

U.S. Department of Education

**Staff Report
to the
Senior Department Official
on
Recognition Compliance Issues**

RECOMMENDATION PAGE

1. **Agency:** Accrediting Commission Of Career Schools and Colleges (1967/2005)

(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)

2. **Action Item:** Petition for Continued Recognition

3. **Current Scope of Recognition:** The accreditation of private, postsecondary, non-degree-granting institutions and degree-granting institutions in the United States, including those granting associate, baccalaureate and master's degrees, that are predominantly organized to educate students for occupational, trade and technical careers, and including institutions that offer programs via distance education.

4. **Requested Scope of Recognition:** Same as above.

5. **Date of Advisory Committee Meeting:** June, 2011

6. **Staff Recommendation:** Renew the agency's recognition for a period of five years.

7. **Issues or Problems:** None

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Accrediting Commission of Career Schools and Colleges (ACCSC) is an institutional accrediting agency that accredits 775 institutions located throughout the United States, Puerto Rico, and the District of Columbia.

The agency's accredited schools offer certificates, academic associate degrees, occupational associate degrees, baccalaureate degrees and masters degrees and distance education programs, predominantly in occupational, trade and technical career areas.

Most of agency's accredited schools participate in the Department's Federal Student Aid program. As the Title IV gatekeeper for its accredited institutions, it must meet the separate and independent requirements of the Secretary's Criteria.

Recognition History

The Accrediting Commission of Career Schools and Colleges was previously known as the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCT). Prior to that, it was called the Accrediting Commission for Trade and Technical Schools of the Career College Association and, prior to that time, the Accrediting Commission of the National Association of Trade and Technical Schools (NATTS).

NATTS was originally recognized in 1967 by the then-Commissioner of Education for its accreditation of trade and technical schools. Its scope of recognition was expanded in 1972 to include barber schools and again in 1978 to include all resident course offerings of private schools primarily engaged in trade or technical education.

In 1991, NATTS and the Association of Independent Colleges and Schools (AICS) became part of the Career College Association (CCA). Although the two associations merged into one organization, their accrediting commissions remained separate, even though they both functioned under the CCA umbrella, and each commission continued to accredit the same schools that it accredited under its former organization. After the merger, NATTS became known as the Accrediting Commission for Trade and Technical Schools of the Career College Association. In 1993, in order to conform to new Department regulations, the agency became separate from and independent of the CCA and was renamed

the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCT and subsequently dropped the "T".

When the agency was last reviewed in 2004, the agency requested an expansion of its scope of recognition to include institutions that offer programs via distance education. In 2005 the Secretary granted the expansion of scope, found the agency to be fully compliant with the criteria for recognition, and granted the agency continued recognition for a period of five years. In 2006, the agency was granted an expansion of its scope for recognition to include the accreditation of masters degree programs.

PART II: SUMMARY OF FINDINGS

The agency meets the requirements of the Secretary's Criteria for Recognition.

PART III: THIRD PARTY COMMENTS

The Department did not receive any written third-party comments regarding this agency.

U.S. Department of Education

**Staff Report
to the
Senior Department Official
on
Recognition Compliance Issues**

RECOMMENDATION PAGE

1. **Agency:** American Psychological Association (1970/2005)
(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)
2. **Action Item:** Petition for Continued Recognition
3. **Current Scope of Recognition:** The accreditation in the United States of doctoral programs in clinical, counseling, school and combined professional-scientific psychology; predoctoral internship programs in professional psychology; and postdoctoral residency programs in professional psychology.
4. **Requested Scope of Recognition:** Same as above
5. **Date of Advisory Committee Meeting:** June, 2011
6. **Staff Recommendation:** Continue the agency's recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified below.
7. **Issues or Problems:**
 - The agency must strengthen its assertions regarding its financial viability with supporting documentation or otherwise provide additional information and clarifications of the agency's current and projected financial viability. (602.15(a)(1))
 - The agency must demonstrate that it has an effective mechanism that ensures that its public members selected to serve on its COA and appeals panel meet the requirements as stated in the regulatory

definition, with specific regard to the requirement that a public member cannot be a spouse, parent, child, or sibling of someone identified in component (1) or (2) of the Secretary's definition. (602.15(a)(5))

- The agency must adopt, implement, and demonstrate implementation of the proposed IR to meet this criterion. (602.15(b))
- The agency must incorporate mechanisms into its monitoring procedures to help it identify potential problems with a program's financial capacity in accordance with the Guidelines and Principles applicable to continued compliance with its fiscal standards throughout the duration of the accreditation grant. (602.19(b))
- The agency must revise its policies and procedures to ensure that its decisions will not allow noncompliant programs to exceed the maximum enforcement timeframes. It also needs to demonstrate that it has implemented timely enforcement actions based on those revisions. (602.20(a))
- The agency must clarify how it uses the good cause exceptions to include guidance for using the good cause exception to extend accreditation of a program that remains out of compliance beyond the enforcement timeframe and to demonstrate application of the good cause extension in accordance with those parameters. (602.20(b))
- The agency must submit documentation indicating that it has made available to the public information regarding its senior administrative staff required in section (5)(ii) of this criterion. (602.23(a))

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The American Psychological Association (APA), Commission on Accreditation (COA) is a programmatic accreditor. It currently accredits over 900 professional education and training programs at the doctoral and postdoctoral level in psychology. The agency has identified multiple federal programs that require the Secretary's recognition of its accredited programs as a prerequisite for programs to participate in non-Title IV federal programs and/or federal employment. These include, for example--

- The Graduate Psychology Education (GPE) Program administered by the United States Department of Health and Human Services (DHHS),
- The Federal Center for Medicare/Medicaid Services (CMS) program for postdoctoral residency programs in medical settings, and
- The Predoctoral Fellowship offered by the Mental Health and Substance Abuse Services Administration (SAMSHA).

In addition, the Department of Veterans Affairs and the Federal prison system cite the APA's COA accreditation as the standard both for admission to its internship training programs in professional psychology and for employment as a psychologist at all VA medical centers (VAMCs).

Recognition History

The American Psychological Association, Commission on Accreditation (Commission), received initial recognition by the Secretary in 1970, and has received continued recognition since that time. The Commission was last reviewed for renewal of recognition at the fall 2004 meeting of the National Advisory Committee on Institutional Quality and Integrity (NACIQI). Following the meeting, the Secretary granted the agency continued recognition for a period of five years, and found no compliance issues.

As part of the review of APA for continued recognition, Department staff reviewed the agency's petition and supporting documentation, observed a decision-making meeting and a training workshop for new Commissioners.

PART II: SUMMARY OF FINDINGS

§602.15 Administrative and fiscal responsibilities

The agency must have the administrative and fiscal capability to carry out its accreditation activities in light of its requested scope of recognition.

The agency meets this requirement if the agency demonstrates that--

(a) The agency has--

(1) Adequate administrative staff and financial resources to carry out its accrediting responsibilities;

The agency's 16-member accreditation staff includes psychologists, researchers, and operations personnel. In accordance with the APA policies and procedures, the accreditation staff have the responsibility for oversight of the accrediting operation that affects approximately 900 accredited doctoral, internship, and postdoctoral programs. Based on the resumes provided, each employee has experience in the discipline or business functions coupled with longevity in the organization and based on their collective experiences appear to carry out its accreditation activities within its scope of recognition.

The organizational chart clearly reflects the accrediting functions in a logically organized manner. The agency included the resumes of the senior staff that demonstrate that the staff has the necessary qualifications and experience to perform their assigned duties. The Department has not received any complaints against the agency regarding staffing levels or the ability of the agency to conduct its accrediting functions.

Based on the budget documents provided, it appears that the agency has been operating in the red for the past 4 years and has significantly pulled from its reserve fund to cover shortfalls. The documents also reflect that the agency has adopted 2 fee increases during this time; however, these increases were not sufficient to cover the actual expenses during those fiscal years. While it appears that the agency's accrediting activities have not been adversely affected, it is not clear that the agency' has sufficiently addressed this financial situation.

Staff Determination: The agency does not meet the requirements of this section. It must to provide additional information and clarifications of the agency's current and projected financial status to include the agency's plans to address the net deficit in its operations.

Analyst Remarks to Response:

The Department found the agency has operated with a negative balance for 4 consecutive years. Although it has increased fees for two of those years, it continues to operate with a negative cash flow based on the documents provided. The agency's response indicates that the Accreditation Fee Stabilization Fund allowed the Commission on Accreditation (COA) to keep the annual fees for programs stable until 2008, when it increased fees for the annual, initial application, and appeal panel fees for each doctoral program. It has maintained the annual fee structure for all programs during the 2008-2009 year, and the annual fees for all programs remained the same through the 2010-2011 years. However, the site visit fees and appeals fees for 2010-2011 increased for the designated programs as follows:

Site visits:

Doctorate programs: \$600.00

Intern programs: \$400.00

Postdoc Programs \$400.00

Without an accounting of approximate revenues, less expenses, the Department cannot ascertain the impact of the fee increases on the accrediting activities. The agency states final budgets were not available when it submitted the initial petition and in its response suggests that the fund contains more than twice the amount reflected in the analysis of the accreditation stabilization fund balance for 2010. For the years since 2008, the accreditation activities operated in the red, with significant reductions in the fund balance. The agency's response does not include documentation that supports its assertion that the fund balance has increased.

The agency has stated that in August 1998, APA Council, on the recommendation of the APA Finance Committee and Board of Directors, established an Accreditation Fee Stabilization Fund (Exhibit 17, page 2). According to the agency, the goal of the fund has been to ensure that accreditation fees generated from year to year will be available for use to support accreditation. The Department understands that the goal of the initiative is also to enable the COA to become self-sustaining.

The agency asserts that the increased pulling of funds from the Stabilization Fund does not represent a threat to the financial stability of the agency. The agency has indicated that the American Psychological Association (APA), the parent organization, will continue to support the COA activity as it is essential to the mission of the Association, and as such has the full backing of the Association to assure continuity of the accreditation function. In addition, the agency has not provided any documentation to support this.

The agency indicates that it plans to evaluate all fee structures in 2011, but did not indicate whether it also expects the new fee schedule to sustain its accreditation activities with or without continued enhancements from the stabilization fund, to support increasing expenses.

Staff Determination: The agency does not meet the requirements of this section. It needs to strengthen its assertions regarding its financial viability with supporting documentation or otherwise provide additional information and clarifications of the agency's current and projected financial viability.

(5) Representatives of the public on all decision-making bodies; and

The agency defines a public member as those outside the discipline of professional psychology who have an informed, broad-gauged community perspective about matters of higher education. The COA has two seats for representatives of the public interest who are members of the general public and one for a graduate student representing consumers of professional education and training in psychology. The appeals panel has three members, one of whom the agency identified as a public member using the agency's definition. However, the agency's definition does not comport with the Secretary's definition found in 34 CFR 602.3.

In its call for public nominations, the COA seeks nominations of individuals who:

- * Are outside the discipline of psychology;
- * Are presently or formerly involved in higher education or in public service administration;
- * Have a history of involvement in community or professional organizations;
- * Have a minimum of 10 years of experience in his/her profession;
- * Have some experiences in a regulatory or quality assurance body (preferred) but do not at present serve on a regulatory body;
- * Agree to represent the general public and apply the accreditation standards objectively and fairly without regard to the issues of special interest groups; and
- * Do not have overlapping interest in the accreditation process due to dual service and whose status does not represent a conflict of interest that would interfere with that person's ability to discharge duties in good faith and with the care that an ordinarily prudent person would exercise in like position.

Those who make nominations should include the candidates' current curriculum vitae and a statement of interest in the person. After receiving the nomination, the accreditation office sends the slate to the APA Board of Educational Affairs for selection. Two of the public representatives on the COA serve as consultants at universities that have psychology departments or schools accredited by the COA. Additionally, the Appeal Panel impaneled to hear a program appeal on February 21, 2011, has a public representative who works at a university that has COA accredited programs.

Based on the qualifications the agency requires of a public representative, the agency fails to demonstrate that its public representative definition excludes persons who are: (1) an employee, member of the governing board, owner, or shareholder of, or consultant to, an institution or program that either is accredited or preaccredited by the agency or has applied for accreditation or

preaccreditation or (2) a spouse, parent, child, or sibling of an individual identified in the preceding paragraph of this definition.

Staff Determination: The agency does not meet the requirements of this section of the criteria. The agency needs to demonstrate that it has effective mechanism that ensures that its public members selected to serve on its COA and appeals panel meet the requirements as stated in the regulatory definition and demonstrate that the persons selected to serve in a decision-making capacity have the required regulatory qualifications.

Analyst Remarks to Response:

The agency sufficiently addressed the Department’s concern that the agency may select as public representatives, individuals who work at a regionally or nationally-accredited institution that hosts an accredited psychology program(s) when the individual works in other programs or departments not accredited by this programmatic agency.

However, the agency has not documented sufficiently the application of its effective mechanism that ensures that its public members are vetted for meeting all of the components of the Secretary’s definition of a public member, with specific regard to the requirement that a public member cannot be a spouse, parent, child, or sibling of someone identified in component (1) or (2) of the Secretary’s definition.

Staff Determination: The agency does not meet the requirements of this section of the criteria. The agency must demonstrate that it has an effective mechanism that ensures that its public members selected to serve on its COA and appeals panel meet the requirements as stated in the regulatory definition, with specific regard to the requirement that a public member cannot be a spouse, parent, child, or sibling of someone identified in component (1) or (2) of the Secretary’s definition.

(b) The agency maintains complete and accurate records of--

(1) Its last full accreditation or preaccreditation reviews of each institution or program, including on-site evaluation team reports, the institution's or program's responses to on-site reports, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, and a copy of the institution's or program's most recent self-study; and

2) All decisions made throughout an institution's or program's affiliation with the agency regarding the accreditation and preaccreditation of any institution or program and substantive changes, including all correspondence that is significantly related to those decisions.

The agency has written procedures to maintain program accreditation records and reports, however the agency's recordkeeping policy is based on the previous regulations, which were amended effective July 1, 2010. The regulations now require an agency:

-(1) To maintain records of its last full accreditation review of each program that would include on-site evaluation team reports, the program's response to on-site report, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, and a copy of the program's most recent self-study.

-(2) To maintain all accrediting decisions made throughout the program's affiliation with the agency including substantive changes, and all correspondence that is significantly related to those decisions [see 34 CFR 602.26(d) and 602.28(b)(2)].

While the agency's procedures to retain records for 2 reviews exceeds the requirement under subsection (1) and is compliant; the agency policy is not clear in meeting subcriterion (2). Specifically it is not clear that the records maintenance policy ensures that the agency will keep records of all decisions, (including substantive change) and all correspondence related to those decisions throughout the programs affiliation with the agency.

The agency needs to revise its procedures to include the requirements underlined in the criteria above and demonstrate it maintains the required records.

Staff Determination: The agency does not meet the requirements of this section. It must revise its records retention procedures and demonstrate that it maintains all accrediting decisions made throughout the program's affiliation with the agency including substantive changes, and all correspondence that is significantly related to those decisions.

Analyst Remarks to Response:

It was not clear that the agency maintained all program records of all decisions, (including substantive changes) and all correspondence related to those decisions throughout the programs' affiliation with the agency. Department staff reviewed one questionable file while observing a Commission decision meeting in March 2011. The program file did not appear to contain all correspondence between the agency and the program for referenced dates and related to Commission decisions. The agency needs to revise its records retention procedures to clearly include the requirements of the current regulation and demonstrate it maintains all correspondence related to those decisions.

The agency notes that it does have a written records retention IR and that it should reflect current regulatory requirements and actual practices. The agency reports that at the July 2011 Commission meeting, it will revise the current IR to quote the current criterion language and include the Commission's actual

practices regarding records retention. The suggested language, if adopted, will comply with this criterion and the agency's records maintenance practices. Additionally, the agency indicated that it is working on the redesign of its database system to maximize the use of technology and minimize the use of paper.

Staff Determination: The agency does not meet the requirements of this criterion. The agency will need to adopt, implement, and demonstrate implementation of the proposed IR to meet this criterion.

§602.19 Monitoring and reevaluation of accredited institutions and programs.

(b) The agency must demonstrate it has, and effectively applies, a set of monitoring and evaluation approaches that enables the agency to identify problems with an institution's or program's continued compliance with agency standards and that takes into account institutional or program strengths and stability. These approaches must include periodic reports, and collection and analysis of key data and indicators, identified by the agency, including, but not limited to, fiscal information and measures of student achievement, consistent with the provisions of §602.16(f). This provision does not require institutions or programs to provide annual reports on each specific accreditation criterion.

The Commission reports that it monitors all programs between and during the accreditation cycles through several mechanisms including reviewing annual reports online (ARO), substantive changes, interim reports, complaints, early site visits, and focused visits. Following a new grant of accreditation, the agency reports that all programs must submit annual reports to demonstrate continued compliance with faculty and summary student data on new student enrollment and admissions for the year and updates on faculty and student activities, including student outcomes. Although the agency is finalizing changes to the ARO, it reports that it does review student achievement measures using a data base that uses program achievement thresholds with trigger values to access performance. If program data shows values below the thresholds, the Commission will seek additional information by requesting the program to provide a report or schedule an earlier site visit. However, the agency did not provide evidence of the application of its review process.

Also, while the agency does collect information including a number of key data indicators i.e., student outcomes, there is no evidence that the agency requires programs to submit key indicators regarding the continued fiscal viability of its programs as required by this criterion. Finally, the agency's documentation (a template report format) is not sufficient documentation of its effective application of its monitoring of its programs. The agency indicates that if the Commission decision letter requests a program to submit special reports, such as interim

reports, the staff during its review will determine whether the program has complied with requests for information for which staff acknowledgement is sufficient or whether the program responded to specific flags that raised questions about the program's compliance with the standards for which the Commission will review, pursuant to section 2.3 of the operating procedures. The agency did not provide documentation supporting its review process. Following the Commission's review any one or more of the monitoring mechanisms and any supporting documentation, it will render a decision that continues accreditation, places the program on probation accredited status, or withdraws the program's accreditation, after ensuring that it has followed its written policies and procedures.

Staff Determination: The agency does not meet the requirements of this section of the criteria. The agency needs to provide evidence that it has key data indicators in the area of fiscal viability. It also needs to provide evidence of its effective application of its monitoring of its programs for continued compliance.

Analyst Remarks to Response:

In response to the draft staff report, the agency noted that it analyzes key data on faculty and on student achievement that it collects through periodic reports to obtain indirectly information about the program's fiscal health. The agency reports that it uses a database to monitor the strengths and weaknesses of a program by means of trends with thresholds designed to alert the agency to changes in student/faculty ratios and student achievement data. It also uses substantive change reporting submitted by the program, and the Commission's review of findings in interim reports, to monitor programs. The Commission's letters identify a program's strengths and weaknesses and direct those with identified weaknesses to provide additional information to the Commission to assess the impact of those weaknesses on educational quality.

The agency reports that it does not collect direct financial information on a program because the institution usually provides funding information to the department or school within the institution. Therefore, the agency believes that it is challenged to assess the institutional budget regarding its programs and contends that its policy of using indirect methods, such as self-reported program changes of resources will allow it to assess the continued financial capacity of a program for the duration of the program's accreditation.

However, several sections of the agency's Guidelines and Principles specifically require that programs and site teams assess the adequacy of an institution's budget to support the psychological programs. For example, Domain A states programs must be represented in the sponsoring institution's budget and plans in a manner designed to enable the program to achieve its goals and objectives in a stable manner over time. Therefore programs must identify in the program's self-study, whether the institution's budget and plans result in any weaknesses or strengths. Additionally the self-study instructions give guidance to doctoral and internship programs, respectively, in addressing Domain A.3. The site team evaluation must also review the institution's budget and plans and assess its

impact on the program in the team report. Instructions to the site evaluators include an evaluation of the degree to which the program is represented in the institution's operating budget and plans to include sufficient fiscal and administrative capacity. Program decision letters provide feedback on the degree to which programs meet the requirements of Domain A regarding representation in the institution/agency's budget and plans. Domain C.3(a) and (b) (doctoral and internship programs) and Domain C.5(a) and (b) (postdoctoral programs) direct programs to have and appropriately utilize financial as well as clerical/technical support adequate for program maintenance and development. In the case of internship and postdoctoral residency programs, the only directly specified financial statements regard adequate financial resources for intern/resident stipends. The expectations for internship stipends are delineated in Implementing Regulation C-9 (Exhibit 3, page 32). The agency does expect programs to demonstrate how they work with their sponsoring institutions to develop plans for additional fiscal/administrative resources as necessary for continuing program development. Therefore, despite its reported limitations of access to a sponsoring institution's budget, the Department expects the agency to develop a monitoring process to ensure that the program has the financial capacity for the duration of the accreditation period.

Staff Determination: The agency does not meet the requirements of this section of the criteria. The agency will need to incorporate mechanisms into its monitoring procedures to help it identify potential problems with a program's financial capacity in accordance with the Guidelines and Principles applicable to continued compliance with its fiscal standards throughout the duration of the accreditation grant.

§602.20 Enforcement of standards

(a) If the agency's review of an institution or program under any standard indicates that the institution or program is not in compliance with that standard, the agency must--

(1) Immediately initiate adverse action against the institution or program; or

(2) Require the institution or program to take appropriate action to bring itself into compliance with the agency's standards within a time period that must not exceed--

(i) Twelve months, if the program, or the longest program offered by the institution, is less than one year in length;

(ii) Eighteen months, if the program, or the longest program offered by the institution, is at least one year, but less than two years, in length; or

(iii) Two years, if the program, or the longest program offered by the institution, is at least two years in length.

The agency has written policies and procedures that enables the agency to take immediate action to terminate accreditation or to allow it to place a program on probation and to provide a program with a timeframe to come into compliance when the agency determines that the program fails to comply with the standards. The agency policy guarantees that the length of time for the program to take corrective action is based on the length of the program, but will not exceed 2 years for doctoral programs, 18 months for residency programs and 1 year for internship programs.

What is not clear is the agency's use of a deferral decision and how that may allow programs to exceed the timeframes set forth in the criterion for coming into compliance. The agency needs to demonstrate that its policies regarding deferral are written clearly enough to ensure that deferral decisions will not allow programs to exceed the maximum timeframes.

Also while the agency provided informative exhibits that listed data showing Commission decisions covering a five year period reflecting the kinds of actions taken, the agency's documentation fails to demonstrate that the agency timely carried out its procedures to conform to this criterion. The agency needs to provide documentation reflecting that the chronology of agency actions fell within the requirements of this criterion.

Staff Determination: The agency fails to comply with this criterion. The agency needs to demonstrate that its policies regarding deferral are written clearly enough to ensure that deferral decisions will not allow programs to exceed the maximum timeframes. It also needs to demonstrate that it has implemented enforcement actions in a timely manner by outlining the dates of each action in conformity with its policies and procedures.

Analyst Remarks to Response:

The agency's enforcement policies and procedures routinely place a program on accredited, on probation status or defer a decision that allows a program that fails to comply with its standards a time-period for compliance that exceeds the timeframes in this criterion. Additionally the implementation of the agency's current policies regarding adverse decisions results in the agency's failure to comply with this criterion. The agency's Commission will meet in July 2011, to discuss and revise its policies and procedures to ensure that its enforcement policies comply with the timelines comply with this criterion.

Staff Determination: The agency does not meet the requirements of this section of the criteria. The agency needs to revise it policies and procedures to ensure that its decisions will not allow noncompliant programs to exceed the maximum enforcement timeframes. It also needs to demonstrate that it has implemented timely enforcement actions based on those revisions.

(b) If the institution or program does not bring itself into compliance within the specified period, the agency must take immediate adverse action unless the agency, for good cause, extends the period for achieving compliance.

When an accredited program that is on probation returns before the Commission for an accrediting decision to determine whether to restore the program's status to accredited, the decision may restore the accreditation or not. If the Commission votes to not restore accredited status arguably because the program has not corrected the deficiency, the Commission will then determine whether to continue the program's accreditation on probation status for good cause. However, neither the agency's policy nor its exhibits have defined any of the following considerations for the good cause extension 1) the basis/factors for granting a good cause extension, (2) the length of time for an extension, or (3) the frequency and use of the "good cause" exception

It appears that the agency's policies regarding extension of a probationary accreditation status for noncompliance have the potential for indefinite extensions. The agency will need to revise its policies by including guidance for using the good cause exception and demonstrate its implementation with sample letters, meeting minutes or hearings, if required.

Staff Determination: The agency does not meet the requirements of this criterion. It needs to clarify how it uses the good cause exception by revising its policies to include guidance for using the good cause exception to extend accreditation on probation for a program that remains out of compliance beyond the probationary period and to demonstrate application of the good cause extension in accordance with its policies.

Analyst Remarks to Response:

The agency has stated it will consider policy revisions regarding the use of extensions for good cause.

Staff Determination: The agency does not meet the requirements of this criterion. It needs to clarify how it uses the good cause exceptions to include guidance for using the good cause exception to extend accreditation of a program that remains out of compliance beyond the enforcement timeframe and to demonstrate application of the good cause extension in accordance with those parameters.

§602.23 Operating procedures all agencies must have.

- (a) The agency must maintain and make available to the public, upon request, written materials describing--**
- (1) Each type of accreditation and preaccreditation it grants;**
 - (2) The procedures that institutions or programs must follow in applying for accreditation or preaccreditation;**
 - (3) The standards and procedures it uses to determine whether to grant, reaffirm, reinstate, restrict, deny, revoke, terminate, or take any other action related to each type of accreditation and preaccreditation that the agency grants;**
 - (4) The institutions and programs that the agency currently accredits or preaccredits and, for each institution and program, the year the agency will next review or reconsider it for accreditation or preaccreditation; and**
 - (5) The names, academic and professional qualifications, and relevant employment and organizational affiliations of--**
 - (i) The members of the agency's policy and decision-making bodies; and**
 - (ii) The agency's principal administrative staff.**
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The agency's written policies regarding publicly available information are found in the implementing regulations as well as on its website. The agency makes the following information available to the public:

1. Current lists of accredited internship and doctoral programs,
2. Program review cycles for current year,
3. Accreditation Guidelines and Principles and Operating Procedures,
4. Lists of current CoA members and institutional affiliations,
5. Important accreditation dates for the current year, including Commission meeting dates,
6. Commission implementation procedures,
7. A statement of reasons for denial or revocation of accredited status or denial of a site visit, in accordance with Commission procedure for notice of such actions,
8. In addition to being contained on the website and in other published material, upon request, a program decision to withdraw voluntarily for accreditation 30 days or more after notification is received by the Commission,
9. Upon request, a program decision to allow accreditation to lapse, and
10. Commission annual report, which includes lists of Commission members and accreditation staff; aggregate statistics on accredited programs; Commission activities, including all accreditation decisions as defined in the Accreditation Operation Procedures 4.2 for that year and voluntary withdrawals from accredited status; appeal panel pool members; upcoming program review cycles; important accreditation dates; site visitor training workshop dates; and implementation procedures.

The agency also provides the procedural documents listed in (a)(2) in hard copy to all programs applying for accreditation and to site visitors. Its Accreditation

Operating Procedures describe each type of accreditation status the Commission may award to programs as well as the procedures it uses to make an accreditation decision. The decision letters show that the agency informs the program of the Commission's accreditation action and the status awarded to the program. Although the Commission informs the program of the next review year in the decision letter, the agency provides this information on its website, it also posts the year in which the agency will next review or reconsider the program for accreditation and the year the Commission first accredited the program and the accreditation status of the program.

Finally the agency's written materials available to the public on its website include the following Commission information: (a) the name, academic and professional qualifications of the chair and (b) the names, academic qualifications of all but one Commissioner, and the tenure date for each member.

The public information about the Commission does not include the professional qualifications, relevant employment, and organizational affiliations of each Commissioner. Also, the public information on the website regarding the accreditation staff only lists the name and position of each member, but does not list the organizational affiliation or academic and professional qualifications, and organizational affiliations of staff member. The agency needs to provide the additional information on the Commissioners and accreditation staff for the public or develop a policy describing the procedures to make the information publicly available and demonstrate implementation.

Staff Determination: The agency does not meet the requirements of each section of this criterion. It needs to develop policies and procedures and demonstrate that it has implemented the new requirements regarding public information.

Analyst Remarks to Response:

The agency's updated website now lists the 2011 information for each of the 32 members of the Commission on Accreditation. The information complies with the requirements of section (5)(i) of this criterion. The proposed language to make public the names and academic/professional qualifications of the senior administrative staff in the Office of Program Consultation and Accreditation, when included and published in the Implementing Regulations on its website will comply with section (5)(ii) of this criterion.

Staff Determination: The agency does not meet the requirements of this section. The agency needs to submit documentation indicating that it has made available to the public information regarding its senior administrative staff required in section (5)(ii) of this criterion.

PART III: THIRD PARTY COMMENTS

The Department did not receive any written third-party comments regarding this agency.

U.S. Department of Education

**Staff Report
to the
Senior Department Official
on
Recognition Compliance Issues**

RECOMMENDATION PAGE

1. **Agency:** Accrediting Council for Independent Colleges and Schools (1956/2006)

(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)

2. **Action Item:** Petition for Continued Recognition

3. **Current Scope of Recognition:** The accreditation of private postsecondary institutions offering certificates or diplomas, and postsecondary institutions offering associate, bachelor's, or master's degrees in programs designed to educate students for professional, technical, or occupational careers, including those that offer those programs via distance education.

4. **Requested Scope of Recognition:** The accreditation of private postsecondary institutions offering certificates or diplomas, and postsecondary institutions offering associate, bachelor's, master's or professional doctoral degrees in programs designed to educate students for professional, technical, or occupational careers, including those that offer those programs via distance education.

5. **Date of Advisory Committee Meeting:** June, 2011

6. **Staff Recommendation:** Continue the agency's current recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified below.

7. **Issues or Problems:**

- The agency needs to document how it determined that its current doctoral standards are comparable to commonly accepted standards for ensuring quality in doctorate degree programs. As well, the agency needs to document its experience in accrediting the range of specific doctoral degrees for which it is seeking the expansion of scope. [§602.12(b)]

- The agency needs to have a clear written policy that requires it to have adequate representation of both academic personnel, and administrative personnel, as it makes its selections for site teams and decision-making bodies, including the individual Review Board Panels. In addition, the written policy needs to indicate what ACICS uses to designate a person to serve in one category, as distinguished from the other. Definitions of academic personnel and administrative personnel must be clear and consistent, as well as consistently applied in practice. Furthermore, the agency needs to provide clear evidence that it currently maintains adequate representation of both academic personnel, and administrative personnel, on its current site teams and all decision-making bodies. [§602.15(a)(3)]

- The agency needs to demonstrate that it evaluates student achievement against program-level data as appropriate to the occupational missions of the institutions it accredits, particularly where licensure, registration or certification is involved. §602.16(a)(1)(i)]

- The agency needs to ensure that its policy, in writing and in practice, is that all the commissioners are provided with the opportunity to see, and discuss, the complete institutional file before they determine whether an institution complies with the agency's standards. [§602.17(e)]

- The agency needs to complete its plans to provide each institution with a detailed written report that assesses the institution's performance with respect to student achievement that takes program-level outcomes into account. [§602.17(f)]

- The agency needs to document and elaborate on the criteria used to monitor licensure pass rates to ensure a consistent evaluation by agency staff, and by agency site team members. [§602.19(b)]

- The agency needs to demonstrate that its more detailed monitoring process has been successfully implemented and that the new information obtained is now satisfactory. [§602.19(d)]

- The agency needs to ensure that when an institution is found out of compliance with any agency standard, that the agency takes immediate adverse action, or else clearly requires the institution to come into

compliance within the maximum timeframes permitted by the criteria. Consequently, the agency also needs to clarify the point at which failure to meet a reporting threshold triggers non-compliance with an agency standard. [§602.20(a)]

- The agency needs to demonstrate that its regular systematic review process effectively involves all relevant constituencies, including but not limited to faculty, students, graduates, employers of graduates, and state regulatory authorities, as appropriate, and that the process consistently affords them a meaningful opportunity to provide input. [§602.21(a)(b)]
- The agency needs to demonstrate that it consistently and effectively invites comments from all of its constituencies, including but not limited to faculty, students, graduates, employers of graduates, and state regulatory agencies, as appropriate, and takes those comments into account before finalizing any proposed standards changes. [§602.21(c)]
- The agency needs to have a written policy that defines when substantive changes/proposed substantive changes are, or would be, sufficiently extensive to clearly require ACICS to conduct a new comprehensive evaluation visit. [§602.22(a)(3)]
- The agency needs to provide documentation that it comprehensively evaluates and verifies all the elements required of a teach-out agreement before approving it. [§602.24(c)(5)]
- The agency needs to clarify the cited matters, including the distinctions it makes between a re-hearing and an appeal, and to demonstrate how it ensures that adverse actions are ultimately made final in a timely way. [§602.25(f)(1)]
- The agency needs to submit actual examples of the required brief statements it provides summarizing the reasons for an adverse decision together with any official comments the affected institution may make. [§602.26(d)]

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Accrediting Council for Independent Colleges and Schools (ACICS) is a national institutional accreditor that was founded in 1912. The agency currently accredits over 850 institutions located in 46 states and Puerto Rico. The agency's recognition enables its institutions to establish eligibility to receive Federal student assistance funding under Title IV of the Higher Education Act of 1965, as amended (Title IV). The agency serves as the Title IV gatekeeper for over 850 of the institutions it accredits. Consequently, the agency must meet the Secretary's separate and independent requirements.

Recognition History

The Secretary of Education first recognized ACICS in 1956 under the agency's former name, the Accrediting Commission for Business Schools. In 1985, ACICS requested an expansion of scope to include its accreditation of master's degree programs in senior colleges of business, which was subsequently granted by the Secretary. Since that time, the Secretary periodically reviewed the agency and granted it continued recognition.

The last full review of ACICS took place at the June 2006 meeting of the National Advisory Committee on Institutional Quality and Integrity (NACIQI). After that review the Secretary renewed the agency's recognition for five years, and granted the agency's request for an expansion of its scope of recognition to include its accreditation of institutions that offer programs via distance education. In addition, the Secretary requested a report on the agency's compliance with several criteria. That report was accepted by the Secretary.

The agency is currently requesting an expansion of scope to include professional doctoral degrees.

In conjunction with the current review, Department staff conducted an observation of the agency's Intermediate Review Committee (IRC) held in Washington, DC in November 2010. In addition, Department staff conducted an observation of an ACICS site visit to Stratford University's campus in Woodbridge, VA in February 2011.

PART II: SUMMARY OF FINDINGS

§602.12 Accrediting Experience

(b) A recognized agency seeking an expansion of its scope of recognition must demonstrate that it has granted accreditation or preaccreditation covering the range of the specific degrees, certificates, institutions, and programs for which it seeks the expansion of scope.

(NOTE: Only recognized agencies seeking an expansion of scope need to respond.)

The recognition of ACICS currently covers the accreditation of private institutions offering programs, including distance education, leading to professional, technical or occupational careers up through the master's degree level. The agency is requesting an expansion of its current scope to include the accreditation of institutions that offer programs, including distance education, up through professional doctoral degrees.

This section of the criteria requires that ACICS demonstrate that it has granted accreditation covering the range of the specific degrees, institutions, and programs for which it seeks the expansion of scope. Other aspects are to be considered as they pertain to the agency's experience.

The agency had been informing schools (cf. last page of Exhibit 11) that "ACICS is authorized to approve programs at the doctoral level, but its scope of recognition by the US Department of Education permits eligibility for federal student aid only through the master's degree level." Where the ACICS authorization originated is not clear. The current petition narrative also states that "Since the doctorate is not included within ACICS' scope of accreditation as recognized by ED, accreditation does not qualify these institutions to participate in Title IV financial aid programs for students in these programs." How the current doctoral program students, graduates and the public are informed about the extent of the Secretary's recognition of ACICS is also not clear.

The agency has been accrediting doctoral degrees in business administration and in computer engineering since 2005. According to the December 2010 Policy Outline for the Doctoral Committee (Exhibit 6) some ACICS institutions have offered "professional 'advanced practice' doctoral degrees such as the Doctorate of Business Management (DBA) and the Doctorate of Computer Engineering (DCE). In addition, one institution accredited by ACICS offers the 'first professional' degree of Doctor of Pharmacy (D. Pharm.)." The Policy Outline also indicates that the agency has been conducting a "pilot project" over the last few years regarding its criteria for doctoral programs "for evaluating compliance

with these criteria.” What that means is unclear and the petition does not explain further.

The agency’s current criteria for the accreditation of doctoral programs (cf. ACICS Accreditation Criteria, Chapter 7: Standards for Doctorate Degree Programs) are generic and too loosely constructed to ensure consistency. For a significant example, the primary faculty requirement is that they be “adequate and competent,” and that “consideration shall be given to the academic preparation and experience of each instructor.” In addition, the ACICS standard notes that “Professional certification is not a substitute for a terminal degree.” However, there is no requirement that faculty members teaching in a doctoral program are expected to have any kind of professional certification, as appropriate. The agency needs to document how its current doctoral standards are comparable to commonly accepted standards for ensuring quality in doctorate degree programs.

The agency’s Accreditation Criteria currently outline professionally-oriented doctorate degrees as including “the J.D., Ed.D., DFA, DBA, etc., but excluding the Ph.D.” (cf. Exhibit 1, Title III, Chapter 7, Introduction, p. 67). In addition, the petition narrative indicated that the agency has recently proposed a clearer version that it would like to incorporate into its Accreditation Criteria (under Section 3-7-100: Nature of Doctorate Education). The proposed language distinguishes that “Unlike academic doctoral degrees that prepare students to work in academia or research, professional doctoral degrees are designed to make students experts in their fields and in the workplace. As such, the outcomes for those earning a professional doctoral degree involve using knowledge and techniques to purposefully address problems and opportunities in their workplace.”

The previously cited Policy Outline noted that part of the ACICS 2009 strategic plan was to seek “an expansion of its scope of accreditation to include these applied doctoral degrees.”

Furthermore, the Policy Outline notes that “first professional degrees in areas such as law (Juris Doctor, JD) and medicine (Medical Doctor, MD) have been designated as doctoral degrees but are clearly applied rather than research-based degrees. Recently, applied doctoral degrees have been established and officially recognized in a variety of allied health areas.” It is unclear if the agency intends to limit itself in any way, or to proceed to accredit doctoral programs for lawyers and medical doctors. Department staff finds the ACICS expansion of scope to be so broad that it cannot be justified based on the agency’s total experience, which is the accreditation of three doctoral programs to date.

Therefore, until the issues cited above are adequately addressed, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The

agency needs to document how its current doctoral standards are comparable to commonly accepted standards for ensuring quality in doctorate degree programs. In addition, the agency needs to specify the limits of its requested scope of recognition. Furthermore, the agency needs to indicate how the current doctoral program students, graduates and the public are informed about the extent of the Secretary's recognition of ACICS.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to indicate how the current doctoral program students, graduates and the public are informed about the extent of the Secretary's recognition of ACICS. In addition, the agency needed to document how its current doctoral standards are comparable to commonly accepted standards for ensuring quality in doctorate degree programs. As well, the agency needed to specify the limits of its requested scope of recognition.

One issue noted in the draft staff analysis was how ACICS informed current doctoral program students, graduates and the public regarding the extent of the Secretary's recognition of ACICS. In response, the agency modified its website to highlight that the agency is recognized through the master's degree level. In addition, the agency has revised the appropriate section of its primary accreditation criteria handbook to indicate that the agency is recognized through the master's degree level and that the offered doctoral degrees are part of a pilot program. These revisions should prove helpful, especially the explanation in the accreditation criteria handbook, as the agency brings them to the attention of the public in general, and to the current doctoral program students in particular.

In response to the comparability of its doctoral standards, the agency response cited a comparison of ACICS standards with those of other national and regional accrediting agencies that was done by its Ad Hoc Committee on Doctoral Programs. The study evaluated the comparability of ACICS standards to commonly accepted standards for ensuring the quality of doctoral programs. Although the agency stated that its own committee found the ACICS doctoral standards comparable, ACICS provided no evidence of the work done by the committee, the specific standards used in the comparison or how the committee organized its work and reached its conclusions. The agency did note that although the committee found the ACICS doctoral standards comparable to those of other recognized accrediting agencies, it nonetheless recommended strengthening and clarifying the ACICS doctoral standards. However, there was no indication as to what those improvements were, or whether they were adopted and approved in accordance with the agency's standards revision process.

On one particular matter, ACICS noted that the faculty preparation standard (Section 3-1-541) states that "preparation of faculty members shall be academically and experientially appropriate to the subject matter they teach." In reference to that quoted standard, the agency stated that it requires "Therefore, doctoral program faculty teaching courses in a field that prepares students for required licensure or certification would be required to hold the necessary

certification, license or registration for that career field in addition to a doctoral or terminal degree.” However, as the ACICS policy is currently written, Department staff does not interpret the generic policy as clearly requiring faculty to have any particular credential in addition to a terminal degree. And since the current policy is not explicit, applicant programs would be free to interpret the cited standard in a broad and non-prescriptive way.

Another significant issue noted in the draft staff analysis was the lack of clarity regarding the limits of the agency’s requested expansion of scope to accredit professional doctoral degrees, including those offered via distance education. In its response, the agency reiterated what was clear in the original ACICS narrative submission – that the professional doctoral degree, by definition, does not include the Ph.D. However, the agency did indicate that it intends to limit itself, at least initially, to thirteen doctoral degrees and/or fields. They would include the J.D., Ed.D., DFA, DBA and Pharm.D, as well as Computer Engineering, Criminal Justice, Management, Nursing Sciences and Architecture. Furthermore, the medical fields would include the Doctor of Oriental Medicine (DOM), the Doctor of Veterinary Medicine (DVM) and the Doctor of Osteopathic Medicine (DO). The response narrative indicated that ACICS would “avoid” accrediting the Doctor of Medicine (MD), although that statement does leave the possibility open. It should also be noted that all of the professional doctoral programs could include those offered via distance education.

Department staff continues to find the agency’s statements to be insufficiently supported by the documentation provided. And without further documentation of the agency’s experience in accrediting additional doctoral programs, Department staff would be unable to recommend an expansion of scope beyond those three doctoral programs that the agency has already accredited in its pilot program (Doctor of Business Administration, Doctor of Computer Engineering, and Doctor of Pharmacy). In support, it should be noted that ACICS has been accrediting those three doctoral programs without the Department receiving negative commentary from interested parties.

However, until these matters are adequately addressed with supporting documentation a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to document how it determined that its current doctoral standards are comparable to commonly accepted standards for ensuring quality in doctorate degree programs. As well, the agency needs to document its experience in accrediting the range of specific doctoral degrees for which it is seeking the expansion of scope.

§602.15 Administrative and fiscal responsibilities

The agency must have the administrative and fiscal capability to carry out its accreditation activities in light of its requested scope of recognition.

The agency meets this requirement if the agency demonstrates that--

(a) The agency has--

(3) Academic and administrative personnel on its evaluation, policy, and decision-making bodies, if the agency accredits institutions;

Since ACICS is an institutional accreditor it is required by the criteria to have both academic personnel, and administrative personnel, on all site evaluation teams, and on all policy and decision-making bodies. As a matter of practice, both academic and administrative personnel may be represented on ACICS visiting teams, the ACICS Council and on the subgroups of the Review Board that are selected to decide appeals.

However, the agency does not have a clear written policy that requires it to maintain an adequate representation of both of the required categories as it makes its selections. For on-site evaluators the current focus is on classifying persons by their subject matter specialty, and on whether they are associated with an ACICS institution. As well, the current focus for identifying Council members is on whether they were elected, appointed or serving as a public member. There is no selection designation to identify whether they are currently and primarily serving in an academic or in an administrative capacity.

In addition, the agency does not provide any indication as to what would qualify a person to be identified as either primarily an academic, or primarily an administrator. As a result, the agency does not distinguish and identify its decision-makers and site evaluators as primarily one or the other. Furthermore, the agency uses the extensive experience of retired persons without ensuring that they remain current with the latest changes and developments in their fields and/or previous professions. An examination of the current Council membership of 13 persons (two spots are temporarily unfilled) shows that, in essence, there are eight presidents/vice-presidents who are primarily administrators, four Chief Academic Officers who may be primarily occupied with administrative duties, and one associate professor.

Until these matters are addressed, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to have a clear written policy that requires it to have an adequate representation of both academic personnel, and administrative personnel, as it makes its selections for site teams and decision-making bodies, including the individual Review Board Panels. In addition, the written policy needs to indicate what ACICS uses to designate a person to serve in one category, as distinguished from the other. Furthermore, the agency needs to provide evidence that it currently maintains adequate representation of both academic

personnel, and administrative personnel, on its current site teams and decision-making bodies.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to have a clear written policy that requires it to have an adequate representation of both academic personnel, and administrative personnel, as it makes its selections for site teams and decision-making bodies, including the individual Review Board Panels. In addition, the written policy needed to indicate what ACICS uses to designate a person to serve in one category, as distinguished from the other. Furthermore, the agency needed to provide evidence that it currently maintains adequate representation of both academic personnel, and administrative personnel, on its current site teams and decision-making bodies.

In its response, ACICS indicated the recent revisions it made to its written policies in an attempt to come into compliance with the requirements of this section. First, the agency revised its bylaws to define academic and administrative representatives, but only as they are applied to the decision-makers, including those on the Review Board Panels. In that reference, an “academic representative is defined as someone currently or recently directly engaged in a significant manner in postsecondary teaching and/or research” and an “administrative representative is defined as someone currently or recently directly engaged in a significant manner in postsecondary institutional or programmatic administration.” Both of those definitions are clearly written and convey the commonly-accepted meaning of the terms.

However, the agency altered both of those definitions in its revised manual on policies and procedures where they are applied to ACICS on-site evaluators. When referring to site team evaluators an “administrator representative is defined as someone currently or recently directly engaged in a postsecondary program or institutional administration.” Unlike the definition for decision-makers, site visitors can have peripheral experience since they are not required to be involved in educational administration “in a significant manner.” As well, the definition of an academic representative on a site team also deletes the requirement that their experience be “significant.”

More important, however, is the agency’s determination that a practitioner representative can fulfill the role of an academic representative on a site evaluation team. The ACICS requirements regarding site team composition refers to an academic representative as “someone currently or recently directly engaged in postsecondary teaching and/or research 'and/or engaged as a practitioner in a professional setting'” (emphasis added). This equivalency is unacceptable since it is entirely possible for a practitioner to have no experience whatsoever as an academic in a postsecondary context.

