

FINAL ANALYSIS AND RECOMMENDATION FOR COE

Meeting Date: 02/27/2024

Type of Submission:
Compliance Report

Criteria: 602.15(a)(3)

Description of Criteria

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

Narrative:

As cited in the *Policies and Rules of the Commission*, the Council requires that each site visit include academic and administrative personnel. (Exhibit 1 – *Policies and Rules*, p. 23, Bookmark 1) The initial programming of the Council’s accreditation management system included a requirement to fulfill both academic and administrative positions on each team visit as each file was set up. However, during the review for its application for re-recognition by the Department of Education, the Department representative correctly identified what turned out to be a malfunction in the programming of the Council’s accreditation management software – specifically, in the application Council staff use for coordinating site visits.

The Council worked with its programmers to correct the software malfunction and offers Exhibit 2 - Rosters of Accreditation Visits: November, 2021 through October, 2022, to demonstrate that the malfunction has been eliminated and all visiting teams during this period included academic and administrative personnel.

In addition to correcting the malfunctioning software, Council staff in charge of the coordination of visits implemented use of a shared spreadsheet during visit coordination activities to ensure that academic and administrative categories are filled for every evaluation visit. (Exhibit 3 - Site Visit Coordination Software and Spreadsheet Screen Prints)

Document(s) for this Section

Exhibit Title	File Name	Analyst Comments	Agency's Exhibit Comments
Exhibit 1-Policies and Rules 2022 Edition 602.15	Exhibit 1 - Policies and Rules 2022 Edition 6	-	-
Exhibit 2-Rosters of Accreditation Visits- Nov 2021 to Oct 2022	Exhibit 2 - Rosters of Accreditation Visits -	-	-
Exhibit 3-Site Visit Coordination Software and Spreadsheet Screen Prints	Exhibit 3 - Site Visit Coordination Software	-	-

Analyst Worksheet- Narrative

Analyst Review Status:

Meets the requirements of this section

Analyst Remarks to Narrative:

As indicated in the Senior Department Official’s (SDO) letter dated October 27, 2021, the agency must demonstrate that it has both academic and administrative personnel included on all site visit teams. In response, the agency provided a list of accreditation site visits that occurred during November 2021 through October 2022 and a visiting team roster sheet for each visit (Exhibit 2), which clearly demonstrates all visiting teams included academic and administrative personnel. The agency indicated in the narrative that it resolved the malfunction issue with its accreditation management software, and the agency also provided site visit coordination software and spreadsheet screen prints that is used to ensure academic and administrative categories are filled for every evaluation visit (Exhibit 3). The agency’s response is satisfactory and no additional information is needed.

List of Document(s) Uploaded by Analyst - Narrative

No files uploaded

Analyst Worksheet - Response

Analyst Review Status:

Not Reviewed

Criteria: 602.20(a)

Description of Criteria

(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) Follow its written policy for notifying the institution or program of the finding of noncompliance;

(2) Provide the institution or program with a written timeline for coming into compliance that is reasonable, as determined by the agency's decision-making body, based on the nature of the finding, the stated mission, and educational objectives of the institution or program. The timeline may include intermediate checkpoints on the way to full compliance and must not exceed the lesser of four years or 150 percent of the—

(i) Length of the program in the case of a programmatic accrediting agency; or

(ii) Length of the longest program at the institution in the case of an institutional accrediting agency;

(3) Follow its written policies and procedures for granting a good cause extension that may exceed the standard timeframe described in paragraph (a)(2) of this section when such an extension is determined by the agency to be warranted; and

(4) Have a written policy to evaluate and approve or disapprove monitoring or compliance reports it requires, provide ongoing monitoring, if warranted, and evaluate an institution's or program's progress in resolving the finding of noncompliance.

Narrative:

602.20(a)(1):

The Department's Draft Staff Report (October 2020) and Final Staff Report (June 2021) reflected that the Council was in compliance with this criterion as it was not cited in section 7 of these reports under the heading "Issues or Problems". (Exhibit 6 – U.S. Department of Education Staff Reports)

During the NACIQI meeting, and as expressed in the SDO's letter, the NACIQI asked for a compliance report on COE's compliance with 602.20 relative to Florida Career College (FCC). COE is providing information regarding its compliance with 602.20 under the new, June 2020 recognition criteria relative to FCC and also its policies and procedures for enforcement timelines generally.

