


**The End of Good Faith:  
The Implications of  
Conflicting Credit Hour  
Definitions and the Role of  
Accreditors**

ABHES Annual Meeting  
San Diego, CA  
February 14, 2013

 DowLohnes PLLC

Washington, DC | Atlanta, GA  
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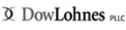
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**The Players**



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**The Players**

- **State Regulatory Agencies**
  - > Approval agency (Occupational and Institutional)
  - > Licensing
  - > Consumer protection
  - > Vocational rehabilitation
  - > Veteran' s oversight
- **Accrediting Agencies**
  - > Institutional national and regional
  - > Specialized or programmatic
- **Federal Agencies**
  - > U.S. Department of Education
  - > Homeland Security Administration/Immigration Control
  - > Veteran' s Administration/DOD

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**The TRIAD**

- > State regulatory agency
  - » Legal authority to operate, grant degrees
  - » Responsible for consumer protection
- > Accrediting agency
  - » Responsible for educational quality
  - » Also monitor consumer protection
- > U.S. Department of Education
  - » Responsible for providing and safeguarding federal student financial assistance
  - » Responsible for approving accreditors

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**CREDIT HOURS**  
 A Case Study in the Expanded Federal Role of Accreditors

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**ED Rationale for Changes**

- Address the need to create a basic unit of student aid eligibility to ensure some standard of value for the Title IV funds;
- Attempt to balance ED’s responsibility to the public fisc while respecting the delegation to accrediting agencies as reliable authorities regarding the quality of education or training offered by an institution.
  - > Over \$150 billion of Federal financial aid is awarded annually based on individual enrollment status – defined in large part by the number of credits
- Create consistency between clock and credit hour programs; and
- ED believes accreditors and state regulators were not doing their jobs.

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**Traditional Definition of Credit Hours**

- U.S. does not have a common framework for defining student outcomes or required learning for postsecondary education – there is no centralized “ministry.”
- ED is prohibited from regulating academic curriculum by statute.
- Accrediting agencies, and a few recognized state agencies, generally established standards and criteria for credits.
- Lack of a common framework has fostered diversity in programs and institutions; it also created confusion.
- For Title IV purposes, only one federal definition of a credit hour existed before July 1, and did not apply to most degree programs and fully transferable nondegree programs.

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**Credit Hour Changes**

§ 600.2- Definition of a “credit hour” added

§ 602.24 – Additional procedures required of institutional accreditors

§ 668.8(k) and (l) – Definition of eligible undergraduate credit-, clock-hour program(s) and a revised clock-to-credit conversion calculation

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**Applicability of Credit Hour Definition in § 600.2 (See 34 CFR § 668.8(k))**

1. Applicable to degree programs of at least two academic years, and
2. Non-degree programs that are:
  - a. fully-transferable into degree programs at the same institution (each course within the program be acceptable for full credit), and
  - b. the institution can demonstrate that students enroll in, and graduate from, the degree program.

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**Definition of "Fully Transferable" - ED Guidance**

- Not officially defined in regulation or statutes, but transferability to destination programs based on the ED definition of an "institution" (by OPE ID number, not by campus);
- Although at least two students must graduate from the degree program, these students do not need to originate in the lower program;
- Classes must be full *transferable*, not *fully transferred* (not all classes must be accepted, just all eligible to be accepted);
- Can be acceptable in more than one degree program (not all must be accepted in one degree program)

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**Degree and Fully Transferable Non-degree Programs**

One hour of classroom or direct faculty instruction and a minimum of two hours of out-of-class student work each week for approximately fifteen weeks for one semester or trimester hour of credit, or ten to twelve weeks for one quarter hour of credit, or the equivalent amount of work over a different amount of time;

or

At least an equivalent amount of work as required in paragraph (1) of this definition for other academic activities as established by the institution, including laboratory work, internships, practica, studio work, and other academic work leading to the award of credit hours.

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**Applicability of Clock-to-Credit Hour Conversion in § 668.8(1)**

One-year non-degree, certificate training programs at public or private non-profit institutions as well as non-degree programs at proprietary schools and postsecondary vocational institutions are subject to the conversion formula unless subject to the formula in § 600.2 or must be treated as a clock-hour program (essentially GE programs).

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**Credit Hour Definition- Programs Subject to § 668.8(1)**

- (i) A semester hour must include at least 37.5 clock hours of instruction;
- (ii) A trimester hour must include at least 37.5 clock hours of instruction; or
- (iii) A quarter hour must include at least 25 clock hours of instruction.

Or...