Department staff notes other issues with the agency’s attempts to come into compliance with the requirements of this section. Despite the agency’s term “Review Board for Appeals” it is, in reality, a pool of persons from whom three

individuals may be chosen at any given time to hear an appeal. Since that is the case, the agency still needs to be specific in its written documents that any given panel must contain at least one academic representative and at least one administrative representative. The agency did revise its written policies recently to specify that at least one public representative be on any given three-person appeals panel.

Furthermore, the agency needs to clarify that without unusual circumstances one individual normally should not serve simultaneously in more than one representative category. Right now, the agency allows the public representative to also be counted as the academic representative, or the administrative representative, on a review board panel. The agency has not demonstrated any unusual circumstances to warrant an exception. As well, the agency needs to more clearly document its compliance with its revised policies when providing evidence. Department staff noticed that the agency submitted highlighted resumes with its response that appeared to count experiences that were over a decade old as meeting the new ACICS definitions requiring current or recent experience.

Perhaps the main issue underlying all these aspects of the agency's compliance is the apparent reluctance of ACICS to go beyond an absolute minimalist response to the requirements of this section. This criterion expects a good faith effort by an accrediting agency to have both academic and administrative personnel reasonably represented on all its site teams and decision-making bodies. Even the term "personnel" implies a reasonable plurality, a balanced representation, or at least two or more persons representing each category whenever possible.

It has already been admitted by ACICS that the agency's decision-making bodies are almost exclusively represented by administrators. Instead of making an effort to expand representation by academics, ACICS has changed its written policies to make permanent its already one-sided representation by administrators. Furthermore, ACICS revised its bylaws to make the status quo at ACICS seem acceptable, that is, to have only one academic representative among its numerous decision-makers. More telling perhaps is the agency's willingness to equate a practitioner with an academic in its published definitions for composing site teams.

In any case, Department staff cannot reconcile ACICS' approach with either the spirit of the regulation that expects balanced representation, or the literal words of the regulation that expects a plurality of persons representing each of the specified categories. Therefore, until the issues cited above are adequately addressed, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to have a clear written policy that requires it to have adequate representation of both academic personnel, and administrative personnel, as it

makes its selections for site teams and decision-making bodies, including the individual Review Board Panels. In addition, the written policy needs to indicate what ACICS uses to designate a person to serve in one category, as distinguished from the other. Definitions of academic personnel and administrative personnel must be clear and consistent, as well as consistently applied in practice. Furthermore, the agency needs to provide clear evidence that it currently maintains adequate representation of both academic personnel, and administrative personnel, on its current site teams and all decision-making bodies.

§602.16 Accreditation and preaccreditation standards

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if -

- **(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:**

(i) Success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates.

The agency's expectations regarding success with respect to student achievement are based primarily in Section 3-1-110: Institutional Effectiveness. In addition, implementation of that standard is supported by Section 2-1-809: Retention and Placement, the "Guidelines and Instructions for Completing the Annual Institutional Report" (Exhibit 51), and the document entitled "Institutional Effectiveness: A Guide to Implementation" (Exhibit 58).

In summary, the agency requires that each institution annually publish placement and retention goals based on the retention and placement rates from data reported in each of the previous three Annual Institutional Reports (AIRs). Using the data, the institution determines ways to improve the percentages and processes, and continues to evaluate its goals and activities annually to ensure that it makes adjustments as a result of its own evaluation.

The agency has established baseline institutional-level thresholds at 60 percent for retention and 65 percent for placement rates. If an institution's rates fall below baseline rates in the AIR, the agency may require it to submit an improvement plan for review as part of the agency's monitoring of the institution's effectiveness between visits. The agency does not have any thresholds for licensure pass rates.

In addition, each institution must develop and implement an Institutional Effectiveness Plan (IEP) consistent with its mission that identifies how it will assess and continuously improve its educational programs and processes, and describe its ability to meet the educational and occupational objectives of its programs. Each IEP must present data on student retention, student performance rates, the levels of employer and graduate satisfaction, and student learning outcomes.

The IEP is reviewed by the ACICS Institutional Effectiveness Committee (Cf. Policies and Procedures Manual, Chapter 6), where the IEP is evaluated for its articulation of institutional goals for continuous improvement. The IEP is expected to show how the institution used the data to compare and identify the changes made and the changes still needed, thereby improving the educational process. In addition, the agency expects each institution to evaluate job-related competencies that address both academic and personal skills such as work attitude, motivation, critical thinking skills and communication skills as part of its assessment of student learning.

Under student evaluation and program assessment, the agency requires the outcomes for distance education to be comparable to those of residential education. In either case, the institution is expected to demonstrate that student learning has occurred by using baseline data, as appropriate, that may include GPA, pre-tests and post-tests, portfolios, standardized tests, professional licensure exams and other measures of skill and competency attainment.

The institution submits its most recent IEP with its self-study and makes the IEP available on-site for verification and evaluation by the site-visit team. That data is then examined and evaluated by the visiting teams to assess the institution's or program's compliance with the ACICS achievement standards. The actions of the on-site team, together with the documentation provided by the agency, adequately demonstrate the agency's effective application of its standards regarding success with respect to student achievement.

The agency does annually collect programmatic level data (in the AIR) on student outcomes retention and placement rates. It is to be noted that the AIR does not specifically require program-level reporting of licensure pass rates. However, it is unclear what review the agency does of program-level data to assess the success of the institution's educational program in meeting its objectives as part of the agency's assessment of the institutional success in meeting agency standards. As an institutional accrediting agency that offers vocational programs, the Department expects the agency to collect and assess the program-level data as an effective mechanism to support and determine the institution's success in meeting its mission and serving the educational goals of all students.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The

agency needs to demonstrate that it evaluates student achievement against program-level data as appropriate to the occupational missions of the institutions it accredits.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to demonstrate that it evaluates student achievement against program-level data as appropriate to the occupational missions of the institutions it accredits.

In response, ACICS highlighted certain aspects of the Annual Institutional Report (AIR) that the agency requires from each institution. Although the agency does request data on individual programs for which students must take licensure/certification/registration examinations, there is no guidance from the agency as to what is an acceptable pass rate on those examinations.

To ensure the consistent evaluation of student achievement at the institutional level ACICS has established baseline institutional-level thresholds at 60 percent for retention and 65 percent for placement rates. However, the agency provides no baselines or other guidance to ensure the consistent evaluation of student success for individual programs within the institution. A highly successful program could compensate in the overall institutional average for a program where the students are under-achieving. The failure of the agency to provide a consistent basis for evaluating student achievement at the program-level, particularly where licensure, registration or certification is involved, is especially troubling. Until the agency satisfactorily addresses these issues a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to demonstrate that it evaluates student achievement against program-level data as appropriate to the occupational missions of the institutions it accredits, particularly where licensure, registration or certification is involved.

§602.17 Application of standards in reaching an accrediting decision.

The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if the agency demonstrates that it--

- (e) Conducts its own analysis of the self-study and supporting documentation furnished by the institution or program, the report of the on-site review, the institution's or program's response to the report, and any other appropriate information from other sources to determine whether the institution or program complies with the agency's standards; and**
-

Agency staff prepares a file review worksheet that contains information about each institution regarding placement and retention rates, financial instability, pending complaints, grant expiration date and a summary of the team findings. The agency then uses that material in a two-step process that analyzes the self-study and supporting documentation, the team report, the institution's response, the audited financial statements and any third party comments received about the institution.

First, all the information is given to the ACICS Intermediate Review Committee (IRC), which evaluates the materials in order to make an accreditation recommendation (that will then be considered by the decision-making Council). The IRC members include former Commissioners and experienced current on-site evaluators who read the entire institutional file assigned for review. After reading the files and all of the documents, each IRC member makes a presentation and a recommendation to the IRC for consideration.

The IRC recommendation then goes to the appropriate sub-committee (called a File Review Committee) of the full ACICS Council. There are three File Review Committees and each one gets a third of the complete school files that were recently reviewed by the IRC. At least one commissioner reads the full file, which includes the self-study, site report, school response, financial information, and IRC recommendations. The commissioner then defends his or her recommendations to the other members of his/her File Review Committee, which then presents its findings to the full Council where the final decision on each institution is rendered. Each action taken by the Council is recorded in the minutes of the Council meetings.

However, it is difficult to say that the whole Council conducts its own analysis of the school's complete file when only three persons out of the fifteen commissioners normally see it. ACICS needs to ensure that all the commissioners are provided with the complete institutional file before they determine whether an institution complies with the agency's standards. Until it does so, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to ensure that all the commissioners are provided with the complete institutional file before they determine whether an institution complies with the agency's standards.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to ensure that all the commissioners are provided with the complete institutional file before they determine whether an institution complies with the agency's standards.

In response, ACICS plans to ensure that each commissioner will have access to the entire file before voting on the institution, and that access should be available

to the commissioners during their next meeting in August 2011.

However, the revisions that the agency has made to its published materials make it clear that the commissioners are not expected to discuss their analysis of a school's materials during the commission meeting, unless it involves an initial accreditation or to remove an institution's accreditation by denial or suspension. For a renewal of accreditation the recommendations of the sub-committees are presented to the commissioners for their approval only.

The plan to make each school's materials available to all the commissioners before they vote is a good and necessary first step for the agency to come into compliance with the requirements of this section. However, the agency still needs to make it clear in its published materials, and in actual practice, that all recommendations must be presented to the full Council for not only approval, but potential discussion as well. Until it does so, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to ensure that its policy, in writing and in practice, is that all the commissioners are provided with the opportunity to see, and discuss, the complete institutional file before they determine whether an institution complies with the agency's standards.

(f) Provides the institution or program with a detailed written report that assesses--

- (1) The institution's or program's compliance with the agency's standards, including areas needing improvement; and**
- (2) The institution's or program's performance with respect to student achievement;**

and

After the on-site evaluation, ACICS provides each institution with a written assessment of the areas where the institution is not in full compliance with each of the agency's standards, together with areas needing improvement. Each site team report includes an assessment of the institution's performance with respect to student placement and retention rates and whether the programs of study are meeting the occupational objectives of the students and the needs of the community.

In addition, the Council considers the institution's retention and placement rates as reported in the Annual Institutional Report. If these rates fall below the established threshold, the institution must submit an improvement plan. The Council may also conduct a special site visit to the institution or direct the school

to show why its accreditation should not be withdrawn for failure to maintain minimally acceptable student achievement levels.

However, it is difficult to say that the agency provides the institution with a written report that is sufficiently detailed when it assesses the institution's performance with respect to student achievement. Agency reports regularly indicate whether an institution met the institutional thresholds for retention and placement, but not much more. Program-level outcomes need to be taken into consideration as well. Until the agency addresses this matter, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to provide each institution with a detailed written report that assesses the institution's performance with respect to student achievement that takes program-level outcomes into account.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to provide each institution with a detailed written report that assesses the institution's performance with respect to student achievement that takes program-level outcomes into account.

In response, ACICS is taking the following steps to bring itself into compliance with the requirements of this section. First, the agency plans to modify its site visit report templates and procedural documents for consideration by the Council at its next regular meeting in August 2011. Next, if the Council approves those changes, then accredited institutions will be informed of the changes in December 2011; the changes will be incorporated into evaluator and staff training materials; and the training will be provided for visit teams to formally include in the detailed written team report an assessment of each program's performance with respect to student achievement. Finally, the Council will receive and review those revised reports beginning with its decision-meeting in April 2012. If all goes as planned, these changes should bring the agency into compliance with the requirements of this section. However, until these steps are completed, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to complete its plans to provide each institution with a detailed written report that assesses the institution's performance with respect to student achievement that takes program-level outcomes into account.

§602.19 Monitoring and reevaluation of accredited institutions and programs.

(b) The agency must demonstrate it has, and effectively applies, a set of monitoring and evaluation approaches that enables the agency to identify problems with an institution's or program's continued compliance with agency standards and that takes into account institutional or program strengths and stability. These approaches must include periodic reports, and collection and analysis of key data and indicators, identified by the agency, including, but not limited to, fiscal information and measures of student achievement, consistent with the provisions of §602.16(f). This provision does not require institutions or programs to provide annual reports on each specific accreditation criterion.

The agency monitors accredited institutions by requiring each of them to keep ACICS fully informed of its activities by submitting annual institutional reports, financial reports and applications for substantive changes. If those documents are not submitted in a timely fashion, or if they disclose inadequacies in areas such as student outcomes, the institution must submit additional reports on a closely defined schedule or face the revocation of its accreditation.

The monitored information in the Annual Institutional Reports includes data regarding enrollment, individual programs, faculty changes, student-faculty ratios, default rates and demographic information. The agency reviews the data from these reports to ensure that an institution remains compliant with the agency standards.

In addition, the agency may conduct unannounced visits to review records and to interview students and staff regarding a previously-cited problem area, or to verify responses to previous requests for information regarding complaints or other negative information. Agency policy also permits ACICS to conduct a visit with a "Fast Assessment and Compliance Team" (FACT) that allows the agency to quickly investigate alleged improper practices.

Although the agency uses of a variety of monitoring approaches, and collects a significant amount of data from its institutions annually, it is not entirely clear to Department staff how the agency analyzes all that data. This section of the criteria requires an agency not only to collect, but also to analyze key data and indicators. Therefore, the agency needs to further explain what its analysts look for in their review, beyond the placement and retention thresholds. More specifically, the agency needs to document and elaborate on the criteria used to guide its review of other key data and indicators, including financial information. Until it does so, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to document and elaborate on the criteria used to guide its review of key data, other than placement and retention thresholds, including financial and other information.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to document and elaborate on the criteria used to guide its review of key data, other than placement and retention thresholds, including financial and other information.

In its response, ACICS explained the significant analysis done by the agency annually to monitor the cohort default rates of its institutions, as well as the detailed analysis performed by the agency of the financial health of those institutions.

Regarding licensure pass rates, ACICS collects information each year on program trends, if applicable. However, it appears that the agency does not do much, if anything, with that annually-collected information. It appears that the agency sits on that data until a site visit happens to occur. The agency reported that the site visitors use the data, as well as their own expertise in the subject field, to determine what level of pass rates is sufficient to demonstrate an acceptable level of quality. No mention was made of how the agency uses the licensure pass rate information between any occasional site visits, or how the agency ensures consistency in the evaluation of licensure pass rate information by visiting teams. Until it does so, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to document and elaborate on the criteria used to monitor licensure pass rates to ensure a consistent evaluation by agency staff, and by agency site team members.

(d) Institutional accrediting agencies must monitor the growth of programs at institutions experiencing significant enrollment growth, as reasonably defined by the agency.

As previously noted, ACICS monitors the overall growth of its accredited institutions through the annual reporting process, which collects current headcount enrollment data. The agency defines significant enrollment growth as 100 percent or more within the reporting period of July 1 – June 30. (The agency has set minimum enrollment at 200 students so that the formula will not trigger institutions with small numbers of students.) If an institution has experienced a significant enrollment growth, then ACICS written policy requires that the institution be reported to the ACICS Institutional Effectiveness Committee (IEF).

According to published agency policy (cf. ACICS Policies and Procedures Manual, Chapter 30: Monitoring Significant Enrollment Growth), the IEF will review the type of campus and whether it is new, as well as the number of new programs and the mode of educational delivery, in order to determine why the

institution is experiencing the rapid growth. The IEF also reviews information on the institution's financial reporting status and student outcomes data, together with any complaints and adverse information to determine the impact, if any, that the rapid growth has had on the institution's finances and educational quality.

After reviewing this information, if the IEF determines that the rapid rate of growth is diminishing education quality, then the institution will be required to report back to the ACICS Council on a recurring basis regarding key resource indicators, including faculty/student ratios, student services and staffing levels, etc.

Although the agency documentation included a list of institutions that experienced rapid growth (Exhibit 129), and the minutes of the meeting where that list was considered (Exhibit 57, p. 48-49), the main outcome of the pertinent discussion appeared to be a request by the IEF to increase the factors to be included on future rapid growth lists. It was unclear to Department staff whether any recommendation was made by the IEF regarding required follow-up reports for any, or all, of those institutions identified as having experienced rapid growth. Until this matter is clarified, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to ensure that it consistently monitors the growth of programs at institutions that have been identified as experiencing significant enrollment growth.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to ensure that it consistently monitors the growth of programs at institutions that have been identified as experiencing significant enrollment growth. More specifically, it could not be previously determined from the materials provided whether the agency requested follow-up reports from the institutions identified as having experienced rapid growth.

In response, the agency clarified that it found no immediate cause for concern in the data that was already collected in the monitoring process. Nevertheless, the data did prompt the agency to realize that the current monitoring did not provide the level of detail that was needed. As a result, the agency decided that additional information will be sought when the next set of monitoring reports are requested. Therefore, the agency will need to demonstrate that the more detailed monitoring process has been successfully implemented and that the information it procured is now satisfactory. Until it does so, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to demonstrate that its more detailed monitoring process has been successfully implemented and that the new information obtained is now

satisfactory.

§602.20 Enforcement of standards

(a) If the agency's review of an institution or program under any standard indicates that the institution or program is not in compliance with that standard, the agency must--

(1) Immediately initiate adverse action against the institution or program; or

(2) Require the institution or program to take appropriate action to bring itself into compliance with the agency's standards within a time period that must not exceed--

(i) Twelve months, if the program, or the longest program offered by the institution, is less than one year in length;

(ii) Eighteen months, if the program, or the longest program offered by the institution, is at least one year, but less than two years, in length; or

(iii) Two years, if the program, or the longest program offered by the institution, is at least two years in length.

When an institution is not in compliance with the ACICS Accreditation Criteria, the agency may exercise defined options that vary based on the severity and magnitude of the identified noncompliance. The options allow the agency to take immediate adverse action against the institution or to grant the institution additional time in which to come into compliance.

The agency does have published enforcement policies, including the necessary timelines that are in conformity with the requirements of this criterion (cf. ACICS Accreditation Criteria, p.25). In addition, most of the documentation provided by the agency with the petition indicated that the agency's actions involving each school fell within the timelines required by this criterion.

However, the petition also included a document that raises an issue needing clarification (cf. Exhibit 54: Schedule of Sanctions for Retention and Placement). The document is a summary list that deals with failure to meet student outcomes thresholds. It looks as if an institution could be "on reporting" for several years, but not be otherwise sanctioned for failure to meet the minimum thresholds. As well, it appears that institutions are required to develop plans, attend an ACICS workshop or host a visit, but not necessarily be found out of compliance with the agency's standards, even though there is an identified deficiency.

The primary problem is if an institution can be given a reporting timeframe for meeting the ACICS thresholds, and that timeframe exceeds the maximum specified by this section of the criteria for correcting deficiencies, then ACICS would be out of compliance with the requirements. Until the agency clarifies this

matter, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to demonstrate that when an institution is found out of compliance with any agency standard, that the agency takes immediate adverse action, or else clearly requires the institution to come into compliance within the maximum timeframes permitted by the criteria.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to ensure when an institution was found out of compliance with any agency standard, that the agency takes immediate adverse action, or else clearly requires the institution to come into compliance within the maximum timeframes permitted by the criteria. The previously submitted documentation indicated that ACICS could find an institution in non-compliance with a standard, but not sanction that institution for its non-compliance within the timeframes specified in the requirements of this section. The documentation appeared to indicate that an ACICS institution could be “on reporting” for several years, but not be otherwise sanctioned for failure to meet a standard set by ACICS. That is, an institution would not necessarily be found out of compliance with the agency’s standards in a timely manner, even though there was an immediately-identified deficiency.

The agency’s response indicated that there is a significant difference between ACICS’ understanding of the issue and that of the Department. For example, the agency sets a clear threshold for compliance with its student achievement requirements. However, the agency then appears to say that an institution must be in non-compliance for a significant amount of time before the agency will actually declare that institution in non-compliance and use the mandated timeframes for coming into compliance. The agency’s narrative tried to compare quality improvement activities with remediation activities, thereby, in effect, equating an institution’s dangerous approach to a threshold with actually crossing that threshold.

The agency is revising its materials (cf. Exhibit 236) to advise its institutions to come into compliance with the timeframes listed in the Department’s regulations or be found in non-compliance. In actuality, those timeframes are for institutions to come into compliance that have already been found in non-compliance with one or more agency standards. To equate the two different scenarios only compound the confusion. Further confusion is engendered by the proposed ACICS template letter (cf. Exhibit 237) that informs institutions “Continued performance below these thresholds will lead to a finding by the Council that the institution is out of compliance with its standards for Retention/Placement. If the institution fails to demonstrate improvement in fulfilling Council’s specified targets and within a specified timeframe, it will be found out of compliance and be subject to withdrawal of its current grant of accreditation by Council action.”

To be clear, however, the agency’s written materials need to distinguish between

the quality improvement efforts made prior to crossing a threshold, and the remediation efforts made after actually crossing that threshold. When an agency has determined that an institution has crossed a definitive threshold and thereby failed to meet the agency's requirements, then the agency needs to begin its enforcement activities immediately. That having been said, the agency is not precluded from granting the institution a limited extension to come into compliance for good cause. If the institution is not actually in non-compliance with some standard, then by definition, that institution cannot be given an extension for good cause to come into compliance.

One possible solution for the case at hand would be to have the agency's standard clearly state the conditions for an institution to be found in non-compliance. For example, an institution that does not meet the student achievement threshold for two successive years is automatically in non-compliance with the agency's standards. Then the time frames specified in the Secretary's criteria would automatically need to be enforced (and which permits limited non-automatic extensions for good cause). Until the agency clarifies this matter further, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to ensure that when an institution is found out of compliance with any agency standard, that the agency takes immediate adverse action, or else clearly requires the institution to come into compliance within the maximum timeframes permitted by the criteria. Consequently, the agency also needs to clarify the point at which failure to meet a reporting threshold triggers non-compliance with an agency standard.

§602.21 Review of standards.

- (a) The agency must maintain a systematic program of review that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and relevant to the educational or training needs of students.**
- (b) The agency determines the specific procedures it follows in evaluating its standards, but the agency must ensure that its program of review--**
 - (1) Is comprehensive;**
 - (2) Occurs at regular, yet reasonable, intervals or on an ongoing basis;**
 - (3) Examines each of the agency's standards and the standards as a whole; and**
 - (4) Involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review.**

ACICS has developed an integrated approach to ensure that its program of review is regular and comprehensive. The review is conducted annually and focuses on different parts of the accreditation criteria. As a result, over the five-year period all of the standards have been reviewed with opportunities for comment made available to the agency's constituencies (cf. Policies and Procedures Manual, Chapter 44: Council Policy Development).

Each annual survey asks the ACICS constituencies, including member institutions, evaluators, commissioners and staff, to focus on the selected standards with regard to their relevancy and adequacy. That is, the relevancy of the standard to the educational/training needs of students, and the adequacy of the standard to evaluate the quality of education/training provided by the institution. The results of the annual survey are considered during the agency's policy meetings where issues can result in proposed revisions of standards and a request for further comments from the constituents.

The agency publishes the final changes to the standards with its rationale based on the comments received and notifies the constituency of the effective implementation date following each Council meeting. Additionally, the agency includes proposed changes in the standards, with edits of the current standards in the proposed changes and requests comments in a form supplied with the publication notice.

In addition, the agency assesses standards informally during Council meetings by reviewing the frequency with which the team reports cite various standards. If any issues or concerns arise in the review, they are forwarded to the appropriate agency committee for further action. Also, the agency has consultants analyze aspects of the standards for potential improvement, as discussed in the petition narrative.

However, when examining the documentation provided by the agency (cf. Exhibit 107: Memo to ACICS Institutions and Other Interested Parties) it is not clear who actually receives the initial invitation to comment on the review, as appropriate. Department staff noted that the responses to the ACICS memo were limited to one accrediting agency director, several administrators and administrative staff from ACICS schools, a compliance officer who responded for her college system, and a college system president who submitted 19 identical sets of comments, that is, one for each of the 19 schools in his system giving the appearance of a widespread response.

This section of the criteria expects an accrediting agency to involve all relevant constituencies in the review of standards, and to afford them a meaningful opportunity to provide input into that regular review. ACICS needs to provide evidence that it is effectively reaching out to all of its constituencies, including faculty, students, graduates and employers of graduates. Currently, it is not clear if the agency's involvement of constituencies goes much beyond school administrators, and in at least two cases, whether the ACICS invitation to

comment gets stopped at the system-wide corporate level. Until this issue is addressed, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to demonstrate that its regular systematic review process effectively involves all relevant constituencies, including faculty, students, graduates and employers of graduates, as appropriate, and that the process consistently affords them a meaningful opportunity to provide input.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to demonstrate that its regular systematic review process effectively involves all relevant constituencies, including faculty, students, graduates and employers of graduates, as appropriate, and that the process consistently affords them a meaningful opportunity to provide input.

In its response, the agency indicated that it is piloting a survey process through which all students at institutions under review will be asked to complete an anonymous electronic survey. Whether or not this new process will obtain the desired documented input from students still remains to be seen.

In addition, the agency's response included a document that showed the agency had sent out almost 2000 emails regarding its systematic review process. It appeared that approximately 25 percent of the 2000 addressees actually opened the email and approximately 10 percent of the 2000 addressees actually opened the link to the standards review that was contained in the email. Although the documentation did provide evidence that the agency contacted 2000 constituents, no other evidence was provided to show how effectively the agency involves its constituencies in the systematic review process. Until further evidence is forthcoming, a finding of compliance still cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to demonstrate that its regular systematic review process effectively involves all relevant constituencies, including but not limited to faculty, students, graduates, employers of graduates, and state regulatory authorities, as appropriate, and that the process consistently affords them a meaningful opportunity to provide input.

(c) If the agency determines, at any point during its systematic program of review, that it needs to make changes to its standards, the agency must initiate action within 12 months to make the changes and must complete that action within a reasonable period of time. Before finalizing any changes to its standards, the agency must--

(1) Provide notice to all of the agency's relevant constituencies, and

other parties who have made their interest known to the agency, of the changes the agency proposes to make;
(2) Give the constituencies and other interested parties adequate opportunity to comment on the proposed changes; and
(3) Take into account any comments on the proposed changes submitted timely by the relevant constituencies and by other interested parties.

As noted under the previous section, during Council meetings a review is conducted of the frequency with which various standards are cited in team reports. If issues or concerns arise about the interpretation given to certain standards cited in the team report, the agency assigns the issues to the appropriate committee for further action.

In addition, the Council will receive proposals for changes to the criteria, policies and procedures at any time of the year when it can approve the proposed changes and submit the proposals for comment to its constituents (identified in the agency narrative as ACICS accredited members, state and federal regulatory officials, and the public). The agency considers all comments received from constituents before adding, deleting revising or otherwise making changes to its standards. The petition documentation provided evidence that ACICS does initiate action to revise its standards within 12 months and to complete that action within a reasonable period of time.

Before finalizing any standards changes an accrediting agency must first notify its constituencies and other interested parties, give them a chance to comment on the proposed changes, and then take those comments into account. The effective involvement of constituencies and other interested parties, as appropriate, is central to compliance with the requirements of this section. However, as also noted under the previous section, it is not clear how effectively ACICS notifies all its constituents and interested parties, and whether those constituents effectively include faculty, students, graduates and employers of graduates. More specifically, it is not clear who regularly receives the invitation to comment, and whether that invitation reaches beyond the administrators of the school, or of the central office of an entire school system.

ACICS needs to provide evidence that it is effectively reaching out to all of its constituencies, including faculty, students, graduates and employers of graduates before finalizing any proposed standards changes. Until this issue is addressed, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to demonstrate that it consistently and effectively invites comments from all of its constituencies, including faculty, students, graduates and employers of graduates, as appropriate, and takes those comments into

account before finalizing any proposed standards changes.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to demonstrate that it consistently and effectively invites comments from all of its constituencies, including faculty, students, graduates and employers of graduates, as appropriate, and takes those comments into account before finalizing any proposed standards changes.

In its response, ACICS noted that it sends out a memorandum containing proposed changes to all member institutions and other unnamed constituents, and posts the memorandum to its website. Interested parties are given a minimum of 30 days to respond, and the cutoff date for comments was not indicated in the agency's narrative.

To encourage participation in the comment period the agency provides a web-based opportunity to propose questions, and reports that the agency is pleased with the amount of participation that this webinar has generated. The provided sample of questions from one webinar participant notwithstanding (cf. Exhibit 239), the agency has not demonstrated that it consistently and effectively invites comments from all of its constituencies, including faculty, students, graduates and employers of graduates, as appropriate, and takes those comments into account before finalizing any proposed standards changes. Until evidence that addresses the consistent and effective involvement of the cited constituencies is provided by the agency, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to demonstrate that it consistently and effectively invites comments from all of its constituencies, including but not limited to faculty, students, graduates, employers of graduates, and state regulatory agencies, as appropriate, and takes those comments into account before finalizing any proposed standards changes.

§602.22 Substantive change.

(3) The agency's substantive change policy must define when the changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution.

The agency has a recently-revised (December 2010) policy that directs ACICS staff to contact an institution to “discuss” the institution’s substantive change applications and/or notifications, if over four of them have been submitted simultaneously or over a six-month period.

After the discussion, ACICS will decide “if” it will conduct a full team visit to the institution. Furthermore, the ACICS policy lists the factors to be “considered” by the agency in making its decision.

In addition, the petition narrative notes that ACICS has not experienced a situation which necessitated a comprehensive evaluation as a result of an institution’s formal submission of extensive substantive changes.

In summary, the ACICS policy indicates that a minimum of five institutional changes and/or proposed changes will trigger a discussion and consideration by the agency to possibly conduct a new comprehensive evaluation visit. However, the policy does not define when those changes/proposed changes are, or would be, sufficiently extensive to “require” ACICS to conduct a new comprehensive evaluation visit. Until it does so, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to have a written policy that defines when substantive changes/proposed substantive changes are, or would be, sufficiently extensive to clearly require ACICS to conduct a new comprehensive evaluation visit.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to have a written policy that defines when substantive changes/proposed substantive changes are, or would be, sufficiently extensive to clearly require ACICS to conduct a new comprehensive evaluation visit.

In its response, ACICS noted several proposed revisions to its written materials intended to expand upon the potential changes that may, or may not be, sufficiently extensive to result in a new comprehensive evaluation visit. Only two of the proposed revisions, however, actually attempt to define when substantive changes/proposed substantive changes are, or would be, sufficiently extensive to require ACICS to conduct a new comprehensive evaluation visit.

The first revision in question is found in the “Memorandum to the Field” (cf. Exhibit 244) where it states that “The Council, at its discretion, may order a comprehensive on-site evaluation of the institution if proposed substantive changes are so extensive that the institution’s capacity to maintain compliance with accreditation standards while implementing the changes requires an immediate assessment by the Council.” The second revision is found in the revised “Policies and Procedures Manual” (cf. Exhibit 224, Chapter 28) where the question is posited “Are the types and/or number of changes proposed or made by an institution so extensive or substantial that the nature and scope of

the accredited institution will no longer be the same and in its place a new institution has evolved? If the answer to this question is “yes,” a comprehensive visit is required.”

The agency is awaiting comments from the field regarding the proposed revisions before anything is made final, and it is unknown at this time what further changes to the proposed policies may be made as a result of the additional discussions. Therefore, until a final definitive policy is adopted by the agency, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to have a written policy that defines when substantive changes/proposed substantive changes are, or would be, sufficiently extensive to clearly require ACICS to conduct a new comprehensive evaluation visit.

§602.24 Additional procedures certain institutional accreditors must have.

If the agency is an institutional accrediting agency and its accreditation or preaccreditation enables those institutions to obtain eligibility to participate in Title IV, HEA programs, the agency must demonstrate that it has established and uses all of the following procedures:

(5) The agency must require an institution it accredits or preaccredits that enters into a teach-out agreement, either on its own or at the request of the agency, with another institution to submit that teach-out agreement to the agency for approval. The agency may approve the teach-out agreement only if the agreement is between institutions that are accredited or preaccredited by a nationally recognized accrediting agency, is consistent with applicable standards and regulations, and provides for the equitable treatment of students by ensuring that--

(i) The teach-out institution has the necessary experience, resources, and support services to--

(A) Provide an educational program that is of acceptable quality and reasonably similar in content, structure, and scheduling to that provided by the institution that is ceasing operations either entirely or at one of its locations; and

(B) Remain stable, carry out its mission, and meet all obligations to existing students; and

(ii) The teach-out institution demonstrates that it can provide students access to the program and services without requiring them to move or travel substantial distances and that it will provide students with information about additional charges, if any.

The ACICS requirements corresponding to this section of the criteria are included in the agency's written policies covering the teach-out process (cf. ACICS Policies and Procedures Manual, Chapter 13: Closing of an Institution and Teach-Out Process). This policy clearly requires that the teach-out agreement be approved by ACICS and that the agreement must be with another accredited institution.

In addition, the ACICS policy requires the teach-out agreement to demonstrate that students will receive, without additional charges, all of the instruction promised but not yet provided by the closing institution; and that the teach-out institution is geographically proximate to the closing institution or otherwise can provide students with reasonable access to its programs and services. Furthermore, the institution must have the necessary experience, resources and support services to provide an educational program that is of acceptable quality and is reasonably similar in content, structure and scheduling to that provided by the closing institution. The institution must be stable and in good standing with its own accrediting agency. As well, the teach-out must provide for the equitable treatment of students and to clarify if there are any additional charges, including who is responsible to pay them.

As previously noted, the agency provided a sample ACICS staff teach-out process checklist (Exhibit 194) as documentation of what the agency uses to ensure the completeness of the teach-out process. The sample ACICS checklist covers an extensive variety of factors to be considered. Although the preceding paragraph delineates numerous requirements that are explicitly included in the agency's official policy statement, not all of them are included on the checklist. Therefore, ACICS needs either a checklist that corresponds more completely with the ACICS written policy on teach-out agreements, or some other evidence that it is comprehensively verifying all the requirements that ACICS has declared it will enforce.

In summary, ACICS needs to provide evidence that documents how the agency actually enforces its written policy to only approve teach-out agreements that satisfy all the requirements specified by this section of the criteria. Until it does so, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to provide evidence that documents how ACICS enforces its written policy to only approve teach-out agreements that satisfy all the requirements specified by this section of the criteria.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to provide evidence that documents how ACICS enforces its written policy to only approve teach-out agreements that satisfy all the requirements specified by this section of the criteria. The evidence would need to show that ACICS was comprehensively verifying all the teach-out requirements that the agency declared it would

enforce.

In response, the agency recently revised its written policy and expanded its teach-out checklist to better ensure that ACICS would not overlook basic teach-out requirements throughout its review of the overall process. However, the agency provided no evidence that those preliminary revisions to the process have been field-tested and found to be adequate. The revised teach-out checklist does not sufficiently reflect the qualitative criteria/factors that ACICS may be using to determine the adequacy of the teach-out agreement.

As a result, the agency did not provide evidence of its review of a teach-out agreement that evaluated the comparability of the teach-out institution for, among other basics, a program of similar content, structure and scheduling; what services etc. would be provided; and does the teach-out contract agreement specify which institution is responsible for what and when, etc. Until it does so, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to provide documentation that it comprehensively evaluates and verifies all the elements required of a teach-out agreement before approving it.

§602.25 Due process

(f) Provides an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final.

(1) The appeal must take place at a hearing before an appeals panel that--

(i) May not include current members of the agency's decision-making body that took the initial adverse action;

(ii) Is subject to a conflict of interest policy;

(iii) Does not serve only an advisory or procedural role, and has and uses the authority to make the following decisions: to affirm, amend, or reverse adverse actions of the original decision-making body; and

(iv) Affirms, amends, reverses, or remands the adverse action. A decision to affirm, amend, or reverse the adverse action is implemented by the appeals panel or by the original decision-making body, at the agency's option. In a decision to remand the adverse action to the original decision-making body for further consideration, the appeals panel must identify specific issues that the original decision-making body must address. In a decision that is implemented by or remanded to the original decision-making body, that body must act in a manner consistent with the appeals panel's decisions or instructions.

(2) The agency must recognize the right of the institution or program to employ counsel to represent the institution or program during its appeal, including to make any presentation that the agency permits the institution or program to make on its own during the appeal.

In the event that an adverse action is decided by the ACICS Council, the affected institution has two opportunities for due process. The adversely affected institution may request a hearing to reconsider the Council's decision at the next regularly scheduled Council decision meeting (cf. ACICS Policies and Procedures Manual, Chapter 49: Hearings). The only exception to this process is an initial grant of accreditation, which is only appealable to the ACICS Review Board.

It was not clear to Department staff whether an institution is offered either type of due process or if an institution, except as noted, is required to avail itself of the opportunity for a re-hearing before requesting an appeal before the Review Board. If an institution is permitted, except as noted, to take advantage of both a re-hearing before the Council and an appeal before the Review Panel, Department staff is concerned that a final decision may be postponed beyond the normal limits. The agency will need to clarify this matter.

The other opportunity for due process, which is the focus of this section of the Secretary's Criteria, is the opportunity to appeal, given upon written request, to the ACICS Review Panel prior to the adverse action becoming final (cf. ACICS Accreditation Criteria, Section 2-3-600: Review Board Appeal Process). The agency's written policy affirms that the Review Panel does not include current members of the ACICS Council, that the Review Panel is subject to the ACICS ethical and conflict of interest policies, and that the agency recognizes the right of the institution to employ counsel. In addition, the Review Panel has the authority to affirm the original decision of the ACICS Council, and the Review Panel's affirming decision takes immediate effect (cf. Exhibit 205). Furthermore, the Review Panel has the authority in written policy to remand the matter back to the ACICS Council for further consideration.

ACICS has submitted evidence documenting its compliance with most of the requirements of this section. However, the agency did not document how it implements its policies when the original decision of the ACICS Council has been amended or reversed by the Review Panel and then sent back to the Council for discussion and final action. In particular, there was no documentation provided that the Review Panel identifies specific issues that the Council must address when the Review Panel remands the adverse action to the Council for further consideration. Until appropriate evidence is provided, a finding of compliance cannot be made.

(Department staff realizes that ACICS may not have had occasion to process

certain appeals, including an appeal that was remanded back to the Council after the new regulations became effective. If that circumstance is entirely or partially accurate, then ACICS should present that information in its response to the draft staff analysis.)

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to provide documentation that it follows its written policies regarding the disposition of appeals under the cited circumstances, or to confirm that the ACICS Review Panel has not had occasion to amend, reverse or remand an adverse action. In addition, the agency needs to clarify the distinctions it makes between a re-hearing and an appeal, and to demonstrate how it ensures that adverse actions are ultimately made final in a timely way.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to provide documentation that it follows its written policies regarding the disposition of appeals under the cited circumstances, or to confirm that the ACICS Review Panel has not had occasion to amend, reverse or remand an adverse action. In addition, the agency needed to clarify the distinctions it makes between a re-hearing and an appeal, and to demonstrate how it ensures that adverse actions are ultimately made final in a timely way.

In its response, ACICS affirmed that its Review Panel has not had occasion to process an appeal since its powers went into effect on July 1, 2010. However, the other issues raised in the draft staff analysis continues to need further discussion. That is, the agency still needs to clarify the distinctions it makes between a re-hearing and an appeal, and to demonstrate how it ensures that adverse actions are ultimately made final in a timely way.

It appears to Department staff that the agency may not have fully considered all the implications of maintaining its current re-hearing process unchanged, while introducing the new appeals process on an essentially parallel path. The agency currently has no experience in using the new process for conducting appeals with an ACICS Review Board panel. In the interim, it appears that the language used by the agency to inform its constituents about their options is less than clear. At a minimum, the agency's materials on these matters are unclear to Department staff. Therefore, those materials can potentially be unclear to school personnel who will have to make crucial decisions about their options when their school receives an adverse decision from ACICS. Perhaps a "Memorandum to the Field" from ACICS to stimulate discussion and to receive comments on the appeal/re-hearing options may be warranted before the agency needs to process a complicated re-hearing and/or appeal. Furthermore, it appears that the agency has confused the timelines necessary for reaching an initial adverse decision with the need for a timely processing of an appeal following a re-hearing. The question is still open since the agency did not clarify if a school can use both processes in succession. In any event, until significant clarifications regarding these matters are forthcoming, a finding of compliance

cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to clarify the cited matters, including the distinctions it makes between a re-hearing and an appeal, and to demonstrate how it ensures that adverse actions are ultimately made final in a timely way.

§602.26 Notification of accrediting decisions

The agency must demonstrate that it has established and follows written procedures requiring it to provide written notice of its accrediting decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public. The agency meets this requirement if the agency, following its written procedures--

(d) For any decision listed in paragraph (b)(2) of this section, makes available to the Secretary, the appropriate State licensing or authorizing agency, and the public, no later than 60 days after the decision, a brief statement summarizing the reasons for the agency's decision and the **official comments that the affected institution or program may wish to make with regard to that decision , or evidence that the affected institution has been offered the opportunity to provide official comment; and**

The agency's written policies cover the notification requirements of this section. However, the agency has not provided evidence of its effective application of this requirement.

Staff determination: The agency does not meet the requirements of this section. It needs to demonstrate its effective application of the requirement that the agency provides the Department with a brief statement summarizing the reasons for the agency's adverse decision and the official comments that the affected institution or program may wish to make with regard to that decision, or evidence that the affected institution has been offered the opportunity to provide official comment.

Analyst Remarks to Response:

The draft staff analysis found that ACICS needed to demonstrate its effective application of the requirement that the agency provides the Department with a brief statement summarizing the reasons for the agency's adverse decision and the official comments that the affected institution may wish to make with regard to that decision, or evidence that the affected institution has been offered the opportunity to provide official comment.

In response, ACICS revised its written policies to more clearly delineate the processes and timeframes used to provide the specified brief statement to the

Department. In addition, the agency revised its sample template to more clearly provide the affected institution an opportunity to add its comments to the official record, although the agency attests that no institutions have chosen to add their official comments.

However, the agency still has not provided any actual examples of the brief statement that it provides to the Department, the appropriate State agency and the public. Those actual examples are necessary to demonstrate the agency's effective application of its written policies and procedures. Until those actual examples are provided, a finding of compliance cannot be made.

Staff Determination:

The agency does not meet the requirements of this section of the criteria. The agency needs to submit actual examples of the required brief statements it provides summarizing the reasons for an adverse decision together with any official comments the affected institution may make.

PART III: THIRD PARTY COMMENTS

The Department did not receive any written third-party comments regarding this agency.

U.S. Department of Education

**Staff Report
to the
Senior Department Official
on
Recognition Compliance Issues**

RECOMMENDATION PAGE

1. **Agency:** Commission on Accrediting of the Association of Theological Schools (1952/2004)

(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)

2. **Action Item:** Petition for Continued Recognition

3. **Current Scope of Recognition:** The accreditation and preaccreditation ("Candidate for Accredited Membership") of theological schools and seminaries, as well as schools or programs that are parts of colleges or universities, in the United States, offering post baccalaureate degrees in professional and academic theological education, including delivery via distance education.

4. **Requested Scope of Recognition:** Same as above

5. **Date of Advisory Committee Meeting:** June, 2011

6. **Staff Recommendation:** Continue the agency's recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified below.

7. **Issues or Problems:** The agency must provide evidence of the qualifications and training for its decision-makers and evaluators. [602.15(a)(2)]

The agency must provide documentation demonstrating that its policy/decision-making body and evaluation teams and appeals body include both academic personnel and administrators. [602.15(a)(3)]

The agency must demonstrate that it has both educators and practitioners on its site evaluation teams and decision-making bodies, including the appeals panel. The agency must also demonstrate that its Commission contains practitioners, educators, and public members. [602.15(a)(4)]

The agency must provide evidence of its application of its mechanisms for site evaluators to protect against conflict-of-interest. [(602.15(a)(6)]

The agency must establish records management protocol that contains sufficient specificity to ensure that the agency maintains the specific records required by the criterion. [602.15(b)]

The agency must demonstrate that it has and effectively applies criteria for assessing the quality of the program planning and assessment process and for determining that the level of student achievement is of acceptable quality in its institutions. [602.16(a)(1)(i)]

The agency must demonstrate that its preaccreditation process includes an in-depth self study that includes an assessment of educational quality and continuing efforts to improve educational quality and an on-site review by a team of peers prior to the Commission making a decision to preaccredit an institution or notify the Department of its decision to not seek recognition for its preaccreditation activities. [602.16(a)(2)]

The agency must demonstrate that it has policies establishing clear and definitive timeframes that provide institutions adequate time to respond to the site team report. The agency must also provide documentation demonstrating the application of this requirement. [602.17(d)]

The agency must provide evidence of its effective application of this process to provide all the Commissioners with access to all of the files required under this criterion prior to the decision meeting. [602.17(e)]

The agency must demonstrate that it provides an institution with a detailed written report of its performance the extent to which the degree program is meeting the needs of students including measures such as the percentage of students who complete the program and the percentage of graduates who find placement appropriate to their vocational intentions. [602.17(f)]

The agency must demonstrate that it requires and assesses (during accreditation reviews) that institutions have processes in place to verify the identity of students enrolled in distance education and that the student is the same person who takes and completes the course or program; that the processes used by institutions are effective in verifying student identity while at the same time protecting student privacy. The

agency must also demonstrate that it makes clear in writing to institutions the requirement that processes must protect student privacy and notify students at their enrollment of any increase in student charges. [602.17(g)]

The agency must demonstrate its application of its enhanced training for visitors, Commissioners, and appeals panel members to control against inconsistent application of Commission standards. [602.18(b)]

The agency must demonstrate that its re-evaluation of its institutions and programs always requires an in-depth self study that is comprehensive to all of the agency's standards. [602.19(a)]

The agency must demonstrate that it has and effectively applies mechanisms to (proactively) identify problems with an institution's continuing compliance with agency standards; and these mechanisms must include periodic reports and evidence of the agency's collection and analysis of key data and indicators that also include measures of student achievement and fiscal information. [602.19(b)]

The agency must demonstrate that it has written requirements and applies effective mechanisms to monitor the overall growth of its accredited institutions. [602.19(c)]

The agency must demonstrate that it has written requirements and applies effective mechanisms to monitor the growth of programs at its accredited institutions that exceed its definition of significant enrollment growth. [602.19(d)]

The agency must made revisions and clarifications in its good cause policies describing the agency's definition of, and what would constitute good cause, including the time limits it would allow the institution to come into compliance. [602.20(b)]

The agency must demonstrate that it has a written plan for the systematic review of its standards that directs its systematic review and assessment of individual standards continuously and as a whole, or provided a copy of a completed systematic review of standards. The agency must also demonstrate that it has conducted systematic reviews of its standards that comply with the requirements of this section of the criteria [602.21(a)(b)]

The agency must demonstrate that it has and applies policy and procedural guidance for the review and approval of proposed changes of mission or objective, changes in legal status, or for entering into contracts. [602.22 (a)(2)(i-vii)]

The agency must demonstrate its adoption and the application, as

applicable, of substantive change requests involving the acquisition of other institutions, programs, or locations of another institution or the addition of a permanent site for purposes of a teach-out. [602.22(a)(2)(ix-x)]

The agency must define in its procedures when changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a comprehensive total reevaluation of that institution. [601.22(a)(3)]

The agency must demonstrate that the effective date of substantive change approvals is clearly stated in the approval letter. [602.22(b)]

The agency must provide clear written policies and procedures that require it to conduct site visits to every location established under a substantive change request where 50% or more of a program (with no delimitation) will be offered. [602.22(c)(1)]

The agency must demonstrate that it provides for the opportunity for the general public to provide third party comments [602.23(b)]

The agency must provide documentation of its effective application of its complaint policy demonstrating that it reviews complaints in a timely and equitable manner and takes follow-up action as necessary, based on the results of its review. [602.23(c)]

The agency must demonstrate that it reviews the public disclosures of accreditation status made by its accredited institutions and programs for accuracy to include the name, address, and telephone number of the agency. [602.23(d)]

The agency must demonstrate that its standards and policies include a process regarding the public notification of inaccurate information and how that will be addressed. [602.23(e)]

The agency must submit evidence of its review and action (effective application) of its teach-out plan review and approval process. [602.24(c)(2)]

The agency must provide documentation of its notification to another accrediting agency that it has approved a teach-out plan, as noted in the agency's narrative. [602.24(c)(3)]

The agency must demonstrate that its policies require that a teach-out agreement is between institutions that are accredited by nationally recognized accreditors and are consistent with applicable standards and regulations. It also must submit evidence of its review and action (effective application) of a teach-out agreement. [602.24(c)(5)]

The agency must demonstrate that its appeal panel is properly constituted, trained, subject to its conflict of interest policies, and is carrying out its role and authority in the manner described under this section of the criteria.