The Department staff inquired about COE's compliance with 602.20 under 34 C.F.R. Section 602.33 procedures. In a letter from Accreditation Group Director Herman

Bounds in December of 2020, the Department indicated that COE appeared to be in compliance with this criterion and requested updates with respect to FCC's accreditation status going forward. COE provided these updates each time the Commission reviewed FCC *via* the Department's Database of Postsecondary Institutions and Programs (DIPAP) website. (Exhibit 4 – Chronology of Monitoring Activities)

Herein a chronology of events is provided with respect to FCC beginning in May 2020. (Exhibit 4 – Chronology of Monitoring Activities Chart; Exhibits 4A through 4G – Chronology of Monitoring Activities Documents 1 – 33)

In May of 2020, the Commission received notification that two news outlets, the *Republic Report* and the *Daily Business Review*, were reporting on alleged ethical misconduct by employees of Florida Career College (FCC). The Commission also received a copy of a lawsuit filed in U.S. District Court for the Southern District of Florida alleging, among other concerns, deceptive and unfair recruitment and credit practices. (Exhibit 4A – Chronology of Monitoring Activities Documents 1-5, Bookmark 1)

The Council's primary publications (*Handbook of Accreditation and Policies and Rules of the Commission*) provide that such matters are to be treated as complaints. The Commission followed these procedures throughout its reviews and actions regarding FCC. (Exhibit 1 – *Policies and Rules*, p. 51, Bookmark 2; Exhibit 5 – *Handbook of Accreditation*, pp. 17 and 49, Bookmarks 1 and 2).

Immediately after receiving the news articles and lawsuit, the Commission issued a *Notification of Apparent Deficiency* (Notification), a monitoring status used by the Commission to provide official notification to an institution that issues of concern have been brought to the Commission's attention that may signify an institution is deficient with respect to requirement(s) of the Commission. (Exhibit 5 – *Handbook of Accreditation*, p. 18, Bookmark 3) Notification is not an indicator that an institution is non-compliant with any Commission standard, criterion, policy, or procedure, but a status that alerts the institution to the Commission's concern(s) and remains in place as the Commission conducts an investigation under its complaint procedures. (Exhibit 1 – *Policies and Rules*, p. 52, Bookmark 3)

FCC was notified that the Commission had received the media reports and a copy of the lawsuit and the institution had been placed on Notification status by the Commission on May 12, 2020. Since then, the Commission has followed its monitoring procedures and has expanded monitoring to include any new information brought to its attention since May 2020. To demonstrate the Commission's monitoring activities with respect to FCC, Exhibit 4 – Chronology of Monitoring Activities Chart (and documents in Exhibits 4A through 4G) is provided with this

response.

Exhibit 4 provides a chart listing the timing of each monitoring activity conducted by the Council, the institution's responses, and related events occurring since May 2020. Note that while FCC remains on monitoring status and will be reviewed again at the Commission's December 2022 meeting, the institution has not been found out of compliance with the Commission's standards or policies and so the maximum time frame provisions under 602.20(a)(2) have not been triggered.

In the event that non-compliance is found, however, Council policies cite the maximum time frame provisions that will be followed and these are compliant with 602.20(a)(2). (Exhibit 5 – *Handbook of Accreditation*, pp. 19-20, Bookmark 10) Provisions are available within Council policies for institutions seeking an extension of the time period for compliance with good cause. (Exhibit 5 – *Handbook of Accreditation*, pp. 19, 51, and 88, Bookmarks 11-13)

602.20(a)(2)(i)-(ii):

The *Notification of Apparent Deficiency* monitoring status is used to collect information that may help the Commission determine if the institution is in violation of Commission requirements. It provides only a 30-day deadline for submission of responses to the Commission's requests. (Exhibit 5 – *Handbook of Accreditation*, p. 18, Bookmark 3)

Notification status allows the Commission a method of formal notification to an institution that certain issues are of concern and need to be monitored. The period of time for monitoring is determined by the Commission on a case-by-case basis and after the submission and review of each response to its requests. (Exhibit 1 – *Policies and Rules*, p. 54, Bookmark 4)

Based on the institution's responses and other information made available to the Commission, the Notification status may be continued (deferred) or may be changed by the Commission to a more serious violation status, such as Warning, Probation, or Show Cause, or it could be dropped from accreditation should evidence of non-compliance be revealed. (Exhibit 1 – *Policies and Rules*, p. 52, Bookmark 3; Exhibit 5 – *Handbook of Accreditation*, p. 20, Bookmark 5) Notification may be removed should the institution provide evidence that ameliorates any concern regarding compliance with a standard. (Exhibit 1 – *Policies and Rules*, p. 52, Bookmark 5; Exhibit 5 – *Handbook of Accreditation*, p. 18, Bookmark 6)

The initial letter sent to FCC on May 12, 2020 specified documentation expected by the Commission with a thirty-day deadline. (Exhibit 4A – *Chronology of Monitoring Activities Documents 1-5*, Bookmark 1) The institution provided that documentation

and has fulfilled every subsequent request made by the Commission since May of 2020. (Exhibit 4 - Chronology of Monitoring Activities Chart)

