

March 30, 2023

Annamarie Weissman
Deputy Assistant Secretary for Policy, Planning and Innovation
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

RE: GEN-23-03 Requirements and Responsibilities for Third-Party Servicers and Institutions

Dear Deputy Assistant Secretary Weissman:

On behalf of the American Association of Colleges of Osteopathic Medicine (AACOM) and the Association of American Medical Colleges (AAMC), we are writing to express serious concerns with the application of GEN-23-03, updated guidance on the requirements and responsibilities for third-party servicers (TPS) and institutions, published by the U.S. Department of Education (ED) on February 28, 2023.

AACOM and the AAMC support ED's goal to promote principles of accountability across Title IV programs. As the nation faces a physician workforce shortage, we firmly believe that federal policies must support the educational pathway of the future healthcare workforce. However, the TPS updated guidance could be interpreted to implicate medical schools and the organizations that partner with them in a manner that could harm the education of U.S. medical students. **While we appreciate ED extending the comment period on this guidance and delaying its effective date, we urge ED to withdraw the guidance or modify it to explicitly exclude its application to medical schools or the services we describe below and to better target the guidance to match ED's stated intention pertaining to online program managers (OPMs).**

AACOM leads and advocates for the full continuum of osteopathic medical education to improve the health of the public. Founded in 1898 to support and assist the nation's osteopathic medical schools, AACOM represents all 38 accredited colleges of osteopathic medicine—educating more than 35,000 future physicians, 25 percent of all U.S. medical students—at 62 teaching locations in 35 U.S. states, as well as osteopathic graduate medical education professionals and trainees at U.S. medical centers, hospitals, clinics and health systems.

The AAMC is a nonprofit association dedicated to improving the health of people everywhere through medical education, healthcare, medical research, and community collaborations. Its members comprise all 157 accredited U.S. medical schools; 13 accredited Canadian medical schools; approximately 400 teaching hospitals and health systems, including Department of Veterans Affairs medical centers; and nearly 80 academic societies. Through these institutions and organizations, the AAMC leads and serves America's medical schools and teaching hospitals and the millions of individuals across academic medicine, including more than 191,000 full-time faculty members, 95,000 medical students, 149,000 resident physicians, and 60,000 graduate students and postdoctoral researchers in the biomedical sciences. Following a 2022 merger, the Alliance of Academic Health Centers and the Alliance of Academic Health Centers International broadened the AAMC's U.S. membership and expanded its reach to international academic health centers.

AACOM and AAMC express serious concern that the requirements of the updated TPS guidance will result in a reduction of hospitals, clinics, and doctors' offices being willing to host clinical opportunities for medical students during the third and fourth years of medical school.

Medical students typically attend four years of medical school. In the third and fourth years of medical school, students participate in clinical rotations where they are exposed to different medical environments to enhance their knowledge and skills. During this clinical training, which takes place in a variety of settings including hospitals, clinics, and doctors' offices, students learn under the supervision of preceptors. These preceptors evaluate and assess how students are progressing in the studies required by their medical schools' curriculum. Preceptors typically receive academic appointments with medical schools, but may or may not receive financial remuneration.

The updated TPS guidance adds the concept of instructional content to the list of services that would trigger its requirements. Under the updated guidance, delivering instruction and assessing learning are clearly stated as TPS activities. If such guidance were to stand, then the hospitals, clinics, and doctors' offices which provide clinical experiences for medical students could improperly be deemed TPS providers.

At present we have a physician shortage in this country. In fact, a June 2021 report from the AAMC predicts a deficiency of up to 124,000 physicians by 2034, including up to 48,000 primary care physicians and up to 77,100 non-primary care specialty physicians. There is a shortage of qualified preceptors to train our health care professionals and placing additional burdens on these preceptors will only decrease the pool. ED should not impose new barriers to training medical students that exacerbate the current and projected workforce shortage.

Both AACOM and AAMC operate centralized application portals that allow prospective medical students to apply to DO-granting and MD-granting medical schools, respectively. We are concerned that our centralized application portals, among other services, could be deemed TPS activities under the expanded guidance's recruitment and application related activities section.

Our centralized application systems reduce barriers to applying to medical school and ensure prospective medical students can easily apply to a wide variety of programs. The services reduce costs and administration for medical school applicants by decreasing the number of initial application forms, transcripts and fees and streamlining the verification of academic information. The intended and primary beneficiaries of these services are the applicants who pay for these services, however medical and osteopathic programs may receive indirect benefits through applicants' use of these services including some of the activities described in GEN-23-03 (e.g., "providing prospective students with information on educational programs, application and documentation requirements, deadlines, and the enrollment process," "the collecting of [application] documents, screening..." and "collecting, maintaining, or reviewing documentation," which schools might use "to make or support student eligibility determinations...").