[602.25(f)]

The agency must provide documentation demonstrating that it has policies and/or procedures requiring that it provide public notice of positive accrediting decisions within 30 days of the decision and to demonstrate that it provides notice to the appropriate State licensing agencies, accrediting agencies and the public of its positive accrediting decisions. [602.26(a)]

The agency must provide documentation demonstrating the application of the requirement to notify all of the entities listed in the criterion (appropriate State licensing agencies, accrediting agencies) of the negative accreditation decisions defined in this requirement within the appropriate time frame. [602.26(b)]

The agency must demonstrate that it has an effective mechanism in place to review its accredited entity in those situations where the program or the institution that houses the accredited program is also the subject of an adverse action. [602.28(d)]

The agency must provide its policies that require it to share information regarding the accreditation status and information regarding the adverse actions it has taken against an institution, upon the request of an accrediting agency for that information. [602.28(e)]

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Association of Theological Schools in the United States and Canada (ATS or Association) began as a conference of theological schools in 1918 and, in 1936, became an association that adopted standards for judging theological educational quality. The ATS Commission on Accrediting (Commission) had in the past conducted its accrediting activities on behalf of the ATS. However, in June 2004, a re-incorporation plan split the Association into two entities, namely the Association of Theological Schools in the United States and Canada and the Commission on Accrediting of the Association of Theological Schools. The result was a clear and distinct separation of the accrediting operation from the primary association ensuring that the accrediting body and its operation remain separate and independent from the ATS.

Recognition History

The U.S. Commissioner of Education first granted recognition to the Commission on Accrediting of the Association of Theological Schools in the United States and Canada (Commission) as a nationally recognized institutional accrediting agency in 1952.

The last full review of the agency occurred at the June 2004 National Advisory Committee on Institutional Quality and Integrity meeting. Subsequently, the Secretary granted continued recognition to ATS for five years and granted an expansion of the agency's scope of recognition to include its evaluation of education delivery by distance education methodology.

PART II: SUMMARY OF FINDINGS

§602.15 Administrative and fiscal responsibilities

The agency must have the administrative and fiscal capability to carry out its accreditation activities in light of its requested scope of recognition.

The agency meets this requirement if the agency demonstrates that--

(a) The agency has--

(2) Competent and knowledgeable individuals, qualified by education and experience in their own right and trained by the agency on their responsibilities, as appropriate for their roles, regarding the agency's standards, policies, and procedures, to conduct its on-site evaluations, apply or establish its policies, and make its accrediting and preaccrediting decisions, including, if applicable to the agency's scope, their responsibilities regarding distance education and correspondence education;

The agency's By-laws and Policy Manual describe the criteria and attributes it requires of its Commissioners, Appeal Panel members and site team evaluators. However, it is unclear that the agency has Commissioners, site evaluators and appeal panel members who have experience/expertise in distance and correspondence education.

The agency provided new Commissioner training material documents and a copy of the orientation for new site team evaluators that include training on the agency's standards, and procedures as well as brief guidance on how to evaluate distance education delivery systems. The agency also reports that its Executive Director and Legal Counsel provide an orientation to the appeals panel. However, it is not clear to what extent training is provided on the agency's interpretation of its standards and the review and evaluation of distance education.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it has commissioner, site team evaluator and appeal panel members that have experience in distance education and that its decision making bodies and site evaluation teams are trained in interpretation of the agency's standards and particularly the review and evaluation of distance education delivery.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency provided a list of their decision makers and site team evaluators indicating with a "yes" those with distance education experience. However, the agency did not document the level and/or extent of the education/experience. The agency is in the process of developing training for its evaluators and decision-makers that includes interpretation of its standards and the review and evaluation of distance education.

Staff Determination: The agency does not meet the requirements of this section. It must provide evidence of the qualifications and training for its decision-makers and evaluators.

(3) Academic and administrative personnel on its evaluation, policy, and decision-making bodies, if the agency accredits institutions;

The agency has not demonstrated that it has both academic and administrators on its site evaluation teams nor does the agency provide any documentation verifying the make-up of its appeal panel. The documentation provided by the agency is not sufficient enough for the Department to determine that the agency's site evaluator roster includes academics. It also is not clear to the Department that the agency understands that it must have both academics and administrators on its evaluation teams.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that its site evaluation teams clearly include both academic and administrators on its evaluation teams

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency provided a list of its commissioners, site evaluators, and appeal panel members that indicate that they have academic personnel and administrators on those bodies. However, the agency did not provide documentation verifying the basis for the designation.

Staff Determination: The agency does not meet the requirements of this section. It must provide documentation demonstrating that its policy/decision-making body and evaluation teams and appeals body include both academic personnel and administrators.

(4) Educators and practitioners on its evaluation, policy, and decision-making bodies, if the agency accredits programs or single-purpose institutions that prepare students for a specific profession;

The agency has not clearly demonstrated that it has both educators and practitioner representatives on its site evaluation teams nor does the agency provide any documentation verifying that the make-up of its appeal panel will include both educators and practitioners. The documentation provided by the agency is not sufficient enough for the Department to determine that the agency's site evaluator roster includes educators.

Also, the agency states that on its Commission, its practitioners are also the agency's public representatives. This does not comply with the intent of the criterion that public members provide a perspective that is separate from the profession.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it has both educators and practitioners on its site evaluation teams, appeals panel, The agency must also demonstrate that its Commission contains separate practitioners, educators, and public members.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reported that it is in the process of changing its policies and procedures regarding the requirements of this section to demonstrate that it has both educators and practitioners (as described in the Guidelines) on its Commission, site-evaluation teams, and appeal panels.

To clarify the agency's understanding of Department staff guidance, if a member's term expires within the 12-month timeframe for achieving compliance, the agency may choose to allow the member to complete the term. However, in accordance with the law, compliance with the criterion must be achieved within 12 months. The agency will not be in compliance with this section until it has provided the appropriate documentation of its revised selection policies and procedures, and specific documentation (membership rosters, resumes, etc. as required) demonstrating that its policy/decision-making body (bodies -- e.g., appeals panels) and evaluation teams include clear representation by educators, practitioners, and public members.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it has both educators and practitioners on its site evaluation teams and decision-making bodies, including the appeals panel. The agency must also demonstrate that its Commission contains practitioners, educators, and public members.

(6) Clear and effective controls against conflicts of interest, or the appearance of conflicts of interest, by the agency's--

- (i) Board members;**
 - (ii) Commissioners;**
 - (iii) Evaluation team members;**
 - (iv) Consultants;**
 - (v) Administrative staff; and**
 - (vi) Other agency representatives; and**
-

In addressing this criterion, the agency provided its policy that states, “ No officer of the Commission or its professional or administrative staff, consultant, or any other Commission representative, including evaluation team members, shall be interested, directly or indirectly, in any contract relating to operations conducted by the Commission, unless authorized by the concurring vote or written approval of a majority of the Commissioners who do not have a conflict in relation to the relevant transaction or arrangement.”

.In addition, the agency references its procedural requirements that members of the Board of Commissioners must absent themselves from voting or recuses themselves on matters having to do with schools in which they are currently or have been previously employed and schools that they have attended as students. The agency also reports that Commission members sign a conflict of interest statement, however, the agency did not provide evidence of its application of this measure.

The agency also has policies for its staff regarding situations that may compromise or result in conflicts of interest however, it has not demonstrated it has and applies conflict-of interest policies specific to the circumstances of site team evaluators, appeals panel members, consultants or other agency representatives.

Staff Determination; The agency does not meet the requirements of this section. It needs to provide evidence of its conflict of interest policies and their effective application regarding conflict of interest for all groups identified in the criterion.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports its intent to more clearly define and apply its conflict of interest policies in accordance with its own policies and the requirements of this section. The agency provided some evidence of its application of its conflict-of-interest policies via a sample signed conflict-of-interest attestation from Commissioners and a staff member. To document its application of effective conflict-of-interest mechanisms, the agency has developed a comprehensive statement for site visitors that it plans to

implement this fall.

Staff Determination; The agency does not meet the requirements of this section. It needs to provide evidence of its application of its mechanisms for site evaluators to protect against conflict-of-interest.

(b) The agency maintains complete and accurate records of--

(1) Its last full accreditation or preaccreditation reviews of each institution or program, including on-site evaluation team reports, the institution's or program's responses to on-site reports, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, and a copy of the institution's or program's most recent self-study; and

2) All decisions made throughout an institution's or program's affiliation with the agency regarding the accreditation and preaccreditation of any institution or program and substantive changes, including all correspondence that is significantly related to those decisions.

While the agency provided a description of its records management system and an outline of its document management data base, the Department could not verify that the COA records system retains all of records in accordance with the requirements of this section of the criteria.

The agency does not meet the requirements of this section. It needs to demonstrate that it has and applies policies and procedures that clearly identifies its retention schedule for the specific records required under this criterion

Analyst Remarks to Response:

In response to the draft analysis, the agency provided its record management policy. However, the agency policy does not clearly specify the accreditation records and their disposition as required by this criterion. The agency's policy addresses the types of record composition such as (hand written, typed or printed hard copy, etc.) and accreditation documentation, and official correspondence; however, this (policy) lacks sufficient specificity to ensure that the agency maintains the specific records required by the criterion.

Staff Determination: The agency does not meet the requirements of this section. It must establish a records management protocol that contains sufficient specificity to ensure that the agency maintains the specific records required by the criterion..

§602.16 Accreditation and preaccreditation standards

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if -

- (1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:**

(i) Success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates.

The COA has documented policies and procedures reflecting a detailed process for the collection and evaluation of student achievement data. The agency's standards require its accredited institutions to have in place a continuous system of program planning and assessment in order to measure its effectiveness related to its program aims and objectives. The system must include provisions for collecting and analyzing data, providing feedback and documenting how the assessments were used to improve instructional quality. The agency's standards require the institutions to maintain, calculate and explained how it utilizes graduation rates, job placement data and ordination rates as applicable. However, it is not clear that the agency has criteria for assessing the quality of the program planning and assessment process or for determining that the level of student achievement is of acceptable quality.

Staff Determination: The agency does not meet the requirements of this section. It needs to demonstrate that it has and effectively applies criteria for assessing the quality of the program planning and assessment process and for determining that the level of student achievement is of acceptable quality in its institutions

Analyst Remarks to Response:

In response to the draft analysis, the agency reports that it will develop and apply criteria for evaluating institutionally-established student achievement standards beginning with its fall 2011 evaluation visits.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it has and effectively applies criteria for assessing the quality of the program planning and assessment process and for determining that the level of student achievement is of acceptable quality in its institutions.

(a)(2) The agency's preaccreditation standards, if offered, are appropriately related to the agency's accreditation standards and do not permit the institution or program to hold preaccreditation status for more than five years.

The agency is recognized for and grants preaccreditation (Candidate for Accredited Membership) status to its institutions According to agency policy, preaccreditation, authorizes an institution to begin the self-study process. "Candidacy for accredited status is granted for a period of two years, Candidacy may be extended for one year at a time, but in no case may candidacy extend beyond a total of five years."

Institutions seeking pre-accreditation are required to undertake an internal study of readiness for candidate for accredited status and on completion of its internal study, a Commission staff member will review the study, conduct a staff visit to the school, and prepare a report regarding the school's compliance with the general institutional and degree program standards. The Board of Commissioners will base its decision regarding candidacy on the institution's internal study report, on the report of the staff visit, and on its assessment of the extent to which the institution will be able to meet the agency's accreditation standards.

This process does not comply with the requirements of the criterion for recognized pre-accreditation. Per the criteria for recognition, before an agency reaches a decision to preaccredit an institution, the agency must demonstrate that it requires the institution to prepare an in-depth self study that includes an assessment of quality and the institution's efforts to improve educational quality. The agency must also conduct an on-site review by a site team of peers to obtain sufficient information to determine the extent to which the institution meets agency standards. The agency has not demonstrated that its process includes an in-depth self study and an on-site review by a team of peers prior to the Commission making a decision to preaccredit an institution.

Staff determination: The agency does not meet the requirement of this section. It must demonstrate that its preaccreditation process includes an in-depth self study that includes an assessment of educational quality and continuing efforts to improve educational quality and an on-site review by a team of peers prior to the Commission making a decision to preaccredit an institution.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reported that it will begin its review of its options regarding recognized preaccreditation.

Staff Determination: The agency does not meet the requirements of this section, because it has not demonstrated effective mechanisms for evaluating compliance with its standards before reaching a decision to preaccredit, which requires the development and review of a self-study and conduct of an onsite evaluation by peers. The agency must demonstrate that its preaccreditation process includes an in-depth self study that includes an assessment of educational quality and continuing efforts to improve educational quality and an on-site review by a team of peers prior to the Commission making a decision to preaccredit an institution or notify the Department of its decision to not seek recognition for its preaccreditation activities.

§602.17 Application of standards in reaching an accrediting decision.

The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if the agency demonstrates that it--

(d) Allows the institution or program the opportunity to respond in writing to the report of the on-site review;

The agency' site review process and procedures require it to provide its institutions the opportunity to review and respond to the site visit report and to correct any factual errors and provide any additional information. However the agency's procedures do not identify any timeframes that will ensure institutions adequate time for thoughtful response. The agency states that the window for response is "normally" more than 30 days, which is commonly accepted practice. However, the agency states it provides institutions a minimum of 5 days to correct factual errors on the team report and the sample letter inviting agency response to the site team report provided only 17 calendar days (including Christmas and New Years Day holidays) . The agency needs to establish clear and definitive timeframes that provide instructions adequate time to respond to the site team report.

Staff determination: The agency does not meet the requirement of this section. It must establish clear and definitive timeframes that provide institutions adequate time to respond to the site team report.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it will review possible revisions to its policies and procedures for complying with the need to establish clear and definitive timeframes that provide institutions adequate time to respond to the site team report.

Staff determination: The agency does not meet the requirement of this section. It must demonstrate that it has policies establishing clear and definitive timeframes that provide institutions adequate time to respond to the site team report. The agency must also provide documentation demonstrating the application of this requirement.

(e) Conducts its own analysis of the self-study and supporting documentation furnished by the institution or program, the report of the on-site review, the institution's or program's response to the report, and any other appropriate information from other sources to determine whether the institution or program complies with the agency's standards; and

The COA decision-making process uses workgroups of Commissioners to consider the materials available. Every Commissioner is provided with institutional reports and responses and evaluation committee reports for review prior to the Board meeting. However, only two commissioners are provided the institutional self study. It is not clear how the COA ensures that all Commissioners have access and opportunity to view the institution's self study.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it provides all Commissioners with access and opportunity to view the institution's self study.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it is beginning to place self study documents on a protected website allowing all its commissioners to access institutional information. However, the agency did not provide sufficient information such as a description of the mechanism, procedural instructions for accessing the documents, or timelines for making the information available to the Commissioners etc, to demonstrate the effectiveness of the process or that it ensures that all the Commissioners have access to all of the files required under this criterion prior to the decision meeting.

Staff Determination: The agency does not meet the requirements of this section. The agency must provide evidence of its effective application of this process to provide all the Commissioners with access to all of the files required under this criterion prior to the decision meeting.

(f) Provides the institution or program with a detailed written report that assesses--

(1) The institution's or program's compliance with the agency's standards, including areas needing improvement; and

(2) The institution's or program's performance with respect to student achievement;

and

The agency has written procedures for documenting a detailed assessment and reporting of its institution's compliance with its standards including their success with respect to student achievement. The agency uses the site team report to and the decision letter to communicate the extent to which an institution meets the agency's standards. The documents provide a comprehensive assessment of an institution's compliance and non-compliance with agency requirements. The agency provided documentation demonstrating the application of this requirement.

However, there is no evidence that the agency provides an institution with a detailed assessment of a program's performance with respect to student achievement. While the agency standards require that the institution shall maintain an ongoing evaluation by which it determines the extent to which the degree program is meeting the needs of students and the institution's overall goals for the program, including measures such as the percentage of students who complete the program and the percentage of graduates who find placement appropriate to their vocational intentions, the agency documents do not reveal any assessment of student performance in these areas.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it provides an institution with a detailed written report of its performance the extent to which the degree program is meeting the needs of students including measures such as the percentage of students who complete the program and the percentage of graduates who find placement appropriate to their vocational intentions.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it will need to prepare its evaluation committees to provide enhanced evaluations of student achievement required by this section of the criteria and plans to implement training in Fall 2011.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it provides an institution with a detailed written report of its performance the addresses the extent to which the degree program is meeting the needs of students including measures such as the percentage of

students who complete the program and the percentage of graduates who find placement appropriate to their vocational intentions.

(g) Requires institutions that offer distance education or correspondence education to have processes in place through which the institution establishes that the student who registers in a distance education or correspondence education course or program is the same student who participates in and completes the course or program and receives the academic credit. The agency meets this requirement if it--

(1) Requires institutions to verify the identity of a student who participates in class or coursework by using, at the option of the institution, methods such as--

(i) A secure login and pass code;

(ii) Proctored examinations; and

(iii) New or other technologies and practices that are effective in verifying student identity; and

(2) Makes clear in writing that institutions must use processes that protect student privacy and notify students of any projected additional student charges associated with the verification of student identity at the time of registration or enrollment.

The agency has provided evidence that it has inserted into its substantive change approval requirements the language of this criterion-- that the institution is to have a process for establishing the identity of students in distance education programs. However, this does not provide evidence that the agency reviews this requirement during each comprehensive review for accreditation. The agency provided no evidence that it has incorporated the requirement of this criterion into its accreditation evaluation process; nor has it demonstrated effective application of this requirement.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it requires and assesses (during accreditation reviews) that institutions have processes in place to verify the identity of students enrolled in distance education and that the student is the same person who takes and completes the course or program; that the processes used by institutions are effective in verifying student identity while at the same time protecting student privacy; and include notification to students at their enrollment of any increase in student charges.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency provided a copy of the Mandatory Standard Checklist which will be used by its site-evaluation team members beginning in fall 2011 to evaluate the institution's compliance with agency standards. The documentation provided by the agency does not sufficiently address the requirements of this criterion as it has provided no insight into the agency's criteria for determining compliance. Nor has the agency provided evidence of complying with the criterion requirement that it make clear in writing that institutions must notify students of any projected additional student charges associated with the verification of student identity at the time of enrollment or registration.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it requires and assesses (during accreditation reviews) that institutions have processes in place to verify the identity of students enrolled in distance education and that the student is the same person who takes and completes the course or program; that the processes used by institutions are effective in verifying student identity while at the same time protecting student privacy. The agency must also demonstrate that it makes clear in writing to institutions the requirement that processes must protect student privacy and notify students at their enrollment of any increase in student charges.

§602.18 Ensuring consistency in decision-making

The agency must consistently apply and enforce standards that respect the stated mission of the institution, including religious mission, and that ensure that the education or training offered by an institution or program, including any offered through distance education or correspondence education, is of sufficient quality to achieve its stated objective for the duration of any accreditation or preaccreditation period granted by the agency. The agency meets this requirement if the agency--

(b) Has effective controls against the inconsistent application of the agency's standards;

The agency has demonstrated that it has and applies effective controls against the inconsistent application of its standards, to include: written standards, policies, and procedures that are sufficiently clear and comprehensive; guidance provided at accreditation workshops; standardized self-study and on-site review documents; and review by evaluators, review committee members, and commission members. What is not clear is that the evaluators, review committee members, commission members, and appeals panel are qualified and trained to review distance education, which is a critical component of the agency's controls against the inconsistent application of standards.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that its evaluators, review committee members, commission

members, and appeals panel are qualified and trained to review distance education programs as a control against the inconsistent application of the agency's standards.

Analyst Remarks to Response:

In response to the staff's draft report ATS reports that it recognizes the need for and that it is perusing revisions in its current training and orientation programs to strengthen its (consistent) application of its standards.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate its application of its enhanced training for visitors, Commissioners, and appeals panel members to control against inconsistent application of Commission standards.

§602.19 Monitoring and reevaluation of accredited institutions and programs.

(a) The agency must reevaluate, at regularly established intervals, the institutions or programs it has accredited or preaccredited.

The agency provided its policies that require reevaluation of its institutions at intervals not to exceed 10 years. The policies require institutions to conduct a self study and to host an on-site evaluation team. The agency provided documentation supporting the reevaluation process and has demonstrated application of this requirement in Exhibits 38(a-b) and 39 (a-b).

However, it is not clear that the agency always requires an in-depth self study that is comprehensive to all of the agency's standards. The agency policy states, "...by permission of the Board through its staff, a design that focuses on particular issues or concerns is also possible for schools conducting self-studies for reaffirmation of accreditation." The agency needs to provide additional explanation of this policy and its application of it.

Staff determination: The agency does not meet the requirements of this section. It needs to provide additional explanation of its policy to allow a self study design that focuses on particular issues or concerns is also possible for schools conducting self-studies for reaffirmation of accreditation and its application of it.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency reports that it will address the Departments concern regarding "a special design for a self-study that allows an institution to focus on identified areas of need" at it June 2012 meeting..

Staff determination: The agency does not meet the requirements of this section. It needs to demonstrate that its re-evaluation of its institutions and programs always requires an in-depth self study that is comprehensive to all of the agency's standards.

(b) The agency must demonstrate it has, and effectively applies, a set of monitoring and evaluation approaches that enables the agency to identify problems with an institution's or program's continued compliance with agency standards and that takes into account institutional or program strengths and stability. These approaches must include periodic reports, and collection and analysis of key data and indicators, identified by the agency, including, but not limited to, fiscal information and measures of student achievement, consistent with the provisions of §602.16(f). This provision does not require institutions or programs to provide annual reports on each specific accreditation criterion.

The agency has not demonstrated that it has established a set of monitoring and evaluation approaches sufficient to comply with this requirement.

The agency noted its use of its substantive change processes and complaint processes as components of its monitoring activities and these along with focused visits are pieces of a set of monitoring and evaluation approaches. These components are supported by written policy requirements in the COA procedures document.

However, the criterion requires that recognized accreditors also have in place mechanisms to (proactively) identify problems with an institution's continuing compliance with agency standards; and these mechanisms must include periodic reports and evidence of the agency's collection and analysis of key data and indicators that includes also includes measures of student achievement and fiscal information. The agency has not discussed having, in place, this type of mechanism. While the agency provided a template of a data collection tool; it provided no evidence of its application of the template nor did it provide evidence of its review of data sets as required by the criteria for recognition against triggers/flags that would initiate further monitoring action on the part of the COA. Further, it has not provided evidence of policy/procedures that directs such activity.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it has and effectively applies mechanisms to (proactively) identify problems with an institution's continuing compliance with agency standards; and these mechanisms must include periodic reports and

evidence of the agency's collection and analysis of key data and indicators that includes also includes measures of student achievement and fiscal information.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reported that the Board of Commissioners, in conjunction with Commission staff, will review the Annual Report Form to determine how to enhance its ability to capture meaningful data related to student achievement and to develop means to incorporate the data into a practice of ongoing institutional monitoring. The agency reports that it also collects financial data and enrollment data.

What is not evident is that the agency has protocols and mechanisms in place to assess the data it collects and make meaningful determinations of continued compliance/noncompliance with agency standards. .The agency needs to demonstrate how it's data collection activity is part of a mechanism to (proactively) identify problems with an institution's continuing compliance with agency standards. The Department expects that an agency's mechanisms will include the use of triggers or flags that alert the agency to compliance issues.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has and effectively applies mechanisms to (proactively) identify problems with an institution's continuing compliance with agency standards; and these mechanisms must include periodic reports and evidence of the agency's collection and analysis of key data and indicators that also include measures of student achievement and fiscal information.

(c) Each agency must monitor overall growth of the institutions or programs it accredits and, at least annually, collect headcount enrollment data from those institutions or programs.

The agency provided no evidence of a written policy requirement for its monitoring of overall growth of institutions it accredits.

While the agency provided an annual report form "template" of enrollment data; it provided no evidence of its implementation of the enrollment data collection.

The agency also provided an enrollment data report of enrollment increases for 2010. The report identified 10 institutions with increases that exceed 25%. The agency provided no insight into its assessment of this data except to say that "enrollment patterns are reasonable given the information provided and discussions with school representatives when deemed necessary." As such it is not sufficient to confirm that the agency has an effective mechanism for monitoring overall growth.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it has written requirements and applies effective

mechanisms to monitor the overall growth of its accredited institutions.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it will give attention to improving the annual report form to create effective mechanisms to monitor overall growth data, and that an enhanced monitoring will be in place during 2011-2012 academic year.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it has written requirements and applies effective mechanisms to monitor the overall growth of its accredited institutions.

(d) Institutional accrediting agencies must monitor the growth of programs at institutions experiencing significant enrollment growth, as reasonably defined by the agency.

The agency identifies that a 25% increase is the agency's benchmark for significant increases in enrollment. The agency provided a template form that requests institutions to submit data by program. However, there is no evidence of the implementation of this data collection.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it has written requirements and applies effective mechanisms to monitor the growth of programs at its accredited institutions that exceed its definition of significant enrollment growth.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that the collection and analysis of enrollment data will begin in the fall of 2011.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it has written requirements and applies effective mechanisms to monitor the growth of programs at its accredited institutions that exceed its definition of significant enrollment growth.

§602.20 Enforcement of standards

(b) If the institution or program does not bring itself into compliance within the specified period, the agency must take immediate adverse action unless the agency, for good cause, extends the period for achieving compliance.

The COA does have written policies and procedures that address extensions for good cause. Specifically, the agency policy states, "In certain cases and for demonstrated good cause, the Board of Commissioners may extend by one year the period an institution has to demonstrate that the conditions to remove probation have been met. In no case shall extensions for good cause exceed two years."

The agency's policy first states that the COA may grant an extension for 1 year. But in the next sentence says that extensions will not exceed 2 years. This infers that the agency may grant multiple extensions which is not compliant with the requirement of the criterion that extensions are not used routinely, repeatedly, or as a mechanism to avoid initiating an adverse action. Neither has the agency provided any policy or other documentation to evidence what types of cases or situations would compel the COA to effect an extension "for good cause".

Staff determination: The agency does not meet the requirements of this section. It must clarify its application of extensions for good cause and demonstrate its compliant application of its policies.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it will develop and implement practice and to make more clear the circumstances and limitation that the Commission applies to a good cause extension. The agency reports that its revised good cause polices would be adopted in February 2012.

Staff Determination: The agency does not meet the requirements of this section. The ATS must make revisions and clarifications in its good cause policies describing the agency's definition of, and what would constitute good cause, including the time limits it would allow the institution to come into compliance.

§602.21 Review of standards.

(a) The agency must maintain a systematic program of review that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and relevant to the educational or training needs of students.

(b) The agency determines the specific procedures it follows in evaluating its standards, but the agency must ensure that its program of review--

(1) Is comprehensive;

(2) Occurs at regular, yet reasonable, intervals or on an ongoing basis;

(3) Examines each of the agency's standards and the standards as a whole; and

(4) Involves all of the agency's relevant constituencies in the

review and affords them a meaningful opportunity to provide input into the review.

The COA reports that ATS Commission on Accrediting Standards were last comprehensively revised in 1996. Following the 2006 Biennial Meeting, the Board of Commissioners determined to undertake a two-staged review of the standards. The process began following the 2008 Biennial Meeting and resulting in recommendations at the 2010 and 2012 Biennial Meetings. The agency does have written policies that require it to conduct a review of its standards after every comprehensive evaluation of its schools and as a whole every five years. However, it did not provide documentation of those process/procedures or evidence that it involves all of the agency's relevant internal and external constituencies in the review and affords them a meaningful opportunity to provide input into the review.

Staff determination: The agency does not meet the requirements of this section. It needs to demonstrate that it has conducted systematic reviews of its standards that comply with the requirements of this section of the criteria.

Analyst Remarks to Response:

The agency reports that it will "resume its practice of collecting data related to the effectiveness of the standards to guide institutional improvement once the revision process is completed in June 2012". However, the agency did not provide a written policy that directs its systematic review and assessment of individual standards continuously and as a whole, or provided a copy of a completed systematic review of standards.

In response to the staff's draft analysis the agency provided 3 sample Standards Survey forms from site team members. The Department was not able to verify when the actual review took place nor is there evidence of the agency's application of these survey results in a review of the agency standards. Documentation of those process/procedures and evidence that it involves all of the agency's relevant internal and external constituencies in the review and affords them a meaningful opportunity to provide input into the review is essential to a compliant review process.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it has a written plan for the systematic review of its standards that directs its systematic review and assessment of individual standards continuously and as a whole, or provided a copy of a completed systematic review of standards. The agency must also demonstrate that it has conducted systematic reviews of its standards that comply with the requirements of this section of the criteria.

§602.22 Substantive change.

(2) The agency's definition of substantive change includes at least the following types of change:

(i) Any change in the established mission or objectives of the institution.

(ii) Any change in the legal status, form of control, or ownership of the institution.

(iii) The addition of courses or programs that represent a significant departure from the existing offerings of educational programs, or method of delivery, from those that were offered when the agency last evaluated the institution.

(iv) The addition of programs of study at a degree or credential level different from that which is included in the institution's current accreditation or preaccreditation.

(v) A change from clock hours to credit hours.

(vi) A substantial increase in the number of clock or credit hours awarded for successful completion of a program.

(vii) If the agency's accreditation of an institution enables the institution to seek eligibility to participate in title IV, HEA programs, the entering into a contract under which an institution or organization not certified to participate in the title IV, HEA programs offers more than 25 percent of one or more of the accredited institution's educational programs.

The agency provided its policies addressing the types of and definitions of substantive changes that it requires prior commission approval. The agency does not have policy and procedural guidance for its institutions that address all of the types of changes required by this criterion. Specifically, the agency does not have substantive change policies and procedures for change of mission or objective, changes in legal status, form of control or ownership, or contracts.

Staff determination: The agency does not meet the requirements of this section. It needs to provide evidence of having policy and procedural guidance for all of the types of substantive changes identified in this criterion.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency provided its policies addressing the types of and definitions of substantive changes that require prior commission approval. The agency also reports that it "does not have a procedure, nor the board have a policy addressing the specific requirement of 602.22(a)(2)(vii)", and that "the board will consider the best means to address this requirement and either take action through adopting a new board policy or recommend a change to the COA Procedures to the Commission membership" with final action by June 2012. The agency has not addressed the Department's concern that the agency does not have substantive change policies and procedures for the review and approval of proposed changes of mission or objective, or changes in legal status.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has and applies policy and procedural guidance for the review and approval of proposed changes of mission or objective, changes in legal status, and for entering into contracts.

(ix) The acquisition of any other institution or any program or location of another institution.

(x) The addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution that has ceased operating before all students have completed their program of study.

The agency's reports that it considers the substantive changes identified under this criterion to be "specific cases" of additional locations/branch campuses. . However, the agency chooses to categorize them, the situations identified in this criterion are unique and different from the establishment of an additional location by the accredited institution in that they include an additional institution. The agency is required to have policy and procedures for the request, review, and approval of substantive changes specific to these situations.

Staff determination: The agency does not meet the requirements of this section. It must have written policies or procedures or criteria for the request, review, and approval of substantive changes specific to these situations. It must provide documentation demonstrating the application of its review and approval of substantive change requests involving the acquisition of other institutions, programs, or locations of another institution or the addition of a permanent site for purposes of a teachout.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency reports that it has not had the opportunity to address the situations in the requirements of this section, and will consider policies and procedures to address the criteria by June 2012.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate its adoption and the application, as applicable, of a review and approval process of substantive change requests involving the acquisition of other institutions, programs, or locations of another institution or the addition of a permanent site for purposes of a teach-out.

(3) The agency's substantive change policy must define when the changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution.

The agency did not provide any documentation demonstrating that it has identified under what conditions or circumstances of change it will require a full and comprehensive evaluation of the institution.

Staff Determination: The agency does not meet the requirements of this section. It needs to identify what conditions or circumstances of change it will require a new evaluation. The agency also needs to document its application of this requirement.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency reports that it has not identified what circumstances of substantive change will require a new evaluation nor does the agency have policies and procedures in place addressing the requirements of this section. It reports that the Board will develop the criteria required by this section .

Staff Determination: The agency does not meet the requirements for this section. ATS must define in its procedures when changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a comprehensive total reevaluation of that institution.

(b) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, these procedures must specify an effective date, which is not retroactive, on which the change is included in the program's or institution's accreditation. An agency may designate the date of a change in ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change in ownership. Except as provided in paragraph (c) of this section, these procedures may, but need not, require a visit by the agency.

It is not clear to the Department that the agency has clear policies that prohibit it from making retroactive approvals of substantive changes.

Staff Determination: The agency does not meet the requirements of this section. It needs to provide clear policies that prohibit it from making retroactive approvals of substantive changes and demonstrate that it effectively adheres to its policies.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency provided its revised policy that clarifies the effective date of substantive changes approved by the Commission. However, the agency's documentation (letters to institutions approving substantive change requests) does not make clear to the recipient or others that the effective date of the approval and inclusion in the grant of accreditation is the date of the letter. Clarity of the effective date written into the approval letter is necessary as it impacts financial student aid eligibility and has other legal ramifications.

Staff Determination: The agency does not meet the requirements of this section. It needs to demonstrate that the effective date of substantive change approvals is clearly stated in the approval letter.

(c)(1) A visit, within six months, to each additional location the institution establishes, if the institution--

- (i) Has a total of three or fewer additional locations;**
- (ii) Has not demonstrated, to the agency's satisfaction, that it has a proven record of effective educational oversight of additional locations; or**
- (iii) Has been placed on warning, probation, or show cause by the agency or is subject to some limitation by the agency on its accreditation or preaccreditation status;**

The agency's policies regarding additional locations are not clear in establishing that all sites (not limited to degree programs) where at least 50 % of a program is offered must have a site visit a visit within 6 months of the establishment of the additional location to determine that the site has the personnel, resources, and facilities that the institution claimed in the application. While the agency chooses to conduct a site visit at the time the application is submitted (to determine the institutions administrative and fiscal capacity), this does not satisfy the requirement that the agency conduct a site visit to the additional location within 6 months of the establishment of the locations. It is not clear how the agency can

verify the existence of the additional location's resources (before the location is operational).

The agency did provide some evidence of the results of its review of the fiscal and administrative capacity of a request to establish an additional location and a site team report from an on-site review to verify the resources of an additional location.

Staff determination: The agency does not meet the requirements of this section. The agency must establish clear written policies and procedures that require it to conduct site visits to every additional location established under a substantive change request where 50% or more of a program (with no delimitation) will be offered.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency reports that it will develop revised policies and procedures to address the requirements of this section by its June 2012 Commission meeting.

Staff Determination: The agency does not meet the requirements of this section. The agency must provide clear written policies and procedures that require it to conduct site visits within six months to every location established under a substantive change request where 50% or more of a program (with no delimitation) will be offered.

§602.23 Operating procedures all agencies must have.

(b) In providing public notice that an institution or program subject to its jurisdiction is being considered for accreditation or preaccreditation, the agency must provide an opportunity for third-party comment concerning the institution's or program's qualifications for accreditation or preaccreditation. At the agency's discretion, third-party comment may be received either in writing or at a public hearing, or both.

The agency written policies/procedures for accreditation require institutions it to notify all of its constituencies through published notices of the opportunity to provide third-party comments on institutions being considered for accreditation. The agency did not provide any evidence that it provides more specific guidance to its institutions on its expectations for making notice or receiving comments. Neither did the agency provide any evidence of its institutions adhering to this a requirement.

The agency also provided documentation that it publishes a notice in the ATS publication inviting any member school to submit third-party comments on any school scheduled to receive a visit and be reviewed at the next Commission

meeting. This limited audience of this notice does not fully address the requirements of the criterion that is to provide public notice and opportunity for 3rd party comment.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it provides for the opportunity for the general public to provide third party comments.

Analyst Remarks to Response:

In response to the staff's draft analysis, ATS reports that by fall 2011, it will develop polices and guidelines for providing an opportunity for the general public to provide third-party comments which will include web-based notification of pending accreditation reviews and means for submitting third party comments.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it provides for the opportunity for the general public to provide third party comments.

(c) The accrediting agency must--

(1) Review in a timely, fair, and equitable manner any complaint it receives against an accredited institution or program that is related to the agency's standards or procedures. The agency may not complete its review and make a decision regarding a complaint unless, in accordance with published procedures, it ensures that the institution or program has sufficient opportunity to provide a response to the complaint;

(2) Take follow-up action, as necessary, including enforcement action, if necessary, based on the results of its review; and

(3) Review in a timely, fair, and equitable manner, and apply unbiased judgment to, any complaints against itself and take follow-up action, as appropriate, based on the results of its review.

The agency provided its complaint policies demonstrating that it has a sufficient complaint process in place. However the agency did not provide any documentation demonstrating its review process or application of the requirements of this section.

Staff determination: The agency does not meet the requirements of this section. It needs to provide documentation of its effective application of its complaint policy demonstrating that it reviews complaints in a timely and equitable manner and takes follow-up action as necessary, based on the results of its review.

Analyst Remarks to Response:

In response to the staff's draft analysis, the ATS provided its revised complaint policies and Complaint Procedures Checklist which is used by the agency to track the application and review complaint process. However, this is insufficient to demonstrate the agency's review and resolution of complaints. The Department acknowledges the agency's concern for confidentiality, and requests that the agency provide a complete document package (redacted) of a complaint it received that pertains to ATS issues in the realm of the agency standards and actions in accordance with its complaint policy.

Staff determination: The agency does not meet the requirements of this section. It needs to provide documentation of its effective application of its complaint policy demonstrating that it reviews complaints in a timely and equitable manner and takes follow-up action as necessary, based on the results of its review.

(d) If an institution or program elects to make a public disclosure of its accreditation or preaccreditation status, the agency must ensure that the institution or program discloses that status accurately, including the specific academic or instructional programs covered by that status and the name, address, and telephone number of the agency.

The agency's public disclosure policies and procedures are comprehensive, clear and specific to the requirements of this section. The agency's documentation however, does not reflect the language required by the agency.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it reviews the public disclosures of accreditation status made by its accredited institutions and programs for accuracy to include the name, address, and telephone number of the agency.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency reports that it has revised its Mandatory Standards Checklist to reflect the review of the public disclosures of the institution's accreditation status, however this could not be verified in the documents provided.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate that it reviews the public disclosures of accreditation status made by its accredited institutions and programs for accuracy to include the name, address, and telephone number of the agency.

(e) The accrediting agency must provide for the public correction of incorrect or misleading information an accredited or preaccredited institution or program releases about—

(1) The accreditation or preaccreditation status of the institution or program;

(2) The contents of reports of on-site reviews; and

(3) The agency's accrediting or preaccrediting actions with respect to the institution or program.

While the agency policies state what the agency “may” do if it finds that an institution has released inaccurate or distorted information. It’s policies do not make it unequivocally clear that the agency will take action to correct the inaccurate information. Also, the agency has provided no evidence of its having taken action to correct misleading information.

Staff Determination: The agency does not meet the requirements of this section. It needs to amend its policies to make it clear that it will take action to correct false or misleading information and provide documentation of its effective correction of false or misleading information.

Analyst Remarks to Response:

In response to the Staff’s draft analysis the agency reports that it will address the requirements for this section at its February 2012 meeting.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate that its standards and policies include a process regarding the public notification of inaccurate information and how that will be addressed.

§602.24 Additional procedures certain institutional accreditors must have.

If the agency is an institutional accrediting agency and its accreditation or preaccreditation enables those institutions to obtain eligibility to participate in Title IV, HEA programs, the agency must demonstrate that it has established and uses all of the following procedures:

- (2) The agency must evaluate the teach-out plan to ensure it provides for the equitable treatment of students under criteria established by the agency, specifies additional charges, if any, and provides for notification to the students of any additional charges.**
-

The agency's response does not sufficiently address the requirements of this section of the criteria.

Under this section of the criteria the agency is expected to have policies, procedures, and evaluative criteria by which it requires, reviews, and approves teach-out plans that describe adequate courses of action (plans) for providing for the equitable treatment of students under criteria established by the agency, that specifies additional charges, and provides plans for notifying students of the charges, if any.

Staff Determination: The agency does not meet the requirements of this section. It needs to document that it has policies, procedures and criteria by which it will assess and determine that the teach-out plan provides for the equitable treatment of students and on what basis it determines, for example, that the teach-out plans for notifications and additional charges are appropriate and reasonable. It also needs to demonstrate effective application of its teach out plan review and approval process.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency has provided documentation of its revised policies and procedures for the submission and evaluation of teach-out plans and teach-out agreements. The agency's guidance to institutions is clear in outlining specifically the information and documentation required from the institution to include information on students; student records; tuition and refunds; sample notifications; delivery of education and services; and additional charges if any. The specificity of the information and documentation make it clear what are the agency's criteria for approving a teach-out plan.

The agency reports that it is currently reviewing a teach-out plan and agreement under its revised policies and procedures.

Staff Determination: The agency does not meet the requirements of this section. It needs to submit evidence of its review and action (effective application) of its teach-out plan review and approval process.

(3) If the agency approves a teach-out plan that includes a program that is accredited by another recognized accrediting agency, it must notify that accrediting agency of its approval.

The agency's policies require it to notify another accrediting agency should the agency approve a teach-out-plan that includes a institution that is accredited by another agency. While the agency reports that it has applied this requirement it has not provided any documentation demonstrating it application.

Staff determination: The agency does not meet the requirements of this section. It needs to provide documentation of its notification to another accrediting agency that it has approved a teach-out plan, as noted in the agency's narrative.

Analyst Remarks to Response:

ATS reports that it is currently reviewing a teach-out plan and agreement. While it did not specify that the teach-out includes an institution accredited by another accrediting agency, the agency did indicate in its initial narrative that it has applied the requirement.

Staff determination: The agency does not meet the requirements of this section. It needs to provide documentation of its notification to another accrediting agency that it has approved a teach-out plan, as noted in the agency's narrative.

(5) The agency must require an institution it accredits or preaccredits that enters into a teach-out agreement, either on its own or at the request of the agency, with another institution to submit that teach-out agreement to the agency for approval. The agency may approve the teach-out agreement only if the agreement is between institutions that are accredited or preaccredited by a nationally recognized accrediting agency, is consistent with applicable standards and regulations, and provides for the equitable treatment of students by ensuring that--

(i) The teach-out institution has the necessary experience, resources, and support services to--

(A) Provide an educational program that is of acceptable quality and reasonably similar in content, structure, and scheduling to that provided by the institution that is ceasing operations either entirely or at one of its locations; and

(B) Remain stable, carry out its mission, and meet all obligations to existing students; and

(ii) The teach-out institution demonstrates that it can provide students access to the program and services without requiring them to move or travel substantial distances and that it will provide students with information about additional charges, if any.

The COA does not have policies, procedures, and criteria for reviewing and approving teach-out agreements as per the requirements of this section of the criteria; nor has it demonstrated its application of the requirements of this criterion.

Staff Determination: The agency does not meet the requirements of this section. It needs to provide evidence of written policies, procedures and criteria for

agency review and approval of teach-out agreements that address the requirements under this section of the criteria. Specifically, the agency is to have procedures and criteria for assessing that the teach-out is between institutions that are accredited by nationally recognized accreditors and are consistent with applicable standards and regulations. Additionally the agency is to assess the resources, experience, and support services of the teach-out institution and its ability to provide a program of acceptable quality and which is reasonably similar in content, structure, and scheduling and is stable in that it can carry out its mission and meet all obligations to existing students and provide a program to teach-out students without requiring substantial travel or additional charges. The agency needs to provide evidence of its effective application of these policies and procedures.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency provided its revised policies and process for teach-out agreements. However, the agency policy is not clear in requiring that the teach-out agreement is to be only between institutions that are accredited or preaccredited by a nationally recognized accrediting agency.

The agency policy guidance defines the difference between a teach-out plan and a teach-out agreement. While the guidance appears sufficient in describing the agency's expectations for evaluating a teach-out plan, it is less clear how the agency will assess a teach-out agreement. Specifically, it is also not clear how the agency will evaluate that the teach-out institution has the resources to remain stable, carry out its mission and meet all obligations to existing students

The agency has not provided evidence of its review of a teach-out agreement but has indicated that it is in process of evaluating a teach-out petition.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that its policies require that a teach-out agreement is between institutions that are accredited by nationally recognized accreditors and are consistent with applicable standards and regulations. It also must submit evidence of its review and action (effective application) of a teach-out agreement.