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**§ 668.8(1)(2) Exception**

Institutions may continue to use the existing 30:1 and 20:1 clock-to-credit conversion if the institution's designated accrediting agency or State agency (for public postsecondary vocational institutions) has **not** identified any deficiencies with the institution's policies and programs or their implementation for determining credit hours and the institution can show that student work outside of class, combined with the in-class instruction, would meet the 37.5:1 and 25:1 conversion rates. However, at a minimum, a semester credit hour must have 30 hours of instruction and a quarter credit hour must have 20 hours of instruction.

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**Notes Regarding Outside Preparation**

- The assessment of outside preparation is on a course-by-course basis, not using cumulative amounts;
- Accreditors are allowed to include outside preparation for all types of courses, including externships;
- Detailed case study provided by Fred Sellers at ED annual conference in Las Vegas

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**Exception to the Clock-Hour Rule  
( § 668.8(k)(3))**

(3) The requirements of paragraph (k)(2)(i) of this section do not apply to a program if there is a State or Federal approval or licensure requirement that a limited component of the program must include a practicum, internship, or clinical experience component of the program that must include a minimum number of clock hours.

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**State Inquiries – Clock Hour Triggers**

- ED contacted TWC to inquiry about the reporting of clock hours as part of the licensure process.
- TWC Response (twice)
- CA Issues

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**Applicability to 2011-12 Award Year (and beyond)**

- Schools can choose to apply the existing rules to in § 668.8(k) and (l) to students enrolled in program as of July 1 until they complete the program, or choose the new rules as of that date. For students or enroll or reenroll after that date, the new rules apply.
- If accreditor (or recognized state agency) is not compliant with § 602.24(f), cannot use 30:1 or 20:1, as applicable for programs subject to § 668.8(l).

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**Additional Guidance from ED**

**Dear Colleague Letter GEN 11-06**  
(published March 18, 2011)

- a. The credit hour regulatory requirements must be implemented by institutions by July 1, 2011, *but* for the 2011-12 award year ED will provide “good faith” consideration.
- b. This is not a seat-time regulation. Institutions can use other measures, such as accelerated learning, to show compliance with the regulatory requirements.
- c. Claims § 668.8 (37.5:1, 25:1 and theoretically clock-hour triggers) does not apply to degree programs

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**ED Website for Program Integrity**

- <http://www2.ed.gov/policy/highered/reg/hearulemaking/2009/credit.html>
- Additional guidance
- Pending DCL Letter – Scheduled prior to Sellers departure on 12/31/11, but not issued

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**Interesting Comments from ED**

Financial Aid Trainer Officers’ Guidance

As institutions submit questions and attend the Program Integrity Financial Aid Training sessions, Federal Training Officers are emailing guidance.

Ex.: [Bartnicki Bulletin re Clock-hour programs \(2/28/11\)](#)

*I stress this change in the regulation that becomes effective 7/1/11, since there are many schools that converted clock hour programs to credit hours for the sole purpose of awarding TIV aid. Many of those programs may now be required to be considered clock hour programs for TIV aid purposes if they fall under our new definition. This would mean establishing proper payment periods, academic years, and disbursement procedures as required for clock hour programs. A clock hour program under our definition CANNOT be converted to a credit hour program for TIV purposes.*

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**Interesting Comments from ED (cont.)**

Another Bartnicki Bulletin re Clock-hour programs (9/16/11)

*Under 34 CFR 668.8(k)(2) the Department formally defines what a clock hour program is for undergraduate programs. If your program meets the definition, then, for Title IV purposes, it is considered a clock hour program and all clock hour requirements apply. HOWEVER, policy recently clarified that 668.8(k)(2) does NOT apply to non-GE programs. So it would apply to nondegree programs at all school types and, at for-profit institutions, it would also apply to their degree programs.*

*I am stressing this since I know within my region there are some public schools that have been converting degree programs to clock hour programs for Title IV purposes since it met the new clock hour definition. Based on policy's new guidance those degree programs at our public institutions would not have to administer Title IV aid in clock hours since they are not considered GE programs.*

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**Interesting Comments from ED (cont.)**

Yet Another Bartnicki Bulletin re Credit Conversions (12/7/11)

*In addition, policy recently clarified for me that when we indicate that each course in the certificate program must be acceptable for full credit towards a degree program at your school, it does not mean that all of the courses must be acceptable for credit in one degree program; but, that as long as all of the courses could be acceptable for full credit among any of your degree programs, the certificate program meets the exemption. For example, if you have 10 courses that make up a certificate program and all 10 would be acceptable for full credit among 3 degree programs (3 courses in one, 3 in another and 4 in another), the certificate program meets the exemption. I stress this because many schools were under the impression that all of the courses had to be acceptable for full credit in the same degree program.*

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**Interesting Comments from ED (cont)**