Additionally, AAMC and AACOM provide and support numerous services for prospective and current medical school students many of which indirectly benefit schools, including:

AAMC:

- Financial Information, Resources, Services, and Tools (FIRST) – includes providing student financial aid information at member institutions
- The Summer Health Professions Education Program – pipeline and recruitment programs targeting undergraduate students who are underrepresented in medicine
- Medical career fairs

- MedEdPORTAL – peer-reviewed, stand-alone, complete teaching or learning modules, and other medical education curriculum resources
- Careers in Medicine – a comprehensive career-planning program that provides students with the skills, information, and resources to choose a specialty and residency program that meets their career goals
- Visiting Student Learning Opportunities (VSLO) – a centralized application service for medical students to apply for rotations away from their home medical school

AACOM:

- Multi-COM fairs for prospective medical students
- Residency fairs to support medical students as they transition to residency training in partnership with graduate medical education programs
- Academic Recognition Program – dedicated to supplementing medical school instruction around health equity and health disparities
- Osteopathic Health Policy Internship Program through the AACOM Leadership Development Institute – enables osteopathic medical students to spend eight consecutive weeks working at AACOM to learn about federal policy development and implementation

Forcing our organizations to register as a TPS may risk the future of these application portals and other services and impose significant barriers and undue burdens on those seeking to become physicians.

AACOM and AAMC believe that de minimis third-party involvement in content development should not trigger TPS compliance.

Some of our member colleges incorporate content from third parties in their programs. Our member institutions are aware of existing ED regulations limiting such content in Title IV eligible programs. However, the updated guidance applies TPS requirements to these providers in situations where “any percentage of a Title IV eligible program” is provided by a third-party. Existing regulatory requirements limit third party content and instruction to either 25 or 50 percent of an eligible program already establish a strong compliance regime. De minimis third party involvement in content development should not impose the considerable burdens of TPS compliance.

For the aforementioned reasons, AACOM and AAMC oppose the updated TPS guidance. We strongly urge ED to withdraw the guidance in its current form and rescind the effective date. As described, the proposed TPS framework does not take into consideration the unique aspects of U.S. medical education and risks worsening the healthcare workforce shortage. If ED’s goal is the collection of information on OPMs, we recommend that ED rework the guidance to address risks associated with those institutions. Implementing a one-size-fits-all approach could harm our students, our institutions and the communities we serve and is in conflict with ED’s goal of protecting students and taxpayers and advancing equitable outcomes for all students.

Under the proposed guidance, the TPS and institution will be required to comply with ED reporting requirements. These burdens include securing annual independent audits and joint liability. If the Department’s motivation for expanding the scope of TPS requirements is to collect information on OPMs, as clearly outlined, the inclusion of reporting on non-OPM actors is an overreach that could have the unintended outcome of hampering the ability of our member institutions to educate future physicians.

While the guidance has certain exceptions to what services may trigger compliance, these exceptions do not cover instances in which an organization is not an OPM but is providing one or more services to an institution, or in which an organization is providing services to applicants or students which may also

indirectly serve the schools selected by the applicants or students. We recommend that ED make clear that the TPS guidance does not apply to any of the situations we describe above. Furthermore, we urge ED to consider applying this updated guidance in a manner that would isolate its application to OPMs.

If withdrawal is not feasible, AACOM and AAMC encourage ED to modify the guidance to only apply to entities that provide multiple services identified by the guidance.

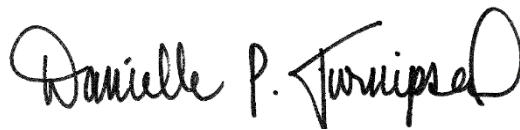
Our organizations are concerned that the proposed guidance will negatively affect small, nonprofit organizations that provide college access, college persistence and other services that help many first-generation students and students of color secure an undergraduate degree. We don't believe ED intended to hamper the ability of our organizations to provide these services. To avoid inadvertent application to these supportive services, we encourage ED to expand the criteria for compliance to entities offering multiple services, such as educational content and recruiting services. Requiring multiple services will be more likely to capture OPMs without penalizing unrelated entities.

Thank you for your consideration of our views. We look forward to working with ED as you develop guidance on the requirements and responsibilities for TPS and institutions. Importantly, we encourage you to consider the uniqueness of medical education training and the impact criteria could have on the future physician workforce. If you have questions or require further information, please contact Julie Crockett, AACOM Director, Government Relations, at jcrockett@aacom.org; or Matthew Shick, AAMC Senior Director, Government Relations, at mshick@aamc.org.

Sincerely,



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