§602.25 Due process

(f) Provides an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final.

(1) The appeal must take place at a hearing before an appeals panel that--

(i) May not include current members of the agency's decision-making body that took the initial adverse action;

(ii) Is subject to a conflict of interest policy;

(iii) Does not serve only an advisory or procedural role, and has and uses the authority to make the following decisions: to affirm, amend, or reverse adverse actions of the original decision-making body; and

(iv) Affirms, amends, reverses, or remands the adverse action. A decision to affirm, amend, or reverse the adverse action is implemented by the appeals panel or by the original decision-making body, at the agency's option. In a decision to remand the adverse action to the original decision-making body for further consideration, the appeals panel must identify specific issues that the original decision-making body must address. In a decision that is implemented by or remanded to the original decision-making body, that body must act in a manner consistent with the appeals panel's decisions or instructions.

(2) The agency must recognize the right of the institution or program to employ counsel to represent the institution or program during its appeal, including to make any presentation that the agency permits the institution or program to make on its own during the appeal.

The agency has policies that define the composition of the appeal panel and term limits. The policy states , "... composed of five persons who are former Commissioners or former Directors of ATS, at least one of whom shall have been a Public Commissioner or Public Director. Appeals Panel members shall be elected by the Members and shall serve two-year terms. A person who has served for two consecutive two-year terms is not eligible for re-election until he or she has not served for two years." However, the policy does not make it clear that the Appeal Panel meets the requirement that an appeal panel include academics, administrators, educator, practitioners and public members depending on the nature of the appeal. Also, the agency provided no evidence of its application of an effective mechanism to ensure against conflicts of interest by the appeal panel.

The agency provided no evidence of written policies and their effective application to demonstrate the role and authority of the appeal panel under the requirements of this criterion and the agency's training of the panel on its standards, role and responsibilities.

The agency has written policies that address the right of the institution to legal counsel.

Staff determination: The agency does not meet the requirements of this section. It must establish policies and procedures and demonstrate that its appeal panel is properly constituted, trained, subject to conflict of interest policies, and is carrying out its role and authority in the manner described under 602.25 (f) (1) and (2).

Analyst Remarks to Response:

In response to the staff's draft analysis the agency clarified its process of training its appeals panel members on its standards, procedures and its conflict-of-interest policy. Agency training is scheduled for February 2012. The agency also provided a list of its current appeal panel membership, reporting that its public representative is a non-governmental employee. However, the Department is still concerned with the process of selecting and vetting its appeal panel members. The agency's policies are not clear on how the agency does that and how it expects the appeal panel to carry out its specific role under the authority in the manner described under 602.25(f)(1)(2).

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate that its appeal panel is properly constituted, trained, subject to its conflict of interest policies, and is carrying out its role and authority in the manner described under this section of the criteria.

§602.26 Notification of accrediting decisions

The agency must demonstrate that it has established and follows written procedures requiring it to provide written notice of its accrediting decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public. The agency meets this requirement if the agency, following its written procedures--

- (a) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public no later than 30 days after it makes the decision:**
 - (1) A decision to award initial accreditation or preaccreditation to an institution or program.**
 - (2) A decision to renew an institution's or program's accreditation or preaccreditation;**

The agency policies require it to notify all of the entities listed in the criterion of the accreditation decisions required by this section in the appropriate time frame. However the agency did not provide any documentation verifying that it notified those required by this section of the criteria, thus demonstrating the application of this requirement.

Staff Determination: The agency does not meet the requirements of this section. It needs to provide documentation demonstrating the application of this requirement.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency provided documents titled REPORT TO THE US DEPARTMENT OF EDUCATION, ACTIONS TAKEN AT THE FEBRUARY 2010 MEETING (and JUNE 2010) , BOARD OF COMMISSIONERS . However, these documents are insufficient to serve as examples of notifications sent by the agency to all of the entities required by this criterion. While the Department may confirm receipt of the notices to the Department, there is no evidence that the agency provided the notices to the appropriate State licensing agencies, accrediting agencies and the public. Also, further review of the agency policies reveals that the agency policies do not include the requirement that the agency provide written notice of its positive accreditation decisions to the public.

Staff Determination: The agency does not meet the requirements of this section. It needs to provide documentation demonstrating that it has policies and/or procedures requiring that it provide public notice of positive accrediting decisions within 30 days of the decision and to demonstrate that it provides notice to the appropriate State licensing agencies, accrediting agencies and the public of its positive accrediting decisions.

(b) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies at the same time it notifies the institution or program of the decision, but no later than 30 days after it reaches the decision:

(1) A final decision to place an institution or program on probation or an equivalent status.

(2) A final decision to deny, withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of an institution or program;

(3) A final decision to take any other adverse action, as defined by the agency, not listed in paragraph (b)(2) of this section;

The agency's policies require it to notify all of the entities listed in the criterion of the negative accreditation decisions define in this requirement within the appropriate time frame. However, the agency failed to provide any documentation verifying the application of the requirements of this section.

Staff determination; The agency does not meet the requirements of this section. It needs to provide documentation demonstrating the application of the requirement to notify all of the entities listed in the criterion of the negative accreditation decisions define in this requirement within the appropriate time frame.

Analyst Remarks to Response:

The agency provided the same documentation as provided in the previous section. However, these documents are insufficient to serve as examples of notifications sent by the agency to all of the entities required by this criterion. While the Department may confirm receipt of the notices to the Department, there is no evidence that the agency provided the notices to the appropriate State licensing agencies, accrediting agencies, as required.

Staff determination; The agency does not meet the requirements of this section. It needs to provide documentation demonstrating the application of the requirement to notify all of the entities listed in the criterion (appropriate State licensing agencies, accrediting agencies) of the negative accreditation decisions defined in this requirement within the appropriate time frame.

§602.28 Regard for decisions of States and other accrediting agencies.

(d) If the agency learns that an institution it accredits or preaccredits, or an institution that offers a program it accredits or preaccredits, is the subject of an adverse action by another recognized accrediting agency or has been placed on probation or an equivalent status by another recognized agency, the agency must promptly review its accreditation or preaccreditation of the institution or program to determine if it should also take adverse action or place the institution or program on probation or show cause.

While the agency does have a policy that it will initiate a review of an institution or program that is subject to an adverse action by another agency, however, the policy does not provide sufficient information regarding the agency's approach to its review to ascertain that its review is prompt and thorough in concluding any impact pertaining to COA's accreditation. The agency provided no evidence of any review to support its effective application of the policy.

Staff determination: The agency does not meet the requirement of this section. It must demonstrate that it has an effective mechanism in place to review its accredited entity in those situations where the program or the institution that houses the accredited program is also the subject of an adverse action.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it has not had a instance to apply the requirements of this section. However, the Department would expect the agency policies to include a mechanism to promptly review its accreditation of an institution that is the subject of adverse action, or placed on probation or equivalent status, by another recognized accreditor.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has an effective mechanism in place to review its accredited entity in those situations where the program or the institution that houses the accredited program is also the subject of an adverse action.

(e) The agency must, upon request, share with other appropriate recognized accrediting agencies and recognized State approval agencies information about the accreditation or preaccreditation status of an institution or program and any adverse actions it has taken against an accredited or preaccredited institution or program.

The agency reports that it's policy under 10.5 of its Policy Manual addresses this requirement. However, this policy is directed to notification of board actions regarding Board actions concerning dually accredited institutions and is not the focus of this criterion. . Under this requirement, the agency is required to have policy and procedures for sharing information regarding the accreditation status and information regarding the adverse actions it has taken against an institution, upon the request of an accrediting agency for that information. The documents provided are not sufficient evidence of the agency's compliance with this criterion as they do not demonstrate the agency's response to information requests from other accrediting or state agencies.

Staff determination; The agency does not meet the requirements of this section. It must demonstrate that it has policies that require it to for share information regarding the accreditation status and information regarding the adverse actions it has taken against an institution, upon the request of an accrediting agency for that information. It must also demonstrate its application of policies that comply with the requirement of this criterion.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it will revise its polices to include the requirements of this section to share information regarding its accredited institution's status and any adverse action against its accredited institutions with state agencies and other accrediting agencies. The agency expects the policy to be added to its policy manual at the Board's June 2011. The agency also reports that it has not had an instance when has had to apply this requirement.

Staff Determination: The agency does not meet the requirements of this section. The agency must provide its policies that require it to share information regarding the accreditation status and information regarding the adverse actions it has taken against an institution, upon the request of an accrediting or State approval agency for that information.

PART III: THIRD PARTY COMMENTS

The Department did not receive any written third-party comments regarding this agency.

U.S. Department of Education

**Staff Report
to the
Senior Department Official
on
Recognition Compliance Issues**

RECOMMENDATION PAGE

1. **Agency:** Accrediting Bureau Of Health Education Schools (1969/2005)
(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)
2. **Action Item:** Petition for Continued Recognition
3. **Current Scope of Recognition:** The accreditation of private, postsecondary institutions in the United States offering predominantly allied health education programs and the programmatic accreditation of medical assistant, medical laboratory technician and surgical technology programs, leading to a certificate, diploma, Associate of Applied Science, Associate of Occupational Science, or Academic Associate degree, including those offered via distance education.
4. **Requested Scope of Recognition:** The accreditation of private, postsecondary institutions in the United States offering predominantly allied health education programs and the programmatic accreditation of medical assistant, medical laboratory technician and surgical technology programs, leading to a certificate, diploma, Associate of Applied Science, Associate of Occupational Science, Academic Associate degree, or Baccalaureate degree, including those offered via distance education.
5. **Date of Advisory Committee Meeting:** June, 2011
6. **Staff Recommendation:** Grant the agency's request for an expansion of its scope of recognition to include its accreditation of Baccalaureate degrees. Continue the agency's current recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified below.

7. **Issues or Problems:**

- The agency must demonstrate that it meets the separate and independent requirements [§602.14(a)].
- The agency must demonstrate that its public members meet the definition of a public representative as defined by the Secretary's Criteria for Recognition [§602.14(b)].
- The agency must demonstrate that its commissioners and evaluators are trained on their responsibilities regarding distance education and baccalaureate degree programs [§602.15(a)(2)].
- The agency must demonstrate that it has representatives of the public, as defined by the Secretary's Criteria for Recognition, on all decision-making bodies, and that it has an effective mechanism in place to ensure compliance [§602.15(a)(5)].
- The agency must demonstrate that its review and evaluation of institutions and programs is inclusive of students in and programs offered via distance education [§602.16(b) & (c)].
- The agency must demonstrate that it provides an institution or program with a detailed written report that assesses the institution's or program's compliance with the agency's standards and its performance with respect to student achievement [§602.17(f)].
- The agency must amend and clarify its policies and procedures to reflect that the executive committee of the commission has the authority of the commission to make interim decisions concerning substantive changes; demonstrate that the executive committee meets the decision-making body composition requirements of the Secretary's Criteria for Recognition, if applicable; and demonstrate the commission makes the final decisions concerning substantive changes as required by this section. The agency must provide documentation to demonstrate implementation of this policy [§602.22(a)(1)].
- The agency must provide evidence of policy implementation [§602.22(a)(3)].
- The agency must amend its substantive change policy to clearly specify that the effective date for substantive changes will not be retroactive [§602.22(b)].
- The agency must provide evidence of a comprehensive review and approval process for teach-out plans, which includes assessment criteria established by the agency for the equitable treatment of students

[\$602.24(c)(2)].

- The agency must provide evidence of a review and approval process for teach-out agreements [\$602.24(c)(5)].
- The agency must demonstrate that its definition of a public member meets the definition of a public representative as defined by the Secretary's Criteria for Recognition, and that it has an effective mechanism in place to ensure compliance [\$602.25(f)].

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Accrediting Bureau of Health Education Schools (ABHES or the agency) is a national institutional and programmatic accreditor. Its current scope of recognition is the accreditation of private, postsecondary institutions in the United States offering predominantly allied health education programs and the programmatic accreditation of medical assistant, medical laboratory technician and surgical technology programs, leading to a certificate, diploma, Associate of Applied Science, Associate of Occupational Science, or Academic Associate degree, including those offered via distance education. The agency is requesting a recognized scope that would include its accreditation of programs at the baccalaureate level.

ABHES accredits 211 institutions and 161 programs. The Secretary's recognition of the agency enables its accredited institutions to seek eligibility to participate in student financial assistance programs administered by the Department of Education under Title IV of the Higher Education Act of 1965, as amended. Consequently, the agency must meet the separate and independent requirements established in the regulations.

Recognition History

The Accrediting Bureau of Health Education Schools (ABHES or the agency) received initial recognition in 1969 for its accreditation of private and public medical laboratory technician programs. The agency's recognition has been periodically reviewed and continued recognition has been granted after each review. In 1974, the agency was granted an expansion of scope to include the accreditation of medical assistant programs in the private sector. In 1982, the agency was granted another expansion of scope for the accreditation of private, postsecondary institutions offering allied health education. In 1995, the agency was granted an expansion of scope to accredit institutions and programs leading to the Associate of Applied Science and the Associate of Occupational Science degrees. In 1998, the agency was granted an expansion of scope to accredit institutions offering predominantly allied health education programs. In 2007, the agency was granted an expansion of scope to accredit institutions and programs leading to the Academic Associate degree and programs offered via distance education.

The last full review of the agency was conducted at the December 2004 National

Advisory Committee on Institutional Quality and Integrity (NACIQI or the Committee) meeting, at which the Committee recommended and the Secretary concurred that the agency's recognition be renewed for five years and that it submit an interim report addressing the issues identified in the staff analysis. In addition, the Secretary granted the agency an expansion of scope to include the accreditation of surgical technology programs. The interim report was reviewed during the June 2006 meeting of the Committee. The Secretary accepted the interim report.

In conjunction with the current review of the agency's renewal petition and supporting documentation, Department staff conducted a file review at the agency on April 26, 2011.

PART II: SUMMARY OF FINDINGS

§602.14 Purpose and organization

(a) The Secretary recognizes only the following four categories of agencies:

The Secretary recognizes...

(1) An accrediting agency

(i) Has a voluntary membership of institutions of higher education;

(ii) Has as a principal purpose the accrediting of institutions of higher education and that accreditation is a required element in enabling those institutions to participate in HEA programs; and

(iii) Satisfies the "separate and independent" requirements in paragraph (b) of this section.

(2) An accrediting agency

(i) Has a voluntary membership; and

(ii) Has as its principal purpose the accrediting of higher education programs, or higher education programs and institutions of higher education, and that accreditation is a required element in enabling those entities to participate in non-HEA Federal programs.

(3) An accrediting agency for purposes of determining eligibility for Title IV, HEA programs--

(i) Either has a voluntary membership of individuals participating in a profession or has as its principal purpose the accrediting of programs within institutions that are accredited by a nationally recognized accrediting agency; and

(ii) Either satisfies the "separate and independent" requirements in paragraph (b) of this section or obtains a waiver of those requirements under paragraphs (d) and (e) of this section.

(4) A State agency

(i) Has as a principal purpose the accrediting of institutions of higher education, higher education programs, or both; and

(ii) The Secretary listed as a nationally recognized accrediting agency on or before October 1, 1991 and has recognized continuously since that date.

The agency is recognized under 602.14(a)(1). The agency has, as a principal purpose, the accrediting of institutions of higher education and that accreditation is a required element in enabling those institutions to participate in HEA programs.

The agency's Accreditation Manual states that it is an independent non-profit agency unrelated to any trade or membership organization and that institutional and programmatic accreditation by ABHES is voluntary. However, the agency has not demonstrated that it meets the separate and independent requirements of this section.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it meets the separate and independent requirements below (Section 602.14 (b)).

Analyst Remarks to Response:

The agency has not demonstrated that it meets the separate and independent requirements (Section 602.14(b)) as required by this section.

(b) For purposes of this section, the term separate and independent means that--

- (1) The members of the agency's decision-making body--who decide the accreditation or preaccreditation status of institutions or programs, establish the agency's accreditation policies, or both--are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or membership organization;**
 - (2) At least one member of the agency's decision-making body is a representative of the public, and at least one-seventh of that body consists of representatives of the public;**
 - (3) The agency has established and implemented guidelines for each member of the decision-making body to avoid conflicts of interest in making decisions;**
 - (4) The agency's dues are paid separately from any dues paid to any related, associated, or affiliated trade association or membership organization; and**
 - (5) The agency develops and determines its own budget, with no review by or consultation with any other entity or organization.**
-

(1) ABHES' commissioner nomination, election and selection process is outlined in the agency's bylaws and precludes commissioners from being selected from outside entities. Commissioners are elected by the agency's membership or selected by the commissioners themselves (in two separate processes) from a slate prepared by a nominating committee.

(2) ABHES' bylaws define a public member and require two public members on the 11-member commission thus meeting the 1:7 ratio required by the criterion. The agency's Accreditation Manual also describes that at least one public member is required on the three-person appeals panel (another decision-making body). The agency's definition of a public member does not ensure that public members meet the definition of a public representative as defined by the Secretary's Criteria for Recognition as it does not include the requirement that public members are not members of any trade association or membership organization related to, affiliated with or associated with the agency. The agency provided signed attestations of current public members of the commission as documentation to demonstrate that its public members adhere to the agency's definition in Section 602.15(a)(5). However, as the attestation does not include the requirement related to membership in other organizations, it is not sufficient to conclude that the public members meet the requirements of the criterion

(3) The agency addresses conflicts of interest within its Accreditation Manual and provides examples of common conflicts of interest. The agency's documentation of commission meeting minutes reflects that the agency effectively uses recusals to guard against conflicts of interest. The agency has also developed a document titled "Disclosure and Recusal Concerning Actions Involving Potential Conflicts of Interest" that the agency requires each commissioner sign as verification of his/her understanding and commitment to the conflict of interest policy; however, the agency provided no evidence of its effective application of this mechanism for its commission and appeals panel members.

(4) Dues are paid directly to ABHES. No other association or organization is involved.

(5) The agency develops its own budget independent of any other party. The budget is presented by the agency's Executive Committee and reviewed by the full commission annually. ABHES provided minutes from a commission meeting that verifies the preparation and approval of the agency's budget.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that its public members meet the definition of a public representative as defined by the Secretary's Criteria. It must also provide evidence of its effective application of its "Disclosure and Recusal Concerning Actions Involving Potential Conflicts of Interest" document for commissioners and appeal panel members.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided signed "Disclosure and Recusal Concerning Actions Involving Potential Conflicts of Interest" forms for both commissioners and appeals panel members as documentation to demonstrate the effective application of its efforts to address conflicts of interest on its decision-making bodies.

The agency also provided its notice to its membership and other interested parties of its revised bylaws and public member definition. Although the agency revised its definition to now include the requirement that public members are not members of any trade association or membership organization related to, affiliated with, or associated with the agency, the agency's revised definition still does not completely address the definition requirements. The agency's definition does not also exclude the spouse, parent, child, or sibling of a public member from being a member of one of those associations or organizations, as required by the Secretary's definition.

The agency provided new signed attestations for the current public members of the commission and appeals panel as documentation to demonstrate that its public members adhere to the revised definition. However, as outlined in the preceding paragraph, the attestation does not meet the requirements of the Secretary's definition; it is not sufficient to conclude that the public members meet the requirements of the criterion.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that its public members meet the definition of a public representative as defined by the Secretary's Criteria for Recognition.

§602.15 Administrative and fiscal responsibilities

The agency must have the administrative and fiscal capability to carry out its accreditation activities in light of its requested scope of recognition.

The agency meets this requirement if the agency demonstrates that--

(a) The agency has--

(2) Competent and knowledgeable individuals, qualified by education and experience in their own right and trained by the agency on their responsibilities, as appropriate for their roles, regarding the agency's standards, policies, and procedures, to conduct its on-site evaluations, apply or establish its policies, and make its accrediting and preaccrediting decisions, including, if applicable to the agency's scope, their responsibilities regarding distance education and correspondence education;

Commissioners: The commission is both the policy- and decision-making body of the agency. The agency's bylaws specifically define the qualifications of each seat on the commission, thus ensuring that it includes academicians, administrators, educators, practitioners, and public members. The agency provided the resumes of each commissioner to demonstrate that each commissioner met the qualifications of his/her seat. The qualifications of the agency's commission reflects the current scope of the agency's recognition. However, the agency has not described how its commission includes expertise in the requested expansion of scope to include baccalaureate degrees.

The agency demonstrated that it provides training to commissioners regarding their role and responsibilities, as well as the standards, policies, and procedures of the agency. This training is accomplished through review of an orientation manual, in-person training sessions, attendance at accreditation workshops, and observation of on-site evaluations. However, the agency has not demonstrated that its commissioners are specifically trained on their responsibilities regarding programs offered via distance education and the expansion of scope to include baccalaureate degree programs.

Appeals panel members: The agency's Accreditation Manual (Exhibit E-1) includes specific information on the appeals process; however the agency did not provide any information or documentation concerning the qualifications, selection, and training of appeals panel members.

Evaluators: The agency has a list of minimum qualifications for evaluators, including reviewers for baccalaureate degree programs, and requests information about those qualifications on the evaluation application form, to include the specific areas of expertise within the allied health field. The qualification requirements include education and/or experience as an administrator, educator, or practitioner. The qualifications of the agency's evaluators reflect the current scope of the agency's recognition, except distance education. Although the agency provided a sample team composition to include a distance education review and evaluator, the agency has not described how it ensures distance education expertise on all reviews of institutions or programs offering distance education.

The agency demonstrated that it provides comprehensive training to evaluators regarding their role and responsibilities, as well as the standards, policies, and procedures of the agency. This training is accomplished through review of a training manual, mentoring, and attendance at evaluator training workshops. Training manual review is confirmed via an assessment tool, the results of which are reviewed by staff to ensure competency. However, the agency has not demonstrated that its evaluators are specifically trained on their responsibilities regarding programs offered via distance education and the expansion of scope to include baccalaureate degree programs.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that its commissioners and evaluators are qualified and

trained on their responsibilities regarding distance education and baccalaureate degree programs. It also must demonstrate that appeals panel members are qualified and trained, as required by this section.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency demonstrated via resumes and training materials that its appeals panel members are qualified and trained on their responsibilities, and addressed the potential need for qualified and trained appeals panel members regarding baccalaureate degree programs.

The agency has also demonstrated that its commission and evaluator pool includes a cohort of individuals with varying levels of knowledge and experience in distance education and baccalaureate degree programs. As evidence of distance education expertise on its on-site evaluation teams, as applicable, the agency has provided a listing of evaluators with distance education in their education and/or experience sufficient to ensure that all site teams requiring an evaluation of distance education will include such a member on the team. In Section 602.12(b), the agency described the deliberate assignment of distance education and baccalaureate degree programs to commissioners and evaluators with that experience.

However, the criterion specifically requires that the agency demonstrate that its evaluators and members of the decision-making body are trained by the agency on their responsibilities regarding agency standards, policy, and procedures and in this case, training on the agency's expectations for complying with its standards and requirements regarding distance education and baccalaureate degree programs.

The agency acknowledges this requirement and has provided distance education and baccalaureate degree training materials for evaluators, but the materials were limited to a distance education training agenda and training slides that did not specifically include distance education or baccalaureate degree programs. For the training of commissioners, the agency has scheduled but has not yet conducted training sessions on distance education and baccalaureate degree programs.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that its commissioners and evaluators are trained on their responsibilities regarding distance education and baccalaureate degree programs.

(5) Representatives of the public on all decision-making bodies; and

The agency's bylaws and Accreditation Manual both state that the commission and appeals panel include public representation. Although the agency provided signed attestations by the current public members of the commission that they meet the agency's definition of a public member, the agency's definition does not ensure that public members meet the definition of a public representative as defined by the Secretary's Criteria for Recognition.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that its definition of a public member meets the definition of a public representative as defined by the Secretary's Criteria for Recognition and that it has an effective mechanism in place to ensure compliance for those members of the commission and appeals panel.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided its notice to its membership and other interested parties of its revised bylaws and public member definition. Although the definition now includes the requirement that public members are not members of any trade association or membership organization related to, affiliated with, or associated with the agency, it does not also exclude membership by a spouse, parent, child, or sibling in one of those associations or organization, as required by the Secretary's definition.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it has representatives of the public, as defined by the Secretary's Criteria for Recognition, on all decision-making bodies, and that it has an effective mechanism in place to ensure compliance.

§602.16 Accreditation and preaccreditation standards

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if -

- **(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:**

(b) If the agency only accredits programs and does not serve as an institutional accrediting agency for any of those programs, its accreditation standards must address the areas in paragraph (a)(1) of this section in terms of the type and level of the program rather than in terms of the institution.

(c) If the agency has or seeks to include within its scope of recognition the evaluation of the quality of institutions or programs offering distance education or correspondence education, the agency's standards must effectively address the quality of an institution's distance education or

correspondence education in the areas identified in paragraph (a)(1) of this section. The agency is not required to have separate standards, procedures, or policies for the evaluation of distance education or correspondence education;

Distance education is included within the scope of recognition for the agency, and the agency applies all standards equally to programs offered residually and via distance education. In addition, the agency has specific standards and requirements for programs offered via distance education, as included in Appendix H of the agency's Accreditation Manual. The standards are sufficiently specific in identifying the agency's expectations.

In regards to student support services, the agency's standards require an institution or program to provide student services specific to distance education activities to assist students in completing requirements, and to assess the educational effectiveness of its distance education programs within the Program Effectiveness Plan, to include a comparison between online and on-campus, if applicable. However, the example provided in Section 602.16(a)(1)(vi) did not include information concerning student services specific to distance education or that assessment. The agency has not demonstrated that its student support services standards are applied to programs offered via distance education.

After an initial review for capacity, the agency assesses distance education programs in conjunction with its accreditation review of institutions and programs. Even though the examples provided (in Sections 602.16(a)(1)(i) and 602.17(c)) verify the agency's review and evaluation of programs via distance education in relation to the standards, the agency uses a checklist which is not a tool that is sufficient to provide a detailed assessment of compliance, particularly in the review of programs offered via distance education.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it effectively reviews and evaluates programs offered via distance education.

Analyst Remarks to Response:

In its response to the draft staff analysis, the agency provided additional information and documentation regarding its review and evaluation of programs offered via distance education - both its initial review of a substantive change application for distance education and for renewal of accreditation of an institution offering programs via distance education.

The Department staff continues to have concerns regarding the agency's inclusion of distance education during the renewal of accreditation process. Compliance with this criterion requires that the agency demonstrate that its standards effectively address the quality of an institution in each of its standards across programs offered on-site as well as via distance education.

The agency revised Appendix H of its Accreditation Manual, the Distance Education Verification Visit Report, as well as the administrative and program site visit report templates to require that each evaluator provide more detail regarding the assessment of an institution's or program's compliance with agency standards. However, as the agency provided only templates, it is not clear that these revised documents will be sufficient to demonstrate the on-site evaluator's assessment of each of its standards area and how it is inclusive of students and programs offered via distance education.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that its review and evaluation of institutions and programs is inclusive of students in and programs offered via distance education.

§602.17 Application of standards in reaching an accrediting decision.

The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if the agency demonstrates that it--

(f) Provides the institution or program with a detailed written report that assesses--

- (1) The institution's or program's compliance with the agency's standards, including areas needing improvement; and**
- (2) The institution's or program's performance with respect to student achievement;**

and

The agency utilizes both the on-site evaluation team report and the final decision letter to clearly communicate areas of non-compliance, as documented in the examples included in Section 602.17(a). What is not clear is that the agency provides a detailed assessment of areas of compliance. Specifically, the agency uses a checklist which is not a tool that is sufficient to provide a detailed assessment of compliance, particularly in the review of programs at the baccalaureate degree level or offered via distance education, nor in the areas of institutional effectiveness or student achievement.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it provides an institution or program with a detailed written report that assesses the institution's or program's compliance with the agency's standards and performance with respect to student achievement.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency revised the on-site evaluation team reports to require written documentation of the information used to clearly and comprehensively assess the extent of an institution's or program's compliance with agency standards. However, the agency has not yet implemented the new reports and therefore cannot provide documentation of a detailed assessment of an institution's or program's compliance with standards, including performance with respect to student achievement.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it provides an institution or program with a detailed written report that assesses the institution's or program's compliance with the agency's standards and its performance with respect to student achievement.

§602.22 Substantive change.

(a) If the agency accredits institutions, it must maintain adequate substantive change policies that ensure that any substantive change to the educational mission, program, or programs of an institution after the agency has accredited or preaccredited the institution does not adversely affect the capacity of the institution to continue to meet the agency's standards. The agency meets this requirement if--

(1) The agency requires the institution to obtain the agency's approval of the substantive change before the agency includes the change in the scope of accreditation or preaccreditation it previously granted to the institution; and

The agency's written policies require an institution or program to obtain the agency's prior approval of a substantive change and that approval will not be granted to any substantive change that adversely affects the capacity of the institution or program to continue to meet the agency's standards, as required by this section.

The agency's procedures are comprehensive and detailed as to the agency's expectation for submitting substantive change applications. However, they are not clear in identifying that it is the recognized decision-making body that is granting approval of the substantive change.

Also, the documentation does not clearly reflect that it is the recognized decision-making body that is granting approval of the substantive change. Although the agency provided several examples of completed substantive changes, those examples did not include documentation of the approval of the substantive change by the commission, but rather suggests that agency staff is granting approval. Because substantive changes are, in effect, accreditation decisions, the Department requires that all approvals of substantive changes listed in the criterion must be approved by the recognized decision-making body,

not agency staff.

Staff determination: The agency does not meet the requirements of this section. It must amend and clarify its substantive change policies and procedures to reflect that decisions made by the recognized decision-making body are required before the change is included in the institution's or program's grant of accreditation, and demonstrate effective application of its review and approval procedures.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency clarified its substantive change policies to reflect its practice that the executive committee of the agency grants the approval of all substantive changes that occur within a grant of accreditation. Department staff conducted a file review at the agency's offices in April 2011 and observed documentation of this practice.

Although the agency's bylaws (Section 6.2.1) state that the executive committee has the authority of the commission by majority vote during the intervals between commission meetings, that authority is limited and specifically excludes accrediting decisions. Since substantive changes are, in effect, accreditation decisions, it is not clear that the commission has provided its executive committee with the authority to act on its behalf in decisions of interim/provisional approval of substantive changes; that the commission provides final approval of all substantive changes; or that the agency ensures that the executive committee meets the decision-making body composition requirements of the Secretary's Criteria for Recognition (Section 602.15(a)(5)). The agency also did not provide any documentation to demonstrate implementation of this policy.

Staff determination: The agency does not meet the requirements of this section. It must amend and clarify its policies and procedures to reflect that the executive committee of the commission has the authority of the commission to make interim decisions concerning substantive changes; demonstrate that the executive committee meets the decision-making body composition requirements of the Secretary's Criteria for Recognition, if applicable; and demonstrate the commission makes the final decisions concerning substantive changes as required by this section. The agency must provide documentation to demonstrate implementation of this policy.

(3) The agency's substantive change policy must define when the changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution.

The agency has a written policy concerning any substantive change(s) that would require a comprehensive evaluation of an institution or program. Specifically, the agency states, "ABHES will evaluate each substantive change, both singly and in the context of other substantive changes already approved or proposed since the institution's or program's grant of accreditation to determine whether substantive changes are sufficiently extensive to require a new comprehensive evaluation of the institution or program. In making this determination, ABHES requires a new comprehensive evaluation when believes that any change or changes, taken separately or in the context of other changes raises a reasonable question whether the institution or program will maintain compliance with all accreditation criteria."

However, it is not clear that the agency, in these circumstances, is intending to conduct a full review for a new grant of accreditation (including a self study, site visit, and new decision regarding accreditation) as is required by the interpretation of this criterion. The agency states that certain substantive changes would require a site visit within six months, but those site visits (and any materials submitted and reviewed) appear to be limited to the substantive change and are not comprehensive in nature in the sense that this criterion requires.

The agency has not clearly identified what conditions or circumstances would suggest that the institution may have morphed into a new institution and would require a new review and grant of accreditation.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it has defined when the changes made or proposed by an institution or program are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution or program, and provide evidence of policy implementation.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency revised its substantive change policies clearly define when changes made or proposed by an institution or program are or would be sufficiently extensive to require a new comprehensive evaluation. Specifically, the policy states that the commission will review any institution or program that undergoes three substantive changes within a 12-month period, and determine whether a comprehensive evaluation, to include new review and grant of accreditation, is warranted. Although the agency provided its tracking procedure for this new policy, it did not provide documentation to demonstrate enforcement of this policy.

Staff determination: The agency does not meet the requirements of this section. It must provide evidence of policy implementation.

(b) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, these procedures must specify an effective date, which is not retroactive, on which the change is included in the program's or institution's accreditation. An agency may designate the date of a change in ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change in ownership. Except as provided in paragraph (c) of this section, these procedures may, but need not, require a visit by the agency.

The agency has clear policies and procedures (Section 602.22(a)) that prohibit it from making retroactive approvals of substantive changes, except regarding changes in ownership or control. The example provided, for a substantive change other than change in ownership, demonstrates that the agency effectively adheres to its policies and procedures. What is not clear is that the agency uses the date of the approval letter as the effective date on which a substantive change is included in an existing grant of accreditation, as the approval letter does not include an explicit effective date.

In regards to a change in ownership, the agency provided an example where the agency utilized the transaction date as the effective date, but that date was beyond 30 days prior to the accreditation decision approval.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it only designates the date of a change in ownership as the effective date of its approval if the accreditation decision is made within 30 days of the change in ownership. The agency must also demonstrate that it clearly specifies an effective date for substantive change approvals.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided the amended policy for a change in ownership that specifically states that the approval date will be the date of the change in ownership if the approval is made by the commission within 30 days of that date, and documentation to demonstrate implementation of the policy. Department staff conducted a file review at the agency's offices in April 2011 and confirmed implementation of this policy.

In the draft staff analysis, the issue regarding the substantive change approvals was that the effective date was not specified. In response, the agency provided its revised substantive change policy which states that the effective date of an approval is the date of the letter, unless otherwise noted. However, as the agency revised its policy, it is now not clear that the effective date cannot be retroactive.

Staff determination: The agency does not meet the requirements of this section. It must amend its substantive change policy to clearly specify that the effective date for substantive changes will not be retroactive.

§602.24 Additional procedures certain institutional accreditors must have.

If the agency is an institutional accrediting agency and its accreditation or preaccreditation enables those institutions to obtain eligibility to participate in Title IV, HEA programs, the agency must demonstrate that it has established and uses all of the following procedures:

- (2) The agency must evaluate the teach-out plan to ensure it provides for the equitable treatment of students under criteria established by the agency, specifies additional charges, if any, and provides for notification to the students of any additional charges.**
-

The agency's teach-out plan policies require that ABHES review the plan to ensure the equitable treatment of students as required by this section. Although the agency provided an example to include a teach-out plan, the documentation does not include evidence that the agency reviewed the plan to ensure it provides for the equitable treatment of students, specifies additional charges, if any, and provides for notification to the students of any additional charges.

Staff determination: The agency does not meet the requirements of this section. It must provide documentation to demonstrate that the agency reviews a teach-out plan to ensure it provides for the equitable treatment of students, specifies additional charges, if any, and provides for notification to the students of any additional charges.

Analyst Remarks to Response:

In its response to the draft staff analysis, the agency stated that it has one staff member responsible for the evaluation of teach-out plans. And although the agency provided documentation of its review process, the form used to assess teach-out plans and the notification letter sent to an institution do not include any criteria established by the agency to assess the equitable treatment of students, but instead only include the regulatory language of this section of the Secretary's Criteria for Recognition. The current process does not demonstrate that the agency has developed a comprehensive tool to adequately assess teach-out plans.

Staff determination: The agency does not meet the requirements of this section. It must provide evidence of a comprehensive review and approval process for teach-out plans, which includes assessment criteria established by the agency for the equitable treatment of students.

(5) The agency must require an institution it accredits or preaccredits that enters into a teach-out agreement, either on its own or at the request of the agency, with another institution to submit that teach-out agreement to the agency for approval. The agency may approve the teach-out agreement only if the agreement is between institutions that are accredited or preaccredited by a nationally recognized accrediting agency, is consistent with applicable standards and regulations, and provides for the equitable treatment of students by ensuring that--

(i) The teach-out institution has the necessary experience, resources, and support services to--

(A) Provide an educational program that is of acceptable quality and reasonably similar in content, structure, and scheduling to that provided by the institution that is ceasing operations either entirely or at one of its locations; and

(B) Remain stable, carry out its mission, and meet all obligations to existing students; and

(ii) The teach-out institution demonstrates that it can provide students access to the program and services without requiring them to move or travel substantial distances and that it will provide students with information about additional charges, if any.

The agency's teach-out plan policies state that ABHES will review and approve a teach-out agreement that meets the requirements of this section. However, the teach-out plan policies do not require a teach-out agreement be submitted to the agency for approval.

Although the agency provided a teach-out plan example, the documentation does not include a teach-out agreement or evidence of agency review to demonstrate implementation of its review and approval policies regarding teach-out agreements.

Staff determination: The agency does not meet the requirements of this section. It must amend its teach-out plan policies to require a teach-out agreement be submitted for review and approval by the agency. In addition, the agency must provide documentation to demonstrate that the agency reviews and approves teach-out agreements in accordance with its policies, or indicate that it has not had occasion to apply it.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency amended its teach-out plan policies to clearly require the submission of any teach-out agreement executed by an institution for approval by the agency.

The agency stated that it has not reviewed a teach-out agreement, and therefore has not had occasion to apply the policy. However, the agency did not provide any documentation of a review and approval process for teach-out agreements, such as what review indicators it will apply to ascertain the viability of the teach-out agreement to provide students with an alternative educational offering.

Staff Determination: The agency does not meet the requirements of this section. It must provide evidence of a review and approval process for teach-out agreements.

§602.25 Due process

(f) Provides an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final.

(1) The appeal must take place at a hearing before an appeals panel that--

(i) May not include current members of the agency's decision-making body that took the initial adverse action;

(ii) Is subject to a conflict of interest policy;

(iii) Does not serve only an advisory or procedural role, and has and uses the authority to make the following decisions: to affirm, amend, or reverse adverse actions of the original decision-making body; and

(iv) Affirms, amends, reverses, or remands the adverse action. A decision to affirm, amend, or reverse the adverse action is implemented by the appeals panel or by the original decision-making body, at the agency's option. In a decision to remand the adverse action to the original decision-making body for further consideration, the appeals panel must identify specific issues that the original decision-making body must address. In a decision that is implemented by or remanded to the original decision-making body, that body must act in a manner consistent with the appeals panel's decisions or instructions.

(2) The agency must recognize the right of the institution or program to employ counsel to represent the institution or program during its appeal, including to make any presentation that the agency permits the institution or program to make on its own during the appeal.

The agency's policies regarding appeals contain all the elements required by this section, to include the composition, function, and authorized actions of the appeals body. The appeals process also allows for the institution or program to be represented by legal counsel.

The example provided verifies that the agency provides an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final. However, as the example provided was an ongoing appeal and the final outcome was not provided, the agency has not demonstrated that the appeals panel has and uses its authority to affirm, amend, reverse, or remand the adverse action.

In addition, as previously noted, the agency's definition of a public member does not ensure that public members meet the definition of a public representative as defined by the Secretary's Criteria for Recognition.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that the appeals panel has and uses its authority to affirm, amend, reverse, or remand the adverse action. The agency must also demonstrate that its definition of a public member meets the definition of a public representative as defined by the Secretary's Criteria for Recognition and that it has an effective mechanism in place to ensure compliance.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided documentation of the outcome of the appeal example previously submitted, which demonstrates that the appeals panel has and uses its authority to affirm, amend, reverse, or remand an adverse action, and that the commission acted in a manner consistent with the appeals panel's decision in implementing the decision.

The agency also provided documentation of its revised bylaws and public member definition (Sections 602.14(b) and 602.15(a)(5)), and evidence of a mechanism for ensuring that public members of the appeals panel comply with the definition. However, as the attestation does not meet the requirements of the Secretary's definition as noted above, it is not sufficient to conclude that the public member of the appeals panel meets the requirements of the criterion.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that its definition of a public member meets the definition of a public representative as defined by the Secretary's Criteria for Recognition, and that it has an effective mechanism in place to ensure compliance.

PART III: THIRD PARTY COMMENTS

The Department did not receive any written third-party comments regarding this agency.

U.S. Department of Education

**Staff Report
to the
Senior Department Official
on
Recognition Compliance Issues**

RECOMMENDATION PAGE

1. **Agency:** Accreditation Commission for Acupuncture and Oriental Medicine (1988/2006)

(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)

2. **Action Item:** Petition for Continued Recognition

3. **Current Scope of Recognition:** The accreditation and pre-accreditation ("Candidacy" status) throughout the United States of first-professional master's degree and professional master's level certificate and diploma programs in acupuncture and Oriental medicine, as well as freestanding institutions and colleges of acupuncture or Oriental medicine that offer such programs.

4. **Requested Scope of Recognition:** The accreditation and preaccreditation ("Candidacy" status) throughout the United States of first-professional master's degree and professional master's level certificate and diploma programs in acupuncture and Oriental medicine and professional post-graduate doctoral programs in acupuncture and in Oriental Medicine (DAOM), as well as freestanding institutions and colleges of acupuncture or Oriental medicine that offer such programs

5. **Date of Advisory Committee Meeting:** June, 2011

6. **Staff Recommendation:** Grant the agency's request for an expansion of its scope of recognition to include its accreditation and pre-accreditation of professional post-graduate doctoral programs in acupuncture and in Oriental Medicine (DAOM). Continue the agency's current recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified below.

7. **Issues or Problems:**

The agency must demonstrate that it has and applies criteria for the selection of site evaluators, and appeal panelists. It also must demonstrate that the agency conducts comprehensive and consistent training for site team members. [602.15(a)(2)]

- The agency must demonstrate that its site evaluator pool includes a sufficient number of appropriately qualified members in each required category and that it composes site teams with the appropriate designated members for each site team. [602.15(a)(3)]
- The agency must demonstrate that its site evaluator pool includes a sufficient number of appropriately qualified members in each required category and that it composes site teams with the appropriate designated members for each site team. [602.15(a)(4)]
- The agency needs to demonstrate the effectiveness of its records retention policy as adopted. [602.15(b)]
- The agency must provide information and documentation on how it collects and evaluates for compliance with its standards, the assessment criteria that are set by the school rather than by the agency. [602.16(a)(1)(i)]
- The agency needs to demonstrate effective application of its revised policy clarifying what documents are made available to the commissioners in their deliberations. [602.17(e)]
- The agency must demonstrate that it provides its institutions/programs with a detailed written report on the institution's/program's performance with respect to student achievement. [602.17(f)]
- The agency needs to provide evidence of comprehensive and consistent site evaluator training as an effective control against the inconsistent application of the agency's standards. [602.18(b)]
- The agency must provide additional information and documented evidence of how its annual reports are reviewed and what follow-up actions are triggered by the reports. [602.19(b)]
- The agency must provide evidence that it applies its headcount policy. [602.19(c)(d)]
- The agency must provide documentation that institutions are cited and corrective action is taken within the specified timelines. [602.20(a)]

- The agency must provide evidence of its effective application of its policies pertaining to adverse action, including documentation and application of its policy and practices pertaining to extensions for good cause.
[602.20(b)]
- The agency needs to demonstrate that it has conducted a systematic program of review of its standards in compliance with the requirements of this criterion. [602.21(a)(b)]
- The agency must provide additional information and documentation to demonstrate that feedback from all of the agency's constituencies is solicited and considered prior to the adoption of revised standards.
[602.21(c)]
- The agency must provide evidence of its adoption of its policy and its review of requests for substantive changes involving the acquisition by one of its accredited members of any other institution, program, or location of another institution. [602.22(a)(2)(ix-x)]
- The agency must provide documentation of its implementation of its policy regarding the establishment of effective dates for the substantive changes its commission approves. [602.22(b)]
- The agency must supply additional information and documentation to demonstrate that any special committee formed to review complaints about the agency itself will be unbiased and have substantive input into the resolution of the complaint. [602.23(c)]
- The agency must provide evidence of its effective application of its policies pertaining to change in ownership or indicate it has not had opportunity to apply its policies. [602.24(b)]
- The agency must demonstrate that it has and has implemented evaluative criteria and a protocol by which it evaluates teach-out plans.
[602.24(c)(2)]
- The agency must demonstrate it has and applies a review protocol for evaluating and approving teach-out agreements. [602.24(c)(5)]
- The agency must amend its appeals policies to make clear the types of actions that appeals panel may take and require that the hearing panel identify specific issues for the commission to address if the panel remands the decision back to the commission. The agency's policies must also be amended to clarify that the panel is empowered to direct the remand action of the commission. The agency must provide evidence of its application of its policy as applicable. [602.25(f)]

- The agency must amend its policies to require that it provide for written notice of the results of the appeal and the basis for the decision in a timely fashion. [602.25(g)]
- The agency must provide evidence of its effective application of its policy to submit summary statements to the Department, State licensing or authorizing agencies, appropriate accrediting agencies, and the public of the reason for its adverse action. [602.26(d)]

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

ACAOM is a national programmatic and institutional accreditor. Its current scope of recognition is for the accreditation and pre-accreditation throughout the United States of first professional master's degree and professional master's level certificate and diploma programs in acupuncture and Oriental medicine, as well as freestanding institutions and colleges of acupuncture or Oriental medicine that offer such programs. The agency is requesting an expansion of its recognized scope to include its accreditation and pre-accreditation of professional post-graduate doctoral programs in acupuncture and in Oriental Medicine (DAOM). The agency currently accredits three doctoral programs and has four additional doctoral programs in pre-accreditation status. The agency accredits or pre-accredits programs and institutions in 21 states. Forty-seven of the agency's 61 accredited and candidate programs are in single-purpose, freestanding institutions of higher education. Only the accredited freestanding institutions of acupuncture and Oriental medicine may use the agency's accreditation to establish eligibility to participate in student financial aid and other related programs under the Higher Education Act.

