

**NATIONAL ASSOCIATION OF SCHOOLS OF ART AND DESIGN**

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Dear Colleagues:

The basic message of this letter is that federal control of academic matters in higher education will almost certainly follow any fundamental change to the relationship between accreditation and the federal government that has been in place since 1952. Read on to find out why, and why understanding this issue is important to you and your institution.

Separations of powers doctrines are major instruments of freedom in the United States. The separation of legislative, judicial, and administrative functions is the most obvious structural example in our government. However, this doctrine informs many other systems. Separation produces checks and balances, respects natural patterns of expertise distribution, promotes fairness, keeps power decentralized and as close as possible to those truly responsible for results, and thus favors local control. The doctrine also creates the basis for true public-private partnerships.

Accreditation began and continues to be a private sector responsibility. It operated for decades before there was any significant federal connection. In 1952, this changed. The federal government began funding higher education for returning veterans, and sought means to assure that the institutions veterans attended were operated with integrity and met standards set by the academy and the professions. Relying on accrediting agencies was the logical answer. A public-private relationship was formed. The federal government began to “recognize” accreditation organizations to provide this assurance, with the criteria set by law and regulation. Separation of powers was strictly preserved as other financial grant and loan programs were added. For example, independence was a criterion for accrediting agency recognition. Accreditors, not government, determine the standards, procedures, and relationships with institutions and programs. A system called “the triad” went into effect. The federal role centered on financial and procedural management of ever-expanding loan and grant programs; the states, on licensure of all institutions and operation of state-supported institutions; and accreditors, the substance and support systems associated with content and operations in higher education.

The distinction between “recognized” and “authorized” is important: accrediting agencies are authorized by member institutions or professions, or both; under law, the federal government has only the power to recognize agencies that already exist, and only in cases where an accrediting agency’s decisions are a criterion for participation in one or more federal programs. The historic accrediting agencies for architecture, library science, business, and a number of others do not qualify for federal recognition because they do not accredit institutions, only programs of study. For most NASAD member institutions, connections with federal loan and grant programs are only through regional accreditation.

At present, federal laws and regulations governing the relationship between accreditation and the federal government continue to reflect separation of powers principles on at least two levels: 1) there is to be no federal role in the content of courses, curricula, projects, or evaluations;

2) federal regulations are a framework of procedures that respect the functional independence of accrediting agencies. Under separation of powers, accrediting organizations provide a service to the state under a framework of law and regulation that protects their independence. They are not, therefore, agents of the state, or quangos (quasi-autonomous governmental organizations).

Today, a number of ideas and forces oppose continuation of this strict separation of powers. On rare occasions, this opposition is voiced unequivocally. Most of the time, it is obscured in proposals that would advance the objective without raising a general alarm.

In pre-publication stages of the Spellings Commission, a widely publicized position paper advocated replacing federal recognition of private sector accreditation with a federal commission on accreditation consisting of members appointed by the President of the United States. This blatant effort to destroy independence was repelled. Less obvious attempts at power redistribution continue. In one line of thought, the federal government would use its recognition criteria to require accrediting agencies to mandate changes in institutions and programs with regard to academic matters. If such proposals should be adopted, accrediting agencies would lose their independence and become agents of the state. Through federally mandated accreditation requirements, the federal department of education would essentially control institutions and their programs; academic and curricular freedom would become a thing of the past.

The path to this potential consequence started innocently enough in 1984 with education reform and associated calls for a greater focus on results, designated as “outcomes.” The outcomes agenda morphed into a culture of assessment where disciplinary and professional content are secondary to evaluation methodology and summary data. The next step is from assessment to accountability, then to accounting, and then, as called for in the Spellings Report, comparability. But comparability requires standardization, and standardization, central control. If comparability becomes the subject of federal law and regulation, as has already been proposed, the way is open for federal intervention on the content to be compared. Powers regarding academic matters would no longer be separated. Unless countering efforts are successful, higher education seems to be in a policy evolution system moving inexorably from no federal control in academic matters, to remote control through mandated data collection, assessment methods, and comparability, and eventually to full control of content.

Because the accreditation system is the mechanism in law that functionally protects the freedom and independence of academic decision-making, and because of the way these laws are structured, accreditation recognition is the only means in the present federal system for moving from separation to consolidation or unification of powers.

As we reported in briefing letter one, the Department of Education has started a process to change regulations without the guidance of new legislation for the recognition of accrediting agencies whose decisions are a criterion for federal funding. This unusual step is troubling. As considerations of these proposals get under way later this month, it will become clearer about the extent to which the separation of powers doctrine is under attack.

A number of individuals and groups in Washington are working to preserve the freedom and independence of higher education, especially with regard to academic matters, including evaluation. NASAD is participating in these efforts. As these briefing letters show, the subject is complex, the legal and political patterns involved, labyrinthine. But the danger of significant loss to the capabilities and capacities of our national higher education effort is great. Freedom and independence establish the best conditions for advances in all sorts of areas. Therefore, the stakes are high, not only for higher education, but for the nation as a whole.

The next briefing letter will continue the theme of freedom and independence in terms of relationships between accreditation and the academic responsibilities of institutions and specialized programs.

Thank you for your thoughtful consideration.

Best wishes,

Samuel Hope  
NASAD Executive Director