https://ifap.ed.gov/sites/default/files/attachments/2020-04/040320UPDATEDGuidanceInterruptStudyRelCOVID19Attach.pdf>.

procedures to identify and monitor those institutions that availed themselves of the regulatory flexibility. This omission makes it difficult for the Department to determine which colleges and universities need to undergo the proper approval procedures for any continuing changes to educational programs, such as continued distance education, once the national emergency ends.

To that end, we ask that, as the Department extends the distance education review waiver, it include reporting requirements and other guardrails to ensure the integrity of distance education programs. Specifically, the Department should require institutions of higher education to:

- Within 60 days of moving courses online, report to the Department (1) which programs are affected and whether they are wholly or partially online; (2) the programs' expected duration to operate online; and (3) any changes to the programs (including any new contractual arrangements) to accommodate online status;
- Within 60 days of moving courses online, report to accreditors the same information reported to the Department, and also (1) detail how the institution will demonstrate regular and substantive interaction between instructors and students and (2) how the institution seeks to maintain quality in distance education; and
- Within 30 days following the declared end of the national emergency, report to the Department and accreditors (1) the date by which programs will transition back to in-person instruction and (2) the institution's plan to obtain approval from the Department and the institution's accrediting agency for any substantive program changes it wishes to maintain moving forward.

The Department should also require accreditors to report back to the Department information they obtain from institutions they accredit. The Department should publish this information on its website, as well as a listing of every institution that availed itself of the distance education review waiver. We also urge the Department's inspector general to audit this information to ensure that accreditors properly supervise institutions' compliance with requirements that distance education programs feature regular and substantive interaction with instructors moving forward.

Thank you for your attention to this matter. We look forward to working with the Department in developing guidance for the higher education community that protects students and helps institutions weather this crisis.

Sincerely,

/s/ Edward J. Markey
Edward J. Markey
United States Senator

/s/ Sherrod Brown
Sherrod Brown
United States Senator

Cc: Sandra D. Bruce, Acting Inspector General of the U.S. Department of Education