Recognition History

The Secretary first recognized the agency in 1988 for its accreditation at the professional master's degree level in acupuncture. In 1992, the agency's recognition was expanded to include its accreditation of the first professional master's degree and professional master's level certificate and diploma programs in acupuncture and Oriental medicine. ACAOM's last full review occurred in December 2005. Following that meeting, in 2006, the Secretary granted the agency continued recognition for a period of five years, and an expansion of scope to include the agency's pre-accreditation ("Candidacy") status.

PART II: SUMMARY OF FINDINGS

§602.15 Administrative and fiscal responsibilities

The agency must have the administrative and fiscal capability to carry out its accreditation activities in light of its requested scope of recognition.

The agency meets this requirement if the agency demonstrates that--

(a) The agency has--

(2) Competent and knowledgeable individuals, qualified by education and experience in their own right and trained by the agency on their responsibilities, as appropriate for their roles, regarding the agency's standards, policies, and procedures, to conduct its on-site evaluations, apply or establish its policies, and make its accrediting and preaccrediting decisions, including, if applicable to the agency's scope, their responsibilities regarding distance education and correspondence education;

DECISION-MAKERS

The 11 members of the ACAOM commission establish the agency's standards, policies, and procedures, and make its accrediting and preaccrediting decisions. The agency's bylaws specify that there will be three institutional members, three public members, three practitioners, and two at-large members. Vitae were provided for nine current and two former commissioners. The agency's list of commissioners indicates that it currently has two vacancies.

All commissioners were appropriately qualified by education and experience. For instance, two practitioner members had doctorates in oriental medicine, and one was also an M.D. Institutional members included professors and presidents/deans of oriental medicine institutions/programs. An at-large member was a practitioner and former president of an oriental medicine organization. The two current public members include an administrative librarian at an education-related institute and a former professor who taught management at a technology institute. It should be noted that even with one public member vacancy, the agency still meets the required 7:1 commissioner:public member ratio. The two former commissioners whose terms recently ended included a private practitioner and a chief academic officer who had been specifically chosen for their expertise in guiding the agency during its expansion into the accreditation of doctoral programs.

An agenda from a recent new commissioner orientation/training session was provided and included numerous topics under the categories of: commissioner qualifications and responsibilities; commission committees and their functions; meetings, attendance, and fulfilling responsibilities; and commissioner conduct expectations. Those same topics are covered in a detailed commissioner's manual, which also includes sections on ED reporting requirements and

attachments containing information on the agency's by-laws, committee charters, code of conduct, legal responsibilities, and ED reporting policy.

Signed copies of the agency's commissioner code of conduct were provided for two of the current commissioners as examples of the application of its policy.

ON-SITE REVIEWERS

No specific information was provided on the agency's pool of on-site reviewers (numbers, selection criteria, qualifications, team role, etc.). A sign-in sheet was provided from a site visitor workshop that appeared to have had approximately 48 attendees, but no information was provided related to the agenda items that were covered during the training, and it is not clear how many of the attendees are in the current site visitor pool.

The agency does have a detailed site visitors manual that covers both its master's and doctoral programs. Topics included in the manual include information on: activities that occur prior to the visit; site visit arrangements; activities related to the visit; principal elements of the site visit process; activities that occur after the visit; guidelines for assessing compliance with the ACAOM standards; and numerous appendices.

The agency stated that it also employs contract staff to provide support in areas such as conducting the agency's eligibility and self-study workshops. This raises a concern as to whether such vendors would be adequately versed in the agency's accreditation requirements in order to provide this vital information to current and prospective schools.

APPEALS PANEL

The agency's policy manual states that the commission chair and the agency's executive director will choose three hearing panel (appeals panel) members when a notice to appeal is submitted to the agency. The policy manual also states that the hearing panel members will be subject to the agency's code of ethics. However, no information was provided regarding the qualifications of appeals panel members, nor how they will be trained.

Staff determination: The agency does not meet the requirements of this section. The agency must provide detailed information regarding its site visitor pool and the visitors' qualifications, team assignments, and site evaluator training. It must provide detailed information regarding its hearing panel pool and the panel members' qualifications and training. The agency must also provide information about the contract staff who provide information and other services to its member (and prospective) schools and programs.

Analyst Remarks to Response:

The agency provided additional information regarding its site visitor pool. The pool members' qualifications allow some flexibility in assignments, as they are eligible to serve under various assignment categories. The agency did not discuss its qualification/selection of competent and knowledgeable members for site teams. The agency site visitor form indicates that site team members are to self-designate their category. This is unsatisfactory unless the agency can document that it confirms the qualifications of each person in the site team pool against agency requirements.

The agency reports that site visitors are trained prior to participating in a site review, but the agency did not expound on the substance of the agency-conducted team training required of site evaluators before being selected to a site team. While the agency indicated that site team chairs conduct "training," the agency has not demonstrated the substance of that training nor how it ensures that this evaluator training is consistent and comprehensive across teams.

The agency addressed the relationship with its contractor, and reports that the training provided by the contractor is on the self study process, but did not address how it ensures that the training provided adheres to current agency expectations.

The agency has never had an appeal and does not maintain an appeals panel pool. Should the agency need an appeals panel, panelists would be chosen from a variety of cohorts including the agency's site visitor pool. Therefore, the above concerns also apply to the selection for sitting on an appeal panel. The agency provided a description of how the panelists would be trained in the event that their services were needed.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has and applies criteria for the selection of site evaluators, and appeal panelists. It also must demonstrate that the agency conducts comprehensive and consistent training for site team members.

(3) Academic and administrative personnel on its evaluation, policy, and decision-making bodies, if the agency accredits institutions;

DECISION-MAKING

The commission's by-laws specify that three commissioners must be institutional members. The agency provided evidence that the current commission includes: a commissioner who is a faculty member at a school of oriental medicine and a preceptor in oriental medicine at a state university; a commissioner who is a dean at a college of oriental medicine within a larger university of health sciences; and a commissioner who is the president of an acupuncture institute.

SITE VISITORS

The agency's policies specify that site visit teams shall include: educators; practitioners; management specialists; and educational specialists. While the agency provided a list of four site teams from 2009-2010 that includes designations of members for these required categories, no specific information was provided regarding members of the agency's site visitor pool to support these designations. More information is needed on the agency's on-site reviewers.

APPEALS PANEL

While the agency narrative indicates it has had no opportunity to convene an appeal panel, the agency does have policy and procedures for the selection of an appeals panel as necessary. However, the agency policy/procedures do not reflect any requirement that the appeals panel will include the required composition of academics and administrators. No specific information was provided regarding members of the agency's appeals panel pool. More information is needed on the agency's appeals panel members.

Staff determination: The agency does not meet the requirements of this section. The agency must provide detailed information on its site visitor pool, including information about the pool members who would serve as academic/administrative members of the agency's site review teams. The agency must also provide information regarding its appeals panel pool members and demonstrate how its policy/procedures for appeals panels would satisfy the requirement for including academic and administrative personnel on this decision-making body.

Analyst Remarks to Response:

The agency reports that its site visitor pool currently includes 15 academic and 23 administrative representatives to draw from in forming site visit teams. The agency has not addressed whether this is sufficient to address the site team projections of the agency review process.

The agency reports that it composes its site visit teams with one administrator, one academic, one educator, and one practitioner; while the agency provided a listing of 4 teams that included one member designated to each category, the agency provided no documentation to verify this composition. As noted previously, the site team members self-designate themselves with no evidence of agency criteria or documentation to support this designation or review by the agency to verify it.

As noted previously, the agency has never had an appeal and does not maintain an appeals panel pool. However, should an appeals panel be needed, the agency policies specify the representation on the appeal panel.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that its site evaluator pool includes a sufficient number of appropriately qualified members in each required category and that it

composes site teams with the appropriate designated members for each site team.

(4) Educators and practitioners on its evaluation, policy, and decision-making bodies, if the agency accredits programs or single-purpose institutions that prepare students for a specific profession;

As stated previously, the commission's by-laws specify that three commissioners must be institutional members. The agency provided evidence that the current commission includes one commissioner who is a faculty member at a school of oriental medicine and a preceptor in oriental medicine at a state university. The agency's bylaws also specify that three commissioners must be practitioners. The current commission includes two practitioners. A third practitioner's term has recently ended and the agency is in the process of electing a new commissioner to fill this position.

SITE VISITORS

The agency's policies specify that site team members shall include: educators; practitioners; management specialists; and educational specialists. While the agency provided a list of four site teams from 2009-2010 that includes designations of member for these required categories; no specific information was provided regarding members of the agency's site visitor pool to support these designations. More information is needed on the agency's on-site reviewers.

APPEALS PANEL

While the agency narrative indicates it has had no opportunity to convene an appeals panel, the agency does have policy and procedures for the selection of an appeals panel as necessary. However, the agency policy/procedures do not reflect any requirement that the appeals panel will include the required composition of educators and practitioners. No specific information was provided regarding members of the agency's appeals panel pool. More information is needed on the agency's appeals panel members.

Staff determination: The agency does not meet the requirements of this section. The agency must provide detailed information on its site visitor pool, including information about the pool members who would serve as educator/practitioner members of the agency's site review teams. The agency must also provide information regarding its appeals panel pool members and demonstrate how its policy/procedures for appeals panels would satisfy the requirement for including educators and practitioners on this decision-making body.

Analyst Remarks to Response:

The agency surveyed its site visitor pool and notes that it currently includes 20 educator and 20 practitioner representatives to draw from in forming site visit teams. The agency has not addressed whether this is sufficient to address the site team projections of the agency review process.

The agency reports that it composes its site visit teams with one administrator, one academic, one educator, and one practitioner; while the agency provided a listing of four teams that included one member designated to each category, the agency provided no documentation to verify this composition. As noted previously, the site team members self-designate themselves with no evidence of agency criteria or documentation to support this designation or review by the agency to verify it.

As noted previously, the agency has never had an appeal and does not maintain an appeals panel pool. However, should an appeals panel be needed, the agency policies specify the representation on the appeal panel.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that its site evaluator pool includes a sufficient number of appropriately qualified members in each required category and that it composes site teams with the appropriate designated members for each site team.

(b) The agency maintains complete and accurate records of--

(1) Its last full accreditation or preaccreditation reviews of each institution or program, including on-site evaluation team reports, the institution's or program's responses to on-site reports, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, and a copy of the institution's or program's most recent self-study; and

2) All decisions made throughout an institution's or program's affiliation with the agency regarding the accreditation and preaccreditation of any institution or program and substantive changes, including all correspondence that is significantly related to those decisions.

The agency states that the required records are maintained. However, the agency did not provide any documentation to support this statement, and no records retention policy was found in the agency's policies and procedures manual.

Staff determination: The agency does not meet the requirements of this section. The agency needs to submit its records retention policy and other supporting

documentation, as applicable, i.e. a file management system.

Analyst Remarks to Response:

The agency has adopted a records retention policy that meets the requirements of the ED regulations. It further clarified that the agency maintains all accreditation records, with recent documents housed at the agency's office and older documents archived off-site. However, it is not clear why the agency appended this policy to the commissioners' manual rather than including it under the agency's policy/procedures manual that guides its operations. An agency must demonstrate effective application of all of its policies and procedures to include internal operating procedures.

Staff determination: The agency does not meet the requirements of this section. The agency needs to demonstrate the effectiveness of its records retention policy as adopted.

§602.16 Accreditation and preaccreditation standards

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if -

- **(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:**

- (i) Success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates.**

MASTER'S

For master's programs, the agency sets student achievement standards in the area of licensure and certification examination pass rates. The agency's master's criterion 8.12 specifies that if a master's program's licensure exam pass rate falls below 60% or if its NCCAOM certification pass rate falls below 70%, the agency will review the program to determine if it remains in compliance with the accreditation criteria. The agency does not have separate preaccreditation criteria.

The agency's criterion 7.2 requires master's programs to establish a variety of methods of ongoing assessment of student achievement. Assessment processes must measure student performance in the professional competency areas in accordance with the agency's standards and program objectives.

The agency collects data regarding its specified assessment baselines via self-studies, on-site review reports, and in its annual report form. However, it is not clear how the agency collects information about, or evaluates, assessment measures that are set by the schools rather than by the agency.

DOCTORAL

For doctoral programs, the agency sets student achievement standards in the area of retention and graduation rates. The agency's doctoral criterion 6.9 specifies that if a doctoral program's retention rate falls below 65%, or if its graduation rate falls below 60%, the agency will review the program to determine if it remains in compliance with the accreditation criteria. The agency does not have separate preaccreditation criteria.

The agency's criterion 7.2 requires doctoral programs to establish a variety of methods of ongoing assessment of student achievement. Assessment processes must measure a specific set of advanced skills that have been specified by the agency, but no benchmarks are set in these areas.

The agency collects data regarding its specified assessment baselines via on-site review reports and in its annual report form. As at the master's level, it is unclear how the agency collects information on and evaluates whatever additional assessment criteria the school may have set for itself.

Staff determination: The agency does not meet the requirements of this section. It must provide information and documentation on how it collects and evaluates for compliance with its standards, the assessment criteria that are set by the school rather than by the agency.

Analyst Remarks to Response:

The agency is currently working with its institutions and programs regarding the requirements with respect to student achievement.

Staff determination: The agency does not meet the requirements of this section. The agency must provide information and documentation on how it collects and evaluates for compliance with its standards, the assessment criteria that are set by the school rather than by the agency.

§602.17 Application of standards in reaching an accrediting decision.

The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if the agency demonstrates that it--

(e) Conducts its own analysis of the self-study and supporting documentation furnished by the institution or program, the report of the on-site review, the institution's or program's response to the report, and any other appropriate information from other sources to determine whether the institution or program complies with the agency's standards; and

[NOTE: Staff and commissioners are jointly assigned on an ongoing basis to individual schools and are referred to as "review committees." All reports, including annual reports, special reports, site visit reports, etc., are reviewed by the review committee assigned to a particular institution.]

According to the agency's policy manual, after the institution has been given the opportunity to respond to the final site visit report, the commission considers the institution's accreditation status based upon the institution's "program record." A hearing to clarify the record may be conducted at the request of either the commission or the institution. Written third party comments may also be submitted to the commission for review and are then submitted to the institution, which may provide a written response.

According to the agency's commissioner's manual, the self-study (or eligibility report for pre-accreditation), the site team report, and the institution's response to the site team report constitute the "commission record" for purposes of making an accrediting decision. The previously mentioned review committees receive the entire program record prior to the commission meeting. Review committee members are expected to take the lead for their assigned institutions during the commission review process. The rest of the commission members receive the site visit report and the institution's response (but not the self-study) as part of their agenda materials to assist in their decision-making.

There appears to be inconsistency among the terminology/descriptions provided in the agency's narrative and its published documents. It is unclear to ED staff if there are any differences among the "accreditation record" discussed in the narrative, the "program record" mentioned on p. 27 of the agency's policy manual, and the "commission record" mentioned on p. 7 of the commissioner's manual. It is not clear if these terms all refer to the same set of records.

The narrative states that the entire commission reviews an extensive list of school documents at the decision meetings and that all of those documents are provided for the entire commission's use in the agenda materials. The commissioner's manual (p. 7) indicates that the review committees receive only the self-study, the site review report, and the institution's response to the report prior to the meeting, and that the full commission receives only the site review report and the institution's response to the report (and no self-study) in their agenda materials.

Therefore, it is not clear to staff if the agency's published documents are

consistent in listing the materials that will be reviewed during the decision-making process, nor which commissioners are reviewing which materials in reaching an accreditation decision.

Staff determination: the agency does not meet the requirements of this section. The agency needs to clarify the list of materials reviewed by the commission during the decision-making process, as well as which Commissioners review which materials prior to rendering a decision.

Analyst Remarks to Response:

The agency has clarified that the self-study, the site review report, the institution's/program's response to the site review report, and any third party comments and responses are considered to be the accreditation record. In section 602.18 the agency reports, "ACAOM policies and procedures now specify that the each Commissioner (recusals excepted) receives the entire accreditation record as defined. (Exhibit R-01-Policies and Procedures Handbook, 3.14). The policies and procedures call for the full commission review of the entire accreditation record for every institution/program (other than those commissioners recused for specific institutions/programs." The revised policy clarifies what documents are made available to the commissioners in their deliberations. As these are new revision, the agency needs to demonstrate its application.

Staff determination; The agency does not meet the requirements of this section. The agency needs to demonstrate effective application of its revised policy.

(f) Provides the institution or program with a detailed written report that assesses--

- (1) The institution's or program's compliance with the agency's standards, including areas needing improvement; and**
- (2) The institution's or program's performance with respect to student achievement;**

and

The agency asserts that its compliance with this criterion, to provide institutions and programs with a detailed report assessing their compliance with agency standards and particularly success with respect to student achievement, is found in the detailed written report of the Commission's decision. However, this report provides a detailed report only on areas of deficiency; it does not address areas of compliance. The agency does, however, provide a site visit team report to an institution or program, and this document does provide sufficient detail regarding areas of compliance as well as noncompliance.

There is no evidence however, that the agency provides a sufficiently clear and

detailed assessment of an institution's or program's performance with respect to student achievement. The agency has been cited for a lack of a clear standard in the student achievement standard (602.16a(1)(i)) regarding its standards for assessing the institutionally-set student achievement standards. While the agency appears to review the assessment process, there is no evidence that there is any assessment of the institutionally-established standards themselves and the outcomes, and whether they meet the agency's expectations. The site team report is descriptive in its reporting on student outcomes; there is no clear or detailed assessment of whether they meet the agency expectations regarding program performance with respect to student achievement.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it provides its institutions and programs with a detailed written report on the institution's or program's performance with respect to student achievement.

Analyst Remarks to Response:

As noted previously, the agency is still working with its institutions/programs to meet the requirements related to student achievement.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it provides its institutions/programs with a detailed written report on the institution's/program's performance with respect to student achievement.

§602.18 Ensuring consistency in decision-making

The agency must consistently apply and enforce standards that respect the stated mission of the institution, including religious mission, and that ensure that the education or training offered by an institution or program, including any offered through distance education or correspondence education, is of sufficient quality to achieve its stated objective for the duration of any accreditation or preaccreditation period granted by the agency. The agency meets this requirement if the agency--

- (b) Has effective controls against the inconsistent application of the agency's standards;**

The agency has established a number of processes and requirements to support its compliance with this criterion. As noted previously, the agency has numerous documents that detail its standards and the accreditation process. New programs/institutions are required to host a one-day orientation session with agency staff prior to applying for candidacy status. Commissioners receive special orientation to their responsibilities. Agency developed site visit forms are provided to elicit feedback regarding: visitor evaluation of the accreditation process; visitor evaluation of the team chair; team chair evaluation of team members; site visit evaluation by the program director; and site visit evaluation

by faculty, administrators, and students. Review teams of staff and commissioners review all materials submitted by a program/institution relevant to the ongoing review process. Institutions may appeal commission decisions through an appeals panel (this has not occurred to date).

However, other processes that play a critical role in ensuring consistent application of the agency standards have not been demonstrated as applied effectively -- training; full commission review of the entire record.

Staff determination: The agency does not meet the requirements of this section. The agency needs to provide additional information about training and the commission review process.

Analyst Remarks to Response:

The agency provided documentation of commission training activities. It has also clarified its policies to specify that each commissioner will receive the entire accreditation record for each institution/program that the commission will review at a given meeting. However, the training has not been satisfactorily addressed. While the agency documented commissioner training, site team training, a critical component of a consistently applied accreditation review process, has not been sufficiently addressed.

Staff determination: The agency does not meet the requirements of this section. The agency needs to provide evidence of comprehensive and consistent site evaluator training as an effective control against the inconsistent application of the agency's standards.

§602.19 Monitoring and reevaluation of accredited institutions and programs.

(b) The agency must demonstrate it has, and effectively applies, a set of monitoring and evaluation approaches that enables the agency to identify problems with an institution's or program's continued compliance with agency standards and that takes into account institutional or program strengths and stability. These approaches must include periodic reports, and collection and analysis of key data and indicators, identified by the agency, including, but not limited to, fiscal information and measures of student achievement, consistent with the provisions of §602.16(f). This provision does not require institutions or programs to provide annual reports on each specific accreditation criterion.

As stated previously, the agency conducts periodic accreditation reviews, which include self-study reports, on-site team reviews, on-site review reports, commission review, and subsequent action letters to monitor its institutions at regular intervals.

In order to monitor its institutions between accreditation reviews, the agency requires institutions/programs to submit annual reports in either March or September of each year, depending upon the date of the institution's/program's last full review. The annual report form requires submission of data on: program statistics; program length; student enrollment; graduation rates; graduate placement rates; student retention rates; Title IV HEA programs; program cost; faculty; clinical training; licensure and certification pass rates; governance; authorization to operate; administrative and academic staff; institutional policies; admissions requirements; graduation requirements; curriculum; evaluation; financial status; facilities and new equipment; contractual affiliations; accreditation status with other accrediting agencies; acceptance of credits by other institutions; other programs and courses offered at the institution; recent or proposed changes at the institution; ongoing self-study; activities related to any current corrective actions the commission might have imposed; branch campus information; and an audited financial statement. The annual reports are reviewed by the institution's assigned staff/commissioner review team.

Although the agency provided sample copies of its annual reports, it is unclear how the agency identifies areas of concern in the reports outside of the specified outcomes data, and what type of follow-up actions are taken in response to any concerns that have been identified.

Staff determination: The agency does not meet the requirements of this section. The agency must provide additional information and documented evidence of how its annual reports are reviewed and what follow-up actions are triggered by the reports.

Analyst Remarks to Response:

The agency has not addressed the concern identified in this section that it has not documented how its annual reports are reviewed and what follow-up actions are triggered by the reports.

Staff determination: The agency does not meet the requirements of this section. The agency must provide additional information and documented evidence of how its annual reports are reviewed and what follow-up actions are triggered by the reports.

(c) Each agency must monitor overall growth of the institutions or programs it accredits and, at least annually, collect headcount enrollment data from those institutions or programs.

As stated previously, the agency collects copious information on student enrollment through its annual report. Information is collected on: number of classes admitted each academic year; dates of admittance of new students in the last academic year; number of credits required for admission; total number enrolled in the program; number admitted with two years at the baccalaureate level; number admitted with a bachelor's degree; number of full-time students; number of part-time students; total student headcount; number of male students; number of female students; and the number of international students.

The agency collects data, by program, on enrollment through its annual report requirement. The agency's policy specifies that if the number of students enrolled (as reported in the annual report) increases by 25% or more (as compared to the previous year's annual report), the institution must submit an analysis of the increase's impact on the institution's and program's capacity to continue to meet ACAOM's standards.

The agency submitted copies of its policies and its annual report forms to demonstrate compliance with the requirements of this section, however, the agency provided no evidence that the agency applies its policy when an institution exceeds the growth or so states if it has not happened.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence that it applies its headcount policy.

Analyst Remarks to Response:

The agency is currently analyzing its annual reports in order to meet the requirements related to annual headcounts.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence that it applies its headcount policy.

(d) Institutional accrediting agencies must monitor the growth of programs at institutions experiencing significant enrollment growth, as reasonably defined by the agency.

All pre-accredited and accredited programs are required to report enrollment data on an annual basis.

Analyst Remarks to Response:

The agency collects data, by program, on enrollment through its annual report requirement. The agency's policy specifies that if the number of students enrolled (as reported in the annual report) increases by 25% or more (as compared to the previous year's annual report), the institution must submit an analysis of the increase's impact on the institution's and program's capacity to continue to meet ACAOM's standards.

The agency submitted copies of its policies and its annual report forms to demonstrate compliance with the requirement of this section, however, the agency provided no evidence that the agency applies its policy when an institution exceeds the growth or so states if it has not happened. The agency was directed to address this issue in its response to 602.19(c).

§602.20 Enforcement of standards

(a) If the agency's review of an institution or program under any standard indicates that the institution or program is not in compliance with that standard, the agency must--

(1) Immediately initiate adverse action against the institution or program; or

(2) Require the institution or program to take appropriate action to bring itself into compliance with the agency's standards within a time period that must not exceed--

(i) Twelve months, if the program, or the longest program offered by the institution, is less than one year in length;

(ii) Eighteen months, if the program, or the longest program offered by the institution, is at least one year, but less than two years, in length; or

(iii) Two years, if the program, or the longest program offered by the institution, is at least two years in length.

An agency is not required to take adverse action immediately on initially finding an institution out of compliance. It appears that this agency, by policy, always gives institutions the opportunity to come back into compliance. The agency's written policies allowing institutions and programs up to two years to correct deficiencies comply with the requirements of this section.

However, the enforcement timeframe clock has to start with the agency determination that the institution is not in compliance with a standard. It is not clear if that happens before placing an institution on probation. It is unclear if the policies would extend periods of corrective action beyond the allowable timeline.

The agency did not provide documentation of effective application of its enforcement policies showing that an institution was cited and other documentation to show areas of non-compliance were corrected within the

specified timeframes.

Staff determination: The agency does not meet the requirements of this section. The agency must provide documentation that institutions are cited and corrective action is taken within the specified timelines.

Analyst Remarks to Response:

The agency is currently in the process of implementing a system to track enforcement timelines.

Staff determination: The agency does not meet the requirements of this section. The agency must provide documentation that institutions are cited and corrective action is taken within the specified timelines.

(b) If the institution or program does not bring itself into compliance within the specified period, the agency must take immediate adverse action unless the agency, for good cause, extends the period for achieving compliance.

The agency has a written policy specifying the circumstances under which it will take an adverse action, however it has not provided evidence of its application of this policy.

Further, it is not clear that the agency has policy and procedures to grant extensions for good cause. The agency must demonstrate that it has a written policy regarding the agency's practices pertaining to extensions for good cause. If the agency does allow extensions for good cause, it needs to identify what factors it considers in making that determination and demonstrate that its use is applied in only exceptional circumstances.

The agency is cautioned in its use of "Deferral"; it needs to be clear that, in practice, it is not used in lieu of taking an adverse action.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its effective application of its policies pertaining to adverse action, including documentation and application of its policy and practices pertaining to extensions for good cause.

Analyst Remarks to Response:

The agency is currently in the process of implementing a system to track enforcement timelines.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its effective application of its policies

pertaining to adverse action, including documentation and application of its policy and practices pertaining to extensions for good cause.

§602.21 Review of standards.

(a) The agency must maintain a systematic program of review that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and relevant to the educational or training needs of students.

(b) The agency determines the specific procedures it follows in evaluating its standards, but the agency must ensure that its program of review--

(1) Is comprehensive;

(2) Occurs at regular, yet reasonable, intervals or on an ongoing basis;

(3) Examines each of the agency's standards and the standards as a whole; and

(4) Involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review.

The agency has written policy and procedures for administering its systematic program of review and revision of its standards every five years and for ongoing reviews that are to occur as proposals for standards revisions are forwarded to the committee or when outside entities provoke required revisions/additions to agency standards. Responsibility for the standards review is placed on a Standards and Criteria Committee which consists of up to seven commissioners and includes a balance of institutional, practitioner, and public commissioners.

The agency identifies its communities of interest as, but not limited to: stakeholders of institutions/programs in the accreditation process; relevant state and accrediting agencies; acupuncture and oriental medicine organizations; practitioners; and members of the public . While the agency has the necessary internal and external constituencies identified, their meaningful involvement in the standards review process is not evident.

The agency provided a transcript of a public hearing regarding proposed standards, but it is insufficient to demonstrate a quality review of the agency's standards, either as a whole or individually, as the appropriate measurements of educational quality for evaluating educational programs in the profession. Nor is it evidence of the involvement of all of the agency's relevant constituencies.

Staff determination: The agency does not meet the requirements of this section. The agency needs to demonstrate that it has conducted a systematic program of

review of its standards in compliance with the requirements of this criterion.

Analyst Remarks to Response:

The agency states that it is currently revising its Master's standards. It did not, however, provide any additional information or documentation regarding the agency's systematic review of standards to ascertain that they are the appropriate measurements for evaluating the quality of the educational program or institution.

Staff determination: The agency does not meet the requirements of this section. The agency needs to demonstrate that it has conducted a systematic program of review of its standards in compliance with the requirements of this criterion.

(c) If the agency determines, at any point during its systematic program of review, that it needs to make changes to its standards, the agency must initiate action within 12 months to make the changes and must complete that action within a reasonable period of time. Before finalizing any changes to its standards, the agency must--

- (1) Provide notice to all of the agency's relevant constituencies, and other parties who have made their interest known to the agency, of the changes the agency proposes to make;**
- (2) Give the constituencies and other interested parties adequate opportunity to comment on the proposed changes; and**
- (3) Take into account any comments on the proposed changes submitted timely by the relevant constituencies and by other interested parties.**

Both the agency's policy manual and its standards review committee charter specify that if the commission finds during the standards review process that changes to the standards are needed, action will be initiated within 12 months to make the changes and adds that action for revising standards must be completed within a reasonable time.

A transcript of a public hearing on revisions to the agency's standards, which was held in April 2009, was provided as documentation, in addition to the policy manual. However, no information was provided to demonstrate that the proposed revisions were disseminated to all of the agency's constituencies, that members of all constituencies were involved in the April 2009 public hearing or additional public hearings, or if comments were received by parties other than the few who spoke at the public hearing.

Staff determination: The agency does not meet the requirements of this section. The agency must provide additional information and documentation to demonstrate that feedback from all of the agency's constituencies is solicited

and considered prior to the adoption of revised standards.

Analyst Remarks to Response:

The agency states that it is currently revising its Master's standards but did not provide any additional documentation for this section.

Staff determination: The agency does not meet the requirements of this section. The agency must provide additional information and documentation to demonstrate that feedback from all of the agency's constituencies is solicited and considered prior to the adoption of revised standards.

§602.22 Substantive change.

(ix) The acquisition of any other institution or any program or location of another institution.

(x) The addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution that has ceased operating before all students have completed their program of study.

The agency has not addressed the requirements of these criteria.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its adoption of its policy and its review of requests for these types of substantive changes.

Analyst Remarks to Response:

The agency provided documentation that it has modified its substantive change policy to reflect the new requirement of the ED regulation addressing the addition of a permanent location at a site at which the institution is conducting a teachout of another institution that has ceased operating. However, the agency has not addressed the requirement that it review and approve as a substantive change, the acquisition by one of its accredited members of any other institution, program, or location of another institution.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its adoption of its policy and its review of requests for substantive changes involving the acquisition by one of its accredited members of any other institution, program, or location of another institution.

(b) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, these procedures must specify an effective date, which is not retroactive, on which the change is included in the program's or institution's accreditation. An agency may designate the date of a change in ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change in ownership. Except as provided in paragraph (c) of this section, these procedures may, but need not, require a visit by the agency.

The agency's narrative addresses the notification requirements that specify the amount of advance notice the commission requires for various types of substantive changes. However, this does not address the requirement of this criterion which is that the agency has in place policies and procedures that specify the date on which all/any approved substantive change is included in the institution's grant of accreditation. This date cannot be retroactive to any time prior to the agency's approval of the substantive change with the exception of specific terms under a change of ownership. The agency has not indicated nor demonstrated that it has appropriate policies and procedures in place that address the establishment of an effective date that is not retroactive once the commission has approved a requested substantive change. More information is needed on this section.

Staff determination: The agency does not meet the requirements of this section. The agency must provide additional information and documentation of its compliance regarding the establishment of effective dates for the substantive changes its commission approves.

Analyst Remarks to Response:

The agency provided documentation that it has modified its substantive change policy to reflect the new requirements of the ED regulations. Per the agency's revised handbook, "Substantive changes may not be initiated by the program prior to receiving approval from a review committee or the full Commission, where said approval shall specify an effective date of the change, which shall not be retroactive." However, the agency has not demonstrated its implementation of the policy.

The agency letter documenting its approval of the (substantive) change in location that is provided with the petition indicates only that the agency, "approves the substantive change application to change the location of the XXXX, pending receipt of the balance of the fee due." This is not sufficient to meet the requirement that the agency specify an effective date. The agency must demonstrate its application, of its revised policies re-establishing that the agency will specify an effective date of the change which shall not be retroactive.

Staff determination: The agency does not meet the requirements of this section. The agency must provide documentation of its implementation of its policy

regarding the establishment of effective dates for the substantive changes its commission approves

§602.23 Operating procedures all agencies must have.

(c) The accrediting agency must--

(1) Review in a timely, fair, and equitable manner any complaint it receives against an accredited institution or program that is related to the agency's standards or procedures. The agency may not complete its review and make a decision regarding a complaint unless, in accordance with published procedures, it ensures that the institution or program has sufficient opportunity to provide a response to the complaint;

(2) Take follow-up action, as necessary, including enforcement action, if necessary, based on the results of its review; and

(3) Review in a timely, fair, and equitable manner, and apply unbiased judgment to, any complaints against itself and take follow-up action, as appropriate, based on the results of its review.

INSTITUTIONS

The agency's complaint procedures are detailed in its policy manual under section 3.9. The policy specifies that the commission will accept and review complaints from students, faculty, staff, other institutions or programs, and members of the public. The policies require that complaints allege violations of the agency's eligibility requirements, standards, policies, or procedures.

Complaints must be submitted on the agency's complaint form. The form is available on the agency's web page. The agency will acknowledge receipt of the complaint within 15 days. The agency will review the complaint to verify that it meets the acceptance requirements. If the complaint is found to be relevant, the agency will notify the institution's CEO within 30 days and require a written response within an additional 30 days.

Following a response from the institution, the agency may seek an informal resolution of the complaint, and the complaint will be closed, documented in the institution's file, and notices sent to affected parties.

If an informal resolution is not possible, the complaint is forwarded to the institution's staff/commissioner review committee. The committee may: seek additional information; dismiss the complaint as not constituting a violation of the agency's policies, et.al; require corrective action, including an earlier comprehensive review, additional reports, focused visit, or response to a show

cause letter; or place the complaint on the meeting agenda for full commission action.

The agency will notify the CEO and the complainant within 30 days of a decision regarding the complaint. Complaints are normally addressed within 120 days of the date when the CEO was originally notified of the complaint.

The agency's complaint policy is clearly stated, sufficiently specific, with timelines that provide timely review and resolution of complaint allegations including time for institution to respond to the complaint. Though the agency provided as documentation a complaint that it received and the action it took to address the complainant's allegations, it provided no evidence of the response it received or the final resolution of the complaint.

AGENCY

The agency's complaint policy under 3.12 addressed complaints against the agency itself. Written complaints against the agency are forwarded within 10 days of receipt to the commission chair and the agency's executive director. The chair will review the complaint and gather additional information as necessary from the complainant, agency staff, or commissioners. The chair will appoint a special committee to study the complaint and summarize its findings for action by the commission at its next regularly scheduled meeting. The complainant will be notified in writing within 30 days of the commission meeting of any action taken.

The policy does not specify who will be the members of the special committee, how many members there will be, or what decision or enforcement powers they will have. The agency needs to provide additional information regarding its procedures, its effectiveness in ensuring unbiased judgment and evidence of the application of its procedures.

Staff determination: The agency does not meet the requirements of this section. The agency must supply additional information and documentation to demonstrate that any special committee formed to review complaints about the agency itself will be unbiased and have substantive input into the resolution of the complaint.

Analyst Remarks to Response:

The agency has not yet had an opportunity to take the steps necessary to respond to this finding.

Staff determination: The agency does not meet the requirements of this section. The agency must supply additional information and documentation to demonstrate that any special committee formed to review complaints about the agency itself will be unbiased and have substantive input into the resolution of the complaint.

§602.24 Additional procedures certain institutional accreditors must have.

If the agency is an institutional accrediting agency and its accreditation or preaccreditation enables those institutions to obtain eligibility to participate in Title IV, HEA programs, the agency must demonstrate that it has established and uses all of the following procedures:

(b) Change of ownership.

The agency must undertake a site visit to an institution that has undergone a change of ownership that resulted in a change of control as soon as practicable, but no later than six months after the change of ownership.

The agency's policies on substantive change are detailed in its policy manual under section 2.14.2.7. The policy defines various types of change in ownership, control, or legal status at an institution. All of these changes require a 90 day notice to the commission. The commission "may" require the institution to undergo a total re-evaluation, placing the institution into a new accreditation cycle. "If" a re-evaluation is required, the institution must prepare a new self-study and host a site visit within six months of the change.

Staff notes that the agency's policies state that a re-evaluation "may" be required by the commission and that a site visit must be hosted "if required by the commission." The agency's policies must be revised to make clear that all institutions undergoing a change of control will be visited within six months of the change.

Staff determination: The agency does not meet the requirements of this section. The agency must revise its policies to clarify that any institution that undergoes a change in control will be visited within six months of such a change and provide evidence of its effective application of its policies.

Analyst Remarks to Response:

The agency has revised its policies to clarify that any institution that undergoes a change in control will be visited within six months of such a change. However, the agency did not provide evidence of its conduct of a site visit for a change in ownership.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its effective application of its policies pertaining to change in ownership or indicate it has not had opportunity to apply its policies.

(2) The agency must evaluate the teach-out plan to ensure it provides for the equitable treatment of students under criteria established by the agency, specifies additional charges, if any, and provides for notification to the students of any additional charges.

As in the previous section, the agency's requirements are found under section 3.11 of its policy manual, and the wording of the agency's policy mirrors the language of the regulation. It is not clear, however, that the agency has criteria by which it will conduct that review and determine that the teach-out plan provides for the equitable treatment of students and on what basis it determines, for example, that the teach out plans for notifications are clear, timely and fair, and whether additional charges, if any, are made known and are appropriate and reasonable.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has evaluative criteria and a process by which it evaluates teach-out plans.

Analyst Remarks to Response:

The agency reports that it is still in the process of developing the criteria by which it will evaluate teach-out plans.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has and has implemented evaluative criteria and a protocol by which it evaluates teach-out plans.

(5) The agency must require an institution it accredits or preaccredits that enters into a teach-out agreement, either on its own or at the request of the agency, with another institution to submit that teach-out agreement to the agency for approval. The agency may approve the teach-out agreement only if the agreement is between institutions that are accredited or preaccredited by a nationally recognized accrediting agency, is consistent with applicable standards and regulations, and provides for the equitable treatment of students by ensuring that--

(i) The teach-out institution has the necessary experience, resources, and support services to--

(A) Provide an educational program that is of acceptable quality and reasonably similar in content, structure, and scheduling to that provided by the institution that is ceasing operations either entirely or at one of its locations; and

(B) Remain stable, carry out its mission, and meet all obligations to existing students; and

(ii) The teach-out institution demonstrates that it can provide students access to the program and services without requiring them to move or travel substantial distances and that it will provide students with information about additional charges, if any.

The agency's teach-out policies appear under section 3.11.1 of its policy manual. The language of the agency's policies essentially mirror the requirements under 602.24(c)(5)(i) and (ii). The agency specifically limits its approval of any teach out agreements solely to agreements between ACAOM accredited or pre-accredited (candidate) institutions. However, the agency has not identified any criteria by which it will evaluate the teachout agreement nor do the teach out agreement, application, and sample agreement request, provide sufficient information for the agency to demonstrate that it evaluates and ensures that the teach-out institution will fulfill the requirements under this section of the criteria. More specifically, it is not evident from agency polices and the teach-out agreement guidelines that the agency's mechanisms ensure that all students are treated equitably. The sample provided did not address the requirements of the criterion.

Staff determination: The agency does not meet the requirements of this section. The agency must identify the criteria by which it will evaluate teach-out agreements.

Analyst Remarks to Response:

The agency reports that it is is still in the process of developing the criteria necessary to evaluate teach-out agreements and has provided its progress on developing a teachout agreement template. The agency also provided a teachout agreement between two institutions (Exhibit 46); however, it is unclear what action the agency took on the teachout agreement.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate it has and applies a review protocol for evaluating and approving teach-out agreements.

§602.25 Due process

(f) Provides an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final.

(1) The appeal must take place at a hearing before an appeals panel that--

(i) May not include current members of the agency's decision-making body that took the initial adverse action;

(ii) Is subject to a conflict of interest policy;

(iii) Does not serve only an advisory or procedural role, and has and uses the authority to make the following decisions: to affirm, amend, or reverse adverse actions of the original decision-making body; and

(iv) Affirms, amends, reverses, or remands the adverse action. A decision to affirm, amend, or reverse the adverse action is implemented by the appeals panel or by the original decision-making body, at the agency's option. In a decision to remand the adverse action to the original decision-making body for further consideration, the appeals panel must identify specific issues that the original decision-making body must address. In a decision that is implemented by or remanded to the original decision-making body, that body must act in a manner consistent with the appeals panel's decisions or instructions.

(2) The agency must recognize the right of the institution or program to employ counsel to represent the institution or program during its appeal, including to make any presentation that the agency permits the institution or program to make on its own during the appeal.

The agency has a 2-step process for appealing an adverse action. An institution must first request a reconsideration from the Commission. If the adverse action is not resolved via reconsideration, the institution may appeal.

The agency's policy manual addresses reconsideration and appeals procedures under section 3.5 and conforms to some of the requirements of this section. For instance, an institution must file a written notice of intent to appeal a commission decision within 10 days of receipt of the notice of the commission's action. The policies related to the selection of the hearing panel specify that the members are subject to the agency's conflict of interest policy and may not have participated in any way in the process leading to the decision being appealed. The chair of the panel will control all aspects of the hearing. The panel may recommend to the commission that an adverse action be affirmed, reversed, or modified, and the decision is then remanded to the commission for a final decision. If the commission's resulting action is not consistent with the panel's recommendation, the remand is appealable to the same hearing panel again in order for the panel to determine whether its earlier directions were carried out, and if not, provide further direction to the commission. Both the agency and the appellant may have counsel present during the appeals process.

However, ED staff has concerns regarding the agency's compliance with section 602.25(f)(1)(iv). The agency's policies limit the panel's authority to one of a recommending body. The criterion requires that appeal bodies have decision making authority; specifically, it must have the authority to affirm, amend, or reverse an adverse decision, or to remand it back to the commission. There is

no requirement in the agency's policy that the hearing panel act as a decision making body, or that, when remanding the decision back to the commission that it identify specific issues for the commission to address. There is also no requirement that the commission act in a manner consistent with the hearing panel's decision. Instead, the policy states that if the commission takes an action that is inconsistent with the panel's recommendation, the appellant may again go before the hearing panel, which will give further direction to the commission. This would seem to present at least the possibility that the panel could make a recommendation to the commission, which could take action contrary to the panel's recommendation, which could be appealed and once again remanded to the commission, which could again deny the panel's recommendation. Even if the panel remands the commission has to act in a manner consistent with the appeals panel instructions and/or decision. The appeals panel must be empowered to direct the remand action of the commission.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its appeals policies to make clear the types of actions that appeals panel may take and require that the hearing panel identify specific issues for the commission to address if the panel remands the decision back to the commission decision differs from the commission's earlier decision. The agency's policies must also be amended to clarify that the panel is empowered to direct the remand action of the commission.

Analyst Remarks to Response:

The agency is in the process of revising its policies in order to meet this requirement.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its appeals policies to make clear the types of actions that appeals panel may take and require that the hearing panel identify specific issues for the commission to address if the panel remands the decision back to the commission. The agency's policies must also be amended to clarify that the panel is empowered to direct the remand action of the commission. The agency must provide evidence of its application of its policy as applicable.

(g) The agency notifies the institution or program in writing of the result of its appeal and the basis for that result.

The agency's policies do not address this requirement that the decision-making entity, either the commission or the appeal panel, is required, by policy, to provide the institution or program with the result of the appeal and the basis of the decision.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its policies to require that it provide for written notice of

the results of the appeal and the basis for the decision in a timely fashion.

Analyst Remarks to Response:

The agency has indicated it has never had an appeal. The agency is in the process of revising its policies in order to meet the procedural requirements of the criterion.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its policies to require that it provide for written notice of the results of the appeal and the basis for the decision in a timely fashion.

§602.26 Notification of accrediting decisions

The agency must demonstrate that it has established and follows written procedures requiring it to provide written notice of its accrediting decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public. The agency meets this requirement if the agency, following its written procedures--

(d) For any decision listed in paragraph (b)(2) of this section, makes available to the Secretary, the appropriate State licensing or authorizing agency, and the public, no later than 60 days after the decision, a brief statement summarizing the reasons for the agency's decision and the **official comments that the affected institution or program may wish to make with regard to that decision, or evidence that the affected institution has been offered the opportunity to provide official comment; and**

While the agency's policies under 3.1.3 essentially mirror the requirements of this section, the recently added requirement that the agency provide evidence that the affected institution has been offered the opportunity to provide official comment is not contained within the policy. Neither did the agency provide evidence of its application of its policy.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its policies to include the new requirement that the agency provide evidence that an institution has been given an opportunity to comment if no comment has been included, and evidence of its effective application of the policy to submit statements to the Department.

Analyst Remarks to Response:

The agency has amended its policies to include the new requirement that the agency provide evidence that an institution has been given an opportunity to comment if no comment has been included. The agency has indicated that it has not had a final decision to deny, withdraw, suspend, revoke, or terminate preaccreditation or accreditation of an institution or program since July 1, 2010.

Therefore the Department would not expect the agency to be able to demonstrate that it had given an institution/program an opportunity to comment. However, the agency has not provided evidence of its effective application of its policy to submit statements to the Department, State licensing or authorizing agencies, appropriate accrediting agencies, and the public that was in effect prior to July 1, 2010.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its effective application of its policy to submit summary statements to the Department, State licensing or authorizing agencies, appropriate accrediting agencies, and the public of the reason for its adverse action.

PART III: THIRD PARTY COMMENTS

The Department did not receive any written third-party comments regarding this agency.

U.S. Department of Education

**Staff Report
to the
Senior Department Official
on
Recognition Compliance Issues**

RECOMMENDATION PAGE

1. **Agency:** American Osteopathic Association (1952/2006)
(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)
2. **Action Item:** Petition for Continued Recognition
3. **Current Scope of Recognition:** The accreditation and preaccreditation ("Provisional Accreditation") throughout the United States of freestanding, public and private non-profit institutions of osteopathic medicine and programs leading to the degree of Doctor of Osteopathy or Doctor of Osteopathic Medicine.
4. **Requested Scope of Recognition:** Same as above.
5. **Date of Advisory Committee Meeting:** June, 2011
6. **Staff Recommendation:** Renew the agency's recognition for a period of five years.
7. **Issues or Problems:** None.

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Commission on Osteopathic College Accreditation (COCA) is a standing committee of the American Osteopathic Association (AOA). The COCA currently accredits 23 osteopathic colleges of medicine and provisionally accredits another six. Because these osteopathic medical education programs may be offered in either freestanding institutions offering only these programs or in larger institutions offering other educational programs, the agency is considered both an institutional and programmatic accreditor.

