

Distance education means education that uses one or more of the technologies listed in paragraphs (1) through (4) of this definition to deliver instruction to students who are separated from the instructor or instructional team and to support regular and substantive interaction between the students and the instructor or instructional team, either synchronously or asynchronously. ~~The technologies may include –~~

1. The technologies that may be used to deliver distance education include –

- (i) The internet;
- (ii) One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;
- (iii) Audio conferencing; or
- (iv) Video cassettes, DVDs, and CD- ROMs, if the cassettes, DVDs, or CD- ROMs are used in a course in conjunction with any of the technologies listed in paragraphs (1) through (3) of this definition.

2. Regular interaction is defined as –

- (i) being initiated by the instructor or a member of the instructional team, as defined in 600.2, and
- (ii) occurring through predictable and recurring intervals, commensurate with the length of time and amount of material covered, prior to completion of all required assignments and demonstration of competency.

3. Substantive interaction is defined as engaging students in teaching, learning and assessment consistent with the subject matter under discussion.

600.2

Instructional team: An instructional team is comprised of more than one person employed by the institution, so long as this team includes at least one faculty member, as defined by the criteria established by the institution's accrediting agency, who, independently or as a member of an instructional team, must provide regular and substantive interactions to students.

Addressing Instructional Modes that Are Inherently Irregular

Traditional learning keeps time (semester, quarter, trimester) constant and makes learning variable (students are issues grades). Competency-based education (CBE) makes learning constant (every student reaches the same knowledge and skill level) and time is variable.

To meet federal financial aid rules, some institutions have shoehorned instruction and interaction to fit current federal financial aid rules. Many CBE institutions do not use a “regular” schedule as instruction is individualized. As a result, there is more interaction between the instructor (instructional team) with the student than happens in traditional courses, whether face-to-face or at a distance. Subcommittee members have attempted language to address this issue, but it is difficult to map the notion of “regular” onto an educational model that is “irregular.”

This rulemaking must address this conundrum.

To address this issue, the Department provided the following language:

3. *Waiver Authority.* Under procedures established by the Secretary, the Secretary may, through publication in the *Federal Register*, permit an institution or group of institutions to define the courses in one or more educational programs as “distance education” rather than “correspondence courses” using an instructional model that does not meet one or more of the requirements under paragraphs (1) through (4) of this definition if the institution or institutions demonstrate that –
 - (i) The instructional model ensures that each course in the program or programs meets the statutory definition of “distance education” under 20 USC 1003; and
 - (ii) Each institution’s accrediting agency has specifically reviewed and approved the educational program for which the institution seeks the waiver and the agency has determined that the program meets all applicable requirements.

Alternatively, we suggest that the subcommittee fully support plans by the “Accreditation and Innovation” Committee to provide accreditors with additional authority to allow institutions to innovate. We agree with committee and subcommittee members that any solution needs to have the proper guardrails to protect students and federal financial aid investments. We also are encouraged that the proposed additional authority would resolve innovation issues in a larger context than would be provided by this one waiver.

Finally, one option that we would oppose is to do nothing. The rules should accommodate evidence-based innovations that truly help students.