



## Outsourcing of Educational Programs

<b>Primary statutory cites:</b>	HEA Secs. 487, 485, 496
<b>Primary regulatory cites:</b>	34 CFR 668.5, Written Arrangements to Provide Educational Programs 34 CFR 668.43, Institutional Information 34 CFR 602.22, Substantive Changes and Other Reporting Requirements 34 CFR 600.21, Updating Applicant Information

Under federal rules, colleges participating in Title IV federal financial aid programs may outsource a portion of an educational program to another institution or to a non-Title IV provider. For example, a school may outsource part of its English program to an unaccredited source like the creators of YouTube’s Creative Writing for Dummies, or an online institution could outsource a portion of its MBA program to Trump University. It can outsource up to 25 percent of its program without any accreditor approval. If the accreditor approves, it can outsource up to 50 percent of its program to another entity. In no case, however, may a school receive federal financial aid for a program that it outsources more than 50 percent of to another entity.

The logic behind these requirements is straightforward. In order to receive taxpayer dollars, colleges and universities must meet a series of vetting requirements, like receiving accreditation; earning authorization in the states in which they operate; and passing financial responsibility and cohort default rate tests. While there may be portions of the curriculum that can be supplemented by experts outside of the institution’s faculty, if an ineligible institution provides half--or more--of an educational program that is receiving federal aid, the institution primarily responsible for the program has not met those tests. In other words, lifting the 50 percent threshold allows federal financial aid eligibility to become something of a shell game, in which an approved, eligible institution rents its name to another, unapproved education provider that is truly responsible for the content of the program, effectively creating a wide open back door into Title IV for unvetted educational providers.

Regulations implementing this threshold have been in place at least since [2000](#). The primary purpose of the regulations, at that point, was limited in nature--to permit institutions to establish study-abroad programs that would allow their students to continue receiving federal financial aid while abroad, according to language in the rule.

### **The “50% Rule” in Regulation**

Specifically, the regulations state that Title IV-participating colleges may enter into written agreements with ineligible institutions or organizations only if:

- The unauthorized provider didn’t previously participate in Title IV and have its participation revoked by the Department, a state authorizing agency, or an accreditor following certain



types of adverse actions, and didn't previously submit an application to participate in Title IV that was denied by the Department;

- The eligible institution grants the credential for the educational program and meets all the other requirements of a Title IV-participating college; and
- The non-Title IV institution provides 25 percent or less of the program, or provides between 25 and 50 percent of the program and but is also approved by the eligible institution's accreditor and doesn't have common ownership between the eligible and ineligible institutions.

However, more recently, the Department has explored the implications of relaxing these regulations for the growing market of unaccredited educational providers (what it termed in a recent notice "clarification of the permissible arrangements between an institution of higher education and another organization to provide a portion of an education program"). In 2015, the Department launched the EQUIP "experiment," which laid out a rigorous framework for a limited number of institutions to engage in these types of outsourced programs. Institutions interested in participating were required to submit applications describing the program, the arrangement with the institution, and the quality assurance process that an independent review organization would follow to ensure student learning and positive student outcomes.

The risks of permitting outsourcing of greater than 50 percent, especially without the limitations in place under the Department's experiment, are significant. The marketplace for unaccredited education providers is large and often volatile. State and federal agencies have conducted investigations into, and reached settlements with, some ineligible institutions over deceptive marketing, high-pressure sales tactics, poor quality education, excessively high costs, and other shady practices. Existing providers--including ones accused of these tactics, like Woz U--have already begun to partner with institutions of higher education in an effort to find a back-door to accreditation and gain access to federal financial aid dollars. Some institutions have already purchased such providers. Online program management companies (OPMs) run hundreds of programs for eligible institutions, often requiring colleges to sign onto unsustainable tuition revenue-sharing arrangements that shift large amounts of tuition revenue to the OPM.

Secretary DeVos' recent plans to rewrite regulations around eligible partnerships would allow institutions to outsource up to 100 percent of their programs to unaccredited providers with few constraints. Institutions would be required to notify their accreditors for arrangements up to 25 percent of a program, and obtain accreditor approval above that cap; and would notify the Department of such arrangements. The lifting of the 50 percent rule raises significant questions about how the Department will ensure that only providers that have passed key tests required by the Higher Education Act of institutions of higher education gain access to financial aid dollars; how it will protect students from rent-a-school schemes by providers that know they can't earn accreditation or meet financial responsibility and other Department requirements; and how it will protect taxpayers in the process.