Of the 29 colleges of osteopathic medicine accredited or provisionally accredited by AOA COCA, three are located in freestanding institutions. For these institutions, AOA COCA accreditation is a required element in enabling them to establish eligibility to participate in Title IV, HEA programs.

Recognition History

The AOA COCA, as previously configured, was first recognized by the U.S. Commissioner of Education in 1952 and has received periodic renewal of recognition since then. The agency was last reviewed for continued recognition in 2005. In 2006 the Secretary granted continued recognition to the AOA COCA for a period of five years and granted it a waiver of the separate and independent requirements. At this time, the Secretary also required the AOA COCA to submit an interim report on outstanding issues which the Secretary accepted in 2007.

PART II: SUMMARY OF FINDINGS

The agency meets the requirements of the Secretary's Criteria for Recognition.

PART III: THIRD PARTY COMMENTS

Staff Analysis of 3rd Party Written Comments

There was one third-party written comment received in conjunction with AOA COCA's review for continued recognition.

The commenter alleges that when he was a student in a COCA-accredited institution, he filed a complaint with the COCA against the institution he attended regarding its change in graduation requirements, which he claims, prevented him from being awarded his degree. The commenter states that he enrolled in the Osteopathic Medicine program in 1998. He provided an excerpt from the institution's handbook which includes among its graduation requirements that a candidate, "have taken Levels 1 and 2 of the College of Osteopathic Medical Licensing Examination (COMLEX)." The commenter also provided the relevant COCA standards on which the institution's requirements were based which stated the COCA's requirement that students take and pass the COMLEX Level 1 prior to graduation. The standard also stated that students must take the Cognitive Evaluation (CE) and Performance Evaluation (PE) components of the COMLEX Level 2 prior to graduation. The commenter states that he completed his graduation requirements in accordance with both the institution's policies and these agency's standards, but that the institution changed its graduation requirement in 2005, when he applied for his degree, to require that students not only take, but pass Level 2 of the COMLEX Exam. The commenter alleges that he had completed all of the requirements for his degree which was withheld from him without cause. (COCA Standard 6.8.1 and Standard 6.7.2) The commenter alleges that the COCA refused to investigate his complaint against the institution.

The Department takes very seriously complaints it receives from its constituents. As a recognized accreditor, COCA is required to, "review in a timely, fair, and equitable manner any complaint it receives against an accredited institution or program that is related to the agency's standards or procedures." The agency is requested to address these allegations in its response to the draft staff report. Specifically, COCA must address the commenter's allegations that the agency did not respond to his complaint (602.23c) and address COCA's expectations regarding its application of its standards (Standard 6.8.1 and Standard 6.7.2.) specific to this situation and the commenter's allegations.

ANALYST'S COMMENTS TO AGENCY'S RESPONSE BELOW

The agency has provided a detailed response with supporting documentation that demonstrates that it resolved the commenter's complaint in accordance with its written policies and the Secretary's requirements under section 602.23(c).

The agency included as documentation, an appeals court decision overturning a district court finding for the plaintiff's civil suit against the institution, and subsequent dismissals by a district and an appellate court for the plaintiff's civil actions against the agency. The agency also provided correspondence from Department staff from April 2007 that demonstrates that staff did not find cause to investigate the commenter's previous complaint concerning the same issue. The Department considers the matter raised by the commenter closed.

Agency Response to 3rd Party Comments

In brief, the complainant, Dr. Massood Jallali (hereafter "the Complainant") attended an accredited college of osteopathic medicine (COM) – the Nova Southeastern University – College of Osteopathic Medicine. At the end of the first year of studies, his academic performance was found to not be acceptable for proceeding and graduating with the class in which he entered. He was allowed to continue as a student, but told that this normal graduation year would be one year later. At this same time, the COM had changed its graduation requirements to not only require taking nationally standardized examinations of the National Board of Osteopathic Medical Examiners, but also to passing the second parts of those examinations. Previously, students at this COM were only required to take the second part of the examinations. The additional requirement of passage of examinations was beyond the requirements of the AOA COCA at that time, but subsequently became a requirement of the AOA COCA.

The Complainant has maintained that he should have been held to the standards at the time of his initial admission. He further maintains that the AOA COCA is not uniformly enforcing its standards for accreditation by virtue of allowing a COM to have standards which exceeded those of the AOA COCA at the time. Significantly, the Complainant wrote to the U.S. Department of Education on January 26, 2007 regarding this allegation. The response letter from the U.S. Department of Education, Accreditation and State Liaison Division dated April 4, 2007 affirms the ability of an accredited program to have standards which exceed that of its accreditor: "While all accredited schools [COMs] must meet the standards established by the A.O.A.[AOA COCA], this does not preclude schools from establishing additional requirements provided they are no less rigorous than what the accrediting agency requires." (see USDE OPE letter dated April 4, 2007).

The Complainant has previously engaged the AOA COCA complaint process, which resulted in a finding that the complaint did not merit further investigation. The Complainant also filed a civil suit in the State of Florida courts against the college of osteopathic medicine (COM) in which he was enrolled. That civil suit was found for the plaintiff in the original trial court hearing, but overturned on appeal. The Complainant has also filed a civil suit in the State of Florida courts against the AOA.

The suit was dismissed by the trial court, with prejudice. Although the Complainant initially requested an appeal, the appellate court ultimately dismissed the appeal, with prejudice, due to the Complainant's failure to prosecute the appeal. Most recently, the Complainant filed a lawsuit against the AOA in the United States District Court for the Southern District of Florida related to the same events (1).

We find it curious that the letter of the U.S. Department of Education dated April 4, 2007 makes no reference to allegations of failure of the AOA COCA to evaluate the

complaint that was filed by the Complainant in November 2005.

Because of the amount of supporting documentation that we are providing, this statement will serve as a synopsis of our complete narrative response which is found in the document "Complaint Supplemental Narrative". That document makes reference to the complete complaint file for the Complainant (see "AOA COCA Complaint File_Dr. Jallali"), as well as findings of Courts of the State of Florida, and of the U.S. Department of Education regarding this matter.

(1) The Complainant also filed suit against the U.S. Department of Education and the National Board of Osteopathic Medical Examiners (which develops and administers the COMLEX) related to these same issues.

U.S. Department of Education

**Staff Report
to the
Senior Department Official
on
Recognition Compliance Issues**

RECOMMENDATION PAGE

1. **Agency:** American Bar Association (1952/2007)

(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)

2. **Action Item:** Petition for Continued Recognition

3. **Current Scope of Recognition:** The accreditation throughout the United States of programs in legal education that lead to the first professional degree in law, as well as freestanding law schools offering such programs. This recognition also extends to the Accreditation Committee of the Section of Legal Education (Accreditation Committee) for decisions involving continued accreditation (referred to by the agency as "approval") of law schools.

4. **Requested Scope of Recognition:** Same as above

5. **Date of Advisory Committee Meeting:** June, 2011

6. **Staff Recommendation:** Continue the agency's recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified below.

7. **Issues or Problems:**

- The agency needs to adopt the proposed changes to its IOP regarding records retention and demonstrate with documentary evidence that it has implemented the amended records procedures. [602.15(b)]
- The agency needs to demonstrate its expectation regarding job placement data it collects. [602.16(a)(1)(i)]

- The agency will need to adopt a record of student complaints standard and demonstrate with supporting documentation that it has implemented the standard in its evaluation of law schools. [602.16(a)(1)(ix)]
- The agency needs to demonstrate that its evaluation of law schools includes an assessment of the impact student loan default rate data, or the results of financial or compliance audits or program reviews on its accreditation decision. [602.16(a)(1)(x)]
- The agency needs to adopt the revisions to Standard 306 and/or the interpretations to address student identity verifications as required by this criterion. In addition, the agency will need to demonstrate that it has implemented the revisions with supporting documentation. [602.17(g)]
- The agency must demonstrate that it has reviewed and taken follow-up action, as appropriate, on its review of the annual reports and the actions it requires of its programs. [602.19(b)]
- The agency needs to demonstrate that the Council adopted the proposed changes to the standards and rules consistent with its proposals. In addition, it will need to demonstrate with supporting documentation that it has implemented the changes. [602.22(a)(2)(i-vii)]
- The agency needs to demonstrate that the Council adopted the proposed changes to the standards and rules consistent with its proposals. In addition, it will need to demonstrate with supporting documentation that it has implemented the changes. [602.22(a)(ix-x)]
- The agency needs to adopt revisions to its standards and rules regarding substantive changes in which the effective date is not retroactive. It must demonstrate implementation with supporting documentation. [602.22(b)]
- The agency needs to demonstrate with supporting documentation that it has implemented its policy to solicit and consider third party comments from the public as part of the accreditation review and decision-making. [602.23(b)]
- The agency will need to demonstrate that it has implemented the proposed revisions after adoption by the Council in June 2011. [602.23(c)]
- The agency needs to demonstrate that it has in place a process and guidance for the submission of a teach-out plan and a protocol that includes criteria established by the agency, by which it reviews and on which it bases its approval as required by this criterion. [602.24(c)(2)]

- The agency needs to demonstrate that it has developed and effectively implemented procedures for reviewing (during each comprehensive review) its requirements regarding transfer of credit. [602.24(e)]
- The agency needs to demonstrate that it has sent positive decision notifications to all of the recipients listed in 602.26(a). [602.26(a)]
- The agency needs to demonstrate that it has sent the negative decision notifications to all of the recipients listed in 602.26(b). [602.26(b)]
- The agency needs to provide evidence that it has implemented the requirement to provide the public with written notice within 24 hours after it notifies the school of the negative accreditation decision. [602.26(c)]
- The agency must provide evidence of its notice to the Department with the affected program's comments or in the alternative, notice that the affected party had been offered the opportunity to provide official comments [602.26(d)]

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The American Bar Association established the Section of Legal Education and Admissions to the Bar (Council) in 1893, and the Council began to conduct accrediting activities in 1923. The Council is both an institutional and a programmatic accrediting agency. The Council currently accredits 199 legal education programs. Of the legal education programs accredited/approved by the agency, 19 are freestanding law schools and maintain independent status as institutions of higher education with no affiliation with a college or university. These law schools may use the agency's accreditation to establish eligibility to participate in HEA programs. Since the agency is a Title IV gatekeeper, it must meet the Department's separate and independent criteria or seek a waiver of those requirements.

Recognition History

The then-Commissioner of Education initially recognized the Council in 1952. The agency has been recognized since that time.

The National Advisory Committee on Institutional Quality and Integrity (NACIQI) last reviewed the Council's petition for renewal of recognition at its December 2006 meeting. On June 20, 2007, the Secretary continued recognition for eighteen (18) months, extended recognition to include the Accreditation Committee of the Section of Legal Education and Admission to the Bar (Committee), and requested the agency to submit an interim report as well as a renewal petition by December 5, 2007, for the NACIQI to review at its June 2008 meeting.

Although originally scheduled to appear for review at the June 2008 NACIQI meeting, the Department administratively postponed the agency to review several third-party comments alleging substantive violations of the Secretary's criteria and deferred the agency until the December 2008 meeting. On August 14, 2008, the Higher Education Opportunity Act amended the Higher Education Act of 1965, which disbanded the existing NACIQI and revised many sections of the statute affecting the recognition of accrediting agencies. The regulations containing the Criteria for Recognition became effective July 1, 2010. Agencies with pending renewal petitions were rescheduled for full review after the full membership of NACIQI had assembled. This meeting is the first opportunity for the Council to appear before NACIQI for a review based on the revisions to the

criteria for recognition.

As part of the review of the Council for continued recognition, Department staff reviewed the agency's petition and supporting documentation, observed a site visit, and observed the decision-making meetings of the Accreditation Committee and the Council.

PART II: SUMMARY OF FINDINGS

§602.15 Administrative and fiscal responsibilities

The agency must have the administrative and fiscal capability to carry out its accreditation activities in light of its requested scope of recognition.

The agency meets this requirement if the agency demonstrates that--

(a) The agency has--

(b) The agency maintains complete and accurate records of--

(1) Its last full accreditation or preaccreditation reviews of each institution or program, including on-site evaluation team reports, the institution's or program's responses to on-site reports, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, and a copy of the institution's or program's most recent self-study; and

2) All decisions made throughout an institution's or program's affiliation with the agency regarding the accreditation and preaccreditation of any institution or program and substantive changes, including all correspondence that is significantly related to those decisions.

The agency's internal operating procedures state in item 8 the following:

8. Maintenance of Records of Site Visits

The Consultant shall maintain a complete set of records for a sufficient period of time to cover at least the last two reviews of a law school or a law school's programs. The records shall include site evaluation and fact finder reports, law school responses to site evaluation and fact finder reports, the law school's most recent self-study, Accreditation Committee action letters, Council action letters, the law school's responses to such action letters and documents relating to the House of Delegates' consideration of appeals from, or review of Council actions.'

In addition, the agency references the ABA document retention schedule; however, the records included in this schedule under "12. Legal Education and Admission to the Bar" do not include all of the required records and compliant timeframes required under the current criterion. For example, it is not clear that the agency maintains all substantive change request decisions and annual (periodic) reports. Additionally, the agency has not established compliant retention timeframes for all required document types.

Staff Determination: The agency does not meet the requirements of this criterion. The agency needs to amend its records retention policies to include all of the records required under the criterion with compliant retention timeframes

and demonstrate its application of the amended recordkeeping policies.

Analyst Remarks to Response:

The agency's response demonstrates that it was aware of the changes to the HEA that amended the requirements of the length of time in which an agency must retain all agency decisions and began making retention changes in December 2010. In its response, the agency has provided the proposed changes to its records maintenance Internal Operating Procedures. The Council will vote on the changes to the IOP at its August 2011 annual meeting. The agency will need to confirm adoption of the changes as well as submit documentary evidence of its implementation of the changes to comply with this criterion.

Staff Determination: The agency does not meet the requirements of this criterion. The agency needs to adopt the proposed changes to its IOP regarding records retention and demonstrate with documentary evidence that it has implemented the amended records procedures.

§602.16 Accreditation and preaccreditation standards

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if -

- **(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:**

- (i) Success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates.**

The agency has adopted several student achievement standards and interpretations that are sufficiently clear to enable it to consistently and fairly apply them to all law schools. In standard 301, addressing the objectives of a program of legal education, the agency's interpretation (301-3) considers the rigor of the academic program, including the assessment of student performance and the bar passage rates of its graduates. It uses three tests to determine whether a law school's bar passage rate meets this standard based on a five-year student cohort. The law school must demonstrate either that (1) 75 percent or more of the graduates who sat for the bar passed a bar examination, or (2) in at least three of these calendar years, 75 percent of the students graduating in those years and sitting for the bar have passed a bar examination,

or (3) in three or more of the five most recently completed calendar years, the school's annual first-time bar passage rate in the jurisdictions reported by the school is no more than 15 points below the average first-time bar passage rates for graduates of ABA-approved law schools taking the bar examination in these same jurisdictions. The agency requires the programs to report data from as many jurisdictions as necessary to account for 70% of its graduates each year.

The agency standard and interpretations clearly states that a school failing to meet the bar passage requirements shall be out of compliance and identifies the consequences. Additionally, other standards and interpretations require the school to assess and the site evaluators to evaluate scholastic achievement through the law school's grading system, assessment system for courses, and grade distribution, the requirements for students to remain in good standing, the process for probation or disqualification, continued enrollment of students, academic advising and support. The sample site team reports include the evaluation of student achievement through the bar passages results reported by the law school congruent with the standard. Although the site team listed the school's graduate placement over a three-year period, which for all periods met or exceeded 90 percent, there is no evidence that the agency has a standard indicating what compliance means, if it uses placement as a factor to determine student achievement.

Staff Determination: The agency does not meet the requirements of this section of the criteria. The agency reports that it evaluates placement rates as part of its assessment of student achievement, but does not provide information about its expectations for placement or the criteria by which it evaluates an institution's or program's performance in this area.

Analyst Remarks to Response:

Although the agency collects graduate placement data, there is no evidence that the agency has a standard indicating what compliance means, if it uses placement as a factor to determine student achievement. The agency reports that it is developing a new standard to address its expectations regarding job placement rates.

Staff Determination: The agency does not meet the requirements of this section of the criteria. The agency needs to demonstrate its expectation regarding job placement data it collects.

(a)(1)(ix) Record of student complaints received by, or available to, the agency.

The agency refers to Rule of Procedure 24 as evidence that it has a process to assess if a pattern of student complaints exists that would bring into question the institution's or program's 'fulfillment of one or more of the agency's expectations. Despite having procedures that are discussed in Criterion 602.23(c), the agency does not have a standard, policy or procedure to review a record of student complaints received by, or available to, the agency to include the following factors:

1. Whether the law school and/or the agency is primarily responsible for maintaining a record of student complaints.
2. Whether the record of student complaints covers at least the most recent accreditation period and includes information about how the complaints were resolved.
3. Whether the record of student complaints, wherever it is maintained, is made available to the on-site evaluators for review.

In addition, the agency did not provide evidence of implementation in the sample self-study reports, site visit reports, and site evaluator workshops and the site team did not review a record of student complaints during the site visit that staff observed.

Staff Determination: The agency does not meet the requirements of this section of the criteria. The agency needs to have a standard or policy requiring an institution or program to maintain a record of student complaints and demonstrate that it assesses if a pattern of student complaints exists that would influence a law school's fulfillment of one or more of the agency's standards and the quality of the educational program.

Analyst Remarks to Response:

In its petition the agency did not demonstrate that it has and applies a standard or policy requiring an institution or program to maintain a record of student complaints nor did it demonstrate that it assesses if a pattern of student complaints exists that would influence a law school's fulfillment of one or more of the agency's standards and the quality of the educational program.

In its response, the agency reports that at its June 2011 meeting it will consider a new Standard 512, Student Complaints, and will deliberate on whether to approve it for notice and comment. The proposed new standard 512 will fulfill this criterion's expectations regarding an agency's review of student complaints coupled with the guidance provided in the fall 2010 conduct memorandum. The agency will need to adopt a 'record for student complaints' standard and show implementation with supporting with documentation.

Staff Determination: The agency does not meet the requirements of this section of the criteria. It will need to adopt a record of student complaints standard and demonstrate with supporting documentation that it has implemented the standard in its evaluation of law schools.

(a)(1)(x) Record of compliance with the institution's program responsibilities under Title IV of the Act, based on the most recent student loan default rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and any other information that the Secretary may provide to the agency; and

Standard 510 addresses student loan programs and requires a law school to take reasonable steps to minimize student loan defaults, including providing debt counseling at the inception of a student's loan obligations and prior to graduation. According to the interpretation of this standard, a law school review will include consideration of student loan default rates of its graduates, any results of financial or compliance audits and other reviews, in assessing a law school's compliance with this standard. The guide for preparing the site visit report asks the reviewers to include a description of the steps taken by the law school to minimize student loan defaults. However, neither the sample self study nor the site visit report demonstrated that mechanisms existed to incorporate information regarding an institution or program's deficiencies in its Title IV compliance into the evaluation process. In addition, no determination could be made as to whether the agency considered a law school's failure to resolve any identified deficiencies in its Title IV compliance in a timely manner. Department staff could find no evidence that the law school or the site team considered the student loan default rate or the results of financial or compliance audits in the evaluation process.

Staff Determination: The agency does not meet the requirements of this criterion. The agency needs to demonstrate that its evaluation of law schools includes an assessment of the impact student loan default rate data, or the results of financial or compliance audits or program reviews, may have on the schools ability to comply with the agency's standards.

Analyst Remarks to Response:

The agency reports that it is reviewing this criterion to determine how to properly assess the requirement and draft an appropriate standard.

Staff Determination: The agency does not meet the requirements of this criterion. The agency needs to demonstrate that its evaluation of law schools includes an assessment of the impact student loan default rate data, or the results of financial or compliance audits or program reviews on its accreditation decision.

§602.17 Application of standards in reaching an accrediting decision.

The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if the agency demonstrates that it--

(g) Requires institutions that offer distance education or correspondence education to have processes in place through which the institution establishes that the student who registers in a distance education or correspondence education course or program is the same student who participates in and completes the course or program and receives the academic credit. The agency meets this requirement if it--

(1) Requires institutions to verify the identity of a student who participates in class or coursework by using, at the option of the institution, methods such as--

(i) A secure login and pass code;

(ii) Proctored examinations; and

(iii) New or other technologies and practices that are effective in verifying student identity; and

(2) Makes clear in writing that institutions must use processes that protect student privacy and notify students of any projected additional student charges associated with the verification of student identity at the time of registration or enrollment.

The agency did not respond to this section of the criteria regarding student verification although it reviews the distance education modality. As an institutional accrediting agency it must ensure that law schools have processes in place through which the institution establishes that the student who registers in a distance education or correspondence education course or program is the same student who participates in and completes the course or program and receives the academic credit. In Section 602.15(a)(4), the agency specifically states, "Site teams are instructed to review distance education during a site visit as noted in the Site Evaluation Questionnaire. (See Exhibit#25-1 Site Team review of Distance Education.)" Standard 306(a) states:

"A law school may offer credit toward the J.D. degree for study offered through distance education consistent with the provisions of this Standard and Interpretations of this Standard. Such credit shall be awarded only if the academic content, the method of course delivery, and the method of evaluating student performance are approved as part of the school's regular curriculum approval process."

Exhibit 25 lists various questions that the site team must inquire about at a law school that offers some components of the J.D. program through a distance education, citing Standard 306 and Interpretations 306-4 through 306-8. The

agency serves as an institutional accrediting agency for some of the approved freestanding law school programs, and has an accreditation standard that addresses the areas in paragraph 602.16(a)(1) of this section. However, the questions site visitors should ask about distance education do not address student verification. The agency Standard 306 also fails to address student verification.

Staff Determination: The agency does not meet the requirements of this section of the criteria. It needs to revise Standard 306 and/or the interpretations to address student verifications as required by this criterion. In addition, the agency will need to demonstrate that it has implemented the revisions with supporting documentation.

Analyst Remarks to Response:

The agency needed to revise Standard 306 and/or the interpretations to address student verifications as required by this criterion. In addition, the agency needed to demonstrate that it has implemented the revisions with supporting documentation.

While the agency lists various questions that the site team must inquire about at a law school that offers some components of the J.D. program through a distance education, the questions site visitors are instructed to ask about distance education do not address student identity verification. The agency has reported that it will submit proposed revisions under Standard 306 to the Council at its June 2011 meeting for approval for notice and comment.

Staff Determination: The agency does not meet the requirements of this section of the criteria. It needs to adopt the revisions to Standard 306 and/or the interpretations to address student identity verifications as required by this criterion. In addition, the agency will need to demonstrate that it has implemented the revisions with supporting documentation.

§602.19 Monitoring and reevaluation of accredited institutions and programs.

(b) The agency must demonstrate it has, and effectively applies, a set of monitoring and evaluation approaches that enables the agency to identify problems with an institution's or program's continued compliance with agency standards and that takes into account institutional or program strengths and stability. These approaches must include periodic reports, and collection and analysis of key data and indicators, identified by the agency, including, but not limited to, fiscal information and measures of student achievement, consistent with the provisions of §602.16(f). This provision does not require institutions or programs to provide annual reports on each specific accreditation criterion.

The agency uses a variety of approaches to monitor its programs. This includes annual site visits to provisionally approved programs; a 3rd year site visit to an initially- approved programs; review of substantive changes; and annual reports from all programs.

Periodic reporting is conducted via the completion of annual questionnaires by all programs. Information and data collected include, for example, program requirements, the curriculum, faculty, physical plant, administration, attrition, library resources, fiscal expenditures, scholarships, student achievement outcomes, etc. This information is then compiled (by program) by staff on a performance data indicators report. This report also identifies the thresholds/triggers of acceptable performance as well as the programs performance during the past year. Reports are forwarded to the Accreditation Committee for review and action as appropriate. While the agency has provided evidence of its application of its annual report data collection and review, with samples of completed questionnaires, performance indicator report. It is not evident that the agency has taken any follow-up action based on the review and assessment of the annual report data it has collected.

Staff Determination: The agency does not meet the requirements of this section. It needs to demonstrate that it has reviewed and taken follow-up action, as appropriate, on its review of the annual reports and the actions it requires of its programs.

Analyst Remarks to Response:

The agency needed to demonstrate that it has reviewed and taken follow-up action, as appropriate, on its review of the annual reports and the actions it requires of its programs. The agency reports that it plans to assign a subcommittee to determine the agency's intended scope of review for annual reports, including the appropriate use of the Performance Data Indicators identified by the agency as thresholds/triggers of expected performance.

Staff Determination: The agency does not meet the requirements of this criterion. The agency must demonstrate that it has reviewed and taken follow-up action, as appropriate, on its review of the annual reports and the actions it requires of its programs.

§602.22 Substantive change.

(2) The agency's definition of substantive change includes at least the following types of change:

(i) Any change in the established mission or objectives of the institution.

(ii) Any change in the legal status, form of control, or ownership of

the institution.

(iii) The addition of courses or programs that represent a significant departure from the existing offerings of educational programs, or method of delivery, from those that were offered when the agency last evaluated the institution.

(iv) The addition of programs of study at a degree or credential level different from that which is included in the institution's current accreditation or preaccreditation.

(v) A change from clock hours to credit hours.

(vi) A substantial increase in the number of clock or credit hours awarded for successful completion of a program.

(vii) If the agency's accreditation of an institution enables the institution to seek eligibility to participate in title IV, HEA programs, the entering into a contract under which an institution or organization not certified to participate in the title IV, HEA programs offers more than 25 percent of one or more of the accredited institution's educational programs.

The agency cites Rule 20 (major changes in the organizational structure) and Rule 21 (major changes in the program of legal education of provisionally or fully approved law schools) to address this section of the criteria. A careful review of the listed substantive changes identified in the rules and the interpretations in Standard 105 (addressing major changes in the legal education program or the organizational structure of a law school) did not include the following in the agency definition of substantive changes:

1. any change in the established mission or objectives of the institution; 2. any addition of courses or programs that represents a significant departure from existing offerings or method of delivery since the last reevaluation for approval; and
3. for Title IV eligible programs, entering into of contracts with a non-eligible program that will offer more than 25% of one or more educational programs.

Staff Determination: The agency does not meet the requirements of this section of the Criteria. The agency needs to demonstrate that it has policies and procedures for approving all of the substantive changes listed in this criterion and that it consistently requires institutions to obtain the agency's approval of a substantive change before it includes the change in the institution's grant of accreditation (approval).

Analyst Remarks to Response:

The supplemental documentation the agency presented in its response to the draft staff analysis demonstrates that it has proposed revisions to its rules and standards consistent with the changes emphasized in this criterion. The agency's changes are consistent with the requirements of the sections of this criterion the agency does not meet. The agency's Council will meet to consider the comments and adoptions of the proposed changes to its rules and standards regarding the specific elements of substantive change identified in the draft staff analysis.

Staff Determination: The agency does not meet the requirements of this criterion. The agency needs to demonstrate that the Council adopted the proposed changes to the standards and rules consistent with its proposals. In addition, it will need to demonstrate with supporting documentation that it has implemented the changes.

(ix) The acquisition of any other institution or any program or location of another institution.

(x) The addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution that has ceased operating before all students have completed their program of study.

The agency cites Rule 20 (major changes in the organizational structure) and Rule 21 (major changes in the program of legal education of provisionally or fully approved law schools) to address this section of the criteria. A careful review of the listed substantive changes identified in the rules and the interpretations in Standard 105 (addressing major changes in the legal education program or the organizational structure of a law school) did not include the following in the agency definition of substantive changes:

1. The acquisition of any other program or location of another institution; and
2. The addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution that has ceased operating before all students have completed their program of study.

Staff Determination: The agency does not meet the requirements of this section of the Criteria. The agency needs to demonstrate that it has policies and procedures for approving substantive changes listed in this criterion and that it consistently requires institutions to obtain prior approval of the substantive change before it includes the change in the institution's grant of accreditation (approval).

Analyst Remarks to Response:

The supplemental documentation the agency presented in its response to the draft staff analysis demonstrates that it has proposed revisions to its rules and standards consistent with the changes emphasized in this criterion. The agency reports that the Council will meet to consider the comments and adoptions of the proposed changes to its rules and standards regarding the specific elements of substantive change identified in the draft staff analysis in August 2011.

Staff Determination: The agency does not meet the requirements of this criterion. The agency needs to demonstrate that the Council adopted the proposed changes to the standards and rules consistent with its proposals. In addition, it will need to demonstrate with supporting documentation that it has implemented the changes.

(b) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, these procedures must specify an effective date, which is not retroactive, on which the change is included in the program's or institution's accreditation. An agency may designate the date of a change in ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change in ownership. Except as provided in paragraph (c) of this section, these procedures may, but need not, require a visit by the agency.

The agency's written procedures do not specify an effective date for the approval of all types of substantive changes and does not make it clear that the approval cannot be retroactive. The documentation provided does not provide evidence of the agency's specifying an effective date, which is not retroactive, on which the changes is included in the law school's grant of accreditation (approval).

Staff Determination: The agency does not meet the requirements of this section of the Criteria. The agency needs to demonstrate that it has and effectively applies policies and procedures that specify an effective date for the approval of all types of substantive changes and does makes it clear that the approval cannot be retroactive.

Analyst Remarks to Response:

The agency indicated that it has revised its substantive change rules and procedures to state specifically the effective dates of decisions granting substantive change. However, the Council will not adopt or approve the recommended revisions until the June 2011 Council meeting. Until the Council acts on the recommended changes and the agency demonstrates implementation of the changes, as adopted, it will not meet this criterion.

Staff Determination: The agency does not meet this criterion. It needs to adopt revisions to its standards and rules regarding substantive changes in which the

effective date is not retroactive. It must demonstrate implementation with supporting documentation.

§602.23 Operating procedures all agencies must have.

(b) In providing public notice that an institution or program subject to its jurisdiction is being considered for accreditation or preaccreditation, the agency must provide an opportunity for third-party comment concerning the institution's or program's qualifications for accreditation or preaccreditation. At the agency's discretion, third-party comment may be received either in writing or at a public hearing, or both.

The agency has written procedures stated in its Internal Operating Practices to solicit third-party comments when it publishes a list of upcoming on-site evaluations. The agency's Website includes the list of law schools it will review in the current academic year and a notification soliciting third parties to submit their written comments to the Consultant at the agency's address. However, the agency provided no evidence that it has received third party comments calling into question the effectiveness of this mechanism to solicit 3rd party comments. The agency has not demonstrated that it has an effective mechanism for receiving public comment.

Staff Determination: The agency does not meet the requirements of this section. It needs to demonstrate that it has an effective approach to solicit 3rd party comments regarding the law schools under review.

Analyst Remarks to Response:

In its response, the agency provided documentation of an anonymous complaint it received about standards a law school may have violated , just prior to a comprehensive site review of the program. However, there is insufficient evidence that the agency included the comment in its review of the program. The site visit report provided as documentation does not appear to include any reference to the comment.

Staff Determination: The agency does not meet the requirements of this section. It needs to demonstrate with supporting documentation that it has implemented its policy to solicit and consider third party comments from the public as part of the accreditation review and decision-making.

(c) The accrediting agency must--

(1) Review in a timely, fair, and equitable manner any complaint it receives

against an accredited institution or program that is related to the agency's standards or procedures. The agency may not complete its review and make a decision regarding a complaint unless, in accordance with published procedures, it ensures that the institution or program has sufficient opportunity to provide a response to the complaint;

(2) Take follow-up action, as necessary, including enforcement action, if necessary, based on the results of its review; and

(3) Review in a timely, fair, and equitable manner, and apply unbiased judgment to, any complaints against itself and take follow-up action, as appropriate, based on the results of its review.

The agency has revised recently its written complaint procedures (see Rule of Procedure 24 ' effective February 2011 - uploaded by the Department) to assess the merits of a complaint it receives against a law school in which the complaint alleges the law school has violated the standards. The policy and procedures provide for all of the elements in this criterion except the agency will defer the complaint proceedings if a party to the proceedings files or has filed a claim in another forum, such as a legal action. This deferral provision appears to delay processing a complaint until the disposition of another legal action involving parties related to the complaint. The Department perceives any delay in the processing of a complaint may' materially affect the educational program and ultimately affect the quality of education at the law school that potentially does not comply with one or more of the agency's standards. This delay will also preclude the agency from determining whether to enact its evaluation and enforcement policies prescribed in §602.19 of the Criteria for Recognition.

Additionally, the agency's revision of Internal Operating Procedures 15 and 18 effectively addresses the procedures for the Grievance Committee to handle complaints against the agency, staff, Accreditation Committee, its delegates and Council members and delegates. The sample complaint action provided by the agency demonstrated that it effectively and fairly implemented its written procedures in the handling of the complaint against the law school regarding specific standards.

Staff Determination: The agency does not meet the requirements of this criterion. The agency needs to revise the provision in its rule of procedure not to allow for a delay of the review of a complaint when a claim has been filed in another forum.

Analyst Remarks to Response:

The agency has submitted for Council review at the June 2011 annual meeting proposed changes to Rule 24, which will remove the impediment that prevents the agency from following its complaint procedures when the parties are also in litigation.

Staff Determination: The agency does not meet the requirements of this section of the criteria. It will need to demonstrate that it has implemented the proposed revisions after adoption by the Council in June 2011.

§602.24 Additional procedures certain institutional accreditors must have.

If the agency is an institutional accrediting agency and its accreditation or preaccreditation enables those institutions to obtain eligibility to participate in Title IV, HEA programs, the agency must demonstrate that it has established and uses all of the following procedures:

- (2) The agency must evaluate the teach-out plan to ensure it provides for the equitable treatment of students under criteria established by the agency, specifies additional charges, if any, and provides for notification to the students of any additional charges.**

The agency revised its rules of procedure to require the agency to evaluate the teach-out plan in accordance with the requirements of this criterion; this rule became effective in February 2011.

While the agency has adopted language that mirrors the language of the criterion, the agency has not demonstrated that it has in place a process and guidance for the submission of a teach-out plan nor a protocol that includes criteria established by the agency, by which it reviews and on which it bases its approval as required by this criterion.

Staff Determination: The agency does not meet the requirements of this criterion. The agency needs to demonstrate that it has in place a process and guidance for the submission of a teach-out plan and a protocol that includes criteria established by the agency, by which it reviews and on which it bases its approval as required by this criterion.

Analyst Remarks to Response:

The agency needed to demonstrate that it has in place a process and guidance for the submission of a teach-out plan and a protocol that includes criteria established by the agency, by which it reviews and on which it bases its approval as required by this criterion. While the agency has adopted language that mirrors the language of the criterion, the agency has not demonstrated that it has in place a process and guidance for the submission of a teach-out plan nor a protocol that includes criteria established by the agency, by which it reviews and on which it bases its approval as required by this criterion.

Staff Determination: The agency does not meet the requirements of this criterion. The agency needs to demonstrate that it has in place a process and guidance for the submission of a teach-out plan and a protocol that includes criteria established by the agency, by which it reviews and on which it bases its approval as required by this criterion.

(e) Transfer of credit policies.

The accrediting agency must confirm, as part of its review for initial accreditation or preaccreditation, or renewal of accreditation, that the institution has transfer of credit policies that--

- (1) Are publicly disclosed in accordance with §668.43(a)(11); and**
- (2) Include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.**

(Note: This criterion requires an accrediting agency to confirm that an institution's teach-out policies are in conformance with 668.43 (a) (11). For your convenience, here is the text of 668.43(a) (11):

“A description of the transfer of credit policies established by the institution which must include a statement of the institution's current transfer of credit policies that includes, at a minimum –

- (i) Any established criteria the institution uses regarding the transfer of credit earned at another institution; and**
 - (ii) A list of institutions with which the institution has established an articulation agreement.”)**
-

The recently revised Standard 509(b) [Basic Consumer Information Standard] became effective in February 2011 and complies with this criterion. At this time, however, the agency does not appear to have incorporated the new standard into its review and evaluation of law schools. The supporting documentation provided no documentation to demonstrate plans to implement the review of this new standard in the evaluation or decisions of law schools. Additionally, Department staff reviewed the various exhibits used to train site evaluators, guide schools in preparing the self-study, and decision letters for indications that the agency does include a review of the transfer of credit policies as part of its evaluation and approval of law schools; but did not find any.

Staff Determination: The agency does not meet the requirements of this criterion. The agency needs to demonstrate that it has developed and effectively implemented procedures for reviewing (during each comprehensive review) its requirements regarding transfer of credit.

Analyst Remarks to Response:

The agency needed to demonstrate that it has developed and effectively implemented procedures for reviewing (during each comprehensive review) its requirements regarding transfer of credit. While the agency has provided documentation it has not demonstrated its review of transfer of credit policies as part of its comprehensive review of a law school. Rather the documentation is an “add-on” to a follow-on report and not as the result of a review of the school’s transfer of credit policies. Also, the agency contacted a school on March 31, and urgently, recommended that the school must demonstrate compliance with the transfer of credit requirement when it appeared before the Accreditation Committee in less than 30 days. Staff concludes that this is not a demonstration of the effective application of the agency’s transfer of credit policies and that given time to implement guidance for agencies, site teams and the Accreditation Committee and Council, the agency will be able to demonstrate it has effective procedures incorporated into its review process.

Staff Determination: The agency does not meet the requirements of this criterion. The agency needs to demonstrate that it has developed and effectively implemented procedures for reviewing (during each comprehensive review) its requirements regarding transfer of credit.

§602.26 Notification of accrediting decisions

The agency must demonstrate that it has established and follows written procedures requiring it to provide written notice of its accrediting decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public. The agency meets this requirement if the agency, following its written procedures--

(a) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public no later than 30 days after it makes the decision:

(1) A decision to award initial accreditation or preaccreditation to an institution or program.

(2) A decision to renew an institution's or program's accreditation or preaccreditation;

The agency has compliant written policies; however, it has not provided documentation demonstrating that it notifies all of the entities listed in the criterion of the accreditation decisions defined in this requirement within the appropriate time frame.

Staff Determination: The agency does not meet the requirements of this section. It needs to demonstrate that it effectively applies its policy that it will notify all of the entities under this criterion with notice of its decision no later than 30 days after it reaches a decision.

Analyst Remarks to Response:

The Accreditation Committee recommended that several schools receive provisional or full approval, positive decisions at its April 2011 meeting. Since the Council will not meet until after the NACIQI meeting, it will not have an opportunity to send notices of positive decisions until it adjourns its meeting. The agency has submitted the proposed draft letter it will use to send out notification of positive Council decision and includes state approval agencies. However, the agency will need to demonstrate implementation that it has sent the required notifications.

Staff Determination: The agency does not meet the requirements of this criterion. It will need to demonstrate that it has sent the positive decision notifications to all of the recipients listed in 602.26(a).

(b) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies at the same time it notifies the institution or program of the decision, but no later than 30 days after it reaches the decision:

(1) A final decision to place an institution or program on probation or an equivalent status.

(2) A final decision to deny, withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of an institution or program;

(3) A final decision to take any other adverse action, as defined by the agency, not listed in paragraph (b)(2) of this section;

The agency has compliant written policies; however, it has not provided documentation demonstrating that it notifies all of the entities listed in the criterion of the negative accreditation decisions or probation actions defined in this requirement within the appropriate time frame..

Staff Determination: The agency does not meet the requirements of this section. It needs to demonstrate that it effectively applies its policy that it will notify all of the entities under this criterion with notice of its decision, at the same time as it notifies the law school but not later than 30 days after it reaches a final decision.

Analyst Remarks to Response:

The Accreditation Committee recommended a negative decision at its April 2011 meeting. Since the Council will not meet until after the NACIQI meeting, the agency will not have an opportunity to send notices of negative decisions until it adjourns its meeting. The agency has submitted the proposed draft letter it will use to send out notification of the negative Council decision and includes state approval agencies. However, the agency will need to demonstrate implementation that it has sent the required notifications.

Staff Determination: The agency does not meet the requirements of this criterion. It will need to demonstrate that it has sent the negative decision notifications to all of the recipients listed in 602.26(b).

(c) Provides written notice to the public of the decisions listed in paragraphs (b)(1), (b)(2) and (b)(3) of this section within 24 hours of its notice to the institution or program;

ABA policies require it to provide notification to the public of final accrediting decisions to deny or revoke accreditation within the time frame required by this section. The documentation provided does not demonstrate that the agency posted adverse actions on their website within 24 hours of notifying the law school.

Staff Determination: The agency does not meet the requirements of this section. It needs to demonstrate that it effectively applies its policy that it will notify the public within 24 hours notice to the law school of a final adverse action and decisions to place a law school on probation.

Analyst Remarks to Response:

The agency provided documentation illustrating that it notified the law school of the Council's negative probation decision on December 9, 2005. The criteria and the agency's policies require that the agency also notify the public in writing within 24 hours after the agency notifies the school. However, the agency reports that it cannot demonstrate that it sent written notice to the public by December 10, 2005 within the time frame required by this criterion. The agency states that it placed this decision on the website, but could not obtain the written public notice demonstrating that it had placed the notification on its website within 24 hours of sending written notification to the school. However, the agency has provided other documentation in which the Council made adverse decisions that required it to give the notice within 24 hours of notifying the institution of the negative decision (see exhibit 40) However, these decision documents did not include the required 24 hours written notice to the public. Therefore, the Department staff has reviewed no documentation showing that the agency has complied with this section of the criteria and its own rules.

Staff Determination: The agency does not meet the requirements of this section.

It needs to provide evidence that it has implemented the requirement to provide the public with written notice within 24 hours after it notifies the school of the negative accreditation decision.

(d) For any decision listed in paragraph (b)(2) of this section, makes available to the Secretary, the appropriate State licensing or authorizing agency, and the public, no later than 60 days after the decision, a brief statement summarizing the reasons for the agency's decision and the **official comments that the affected institution or program may wish to make with regard to that decision , or evidence that the affected institution has been offered the opportunity to provide official comment; and**

The agency provided its policies demonstrating that it will make available to all required entities listed in this section, a summary of the agency's reasons for any decision to withdraw accreditation and, if provided, the official comments of the affected institution. However, the policy does not address the requirement that the agency provide evidence that the affected party has been offered the opportunity to provide official comment. Neither has the agency provided documentation of its application of a complaint policy.

Staff Determination: The agency does not meet the requirements of this section. It needs to amend its IOP to include the requirement that if the school does not provide official comments, the agency must provide evidence with its notice to the Department that the affected party had been offered the opportunity to provide official comments. The agency also needs to demonstrate the application of the requirement under this criterion.

Analyst Remarks to Response:

The revised IOP includes the language to offer a law school an opportunity to provide written comment if a negative decision is rendered within the timeframe designated by this criterion. Additionally, the Accreditation Committee recently recommended the denial of full approval of a law school to the Council for review at its June 2011 meeting. The draft decision letter contains all of the elements for compliance regarding implementation of the procedures, but because the process has been completed, the documentation is not sufficient to demonstrate effective application of the agency's policies.

Staff Determination: The agency does not meet the requirements of this section. The agency must provide evidence of its notice to the Department with the affected program's comments or in the alternative, notice that the affected party had been offered the opportunity to provide official comments

PART III: THIRD PARTY COMMENTS

Staff Analysis of 3rd Party Written Comments

The Department received 13 Comments recommending the continued recognition of the agency. The commenters were all external constituents of the agency.

U.S. Department of Education

**Staff Report
to the
Senior Department Official
on
Recognition Compliance Issues**

RECOMMENDATION PAGE

1. **Agency:** Transnational Association Of Christian Colleges and Schools (1991/2005)

(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)

2. **Action Item:** Petition for Continued Recognition

3. **Current Scope of Recognition:** The accreditation and pre-accreditation of postsecondary institutions in the United States that offer certificates, diplomas, and associate, baccalaureate, and graduate degrees, including institutions that offer distance education.

4. **Requested Scope of Recognition:** The accreditation and pre-accreditation of Christian postsecondary institutions in the United States that offer certificates, diplomas, and associate, baccalaureate, and graduate degrees, including institutions that offer distance education.

NOTE: This is a clarification of the agency's current scope of recognition.

5. **Date of Advisory Committee Meeting:** June, 2011

6. **Staff Recommendation:** Continue the agency's recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified below.

7. **Issues or Problems:**

The agency needs to provide documentation showing that its accreditation is an enabling factor for obtaining licensure/certification and acceptance by practitioners and employers. [602.13]

The agency needs to demonstrate that it meets the separate and independent requirements of 602.14(b)(2). [602.14(a)]

The agency must demonstrate that it has filled the remaining public member vacancy on its commission as specified in its bylaws. [602.14(b)]

The agency must address the Department's concerns for the negative cash flow and the basis for the agency's budget projections, and provide more information regarding its finances, especially information regarding its projected increase in dues and decrease in payroll. [602.15(a)(1)]

The agency must provide evidence that its commission includes education and expertise in the area of distance education. It also needs to demonstrate that it has selection criteria by which it determines that site evaluators have appropriate education and expertise to be effective site visitors and it must demonstrate that it has conducted appeals panel training. [602.15(a)(2)]

The agency must elect and seat another faculty commissioner in order to have two faculty member commissioners as required in its bylaws. [602.15(a)(3)]

The agency must provide evidence that it has the required number of public members on its commission, as specified in its bylaws. [602.15(a)(5)]

The agency must demonstrate that it has and effectively applies standards for assessing student outcome measures. [602.16(a)(1)(i)]

The agency needs to provide additional information regarding its expectations for assessing an institution's performance with respect to student achievement and documentation of its effective application of this requirement. [602.17(f)]

The agency needs to provide evidence that it has, and applies, review factors (e.g., thresholds, trends, etc.) in assessing the information provided during its review and how and when follow-up action will be taken by the agency. [602.19(b)]

The agency needs to amend its policy to include program-level growth monitoring and provide evidence of its effective application of this policy.

[602.19(d)]

The agency must demonstrate that its current review of standards solicited and included input from all of its relevant constituencies (particularly constituencies external to the accreditation process) and expound on its procedures for conducting its reliability/validity/ study.

[602.21(a)(b)]

The agency must demonstrate that it has clearly written protocols for the revision of its standards that include a timeframe for making revisions and demonstrate that it has provided adequate opportunity for all of its relevant constituencies and interested parties to comment on all proposed changes. [602.21(c)]

The agency must provide more information on its review of substantive changes, including a completed substantive change request.