Sellers Presentation at 2011 ED FSA Conference (November/December 2011)

- › "Substantive use" of clock hour information by state = clock hour treatment (specifically mentioned TWC and AL Dept. of Cosmetology)
- › If you add outside preparation to program length, but do not change number of credits, reporting of change unnecessary (also no notice of intent for GE purposes required if program changes due to new rules)\*
- › Keep pre- and post- July 1, 2011 programs on ECAR if grandfathering students

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**DCL Guidance**

- Required elements:
  - > A process to review an institution’s policies and procedures for determining credit hour assignments and the application of those policies by the institution on both a course-by-course level and on a programmatic level;
  - > Including reviews of institutional conversions of clock-to-credit hours;
  - > A process to address any deficiencies found in the assignment of credits; and
  - > A policy outlining when and how the accreditor will notify the Department of systemic errors.

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**How will accreditors determine if the institution is properly applying the Title IV definition of “credit hours?”**

- Accreditors bear primary burden of assessing compliance.
- This rule does not change the application of an accreditor’s definition of credit hours, but instead deemphasizes importance if different from Federal definition. If the accreditor or state approves fewer credits using agency definitions, lower amount controls per SFA Handbook.

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**Failure to Comply with § 602.24**

- If an institution’s accrediting agency, or State agency, is not yet compliant with the provisions of § 602.24(f) for an accrediting agency, the institution must use the conversion formula in § 668.8(l)(1) of these final regulations until the accrediting agency is compliant. 75 Fed Reg 66857

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**ED DCL Guidance**

- **Q.9.** What is the role of accrediting agencies in reviewing an institution's implementation of the clock-to-credit-hour conversion formula under § 668.8 (l)?
- **A.9.** An accrediting agency is responsible, as part of its analysis of an institution under § 602.24(f), for ensuring that the institution is complying with the requirements in § 668.8(l)(2) when determining the amount of student work outside of class used to convert the clock hours for the educational activities in a program, and that the conversion results are compliant with the definition of a credit hour in § 600.2.

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**ED's Checklist for Review of Accreditors**

- Written policy and procedures that address the review and evaluation of the institution's assignment of credit hours as defined for Federal program purposes.
- Procedures that include criteria for assessing an institution's assignment of credit hours, adequacy of the institutionally-identified policies and procedures, and evidence of an accurate, reliable application provided by the institution.
- Review processes that encompass a varied sample of the institution's degree and non-degree programs in terms of academic discipline, level, delivery modes, and types of academic activities. An agency's review does not need to look at all courses.

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**ED's Checklist for Review of Accreditors**  
(cont)

- May use sampling to determine credit hour assignments if the agency provides guidance to site review teams on selecting a sample that adequately encompasses a variety of disciplines, degree levels, teaching/learning formats, and delivery modes.
- Determinations of whether an institution's processes and procedures result in the establishment of reasonable equivalencies for the amount of academic work described in paragraph (1) of the credit hour definition within the framework of acceptable institutional practices at comparable institutions of higher education for similar programs, including undergraduate programs subject to the clock-to-credit-hour conversion requirements under § 668.8(l).
- The accrediting agency must take action if it identifies an institution that has deficiencies in its credit allocations. If the problems result in systemic non-compliance, the agency must notify the Secretary.

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**2011-2012 Federal Student Aid Handbook  
(Volume 2 – Chapter 2)**

- GE programs are subject to clock-to-credit conversion and clock hour treatment.
- Nondegree programs equivalent to certain degrees can use § 600.2, “but this does not permit a school to ask for a determination that a nondegree program is equivalent to a degree program.”
- Credits must be rounded down, but can include fractions (Sellers case study provided).
- The number of financial aid credits will never exceed those approved by states or accreditors.

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**Guidance from Accreditors**

ABHES – April 5 and June 1, 2011; January 28, 2013  
*ABHES Bulletin*

ACCSC – March 25 and October 28, 2011; April 13, 2012  
*Accreditation Alerts*

ACICS – March 8, May 2, and December 27, 2011; May 11, 2012  
*Memoranda to the Field*

ACCET – April 21, 2011  
*Important Update*

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**Applicability to 2011-12 Award Year  
(Good Faith Consideration)**

For the 2011-2012 award year, as long as an institution or accrediting agency is in the process of complying with these provisions, we will consider the institution or accrediting agency to be making a good-faith effort to comply, and Department staff will take this effort into consideration when reviewing an institution's or accrediting agency's implementation of the regulations.

Accrediting agencies and State approval agencies whose written policies, procedures, criteria, and materials are not finalized prior to July 1, 2011, may make reasonable allowances in their review of institutions during the 2011-2012 award year.

DCL GEN 11-06

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**Questions?**

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