[602.22(a)(1)]

The agency needs to clarify if it offers this type of substantive change. If so, it must establish an effective mechanism to evaluate institutions' requests. [602.22(a)(2)(viii)]

The agency must identify, in policy, those conditions/situations that would require an institution to undergo a new comprehensive evaluation in the context of this requirement and demonstrate its effective application of its policy. It must demonstrate that it applies its policy as written. [602.22(a)(3)]

The agency needs to provide documentation related to the approval of an additional location in the United States. [602.22(c)(1)]

The agency must either provide evidence of the application of its policies pertaining to the rapid growth of additional locations or state that it has not experienced these situations. [602.22(c)(3)]

The agency must provide documentation to demonstrate that it has made on-site visits to additional locations during which it verified that the location has the personnel, facilities and resources it claimed to have in its application. [602.22(d)]

The agency must provide evidence of its effective application of its complaint policies during the next year or report it has not received a complaint when it submits its compliance report. [602.23(c)]

The agency needs to provide an example of a request to establish a branch campus located in the United States, demonstrating its effective application of this criterion. [602.24(a)]

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Transnational Association of Christian Colleges and Schools (TRACS) is an institutional accreditor. Its current scope of recognition is the accreditation and pre-accreditation ("Candidate" status) of postsecondary institutions that offer certificates, diplomas, and associate, baccalaureate, and graduate degrees, including institutions that offer distance education. It is requesting a clarification of its current scope to specify that it accredits and pre-accredits "Christian postsecondary institutions." TRACS accredits or pre-accredits 54 institutions in 22 states. TRACS' accreditation provides a link to Title IV funding for 35 of its institutions and a link to Title III funding for three of its Historically Black Colleges and Universities (HBCU) institutions.

Recognition History

TRACS received initial recognition in July 1991 and has maintained continued recognition since that time. The agency last appeared before the NACIQI at the Committee's December 2004 meeting. Following that meeting, in 2005 the Secretary granted the agency renewed recognition for a period of five years.

PART II: SUMMARY OF FINDINGS

§602.13 Acceptance of the agency by others.

The agency must demonstrate that its standards, policies, procedures, and decisions to grant or deny accreditation are widely accepted in the United States by--

(a) Educators and educational institutions; and

(b) Licensing bodies, practitioners, and employers in the professional or vocational fields for which the educational institutions or programs within the agency's jurisdiction prepare their students.

The agency's acceptance by educators is demonstrated by the willingness of educators to serve on both its commission and its site review teams. Its acceptance by educational institutions is demonstrated by the willingness of its 54 pre-accredited and accredited institutions to undergo the agency's review process and seek its accreditation.

The agency stated that its acceptance by licensing bodies is demonstrated by the willingness of various licensing bodies to grant certification/licensure to graduates of TRACS-accredited schools in the fields of accounting, aviation, cosmetology, counseling/psychology, ministry, nursing, and teaching. However, insufficient documentation was provided to support this claim.

Acceptance of the agency by practitioners and employers was not addressed by the agency. Since various licensing bodies reportedly accept the credentials of students who are graduates of TRACS-accredited schools, it would presumably follow that these graduates are then accepted by practitioners and employers, but information must be provided to verify this.

Staff determination: The agency does not meet the requirements of this section. The agency must provide information on its acceptance by licensing bodies, practitioners, and employers.

Analyst Remarks to Response:

While the agency did provide information demonstrating that graduates of some of its accredited institutions obtained licensure/certification and found employment, the agency did not provide information to demonstrate specific acceptance of the agency (i.e., specific mention of graduation from a TRACS-accredited institution) by those licensing bodies, practitioners, and employers.

Staff determination: The agency does not meet the requirements of this section. The agency needs to provide documentation showing that its accreditation is an enabling factor for obtaining licensure/certification and acceptance by practitioners and employers.

§602.14 Purpose and organization

(a) The Secretary recognizes only the following four categories of agencies:

The Secretary recognizes...

(1) An accrediting agency

(i) Has a voluntary membership of institutions of higher education;

(ii) Has as a principal purpose the accrediting of institutions of higher education and that accreditation is a required element in enabling those institutions to participate in HEA programs; and

(iii) Satisfies the "separate and independent" requirements in paragraph (b) of this section.

(2) An accrediting agency

(i) Has a voluntary membership; and

(ii) Has as its principal purpose the accrediting of higher education programs, or higher education programs and institutions of higher education, and that accreditation is a required element in enabling those entities to participate in non-HEA Federal programs.

(3) An accrediting agency for purposes of determining eligibility for Title IV, HEA programs--

(i) Either has a voluntary membership of individuals participating in a profession or has as its principal purpose the accrediting of programs within institutions that are accredited by a nationally recognized accrediting agency; and

(ii) Either satisfies the "separate and independent" requirements in paragraph (b) of this section or obtains a waiver of those requirements under paragraphs (d) and (e) of this section.

(4) A State agency

(i) Has as a principal purpose the accrediting of institutions of higher education, higher education programs, or both; and

(ii) The Secretary listed as a nationally recognized accrediting agency on or before October 1, 1991 and has recognized continuously since that date.

TRACS is a Category (1) agency.

The agency is a voluntary membership organization. Article 3 of the agency's bylaws states that its members shall consist of its accredited and pre-accredited institutions and that each of its accredited schools has one vote in agency matters. Pre-accredited members do not vote.

Article 6 of the agency's bylaws states that the agency exists to accredit educational institutions. The agency's accreditation provides a link for 35 of its 54 institutions to participate in ED's Title IV programs, as well as for three of its HBCUs to participate in ED's Title III programs.

The agency's bylaws state under article 7 that the accreditation commission is the entity responsible for the management of the agency, serves as its board of directors, and has full responsibility for accreditation matters.

The agency has provided evidence that it meets the structural and organizational requirements of this section, however, it has not demonstrated that it meets the separate and independent requirements of 602.14(b)(2).

Staff determination: The agency does not meet the requirements of this section. The agency needs to demonstrate that it meets the separate and independent requirements.

Analyst Remarks to Response:

Although the agency has initiated action to meet the separate and independent requirements of 602.14(b)(2), it has not yet done so.

Staff determination: The agency does not meet the requirements of this section. The agency needs to demonstrate that it meets the separate and independent requirements of 602.14(b)(2).

(b) For purposes of this section, the term separate and independent means that--

(1) The members of the agency's decision-making body--who decide the accreditation or preaccreditation status of institutions or programs, establish the agency's accreditation policies, or both--are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or membership organization;

(2) At least one member of the agency's decision-making body is a representative of the public, and at least one-seventh of that body consists of representatives of the public;

(3) The agency has established and implemented guidelines for each member of the decision-making body to avoid conflicts of interest in making decisions;

(4) The agency's dues are paid separately from any dues paid to any related, associated, or affiliated trade association or membership organization; and

(5) The agency develops and determines its own budget, with no review by or consultation with any other entity or organization.

1) The agency's bylaws under article 7 state that the commission will have between nine and 18 commissioners and that the agency's commissioners are elected by its member institutions thus meeting the requirement of 602.14(b)(1). Article 3 of the agency's bylaws states that its members shall consist of its accredited and pre-accredited institutions, and that each of its accredited schools shall have one vote in agency matters. Pre-accredited members do not vote. The agency's bylaws state under article 7 that the accreditation commission is the entity responsible for the management of the agency, serves as its board of directors, and has full responsibility for accreditation matters.

2) The agency's bylaws also state that at least three, but not more than 1/3 of the commissioners must be public members. While the agency has a ratio of commissioner seats to public member seats that is compliant with the criterion, its current sitting commission:public member ratio is 15:2. The agency is advised to fill its vacancies expeditiously. However, the agency has not demonstrated that its public members meet the agency's definition of a public member, specifically the requirement that public members are not the spouse, parent, child or sibling of an individual identified in paragraph (1) and (2) of the Secretary's definition of a public member.

3) Conflicts of interest are addressed in the agency's policy manual. Conflicts for commissioners are specifically defined as: having served the institution for compensation within the past three years; being a stockholder or board member of the institution; or any other association or activity that would appear to compromise a person's capacity for objectivity. While the policy states that commissioners must sign conflict of interest forms, neither the form itself, nor any signed forms, were provided as documentation. Appeals panel members must also follow the same provisions.

4) Dues are paid directly to the agency.

5) The agency's staff prepares a draft budget for consideration and adoption by the commission. As stated previously, the agency's bylaws specify that the commission is responsible for the agency's management and serves as its board of directors, thus meeting the requirements of 602.14(b)(4-5).

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it is taking steps to fill the public member vacancy and comply with the 7:1 commissioner:public member ratio. The agency must also demonstrate that members of its commission and appeals

panel adhere to its conflict of interest policy requirements.

Analyst Remarks to Response:

The agency notes that it currently has two public members out of 14 commissioners, thereby meeting the 7:1 commissioner:public member requirement. Although the agency has nominated an additional public member in order to have three public members on its commission as specified in its bylaws, action to select and seat that commissioner will not be finalized until July 1, 2011. The agency provided documentation to demonstrate that the members of its commission and appeals panels sign forms in support of the agency's conflict of interest policy requirements and their qualifications to serve in a specific capacity.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has filled the remaining public member vacancy on its commission as specified in its bylaws.

§602.15 Administrative and fiscal responsibilities

The agency must have the administrative and fiscal capability to carry out its accreditation activities in light of its requested scope of recognition.

The agency meets this requirement if the agency demonstrates that--

(a) The agency has--

(1) Adequate administrative staff and financial resources to carry out its accrediting responsibilities;

STAFF

Staffing levels are adequate to service the number of institutions accredited by this agency. However, the agency has not provided clear and comprehensive evidence of its administrative capacity. The narrative states that the agency has four "full-time" professional staff but then lists two people for one position (vice president for institutional compliance), which would give the appearance that these two staff members are part-time rather than full-time. The narrative does not appear to include the vice president for administrative services in its count of professional staff, despite the fact that this person holds the title of vice president. Brief summary resumes were provided for the president, the two co-vice-presidents, and two regional coordinators, but not for the vice president for finance or the vice president for administrative services. Job descriptions were not provided for the vice president of administrative services nor for the regional coordinators. It appears that the president and the co-vice-presidents for institutional compliance are appropriately qualified for their positions, but it was not possible to review the other staff members' qualifications since some resumes are missing and some position descriptions are missing. Further, the organization chart lists the person who was apparently the former vice president for finance rather than the current (interim) vice president for finance. The

agency needs to provide additional information regarding its staffing.

FINANCES

The agency submitted audited financial statements for 2009 and 2010 and noted that it experienced a shortfall in both years. In 2009, expenses exceeded revenues by approximately 18%. In 2010, expenses exceeded revenues by approximately 4%. The statements demonstrate that the agency's finances are improving, and the agency states that it is on course to meet its budget in 2011. However, the 2011 projected budget is predicated upon revenues and expenses that are approximately 11% lower than those in 2010. The agency states that it was able to cover the shortfalls in both years with its reserves. The agency projects somewhat higher income from membership dues and also approximately 30% lower payroll expenses. It is unclear whether the increase in dues is based upon higher dues for the current institutions or an increase in the number of institutions accredited. It is also unclear which staff positions have (presumably) been eliminated or what impact that might have on the agency's operation. More information is needed in these areas.

Staff determination: The agency does not meet the requirements of this section. The agency must provide more information regarding its staff's qualifications and position descriptions. The agency must also provide more information regarding its finances, especially information regarding its projected increase in dues and decrease in payroll.

Analyst Remarks to Response:

The agency provided additional information regarding its staff's qualifications and position descriptions, The agency documentation supports that its staff has the necessary qualifications and experience to perform their assigned duties. The agency documentation describes the relative duties of each staff member and reveals that all functions expected of a recognized accreditor are included.

However, the agency did not address the Department's concerns for the negative cash flow and the basis for the agency's budget projections, specifically information regarding its projected increase in dues and decrease in payroll.

Staff determination: The agency does not meet the requirements of this section. The agency must address the Department's concerns for the negative cash flow and the basis for the agency's budget projections, and provide more information regarding its finances, especially information regarding its projected increase in dues and decrease in payroll.

(2) Competent and knowledgeable individuals, qualified by education and experience in their own right and trained by the agency on their responsibilities, as appropriate for their roles, regarding the agency's standards, policies, and procedures, to conduct its on-site evaluations, apply or establish its policies, and make its accrediting and preaccrediting

decisions, including, if applicable to the agency's scope, their responsibilities regarding distance education and correspondence education;

Commissioners

The agency's bylaws specify that its commissioners must be appropriately qualified and identify specific criteria by which Commissioners are selected. Sample resumes demonstrate that the commissioners have the expected qualifications. Except for public members, the commissioners must be employees of the agency's accredited institutions. However, the agency has not demonstrated that the Commission includes individuals with education, experience, or expertise in distance education. The Commission needs to include individuals with competency and knowledge in all areas included in the agency's scope of recognition.

New commissioners receive training at their first meeting, and the agency submitted a training outline demonstrating that the training took place as specified. A training session is also included on the agenda of each commission meeting in order for the commissioners to receive ongoing training, and a training outline was also provided for this type of full-commission training.

Appeals Panel

The agency's policy manual states that appeals panel members are qualified by virtue of being employed by one of the agency's accredited institutions, or by being a member of the public. However, this is insufficient as the sole criterion to ensure that appeal panel members are qualified and competent. The policy manual also specifies that the panel members must be trained regarding their role and regarding the agency's policies and procedures. Panel members must renew their training before serving on an appeals committee if their initial training occurred more than one year prior to the committee's service. The agency is still in the process of establishing its appeals committee and no members have been trained as of this time.

Site Visitors

The agency submitted a list of its site visitor pool, which contains nearly 300 potential visitors. Sample resumes were provided for several site visitors, who appear to be appropriately qualified. However, it is not clear that the agency has and uses any criteria for determining that site evaluators are qualified by education and experience to be effective evaluators. Site visitor training is typically offered at the agency's annual meeting, and each person who completes the training is added to the site visitor pool. Team chairs must undergo additional training specific to that position. Documentation was provided showing the topics included in recent site visitor training sessions at an annual meeting.

Staff determination: The agency does not meet the requirements of this section.

The agency needs to provide evidence that its Commission includes education and expertise in the area of distance education. The agency must demonstrate that it has selection criteria by which it determines that site evaluators have appropriate education and expertise to be effective evaluators. Also, the agency is in the process of selecting and training its appeal panel members and must provide additional information on the selection criteria by which it selects appeal panel members, their qualifications and demonstrate that it has conducted appeals panel training.

Analyst Remarks to Response:

The agency provided additional information to demonstrate that it has selection criteria by which it determines that appeals panel members have appropriate education and expertise to be effective panelists, though it has not demonstrated that it has conducted appeals panel training.

While the agency described the training that it provides to site evaluators it did not demonstrate that it has selection criteria by which it determines that site evaluators have appropriate education and expertise necessary to be effective site visitors, prior to listing them as potential site evaluators.

The agency is in the process of selecting a new commission member who has experience directing a distance education program, however that person has not yet been formally selected for commission membership at this time. ED staff rejects the agency's assertion that other commission members have the education and expertise necessary to evaluate distance education programs merely because such programs happen to be in place at their institutions.

Also, the agency still has not demonstrated that it has conducted appeals panel training.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence that its commission includes education and expertise in the area of distance education. It also needs to demonstrate that it has selection criteria by which it determines that site evaluators have appropriate education and expertise to be effective site visitors and it must demonstrate that it has conducted appeals panel training.

(3) Academic and administrative personnel on its evaluation, policy, and decision-making bodies, if the agency accredits institutions;

The agency's bylaws specify that, as of November 2010, at least two members of the commission must be full-time faculty members of member institutions and that these faculty representative positions will be filled using the first two non-public member vacancies that occur after that time. The agency currently has only one faculty representative on its commission, and the other 12

non-public commission members are administrators.

Since the commission may consist of up to 18 members and is not currently at maximum capacity, it is unclear to staff why vacancies need to occur in order for the agency meet the faculty commissioner requirement it has specified in its own bylaws.

Staff determination: The agency does not meet the requirements of this section. The agency must elect another faculty member commissioner in order to have two faculty member commissioners as required in its bylaws.

Analyst Remarks to Response:

The agency has not yet added an additional faculty member commissioner, as new commissioners will not be seated until July 1, 2011.

Staff determination: The agency does not meet the requirements of this section. The agency must elect and seat another faculty commissioner in order to have two faculty member commissioners as required in its bylaws.

(5) Representatives of the public on all decision-making bodies; and

Commission

The agency's bylaws specify that at least three, but not more than one third, of its commissioners will be public members. The commission had four public members until recently, when two resigned. This leaves the commission below its own specified minimum of three commissioners. In addition, the agency has not demonstrated that its public members meet the agency's definition of a public member, specifically the requirement that public members are not the spouse, parent, child or sibling of an individual identified in paragraph (1) and (2) of the secretary's definition of a public member.

Appeals Panel

The agency's policy manual specifies that an appeals committee, which is selected from the appeals panel pool, will consist of five members and that at least one, but preferably two, members will be public representatives. The appeals panel is still in the process of being formed.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence that it has the required number of public members on its commission and demonstrate that all of its public members meet the definition of a public member.

Analyst Remarks to Response:

The agency is in the process of adding another public member to its commission, as specified in its bylaws. However, the new commissioners will not be seated until July 1, 2011. The agency did demonstrate that its current public members meet the definition of a public member.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence that it has the required number of public members on its commission, as specified in its bylaws.

§602.16 Accreditation and preaccreditation standards

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if -

- **(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:**

- (i) Success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates.**

The agency's standard 2.5 does specify that learning outcomes must be assessed. However, the agency's narrative, and this standard, appear to focus more upon a school's compliance with the agency's specified "Biblical foundations" statements than upon the assessment of student achievement related to quantitative student outcomes indicators such as course completion rates, graduation rates, certification/licensure pass rates, or placement rates, and/or qualitative indicators such as portfolios of student work or follow-up studies of graduates.

The agency does have standards in the area of evaluation and outcomes assessment that require the institution to conduct an assessment of student outcomes and to use the information in developing and implementing an institutional effectiveness plan. The agency provides insight into what this assessment needs to entail. For example, the agency states, "In the assessment of student learning outcomes and development, there are relevant data that should be collected and analyzed. These include graduation rates, job placement, retention rates and further study in graduate education. A high percentage of dropouts or a low job placement rate will require institutions to take appropriate action. Follow-up studies will indicate how well an institution is achieving its objectives." and identifies standards criteria 24.1-24.7 as its requirements. While this suggests that the agency is measuring compliance at

least in part by the institutions retention and (job) placement of students, the agency has not made clear what it considers to be a "high percentage" or a "low placement" rate. The agency has not demonstrated its effective application of its standard. It is not evident what are the factors, criteria, and benchmarks used by the agency in determining that the institution complies with its expectations pertaining to the institutions collection and assessment of student outcomes.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has and effectively applies standards for assessing student outcome measures.

Analyst Remarks to Response:

The agency is still in the process of coming into compliance with these requirements.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has and effectively applies standards for assessing student outcome measures.

§602.17 Application of standards in reaching an accrediting decision.

The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if the agency demonstrates that it--

(f) Provides the institution or program with a detailed written report that assesses--

- (1) The institution's or program's compliance with the agency's standards, including areas needing improvement; and**
- (2) The institution's or program's performance with respect to student achievement;**

and

The institution is provided written feedback via an evaluation team report and an institutional response matrix that identifies an institution's compliance and non-compliance with agency standards. To facilitate its feedback to the institution, the agency has developed a matrix that combines information regarding the findings from the on-site evaluation with the agency's response and supporting documentation, as well as stating the current compliance status regarding each finding. The agency provided a sample matrix for a recently reviewed institution.

However, the agency provided no detailed report of the institution's performance with respect to student achievement outcomes. While it is stated in the

evaluation team report that "Outcomes assessment studies demonstrate satisfactory student achievement and competency," this is insufficiently clear and provides no insight into the institution's success in providing its students an educational experience that will enable them to achieve goals.

Staff determination: The agency does not meet the requirement of this section. The agency must provide a detailed report of the institution's performance with respect to student achievement.

Analyst Remarks to Response:

The agency states that it is providing clarification to onsite review teams about how much detail on student achievement is included in the onsite review report. The agency also provided a recent report to demonstrate that the review teams are evaluating this onsite. However, the agency did not share the information or instructions that it is providing to its review teams as clarification. TRACS indicated in an earlier section that it is clarifying the factors, criteria, and benchmarks used to determine institutional compliance with the assessment and collection of student outcomes. This clarification and its application to the accreditation review process is critical for informing an institution's performance with respect to student achievement.

Staff determination: The agency does not meet the requirements of this section. The agency needs to provide additional information regarding its expectations for assessing an institution's performance with respect to student achievement and documentation of its effective application of this requirement.

§602.19 Monitoring and reevaluation of accredited institutions and programs.

(b) The agency must demonstrate it has, and effectively applies, a set of monitoring and evaluation approaches that enables the agency to identify problems with an institution's or program's continued compliance with agency standards and that takes into account institutional or program strengths and stability. These approaches must include periodic reports, and collection and analysis of key data and indicators, identified by the agency, including, but not limited to, fiscal information and measures of student achievement, consistent with the provisions of §602.16(f). This provision does not require institutions or programs to provide annual reports on each specific accreditation criterion.

The agency uses multiple reporting mechanisms that include the collection of numerous key data indicators both qualitative and quantitative, at various intervals throughout the accreditation cycle. TRACS requires two separate annual reports (one operations and one financial) from its member institutions, and a midpoint self-evaluation report at the 5-year timeframe of the accreditation

cycle during which comprehensive information is collected and reviewed about all aspects of the institution to include financial information.

The agency did not provide completed reports as evidence of its application of these monitoring requirements. It did, however, provide an agency developed summary report. While this report included significant data, including student outcomes data, it is not evident how the agency reviews this information. It is not clear whether the agency has mechanisms in place such as threshold levels or flags to identify issues of concern or noncompliance regarding an institution's continued compliance with the agency standards.

Staff determination: The agency does not meet the requirements of this section. The agency needs to provide evidence that it has, and applies, review factors (e.g., thresholds, trends, etc.) in assessing the information provided during its review and how and when follow-up action will be taken by the agency.

Analyst Remarks to Response:

While the agency provided additional information regarding how information from reports is processed at its office, it did not provide additional information on its review factors, such as thresholds or trends, that the agency has established for assessing the information.

Staff determination: The agency does not meet the requirements of this section. The agency needs to provide evidence that it has, and applies, review factors (e.g., thresholds, trends, etc.) in assessing the information provided during its review and how and when follow-up action will be taken by the agency.

(d) Institutional accrediting agencies must monitor the growth of programs at institutions experiencing significant enrollment growth, as reasonably defined by the agency.

The agency has a written policy on enrollment growth that defines significant growth at 10% and specifies that any institution that reports enrollment growth of 10% or more must provide documentation of the changes that it made to accommodate that growth. The policy further states that the agency may require a staff visit to verify that the institution remains in compliance with the agency's standards. However, the agency needs to provide evidence of its effective application of this policy. Further, the criterion requires that the agency monitor the growth of programs at institutions experiencing significant enrollment growth. The agency does not address this requirement in its policy.

Staff determination: The agency does not meet the requirements of this section. The agency needs to amend its policy to include program-level growth monitoring and provide evidence of its effective application of this policy.

Analyst Remarks to Response:

While the agency provided additional evidence of its application of its monitoring of significant growth in its institutions, it did not provide evidence that it has adhered to the requirement that, at institutions that have experienced "significant growth" (which the agency has defined as enrollment growth of greater than 10%), the agency must monitor the growth by program. Nor has the agency provided evidence that it has amended its policies regarding significant growth.

Staff determination: The agency does not meet the requirements of this section. The agency needs to amend its policy to include program-level growth monitoring and provide evidence of its effective application of this policy.

§602.21 Review of standards.

(a) The agency must maintain a systematic program of review that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and relevant to the educational or training needs of students.

(b) The agency determines the specific procedures it follows in evaluating its standards, but the agency must ensure that its program of review--

(1) Is comprehensive;

(2) Occurs at regular, yet reasonable, intervals or on an ongoing basis;

(3) Examines each of the agency's standards and the standards as a whole; and

(4) Involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review.

The agency's policy manual includes a written policy requiring it to conduct a systematic review of its standards by its standards review committee. Per its policy, reviews are conducted at reasonable intervals, through a systematic survey at least once every five years to assess the standards individually and as a whole, as well as in an on-going manner as issues arise. Public comment on proposed changes is sought and ongoing input from institutions and evaluation teams is welcomed. The agency's approach has been to build upon a reliability validity study begun 16 years ago. The study will be conducted in five-year cycles and each cycle will conclude with a summary report.

Although the agency provided considerable detail in its narrative regarding its standards review process, it is unclear that all relevant constituencies participate in the review process during each phase and is not clear how the agency solicits

input from external constituencies. While it appears from the agency's narrative that the agency has relied on a systematic procedure for conducting a reliability and validity study of its standards over many years, the process does not appear to have been formalized in the agency's policies and procedures manual. The agency should institutionalize this process if it is going to continue to use this approach in its review of its standards.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that its current review of standards solicited and included input from all of its relevant constituencies (particularly constituencies external to the accreditation process) and expound on its procedures for conducting its reliability/validity study.

Analyst Remarks to Response:

The agency appears to still be in the process of implementing the requirements of this section, soliciting input from all relevant constituencies during the review of its standards as appropriate measures of educational quality.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that its current review of standards solicited and included input from all of its relevant constituencies (particularly constituencies external to the accreditation process) and expound on its procedures for conducting its reliability/validity/ study.

(c) If the agency determines, at any point during its systematic program of review, that it needs to make changes to its standards, the agency must initiate action within 12 months to make the changes and must complete that action within a reasonable period of time. Before finalizing any changes to its standards, the agency must--

- (1) Provide notice to all of the agency's relevant constituencies, and other parties who have made their interest known to the agency, of the changes the agency proposes to make;**
- (2) Give the constituencies and other interested parties adequate opportunity to comment on the proposed changes; and**
- (3) Take into account any comments on the proposed changes submitted timely by the relevant constituencies and by other interested parties.**

As stated in the previous section, the agency's policies and procedures manual does not adequately detail its standards revision process, nor does it identify clearly that all revisions resulting from the systematic review process will be initiated within 12 months. The agency's documentation demonstrates that the agency does solicit input from its internal constituencies and provide a reasonable window to comment, but there is no evidence that the agency solicits

input from all of its relevant constituencies when revising its standards and prior to their implementation.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has clearly written protocols for the revision of its standards that include timeframes for making revisions and demonstrate that it has provided adequate opportunity for all of its relevant constituencies and interested parties to comment on all proposed changes.

Analyst Remarks to Response:

The agency appears to still be in the process of implementing the requirements of this section, the revision of its standards process.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has clearly written protocols for the revision of its standards that include a timeframe for making revisions and demonstrate that it has provided adequate opportunity for all of its relevant constituencies and interested parties to comment on all proposed changes.

§602.22 Substantive change.

(a) If the agency accredits institutions, it must maintain adequate substantive change policies that ensure that any substantive change to the educational mission, program, or programs of an institution after the agency has accredited or preaccredited the institution does not adversely affect the capacity of the institution to continue to meet the agency's standards. The agency meets this requirement if--

(1) The agency requires the institution to obtain the agency's approval of the substantive change before the agency includes the change in the scope of accreditation or preaccreditation it previously granted to the institution; and

The agency's policy manual includes detailed requirements regarding substantive changes. The substantive change procedure specifies that an institution contemplating a substantive change must file a request, using the agency's substantive change form, at least three months before the commission meeting at which the change will be considered.

All substantive changes identified under this section of the Criteria require Commission approval as that approval is a part of the institution's grant of accreditation. The agency policy and documentation however indicates that the TRACS President is approving some of these substantive changes. In the Policy and Procedures Manual it states, "TRACS' President may approve substantive change requests which involve offering a program by distance (not at a branch

campus) if that program was included in the most recent Self-Study presented to TRACS during a review or the program has been approved through a prior substantive change.” The substantive change is that the program has undergone a significant departure in its mode of delivery, and this change must be approved by the Commission. The decision letter provided with the petition reflects that the President approved requests for the addition of programs. While the previous regulation did not include degree or certificate programs at a lower credential level as a substantive change, effective July 2010, the regulations do include this as a substantive change that requires Commission approval.

The agency provided a template of what information is requested to be provided; the agency did not provide a completed request to demonstrate the depth of the information being evaluated.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its policies to require that the Commission is the decision-maker for all substantive change decisions required under this criterion and provide more information on its review of substantive changes, including a completed substantive change request.

Analyst Remarks to Response:

The agency amended its policies to require that the commission is the decision-maker for all substantive change decisions required under this criterion, but did not provide additional documentation.

Staff determination: The agency does not meet the requirements of this section. The agency must provide more information on its review of substantive changes, including a completed substantive change request.

(viii) (A) If the agency's accreditation of an institution enables it to seek eligibility to participate in title IV, HEA programs, the establishment of an additional location at which the institution offers at least 50 percent of an educational program. The addition of such a location must be approved by the agency in accordance with paragraph (c) of this section unless the accrediting agency determines, and issues a written determination stating that the institution has--

(1) Successfully completed at least one cycle of accreditation of maximum length offered by the agency and one renewal, or has been accredited for at least ten years;

(2) At least three additional locations that the agency has approved; and

(3) Met criteria established by the agency indicating sufficient capacity to add additional locations without individual prior approvals, including at a minimum satisfactory evidence of a system to ensure quality across a distributed enterprise that includes--

(i) Clearly identified academic control;

(ii) Regular evaluation of the locations;

(iii) Adequate faculty, facilities, resources, and academic and student support systems;

(iv) Financial stability; and

(v) Long-range planning for expansion.

(B) The agency's procedures for approval of an additional location, pursuant to paragraph (a)(2)(viii)(A) of this section, must require timely reporting to the agency of every additional location established under this approval.

(C) Each agency determination or redetermination to preapprove an institution's addition of locations under paragraph (a)(2)(viii)(A) of this section may not exceed five years.

(D) The agency may not preapprove an institution's addition of locations under paragraph (a)(2)(viii)(A) of this section after the institution undergoes a change in ownership resulting in a change in control as defined in 34 CFR 600.31 until the institution demonstrates that it meets the conditions for the agency to preapprove additional locations described in this paragraph.

(E) The agency must have an effective mechanism for conducting, at reasonable intervals, visits to a representative sample of additional locations approved under paragraph (a)(2)(viii)(A) of this section.

While the agency put the language of this section in its policy manual, unlike the other types of changes the agency doesn't have any guidance to support its application of this type of substantive change. If it is the agency's intent to offer its members an opportunity to seek a pre-approval, the agency does not meet the requirements of this section, as it has not established that it has an effective mechanism to evaluate the requests of institutions under the requirements of this section. However, if this was a misprint, the agency needs to revise its policy, omit this type of substantive change, and state that it does not offer this type of substantive change.

Staff determination: The agency does not meet the requirements of this section. The agency needs to clarify if it offers this type of substantive change. If so, it must establish an effective mechanism to evaluate institutions' requests.

Analyst Remarks to Response:

The agency is still in the process of meeting the requirements of this section.

Staff determination: The agency does not meet the requirements of this section. The agency needs to clarify if it offers this type of substantive change. If so, it must establish an effective mechanism to evaluate institutions' requests.

(3) The agency's substantive change policy must define when the changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution.

The agency's policy manual (p. 50) specifies that changes of ownership that result in a change of control or the addition of courses or programs that represent a significant departure from the existing educational programs or method of delivery that were last reviewed by the agency will require a comprehensive evaluation of the institution, including a self-study and an on-site review. The agency states that it has not received such requests. However, the agency provide an approval letter with its petition approving a request for offering a program that has a significant departure in its method of delivery.

This requirement seeks to ensure that agencies have mechanisms in place to conduct full comprehensive evaluations in situations that an institution has undertaken such substantive changes, e.g., a series of changes that has resulted in the institution morphing into what is essentially a new and different institution since its last grant of accreditation. The agency has not identified those conditions/situations that would require an institution to undergo a new comprehensive evaluation.

Staff determination: The agency does not meet the requirements of this section of the criteria. It must demonstrate that it applies its policy as written. It must also identify, in policy, those conditions/situations that would require an institution to undergo a new comprehensive evaluation in the context of this requirement and demonstrate its effective application of its policy.

Analyst Remarks to Response:

While the agency has modified its policies to identify certain substantive changes, e.g., changes in mission and objectives and change in ownership that results in a change of control, as situations that would require an institution to undergo a new comprehensive evaluation, the agency is not sufficiently clear in defining what it considers to be the "series of changes" that would result in the institution becoming what is essentially a new and different institution, which is the essence of this criterion.

Staff determination: The agency does not meet the requirements of this section of the criteria. The agency must identify, in policy, those conditions/situations that would require an institution to undergo a new comprehensive evaluation in the context of this requirement and demonstrate its effective application of its policy. It must demonstrate that it applies its policy as written.

(c)(1) A visit, within six months, to each additional location the institution establishes, if the institution--

- (i) Has a total of three or fewer additional locations;**
 - (ii) Has not demonstrated, to the agency's satisfaction, that it has a proven record of effective educational oversight of additional locations; or**
 - (iii) Has been placed on warning, probation, or show cause by the agency or is subject to some limitation by the agency on its accreditation or preaccreditation status;**
-

The agency has clear and specific procedural guidance regarding the establishment of an additional location; its administrative and financial capacity to operate the location are reviewed in considering approval of the additional location. The agency requires applications and site visits to all additional locations prior to approving the location.

The agency provided an application template, an evaluation team report, and a commission approval of an additional location in Spain, but it is not clear that this example accurately reflects the review/approval process in the U.S. The agency needs to provide evidence of a completed application, review, site visit, and approval of an additional location in the U.S.

Staff determination: The agency does not meet the requirements of this section. The agency needs to provide documentation related to the approval of an additional location in the United States.

Analyst Remarks to Response:

The agency is still in the process of meeting this requirement.

Staff determination: The agency does not meet the requirements of this section. The agency needs to provide documentation related to the approval of an additional location in the United States.

(c)(3) An effective mechanism, which may, at the agency's discretion, include visits to additional locations, for ensuring that accredited and preaccredited institutions that experience rapid growth in the number of additional locations maintain educational quality.

The agency's collection and review of enrollment data and enrollment growth (defined as 10% increase) via its annual operational report, in conjunction with its policy also allowing a staff visit to the institution to verify that it remains in compliance with the agency's standards, provides an effective mechanism for monitoring the maintenance of educational quality at any institution experiencing rapid growth. However, the agency has not provided evidence of the application of its policies in this area nor stated that it has not experienced these situations.

Staff Determination: The agency does not meet the requirements of this section. The agency must either provide evidence of the application of its policies pertaining to the rapid growth of additional locations or state that it has not experienced these situations.

Analyst Remarks to Response:

The agency provided correspondence from three of its institutions as evidence of the application of its policies pertaining to rapid growth. However, it is not clear from the evidence provided that this documentation pertains to additional locations, rather than main campuses of the institutions concerned.

Staff determination: The agency does not meet the requirements of this section. The agency must either provide evidence of the application of its policies pertaining to the rapid growth of additional locations or state that it has not experienced these situations.

(d) The purpose of the visits described in paragraph (c) of this section is to verify that the additional location has the personnel, facilities, and resources it claimed to have in its application to the agency for approval of the additional location.

The agency has updated its policy manual (p. 51) to mirror the language of the requirements of this section of the federal regulations – that the additional location has the personnel, facilities and resources it claimed to have in its application. However, the agency provided no documentation to demonstrate enforcement of its policies.

Staff determination: The agency does not meet the requirements of this section. The agency must provide documentation to demonstrate that it has made on-site visits to additional locations during which it verified that the location has the personnel, facilities and resources it claimed to have in its application or attest that it has not had occasion to make such a visit.

Analyst Remarks to Response:

This requirement is not limited to instances of rapid growth in the establishment of additional locations at an institution. This criterion requirement applies to any on-site visits required under 602.22 (c). The agency has not documented its effective application of the on-site visit to verify that the additional location has the personnel, facilities and resources it claimed to have in its application.

Staff determination: The agency does not meet the requirements of this section. The agency must provide documentation to demonstrate that it has made on-site visits to additional locations during which it verified that the location has the personnel, facilities and resources it claimed to have in its application.

§602.23 Operating procedures all agencies must have.

(c) The accrediting agency must--

(1) Review in a timely, fair, and equitable manner any complaint it receives against an accredited institution or program that is related to the agency's standards or procedures. The agency may not complete its review and make a decision regarding a complaint unless, in accordance with published procedures, it ensures that the institution or program has sufficient opportunity to provide a response to the complaint;

(2) Take follow-up action, as necessary, including enforcement action, if necessary, based on the results of its review; and

(3) Review in a timely, fair, and equitable manner, and apply unbiased judgment to, any complaints against itself and take follow-up action, as appropriate, based on the results of its review.

The agency has clearly written policies and procedures for addressing complaints both regarding its accredited members, as well as the commission itself. The procedures adhere to commonly accepted practices and include reasonable timeframes for processing complaints. The agency provided a partial example of its action on a complaint it received. However, the documents did not fully demonstrate the agency's resolution of the complaint, e.g., the complaint was not included, nor was the agency's final resolution (to include notifying the complainant).

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its resolution of the complaint.

Analyst Remarks to Response:

The agency received and investigated complaints regarding an institution, but apparently did not respond to the complainants after investigating the complaints as required by the agency's policies.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its effective application of its complaint policies during the next year or report it has not received a complaint when it submits its compliance report.

§602.24 Additional procedures certain institutional accreditors must have.

If the agency is an institutional accrediting agency and its accreditation or preaccreditation enables those institutions to obtain eligibility to participate in Title IV, HEA programs, the agency must demonstrate that it has established and uses all of the following procedures:

(a) Branch campus.

(1) The agency must require the institution to notify the agency if it plans to establish a branch campus and to submit a business plan for the branch campus that describes--

- (i) The educational program to be offered at the branch campus;**
- (ii) The projected revenues and expenditures and cash flow at the branch campus; and**
- (iii) The operation, management, and physical resources at the branch campus.**

(2) The agency may extend accreditation to the branch campus only after it evaluates the business plan and takes whatever other actions it deems necessary to determine that the branch campus has sufficient educational, financial, operational, management, and physical resources to meet the agency's standards.

(3) The agency must undertake a site visit to the branch campus as soon as practicable, but no later than six months after the establishment of that campus.

The agency addresses its review and approval of branch campuses under its substantive change policies and procedures. Its review and approval procedure addresses all of the requirements of this section. However, the agency's documentation is of a foreign branch campus. Staff requests the agency to provide evidence of its review of a request to establish a branch campus in the United States.

Staff determination: The agency does not meet the requirements of this section of the criteria. The agency needs to provide an example of a request to establish a branch campus located in the United States, demonstrating its effective application of this criterion.

Analyst Remarks to Response:

The agency is still in the process of responding to this finding.

Staff determination: The agency does not meet the requirements of this section. The agency needs to provide an example of a request to establish a branch campus located in the United States, demonstrating its effective application of this criterion.

PART III: THIRD PARTY COMMENTS

The Department did not receive any written third-party comments regarding this agency.

U.S. Department of Education

**Staff Report
to the
Senior Department Official
on
Recognition Compliance Issues**

RECOMMENDATION PAGE

1. **Agency:** Council On Occupational Education (1969/2007)
(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)
2. **Action Item:** Petition for Continued Recognition
3. **Current Scope of Recognition:** The accreditation and preaccreditation ("Candidacy Status") throughout the United States of postsecondary occupational education institutions offering non-degree and applied associate degree programs in specific career and technical education fields, including institutions that offer programs via distance education.
4. **Requested Scope of Recognition:** Same as above.
5. **Date of Advisory Committee Meeting:** June, 2011
6. **Staff Recommendation:** Continue the agency's recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified below.
7. **Issues or Problems:**

The agency must make policy and procedural changes to implement its evaluation of program-level outcomes data as part of its institutional student achievement standard and demonstrate its effective application of its student achievement standards (§602.16(a)(1)(i)).

The agency must clarify and correct all statements including the one noted in this analysis, to accurately reflect its accreditation of distance

education as defined by the agency and the Department (§602.16(c)).

The agency must provide evidence of its implementation of its revised detailed report assessing an institution's performance with respect to student achievement (§602.17(f)).

The agency must develop policies that ensure that institutions take appropriate action to come into compliance with the agency's standards within a time period that must not exceed the requirements of this section and demonstrate their effective and compliant application. (§602.20(a)).

The agency must demonstrate that it has implemented its procedures for ensuring that it involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review (§602.21(a)(b)).

The agency must demonstrate implementation of the changes it has enacted to its standards revision process (§602.21(c)).

The agency must revise and adhere to a substantive change policy that requires the Commission to review and approve all substantive change requests of the types required by 602.22(a)(2) prior to inclusion into the agency's grant of accreditation. The agency must also provide documentation of its review of various types of substantive changes under its revised policy (§602.22(a)(1)).

The agency must conform its policy to meet the requirements under subsection (vii) of this section. The agency must also demonstrate its review and approval of a substantive change involving entering into contracts with non-Title IV entities (§602.22(a)(2)(i-vii)).

The agency must revise its policy to clearly specify when the changes made or proposed by an institution are or would be substantial enough to require the agency to conduct a new comprehensive evaluation of that institution (§602.22(a)(3)).

The agency must demonstrate that it effectively applies its revised policy regarding the review and approval of additional locations (§602.22(c)(1)).

The agency must demonstrate effective application of its proposed revisions for providing opportunity for third-party comments (§602.23(b)).

The agency must demonstrate its effective application of the revised procedures for the approval of branch campuses (§602.24(a)).

The agency must provide evidence that it follows its procedures for changes in ownership in accordance with the requirements of this

section (§602.24(b)).

The agency must demonstrate application of its revised procedures for evaluating teach-out plans (§602.24(c)(2)).

The agency must demonstrate effective application of its revised procedures for evaluating teach-out agreements (§602.24(c)(5)).

The agency must provide documentation of an appeal under the current requirements or state they have not had an appeal under the current requirements (§602.25(f)).

The agency must provide evidence that it adheres to its revised policy on notification of probation to the Secretary and other appropriate agencies, at the same time it notifies the institution of the decision (§602.26(b)).

The agency must provide evidence that it adheres to its revised policy on notification to the public within 24 hours of its notice to an institution or program of its decisions for probation and adverse actions (§602.26(c)).

The agency must provide a thorough and reasonable explanation, consistent with its standards, why the action of the other body did not preclude the agency's grant of accreditation of the institution described in the agency's response (§602.28(c)).

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Council on Occupational Education (COE) is a national institutional accreditor. Its current scope of recognition is for the accreditation and preaccreditation (“Candidacy status”) throughout the United States of postsecondary occupational education institutions offering non-degree and applied associate degree programs in specific career and technical education fields, including institutions that offer programs via distance education.

COE was originally established in 1968 as a committee of the Southern Association of Colleges and Schools (SACS). In 1971 the Committee became the Commission on Occupational Education Institutions. In 1995, the agency formally separated from SACS, adopted its present name, and began to accredit and preaccredit institutions throughout the United States.

COE currently accredits 389 institutions and 50 candidate institutions in 31 states, the District of Columbia and Puerto Rico. COE’s accreditation enables the institutions it accredits to establish eligibility to participate in Title IV programs; thus it must meet the Secretary’s separate and independent requirements.

Recognition History

The U.S. Commissioner of Education first listed COE as a recognized accrediting agency in 1969 under the name “Committee on Occupational Education Institutions.” The former Secretary of Education last granted COE a recognition period of four years after deferring a decision on the agency’s recognition in 2005, due to outstanding issues concerning the agency’s review of institutions with distance education, its monitoring process, and its substantive change review process and review procedures. The former Secretary issued her decision letter in the Fall 2007, stating that the agency had sufficiently addressed those outstanding issues.

PART II: SUMMARY OF FINDINGS

§602.16 Accreditation and preaccreditation standards

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if -

- **(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:**

(i) Success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates.

The agency's standards for assessing student achievement are found primarily in standards two and three and include requirements such as, appropriate evaluations of knowledge and skills required for the occupation(s) studied; systematic, objective, and equitable evaluation of the competencies essential to success in the occupation; and completion, placement, and licensure pass rates that meet the agency's annually-specified minimum required benchmarks specific to public institutions, non-public institutions, and job corps centers.

The agency does collect programmatic level data on student outcomes completion, placement and licensure pass rates. They also conduct a cursory review of the accuracy of the data by conducting follow-up on student completions. However, it is unclear what review the agency does of the programmatic data to assess the success of the institution's educational program in meeting its objectives as part of the agency's assessment of the institutional success in meeting agency standards. As an institutional accrediting agency that offers vocational programs, the Department expects the agency to collect and assess the program-level data as an effective mechanism to support and determine the institution's success in meeting its mission and serving the educational goals of all students.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it evaluates student achievement against program-level data as appropriate to the occupational missions of the institutions it accredits.

Analyst Remarks to Response:

The agency has stated in its response that it has amended its student achievement standard to consider program-level outcomes data in evaluating an institution's compliance with its student achievement standard. The agency provided the amended language which states that benchmarks for placement, completion, and licensure pass rates, as applicable, must be submitted and met by the institution.

As stated in its response, the agency is currently developing the procedure by which it will apply its revised student achievement standard. Upon final approval of such procedures, the agency will make applicable revisions to its policies and practices.

Staff Determination: The agency does not meet the requirements of this section. The agency must make policy and procedural changes to implement its evaluation of program-level outcomes data as part of its institutional student achievement standard and demonstrate its effective application of its student achievement standards.

(b) If the agency only accredits programs and does not serve as an institutional accrediting agency for any of those programs, its accreditation standards must address the areas in paragraph (a)(1) of this section in terms of the type and level of the program rather than in terms of the institution.

(c) If the agency has or seeks to include within its scope of recognition the evaluation of the quality of institutions or programs offering distance education or correspondence education, the agency's standards must effectively address the quality of an institution's distance education or correspondence education in the areas identified in paragraph (a)(1) of this section. The agency is not required to have separate standards, procedures, or policies for the evaluation of distance education or correspondence education;

The agency has appropriately addressed all the preceding standards in terms of how institutions that offer distance education are required to demonstrate compliance. The agency also has an additional standard for institutions that offer distance education, which, in effect, offers guidance as to how institutions that offer distance education are required to meet the agency's standards one through ten. While the agency states in the introduction to the section of the handbook dealing with distance education that "distance education encompasses all modalities of education where students and instructors are not simultaneously present in the same physical location", there are significant differences between distance education and correspondence education, as indicated in the definitions of these terms in the agency materials. The agency has not clearly addressed how it evaluates correspondence education to address the unique characteristics of this mode of delivery. It needs to provide evidence of its effective evaluation of correspondence education.

Staff determination: The agency does not meet the requirements of this section. The agency must make clear in its materials whether it does or does not accredit institutions that provide correspondence education, and if it does, the agency must clearly address how it evaluates correspondence education against its standards to address the unique characteristics of this mode of delivery. The agency must also provide evidence of its effective evaluation of its standards for institutions that provide correspondence education.

Analyst Remarks to Response:

The agency has stated in its response that it is not seeking recognition for the accreditation of correspondence education. However, this response does not address the Department’s concern—that the agency must make clear in its materials whether it does or does not accredit institutions that provide correspondence education, its representation of those activities, and its recognized accreditation activities.

The agency Handbook contains no definition for correspondence education suggesting that the agency does not accredit institutions offering correspondence education. The agency’s Handbook, Section VII, Definitions, contains a definition of distance education that conforms to the Department’s definition for distance education. However, the agency’s statement in the introduction to Section VI, Standard Eleven, of the Handbook states that “distance education encompasses all modalities of education where students and instructors are not simultaneously present in the same physical location.” This statement is incorrect in the context of the agency’s (and the Department’s) definition of distance education. The agency must clarify and correct all statements including the one noted in this analysis, to accurately reflect its accreditation of distance education as defined by the agency and the Department. The agency has also not removed references to correspondence education in its Policies and Rules document.

Staff Determination: The agency does not meet the requirements of this section. The agency must clarify and correct all statements including the one noted in this analysis, to accurately reflect its accreditation of distance education as defined by the agency and the Department.

§602.17 Application of standards in reaching an accrediting decision.

The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if the agency demonstrates that it--

(f) Provides the institution or program with a detailed written report that assesses--

- (1) The institution's or program's compliance with the agency's standards, including areas needing improvement; and**
- (2) The institution's or program's performance with respect to student achievement;**

and

It is not clear from the agency's narrative or Handbook, whether it has policies that require it to provide institutions a detailed written report in accordance with the requirements of this section.

The agency does demonstrate through its documentation that it provides institutions with a copy of the institution's site visit report which assesses the institution's compliance with the agency's standards, including areas needing improvement. As noted in a previous section, while the site visit report is essentially a check box format, the agency has crafted its evaluative criteria for measuring compliance with each standard into a series of close-ended questions which are sufficiently clear and specific to provide clear definition of why the institution is complaint or not compliant with the agency's standards in most instances. However, while the site visit report indicates that the team verified the student achievement data (placement, completion rates) from the institution's annual report it does not include a detailed report of the institution's performance with respect to student achievement. The agency must provide a more detailed evaluation of an institution's performance with respect to student achievement.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it provides the institution with a detailed written report of the institution's performance with respect to student achievement.

Analyst Remarks to Response:

The agency has stated in its response that it intends to provide a more detailed evaluation report which reflects the institution's performance, based on program-level outcomes data, with respect to student achievement. The agency plans to implement such changes after it finalizes its procedures of evaluation under its new student achievement standard.

Staff Determination: The agency does not meet the requirements of this section. The agency must provide evidence of its implementation of its revised detailed report assessing an institution's performance with respect to student achievement.

§602.19 Monitoring and reevaluation of accredited institutions and programs.

(d) Institutional accrediting agencies must monitor the growth of programs at institutions experiencing significant enrollment growth, as reasonably defined by the agency.

As stated in the previous section, the agency monitors growth of programs at institutions experiencing significant enrollment growth by way of its annual report. After a trigger of 25% or more over the baseline for enrollment growth is identified, the agency determines from the institution's response, whether specific data by program is required. Depending on what the Commission decides based on these data, the Commission may take action for heightened monitoring and more frequent reporting, or request a focused site visit. However, as required by this section, the agency must continue to monitor growth by program when significant enrollment growth of an institution is triggered, regardless of the institution's response.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it monitors growth of programs at institutions experiencing significant enrollment growth.

Analyst Remarks to Response:

The agency has made changes to its policies, but these changes do not correspond to the previous deficiency. This section requires the agency to monitor programmatic growth after an institution has triggered significant enrollment growth which the agency had previously identified as 25% above the baseline for enrollment growth. At that point, instead of requiring reporting of the data at the program level, the agency makes a determination as to whether further action is required. According to the requirements of this section, the agency must monitor the growth of programs at institutions that are experiencing significant enrollment growth.

The agency has since revised its policy to require institutions to report programmatic FTE enrollment increases by 100%; it is not clear that there is a trigger of significant enrollment growth by institution for the agency to initiate monitoring of the institution's programmatic growth.

Furthermore, it is not clear whether the agency has made the corresponding changes to its annual report so that institutions may report such data to the Commission.

The agency also excludes enrollment increases that result from the addition of new sites from its reporting requirement, citing that such increases have been previously approved by the Commission as planned substantive changes. Such an exclusion does not provide the agency with an accurate and meaningful

understanding of programmatic growth at an institution, nor does it ensure proper monitoring mechanisms of such growth as required under this section.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it monitors the growth of programs at institutions experiencing significant enrollment growth.

§602.20 Enforcement of standards

(a) If the agency's review of an institution or program under any standard indicates that the institution or program is not in compliance with that standard, the agency must--

(1) Immediately initiate adverse action against the institution or program; or

(2) Require the institution or program to take appropriate action to bring itself into compliance with the agency's standards within a time period that must not exceed--

(i) Twelve months, if the program, or the longest program offered by the institution, is less than one year in length;

(ii) Eighteen months, if the program, or the longest program offered by the institution, is at least one year, but less than two years, in length; or

(iii) Two years, if the program, or the longest program offered by the institution, is at least two years in length.

The agency has policies that require its accredited institutions to take appropriate action to bring itself into compliance within one year; the agency does not accredit institutions that offer programs longer than two years. However, the agency's standard three requires an institution to meet the minimum required benchmark for completion, placement, and licensure pass rate and to take any action required by the Commission due to overall completion rate being unacceptably lower than rates for peer institutions. As evidenced at the agency's February decision-meeting, an institution may be on continuing review status for two years, then placed on probation status for not meeting benchmarks in the third year. The institution may be on probation status for one year, thereby allowing the institution to be out of compliance with the agency's standard for three years.

Staff determination: The agency does not meet the requirements of this section. The agency must require its institutions to take appropriate action to bring itself into compliance with the agency's standards within a time period that does not exceed the requirement of this section.

Analyst Remarks to Response:

Though the agency has made changes to its policies in accordance with the requirements of this section, the final paragraph of the policy is unclear and contradicting to the changes the agency has made. For example, it is not clear whether the agency is still maintaining a "continuing review" status, and if so, how such a status coheres with the change in the agency's policy to place institutions on probationary status for not meeting student achievement benchmarks. According to the agency's policies, "continuing review" status is not a probationary status; electing to retain the status as it is written in the agency's policies would continue to exceed the enforcement timelines stipulated under this section.

Staff determination: The agency does not meet the requirements of this section. The agency must develop policies that ensure that institutions take appropriate action to come into compliance with the agency's standards within a time period that must not exceed the requirements of this section and demonstrate their effective and compliant application.

§602.21 Review of standards.

(a) The agency must maintain a systematic program of review that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and relevant to the educational or training needs of students.

(b) The agency determines the specific procedures it follows in evaluating its standards, but the agency must ensure that its program of review--

(1) Is comprehensive;

(2) Occurs at regular, yet reasonable, intervals or on an ongoing basis;

(3) Examines each of the agency's standards and the standards as a whole; and

(4) Involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review.

The agency has policies requiring it to conduct a systematic program of review of its standards on an ongoing basis. The agency's policies state that the review will comprehensively address the adequacy and relevancy of the agency's standards for the evaluation of the quality of the programs that the agency accredits, and the appropriateness of the standards for the educational and training needs of its students.

The agency's policies reflect a wide involvement of the agency's relevant constituencies whose feedback is solicited during occupational advisory

committee meetings on an annual basis.

The agency provided survey results from its institutional annual report, commissioners, and site visitor evaluations. The agency also provided agendas from the Council Committee on Standards which reflect that changes had been made to the standards. However, it is unclear from the agency's documentation, the extent to which the agency's relevant constituencies were afforded a meaningful opportunity to provide input into the review. Though the agency's policy states that the public and potential employers would be solicited for input, the agency did not provide evidence of such solicitation.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence that it involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review.

Analyst Remarks to Response:

The agency has made appropriate changes to its policies and procedures to ensure that it involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review, particularly for employers and the public as cited in the draft analysis.

In addition to soliciting input from the public and employers through institutional advisory councils, the agency plans to implement a process by which such input would be solicited directly from the public via its website. The agency plans to outreach to institutional members, state and federal authorities, and other accrediting agencies to encourage members of the public and potential employers to provide input through its website. The agency anticipates that it will have the mechanism in place for soliciting such feedback at the end of May. As stated in the original determination, the agency must provide evidence that it involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has implemented its procedures for ensuring that it involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review.

(c) If the agency determines, at any point during its systematic program of review, that it needs to make changes to its standards, the agency must initiate action within 12 months to make the changes and must complete that action within a reasonable period of time. Before finalizing any changes to its standards, the agency must--

(1) Provide notice to all of the agency's relevant constituencies, and other parties who have made their interest known to the agency, of the changes the agency proposes to make;

- (2) Give the constituencies and other interested parties adequate opportunity to comment on the proposed changes; and**
 - (3) Take into account any comments on the proposed changes submitted timely by the relevant constituencies and by other interested parties.**
-

Department staff could not verify the agency's policies regarding the requirement that the agency must initiate action within twelve months to make changes to its standards and complete that action within a reasonable period of time, if it determines that it needs to make changes to its standards.

Though the agency provided an e-mail header notifying its constituents of action items, it is not clear whether the notification included potential employers and the public as provided for in its policies. Furthermore, it is not clear from the documentation provided, the extent to which the agency received and took into account any comments on the proposed changes submitted by the relevant constituencies and by other interested parties.

Staff determination: The agency does not meet the requirements of this section. The agency must have policies that require it to initiate action within twelve months to make changes to its standards and complete that action within a reasonable period of time, if it determines that it needs to make changes to its standards. The agency must also provide evidence that it takes into account any comments on the proposed changes submitted timely by the relevant constituencies and by other interested parties. The agency must also provide evidence that it has included members of the public and potential employers in its notification and opportunity for comment in accordance with its policies.

Analyst Remarks to Response:

The agency has revised its policies in accord with its current practice to require it to initiate action within twelve months to make changes to its standards and complete that action within a reasonable period of time, if it determines that it needs to make changes to its standards.

The agency has also provided evidence that it takes into account any comments on the proposed changes submitted timely by the relevant constituencies and by other interested parties. The agency provided a sample of summary of comments from relevant constituencies (with constituency groups identified) that will be forwarded for review by the Council's Committee on Standards and Conditions. The agency also provided survey results from 2010 from its Commissioners and institutional annual reports that it will consider at its standards committee meeting.

The agency has made notable changes to its policies and procedures to ensure that members of the public and potential employers are included in its notification and opportunity for comment in accordance with its policies. The

Council will require institutions to make the agency's website available in its publications so that general members of the public are encouraged to comment on the standards review process.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate implementation of the changes it has enacted to its standards revision process.

§602.22 Substantive change.

(a) If the agency accredits institutions, it must maintain adequate substantive change policies that ensure that any substantive change to the educational mission, program, or programs of an institution after the agency has accredited or preaccredited the institution does not adversely affect the capacity of the institution to continue to meet the agency's standards. The agency meets this requirement if--

(1) The agency requires the institution to obtain the agency's approval of the substantive change before the agency includes the change in the scope of accreditation or preaccreditation it previously granted to the institution; and

The agency's substantive change policies outline approval procedures for various types of substantive changes and requires institutions to obtain prior approval by the Commission before the change takes place. Institutions must request substantive change approvals as soon as plans are made, but no later than thirty working days prior to the change.

However, the agency's policies also state that substantive changes are reviewed by staff and that approval may be given by the Executive Director. While Department staff observed a decision meeting at which Commissioners approved substantive changes that had been reviewed initially by staff, it is not clear from the agency's policies, which types of substantive changes require Commission approval and which types may be approved by the Executive Director. Because substantive changes identified in 602.22(a)(2) are, in effect, accreditation decisions, the Department requires that all such decisions will be approved by the Commission and not agency staff.

Though the Department observed a decision meeting at which agency staff presented substantive changes to the Council for approval, it is not clear, and the agency did not provide, evidence of its review process leading up to the Council's approval.

Furthermore, while the agency provided one substantive change request application as documentation, this is not sufficient evidence considering the various types of substantive change requests. There was no evidence of the

agency's review and approval of applications in accordance with its policies.

Staff determination: The agency does not meet the requirements of this section. The agency must revise and adhere to a substantive change policy that requires that it is the Commission that reviews and approves all substantive change requests of the types required by 602.22(a)(2) prior to inclusion into the agency's grant of accreditation. The agency must also provide documentation of its review of various types of substantive changes.

Analyst Remarks to Response:

Though the agency has stated that it has made appropriate changes to its policies to ensure that substantive changes are approved by the Commission, the agency's Handbook still permits staff approval of certain substantive changes, for example, of changes to add new programs or changes of the programmatic scope of an institution that may result from the addition of a program at a degree or credential level different from that which is included in the institution's current accreditation or preaccreditation.

Because the agency's policies continue to be non-compliant, the agency has not been able to demonstrate that it approves substantive changes in accordance with the requirements of this section. Though the agency has provided examples of substantive changes, these requests were processed under its former procedures whereby staff makes an initial approval and the Commission makes a final approval. The agency must revise its policies to ensure that they adhere to the requirements of this section. The agency must also demonstrate its effective application of its revised procedures for review of substantive changes.

Staff determination: The agency does not meet the requirements of this section. The agency must revise and adhere to a substantive change policy that requires the Commission to review and approve all substantive change requests of the types required by 602.22(a)(2) prior to inclusion into the agency's grant of accreditation. The agency must also provide documentation of its review of various types of substantive changes under its revised policy.

(2) The agency's definition of substantive change includes at least the following types of change:

(i) Any change in the established mission or objectives of the institution.

(ii) Any change in the legal status, form of control, or ownership of the institution.

(iii) The addition of courses or programs that represent a significant departure from the existing offerings of educational programs, or method of delivery, from those that were offered when the agency last evaluated

the institution.

(iv) The addition of programs of study at a degree or credential level different from that which is included in the institution's current accreditation or preaccreditation.

(v) A change from clock hours to credit hours.

(vi) A substantial increase in the number of clock or credit hours awarded for successful completion of a program.

(vii) If the agency's accreditation of an institution enables the institution to seek eligibility to participate in title IV, HEA programs, the entering into a contract under which an institution or organization not certified to participate in the title IV, HEA programs offers more than 25 percent of one or more of the accredited institution's educational programs.

The agency has policies that include the types of substantive changes listed under this section except that for the requirement under subsection (vii), the Council recently approved a policy that states that, "students of an accredited institution shall not receive more than 50 percent of their instruction under contract from an external agency, corporation, institution, or individual." The requirement under subsection (vii) however, states that agencies must review as substantive changes, contracts that Title IV institutions have with other non-Title IV entities that offer more than 25 percent of one or more of the accredited institution's educational programs.

Furthermore, though the Council recently approved the heading of "Contract or Consortium Agreements" to be included as a type of substantive change under its list of types of substantive change, it is not clear how the agency plans to review such contracts and consortiums. The agency's corresponding policy on such contracts states only that the agency MAY request review or approval of any contract the institution has with an outside entity, but that in any case, for instructional contracts, the Council provides for a 50% of a program restriction. This is more than the 25% restriction provided for under subsection (vii), and is therefore, not compliant.

As for the requirement under subsection (vi), the agency has defined substantial increase in the number of clock or credit hours awarded for successful completion of a program to be 25% or more, though institutions are still required to notify the Council in writing of changes less than 25% as well. Because the agency has defined a substantial increase, and provided for a control by which it can monitor all increases in clock or credit hours awarded, its policy is compliant with this subsection.

Though the Department observed a decision meeting at which staff presented substantive changes to the Commission for approval, it is not clear what

constitutes the review process that leads up to the Commission's approval, which appears to be heavily reliant on the staff's review. Also, the agency did not provide evidence of its review.

Staff determination: The agency does not meet the requirements of this section. The agency must conform its policy to meet the requirements under subsection (vii) of this section.

Analyst Remarks to Response:

The agency has revised its policies to prohibit accredited institutions it enables to seek eligibility to participate in title IV, HEA programs, from entering into contracts with non-title IV, HEA organizations that offer more than 25 percent of the institution's instruction.

However, the precise language of the regulation under this section specifies that agencies must approve as a substantive change entering into contracts with non-title IV, HEA entities that offer more than 25 percent of one or more of the accredited institution's educational programs. The agency's policy as currently written, which places a restriction on 25 percent of the institution's instruction (and not 25 percent of one or more of the accredited institution's programs), may allow for non-compliance under this section by not meeting the 25 percent requirement to trigger a substantive change review.

Staff determination: The agency does not meet the requirements of this section. The agency must conform its policy to meet the requirements under subsection (vii) of this section. The agency must also demonstrate its review and approval of a substantive change involving entering into contracts with non-Title IV entities.

(3) The agency's substantive change policy must define when the changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution.

The agency has not clearly defined when a request for approval of a substantive change or combination of changes is sufficiently extensive to require a new comprehensive evaluation, but it has outlined in its policy that it reserves the discretion to determine that a request for approval of a substantive change or combination of changes is substantial enough to warrant a requirement that an institution complete a self-study and host a full accreditation visiting team within 18 months of the notice from the Commission.

Because the regulation under this section requires an agency to define when such a new comprehensive evaluation is required, the agency must more clearly set parameters in its policy for when a new comprehensive evaluation is required.

Staff determination: The agency does not meet the requirements of this section.

The agency must more clearly define when changes requested by an institution are sufficiently extensive to require a new comprehensive evaluation.

Analyst Remarks to Response:

The agency has not clearly defined when a request for approval of a substantive change or combination of changes is sufficiently extensive to require a new comprehensive evaluation, but it has outlined in its policy that it reserves the discretion to determine that a request for approval of a substantive change or combination of changes is substantial enough to warrant a requirement that an institution complete a self-study and host a full accreditation visiting team within 18 months of the notice from the Commission.

Because the regulation under this section requires an agency to define when such a new comprehensive evaluation is required, the agency must more clearly set parameters in its policy for when a new comprehensive evaluation is required.

Staff determination: The agency does not meet the requirements of this section. The agency must more clearly define when changes requested by an institution are sufficiently extensive to require a new comprehensive evaluation.

(c)(1) A visit, within six months, to each additional location the institution establishes, if the institution--

- (i) Has a total of three or fewer additional locations;**
- (ii) Has not demonstrated, to the agency's satisfaction, that it has a proven record of effective educational oversight of additional locations; or**
- (iii) Has been placed on warning, probation, or show cause by the agency or is subject to some limitation by the agency on its accreditation or preaccreditation status;**

While the agency's procedures for the review of additional locations includes an assessment of an institution's fiscal and administrative capacity as required under section 602.22(c), the agency has not demonstrated that it reviews and approves these types of requests based on the fiscal and administrative capacity to operate the location. The example application provided by the agency did not include evidence of this.

The agency's substantive change procedures require a site visit within 180 days from the date of the Council's Executive Director's initial approval of the additional location, thereby encompassing the requirements of the three subsections under this section.

Staff determination: The agency does not meet the requirements of this section. The agency must more clearly outline and demonstrate its application of its

procedures and criteria for granting approval of additional locations.

Analyst Remarks to Response:

The agency has identified additional documentation that reflects the agency requires submission of fiscal and administrative data with the substantive change request application. Staff may provide initial approval of such a request at which time a site visit is scheduled which includes verification of the institution's fiscal and administrative capacity to operate the additional location. The institution's application and site visit report is then forwarded to the Commission for final approval.

According to the agency, the revised review process includes a staff analysis of the applications received to confirm that they are complete to the degree that all requested information is supplied, that financial statements provided (if applicable) are in compliance with Commission criteria, that the institution is not on a violation status preventing approval of the change, and that appropriate fees (if applicable) are paid. Each substantive change application will be assigned two readers and acted upon by the Commission. The Commission will review and approve the substantive changes as specified under 602.22(2)(i-vii) of these regulations.

However, the agency has not demonstrated its application of this newly revised approval procedure.

Staff determination: The agency must demonstrate that it effectively applies its revised policy regarding the review and approval of additional locations.

§602.23 Operating procedures all agencies must have.

(b) In providing public notice that an institution or program subject to its jurisdiction is being considered for accreditation or preaccreditation, the agency must provide an opportunity for third-party comment concerning the institution's or program's qualifications for accreditation or preaccreditation. At the agency's discretion, third-party comment may be received either in writing or at a public hearing, or both.

The agency's policy puts the responsibility for providing public notice on the institution being considered for preaccreditation or accreditation. While this has been found acceptable as an approach to comply with this criterion, the agency did not provide evidence that its institutions provide such an opportunity. The agency has not demonstrated its effective application of this approach to provide public notice to make 3rd party comments.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has an effective mechanism to provide an

opportunity for third-party comment concerning the institution's or program's qualifications for accreditation or preaccreditation.

Analyst Remarks to Response:

The agency has revised its policy to require institutions to include the Council's web site address in the advertisement announcing that it is up for reaccreditation in order to encourage comments from the general public regarding accreditation of institutions.

The agency will also solicit third-party comment for regarding an institution's consideration for accreditation or preaccreditation through its website which it plans to implement in late May 2011.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate effective application of its proposed revisions for providing opportunity for third-party comments.

§602.24 Additional procedures certain institutional accreditors must have.

If the agency is an institutional accrediting agency and its accreditation or preaccreditation enables those institutions to obtain eligibility to participate in Title IV, HEA programs, the agency must demonstrate that it has established and uses all of the following procedures:

(a) Branch campus.

(1) The agency must require the institution to notify the agency if it plans to establish a branch campus and to submit a business plan for the branch campus that describes--

- (i) The educational program to be offered at the branch campus;**
- (ii) The projected revenues and expenditures and cash flow at the branch campus; and**
- (iii) The operation, management, and physical resources at the branch campus.**

(2) The agency may extend accreditation to the branch campus only after it evaluates the business plan and takes whatever other actions it deems necessary to determine that the branch campus has sufficient educational, financial, operational, management, and physical resources to meet the agency's standards.

(3) The agency must undertake a site visit to the branch campus as soon as practicable, but no later than six months after the establishment of that campus.

The agency addresses the establishment of branch campuses as a substantive change. It has compliant written procedures for the review of branch campuses that require submission of a business plan at least thirty days prior to the campus becoming operational in accordance with the requirements of this section. The agency's policy requires the business plan to include all the information provided under subsection (1) of this section. The agency also provided the sample site visit report that demonstrates that the agency conducted a site visit within 180 days of the application in accordance with its policy.

However, the agency's policies also state that decisions to (initially) approve branch campuses may be made by agency staff. The documentation provided appears to support that policy. If the initial approval of a branch campus enables that entity to participate in Title IV student financial aid programs, the approval is, in effect, an accreditation decision. The Department requires that all such decisions be approved by the Commission and not agency staff.

Staff determination: The agency does not meet the requirements of this section. It must clarify that initial approval of a branch campus does not include the branch under the institution's accreditation or it must revise its policies and practices to require that the initial approval of branch campuses in the institution's grant of accreditation must be made by the recognized accrediting body.

Analyst Remarks to Response:

The agency has appropriately revised its policies and procedures to ensure that the Commission, and not agency staff, approves branch campuses prior to inclusion in an institution's grant of accreditation. The agency needs to demonstrate its application of the revised policy.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate its effective application of the revised procedures for the approval of branch campuses.

(b) Change of ownership.

The agency must undertake a site visit to an institution that has undergone a change of ownership that resulted in a change of control as soon as practicable, but no later than six months after the change of ownership.

The agency has a policy that requires it to conduct a site visit within 180 days of an institution that has submitted an application for a reinstatement of accreditation due to a change in ownership or control.

Though the agency has provided documentation that it conducts such a visit, the site visit reports shows that the visit was conducted on July 29, 2010 for an initial

approval that occurred on September 17, 2009, more than the 180 days provided in the agency's policy and the six months provided for under this section.

Staff determination: The agency does not meet the requirements of this section. The agency must evidence that it follows its procedures for changes in ownership in accordance with the requirements of this section.

Analyst Remarks to Response:

The agency has described how it exercised an exception to its policy in the example it provided with its petition. Due to the institution's forthcoming visit for reaffirmation, the agency elected to conduct the site visit for change in ownership in association with the institution's reaffirmation visit. The agency has stated in its response that it will no longer exercise the waiver of the 180-day requirement for conducting such site visits. While the agency's exercise of an exemption in the particular case appears to be a reasonable response, the agency must still demonstrate that it adheres to the requirement of this section for the changes of ownership applications it receives.

The agency has provided additional documentation demonstrating that it conducts such visits within the 180-day time frame for branch campuses. However, it has not provided documentation of conducting site visits within the 180-day time frame for changes in ownership.

Staff Determination: The agency must provide evidence that it follows its procedures for changes in ownership in accordance with the requirements of this section.

(2) The agency must evaluate the teach-out plan to ensure it provides for the equitable treatment of students under criteria established by the agency, specifies additional charges, if any, and provides for notification to the students of any additional charges.

The requirement under this section is that agencies have written procedures for the evaluation of teach-out plans that includes agency-developed criteria by which it will assess the effectiveness of the teach-out plan to provide equitable treatment of students, specifically and clearly identify any additional costs and appropriate mechanisms for notifying students of the charges.

The agency's policy on the equitable treatment of students does not make clear that it has an effective mechanism to conduct such an evaluation to ensure the equitable treatment of students. It is also not clear that the agency has drawn a distinction between teach-out plan requirements and the teach-out agreement requirements. The agency must revise its policy/procedures to define criteria by which it can assess teach-out plans in accord with the requirements of this criterion.

Staff determination: The agency does not meet the requirements of this section. The agency must revise its policy/procedures to define criteria by which it can assess teach-out plans in accord with the requirements of this criterion.

Analyst Remarks to Response:

The agency has since revised its procedures for evaluating teach-out plans and has provided documentation that defines criteria under which it ensures the teach-out plan provides for the equitable treatment of students. These criteria include a curriculum comparison which ensures students will be provided with the instruction promised by the closed educational program; assurance that institutions are working with regulatory agencies for placement of students; and notification to students of additional charges, if any, for completing the course or program at the teach-out institution.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate application of its revised procedures for evaluating teach-out plans.

(5) The agency must require an institution it accredits or preaccredits that enters into a teach-out agreement, either on its own or at the request of the agency, with another institution to submit that teach-out agreement to the agency for approval. The agency may approve the teach-out agreement only if the agreement is between institutions that are accredited or preaccredited by a nationally recognized accrediting agency, is consistent with applicable standards and regulations, and provides for the equitable treatment of students by ensuring that--

(i) The teach-out institution has the necessary experience, resources, and support services to--

(A) Provide an educational program that is of acceptable quality and reasonably similar in content, structure, and scheduling to that provided by the institution that is ceasing operations either entirely or at one of its locations; and

(B) Remain stable, carry out its mission, and meet all obligations to existing students; and

(ii) The teach-out institution demonstrates that it can provide students access to the program and services without requiring them to move or travel substantial distances and that it will provide students with information about additional charges, if any.

The agency's policy mirrors the requirements of this section.

While the agency's policy mirrors the requirements of this section, the agency must define the criteria it will use to ensure that it provides for the equitable treatment of students given the parameters provided for under this section. The agency must more clearly define the evaluative factors it will adopt to approve teach-out agreements.

Staff determination: The agency does not meet the requirements of this section. The agency must define the criteria it will use to ensure that it provides for the equitable treatment of students when approving teach-out agreements.

Analyst Remarks to Response:

The agency has since revised its procedures for evaluating teach-out agreements and has provided documentation that defines criteria under which it ensures the teach-out agreement provides for the equitable treatment of students, and that the teach out institution has the necessary experience, resources, and support services in accordance with the requirements of this section. The agency has adopted criteria in its evaluation of teach-out agreement to include the following: assurance that agreements are between institutions in candidate or accredited status with an accrediting agency recognized by the U.S. Secretary of Education; that the teach-out institution is geographically proximate to the closed program/institution; that the teach-out institution can remain stable, carry out its mission, and meet all obligations to existing students; that the teach-out institution can demonstrate compatibility of its program structure and scheduling to that of the closed program/institution; and, that the teach-out institution will provide students with information about additional charges, if any.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate effective application of its revised procedures for evaluating teach-out agreements.

§602.25 Due process

(f) Provides an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final.

(1) The appeal must take place at a hearing before an appeals panel that--

(i) May not include current members of the agency's decision-making body that took the initial adverse action;

(ii) Is subject to a conflict of interest policy;

(iii) Does not serve only an advisory or procedural role, and has and uses the authority to make the following decisions: to affirm, amend, or reverse

adverse actions of the original decision-making body; and

(iv) Affirms, amends, reverses, or remands the adverse action. A decision to affirm, amend, or reverse the adverse action is implemented by the appeals panel or by the original decision-making body, at the agency's option. In a decision to remand the adverse action to the original decision-making body for further consideration, the appeals panel must identify specific issues that the original decision-making body must address. In a decision that is implemented by or remanded to the original decision-making body, that body must act in a manner consistent with the appeals panel's decisions or instructions.

(2) The agency must recognize the right of the institution or program to employ counsel to represent the institution or program during its appeal, including to make any presentation that the agency permits the institution or program to make on its own during the appeal.

The agency has clearly written procedures for the conduct of an appeal. The agency's conflict of interest policy applies to its appeal panel members and its appeal procedures also state the agency's expectations that panel members appropriately disclose potential conflicts of interest and restrict panel members from the same state of the appellate institution to hear the appeal.

The agency's appeal panel includes 45 members nominated by the agency's nominating committee and elected by the agency's Council from chief administrative officers accredited by the Council. Of the 45 members, six panel members are selected to hear an appeal. Also in accordance with this section, the agency's policy includes a restriction from current commissioners and agency staff to serve on the appeal panel to restrict members who were involved in making the original adverse decision. However, it is not clear from the agency's documentation how it ensures that public members and academic and administrative personnel are represented on its appeal board.

The agency's policy makes clear the appeal board's authority as required under subsections (iii) and (iv) of this section. The agency's procedures also recognize the right of the institution to be represented by counsel.

As demonstrated by the documentation provided for a sample appeal, the agency followed its appeal procedures in accordance with its policies at the time of the appeal and within the requirements of this section applicable at that time. However, the agency needs to provide documentation of an appeal under the current requirements or state they have not had an appeal under the current requirements.

Staff determination: The agency does not meet the requirements of this section. The agency must provide documentation of an appeal under the current requirements or state they have not had an appeal under the current

requirements. The agency must also provide documentation of how it ensures that the appeal board includes academic and administrative personnel and a representative of the public.

Analyst Remarks to Response:

Though the agency has provided documentation that demonstrates how it ensures that the appeal board includes academic and administrative personnel and a representative of the public in accordance with the requirements for a decision-making body, the agency has not responded to the provision of documentation for the conduct of an appeal to verify its conduct of appeals in accordance with the regulatory requirements of 602.25(f).

Staff Determination: The agency does not meet the requirements of this section. The agency must provide documentation of an appeal under the current requirements or state they have not had an appeal under the current requirements.

§602.26 Notification of accrediting decisions

The agency must demonstrate that it has established and follows written procedures requiring it to provide written notice of its accrediting decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public. The agency meets this requirement if the agency, following its written procedures--

(b) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies at the same time it notifies the institution or program of the decision, but no later than 30 days after it reaches the decision:

- (1) A final decision to place an institution or program on probation or an equivalent status.**
- (2) A final decision to deny, withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of an institution or program;**

(3) A final decision to take any other adverse action, as defined by the agency, not listed in paragraph (b)(2) of this section;

The agency does not have compliant policies under the requirements of this section in that it must require notification of probation to the Secretary and other appropriate agencies, at the same time it notifies the institution of the decision.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its policy to require notification of probation to the Secretary and other appropriate agencies, at the same time it notifies the institution of the decision. The agency must also demonstrate that it adheres to this policy.

Analyst Remarks to Response:

The agency has since revised its policy to adhere with the requirements under this section. However, the agency has not provided evidence that it adheres to its revised policy.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence that it adheres to its revised policy on notification of probation to the Secretary and other appropriate agencies, at the same time it notifies the institution of the decision.

(c) Provides written notice to the public of the decisions listed in paragraphs (b)(1), (b)(2) and (b)(3) of this section within 24 hours of its notice to the institution or program;

The agency's policy does not include notification to the public within 24 hours of its notification to the institution for decisions to place institutions on probation or an equivalent status and is therefore, not compliant with the requirements of this section.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its policy to ensure notification to the public within 24 hours of its notification to the institution for decisions to place institutions on probation or an equivalent status. The agency must also demonstrate that it adheres to its policy.

Analyst Remarks to Response:

The agency has since revised its policy to adhere with the requirements under this section. However, the agency has not provided evidence that it adheres to its revised policy.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence that it adheres to its revised policy on notification to the public within 24 hours of its notice to an institution or program of its decisions for probation and adverse actions.

§602.28 Regard for decisions of States and other accrediting agencies.

(c) The agency may grant accreditation or preaccreditation to an institution or program described in paragraph (b) of this section only if it provides to the Secretary, within 30 days of its action, a thorough and reasonable explanation, consistent with its standards, why the action of the other body does not preclude the agency's grant of accreditation or preaccreditation.

The agency has written policies that are in accord with the requirements of this section. However, the agency has not provided evidence that it adheres to its policy nor did it indicate that it has not had such a situation.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate its application of its policy or state that it has not had occasion to apply its policy.

Analyst Remarks to Response:

The agency has been forthcoming in disclosing how its previous non-compliant policy resulted in its being out-of-compliance under this section of the regulation by granting accreditation to an institution that was subject to adverse action by another accrediting agency. The agency has since taken corrective action to revise its policy in accordance with the requirements of this section, but still has not provided a thorough and reasonable explanation, consistent with its standards, why the action of the other body does not preclude the agency's grant of accreditation of the institution in question. Though the 30-day requirement has been exceeded, the agency must demonstrate due diligence in providing such an explanation to the Secretary.

Staff determination: The agency does not meet the requirements of this section. The agency must provide a thorough and reasonable explanation, consistent with its standards, why the action of the other body did not preclude the agency's grant of accreditation of the institution described in the agency's response.

PART III: THIRD PARTY COMMENTS

The Department did not receive any written third-party comments regarding this agency.

U.S. Department of Education

Site Team Review

Petition for Degree-Granting Authority by U.S. Air University, School of Advanced Airpower and Space Studies

Introduction

On May 4-5, 2011 a site team from the National Advisory Committee on Institutional Quality and Integrity (NACIQI) and the U.S. Department of Education conducted a visit to U.S. Air University (Air University), School of Advanced Airpower and Space Studies (SASS or the School) at Maxwell Air force Base in Montgomery Alabama. The purpose of the visit was to verify the contents of the University's application for the authority to grant a Doctor of Philosophy (PhD) in Military Strategy that the School has developed in response to the April 2010, U.S. House of Representatives, Armed Services subcommittee on Oversight and Investigations, recommendation that all of the U.S. Air Force "should cultivate strategists to assume positions of senior command authority".

The Department of Education's authority to conduct this review is in a policy statement entitled "Federal Policy Governing the Granting of Academic Degrees by Federal Agencies and Institutions," which specifies that the Secretary of Education appoint a Review Committee to examine applicant Federal institutions and to determine their compliance with four criteria. The NACIQI serves as the appointed Review Committee.

The site team that conducted the visit consisted of the following two NACIQI members:

Dr. Arthur Keiser, Team Chair
Chancellor, Keiser University

Mr. Cameron C. Staples
Chairman, NACIQI

Chuck Mula, Accreditation Division staff accompanied the team.

Special Request: If the NACIQI concurs with the site team's recommendation and if the Secretary, in turn, concurs with the NACIQI's recommendation, then the members of the site team strongly urge the Secretary, and all those upon whom the resulting process relies, to expedite matters to the extent possible. It is our intent that the current class be eligible to receive their degrees if degree-granting authority is granted, even though Congress may not act before this first class completes the PhD in Military Strategy program.

Background

The Air University first sought degree-granting authority for its Associates in Applied Science degree from the Community College of the Air Force in 1976. Currently it offers eight programs of professional military education, of which four are degree programs authorized by the Congress of the United States. Additionally, it has several affiliated programs that are not within the command structure of the University; however, these programs fall under the educational guidelines established by the University. Air University is the degree-granting institution for the affiliate programs and for all degree programs offered at the school.

The last Air University degree program recommended for degree-granting authority by the U.S. Secretary of Education was the Master of Science degree in Flight Test Engineering at Edwards Air Force Base Test Pilot School (TPS). The TPS falls under the command authority of the Air Force Materiel Command, whereas the Air University falls under the command authority of the Air Force Air Education and Training Command. After degree-granting authority was granted to Air University for a Master of Science degree in Flight Test Engineering by the TPS at the Edwards Air Force Base site, it became an affiliated program under the educational umbrella of Air University.

After visits by members of the Secretary's National Advisory Committee on Institutional Quality and Integrity, the requested authorization was granted by appropriate legislation.

Analysis

The Review Committee received and reviewed evidence submitted by Air University's, School of Advanced Airpower and Space Studies that the following four criteria have been met:

- (1) That the conferring of the authority to grant the graduate degree in question is essential to the accomplishment of the program's objectives of the applying agency.**

The Air University asserts that degree-granting authority is needed for its SAASS Doctor of Philosophy in Military Strategy so that the school will be able to achieve its goals of (1) preparing senior military strategists to shape and direct the Air Force's mission in the defense of the United States of America and its global interest, and (2) retaining the senior leadership in the Air component of national power so as to advance national security during natural and manmade disasters and times of war by leveraging Air, Space and Cyberspace Power and technology for strategic advantage.

Air University asserts that the possession of degree-granting authority is essential in order for the SAASS to attract the highest caliber faculty members and researchers, who are highly aware of the weight that this authority carries in the academic world. It is also essential to SAASS because the school needs to compete with other Federal and public degree-granting institutions to attract the most desirable students for this vital program.

Also, without degree-granting authority, the school is at a distinct disadvantage. It is vital to the interests of the military and the nation that the Federal government have the ability to educate and retain its senior leaders, both civilian and military. These individuals too often leave public service because they cannot be promoted in their field due to their inability to earn advanced degrees while in government service.

Finally, in pragmatic terms, with the award of the PhD degree upon completion of the program, it is expected that American and allied students alike will be able to advance more quickly in their respective governments, allowing them greater opportunities to cooperate with their counterparts in the fight against global terror, further advancing the goals of the program and those of the nation.

Site visit team analysis:

Team members concurred that, given the academic rigor of the School of Advanced Airpower and Space Studies, program in Military Strategy the award of the Doctor of Philosophy is commensurate with the achievements of program graduates and essential to the goals and objectives of the University.

(2) That the graduate program in question and/or the graduate degrees proposed cannot be obtained on satisfactory terms through the facilities of existing non-Federal institutions of higher education.

Throughout its self-study, the Air University asserts that there is no extant counterpart to the SAASS's PhD program in a non-Federal institution of higher education. According to the School, the Military Strategy program is more focused than is typical in the private sector with the core curriculum being delivered "in a carefully constructed, sequential, and progressive manner with key current and real time national security concepts and themes interwoven throughout" (emphasis added). That program content is both current and relevant is essential to program success. The Air University is positioned to expeditiously "incorporate recent political, economic, social, and military changes, activities, and policies as they relate to school objectives" as they unfold.

Furthermore, the school has the ability to reach the best students among highly select officers. The Air University is the only institution equipped to deliver this graduate level curriculum to senior officers in the Air component of warfare, thus enabling them to

apply their learning in real time situations. There are no other academic institutions in the United States that provide the requisite environment for formulating Air Force and national strategy.

The pool from which the student body is drawn is atypical in that it consists of most highly qualified military members of a joint, interagency and international air warfare community. Because the pool ensures that only the highest quality candidates with comparable levels of experience and expertise in that community are admitted, the students serve as prime resources for one another in the educational process. It would be extremely difficult to assemble and maintain a similar student body in a non-Federal institution of higher education.

Finally, the extensive library resources available to Air University students, which are crucial to their success, are unavailable outside of the University's protected environment. Students are able to access information and other materials during the program and after graduation that are generally unavailable at any non-Federal institution.

Site visit team analysis:

Team members concurred that due to the composition of the student body, the required expertise of the faculty and seminar speakers, and that the Military Strategy program is more focused than is typical in the private sector with the core curriculum being delivered with key current and real time national security concepts and themes interwoven throughout this program cannot be obtained on satisfactory terms through any non-Federal institution of higher education.

(3) That the graduate program conducted by the applying agency meets the standards for the degree or degrees in question which are met by similar programs in non-Federal institutions of higher education.

The Department of Defense (DOD) Reorganization Act of 1986 required that any of DOD's professional educational institutions that attained degree-granting authority must pursue civilian accreditation. This was mandated so that the DOD degree-granting institutions would be subject to the same review process that assures the quality of mainstream American higher education. The Air University sought and was granted the authorization to grant a Master of Strategic Studies – offered by Air War College; a Master of Military Operational Art and Science – offered by the Air Command and Staff College (via resident and distance learning programs); a Master of Aerospace Studies – offered by the School of Advanced Airpower Studies; a Master of Science in Flight Test Engineering – offered by the U.S. Air Force Test Pilot School; and an Associate in Applied Science – offered by the Community College of the Air Force with majors in 67 areas and programs at 99 affiliated sites. Consequently the Air University sought and

first achieved regional accreditation in June 2004, by the Commission of Colleges of the Southern Association of Colleges and Schools (SACS). In February 2011 SACS reviewed and approved the proposed PhD program in Military Strategy.

The institution has planned a coherent course of study for the PhD program, with components encompassing military theory, experience, and synthesis/articulation. After completing 60 hours of coursework, students will undertake a master's thesis, a written comprehensive examination in the fields of theory, military practice, and strategic synthesis as well as an oral comprehensive examination. Students who are recommended for PhD Candidacy on the basis of their performance on the former will continue on and complete a dissertation. Students who are not recommended will be eligible to receive the M Phil. This process is in line with the usual process for a PhD.

All faculty members hold a Ph.D. in a relevant field, coupled with extensive professional experience. Furthermore, the curriculum is scheduled to be updated following reviews of student and faculty surveys, as well as evaluations of student accomplishment of learning objectives.

Site visit team analysis:

Team members concurred that the Doctor of Philosophy in Military strategy Program met or exceeded the standards for a PhD degree that are met by similar type/level programs in non-Federal institutions of higher education. The team also noted Air University's accreditation by the Southern Association of Colleges and Schools, Commission on Colleges, which includes the School's PhD in Military Strategy Program, as an integral part.

(4) That the administration of the graduate program concerned is such that the faculty and students be free to conduct their research activities as objectively, as freely, and in as unbiased a manner as that found in other non-Federal institutions of higher education.

The existence of an advisory committee of educators from regularly-constituted institutions shall be regarded as some evidence of the safeguarding of freedom of inquiry. Accreditation by an appropriate accrediting body, if such exists, shall be regarded as another safeguard.

Air University's policy on academic freedom requires that "all visiting lecturers, faculty, and students are encouraged to state their opinions and support or criticize any objective, policy, strategy, or tactics while pursuing knowledge, understanding, and improvement of the military profession."

While Air University regulations do not specifically address research, faculty and students are encouraged to publish research findings and are given the widest possible latitude to express their views, normally restricted only by security considerations.

The principal elements of academic freedom included in the Air University Faculty Handbook are:

- The freedoms to teach or learn, conduct research, and publish findings.
- The freedom to discuss in a classroom any material that is relevant to the subject matter as provided in the course objectives.
- The freedom to exercise individual constitutional rights as a citizen without institutional censorship or discipline.
- The freedom through lawful and peaceful persuasion to seek changes in academic and institutional policies.

As an accredited institution, the University must adhere to the same principles of academic freedom as other accredited universities, within the “special constraints of a military institution,” where the subject matter frequently contains classified materials. SACS, as the University’s accreditor, continues to serve as an additional guarantor of academic freedom.

Site visit team analysis:

Team members verified the implementation of the institution’s academic freedom policies and the active role of its Board of Visitors and concur that the University is administered with regard for the freedom of inquiry. Faculty attested to the freedom they feel in teaching and writing. Students were observed in discussions attesting to the freedom they feel in commenting on issues. In further support of the team’s conclusion, the University’s accreditation by Southern Association of Colleges and Schools, Commission on Colleges, is regarded as another safeguard of academic freedom.

THE PROCESS OUTLINED

The process to obtain degree-granting authority entails a recommendation from the National Advisory Committee to the Secretary. After considering the recommendation of the National Advisory Committee, the Secretary can send a positive recommendation to the Director of the Office of Management and Budget (OMB). In turn, OMB recommends the same to Congress where the authorization is granted.

SUMMARY RECOMMENDATION

Team members reviewed the self-study of Air University’s, School of Advanced Airpower and Space Studies, Doctor of Philosophy in Military Strategy Program and conducted a site visit to the institution. After meeting with administrators, faculty and

students, and reviewing additional materials on-site, the site team is satisfied that the proposed terminal degree program meets the requirements of the "Federal Policy Governing the Granting of Academic Degrees by Federal Agencies and Institutions." Based on the extremely high quality of the program, the site team unanimously recommends that the Committee recommend to the Secretary that he recommend that the University be granted degree-granting authority, as requested for a Doctor of Philosophy degree in Military Strategy.

The site team wishes to make it clear that it is their intent that the current class be eligible to receive degrees if degree authority is granted even though Congress may not act before the current class completes the course.