Since its initial review by the Commission beginning in May of 2020, FCC has been included on every Commission meeting agenda for the last thirty months. After each meeting, the Commission has requested updates regarding the litigation, the results of the Commission's own focused review visit, responses to the Commission's interviews with plaintiffs involved in the lawsuit against FCC, and responsive information to the Commission's regularly scheduled comprehensive review for FCC's reaffirmation of accreditation which included a review of compliance with all Commission standards. (Exhibit 4 – Chronology of Monitoring Activities Chart)

The Commission intends to continue this close monitoring of FCC in accordance with its policies and procedures. In the event non-compliance is found, Council policies establish the maximum time frame provisions that will be followed and these are in compliance with 602.20(a)(2). (Exhibit 5 – *Handbook of Accreditation*, pp. 19, Bookmark 10) Provisions are also available within Council policies for institutions seeking a good cause extension of the time period for compliance. (Exhibit 5 – *Handbook of Accreditation*, pp. 19, 51, and 88, Bookmarks 11-13)

602.20(a)(3):

With respect to the matters concerning Florida Career College, there has been no request for and no need to grant an extension of time for good cause since FCC has not been found out of compliance with the Commission's standards. Notification status is a monitoring status whose timeline is determined by the Commission on a case-by-case basis. Every deadline specified in Commission letters for documentation and narrative responses has been fulfilled by the institution in a timely manner. (Exhibit 1 – *Policies and Rules*, p. 54, Bookmark 4)

Generally, provisions are available within Council policies for institutions seeking an extension of the time period for compliance with good cause when warranted. (Exhibit 5 – *Handbook of Accreditation*, pp. 19, 51, and 88, Bookmarks 11-13)

602.20(a)(4):

Issues cited in *Notifications of Apparent Deficiency* regarding possible non-compliance, such as those cited in the original letter from the Commission to Florida Career College, are specific to the allegations made against an institution. (Exhibit 4A – Chronology of Monitoring Activities Documents 1-5, Bookmark 1) FCC was required to address these issues in its responses to Commission requests for information. Additionally, during the focused review visit conducted by the Council, the criteria for review by the visiting team on the site visit report were customized to

apply to the issues of concern cited in the *Notification*. During the comprehensive review for reaffirmation, the Commission once again reviewed these concerns in accordance with its standards and procedures. (Exhibit 4F – Chronology of Monitoring Activities Documents 19-23, Bookmark 19; Exhibit 4G – Chronology of Monitoring Activities Documents 24-33, Bookmark 32)

After each response was submitted to Commission letters of request and site visit reports, the Commission reviewed and acted upon documentation provided by the institution. In each case to date, the institution has provided satisfactory responses to all Commission requests and has not been found to be non-compliant with any Commission condition, standard, policy or procedure. However, the Commission will continue its monitoring of FCC and the institution’s *Notification* status until all areas of concern identified by the Commission are resolved to its satisfaction or until, and if, any areas of non-compliance are identified and the Commission takes appropriate action. (Exhibit 4 – Chronology of Monitoring Activities Chart)

Council policies regarding the evaluation and approval of monitoring or compliance reports are found in the *Policies and Rules of the Commission*, Complaint Procedures of the Commission and specify the details of the Commission’s review and possible actions it may take. (Exhibit 1 – *Policies and Rules*, p. 52, Bookmark 6) In the event areas of non-compliance are found, Council policies cite the maximum time frame provisions that will be followed. (Exhibit 5 – *Handbook of Accreditation*, pp. 19, Bookmark 10) Provisions are available within the policies for institutions seeking an extension of the time period for compliance with good cause. (Exhibit 5 – *Handbook of Accreditation*, pp. 19, 51, and 88, Bookmarks 11-13)

Document(s) for this Section

Exhibit Title	File Name	Analyst Comments	Agency's Exhibit Comments
Exhibit 6-US Dept of Ed Staff Reports	Exhibit 6 - US Department of Education Staff	-	-
Exhibit 4-Chronology of Monitoring Events Chart	Exhibit 4 - Chronology of Monitoring Activiti	-	-
Exhibit 4A-Chronology of Monitoring Activities Documents 1-5	Exhibit 4A - Chronology of Monitoring Activit	-	-
Exhibit 4B-Chronology of Monitoring Activities Document 6	Exhibit 4B - Chronology of Monitoring Activit	-	-
Exhibit 4C - Chronology of Monitoring	Exhibit 4C - Chronology of	-	-

Exhibit Title	File Name	Analyst Comments	Agency's Exhibit Comments
Activities Documents 7-9	Monitoring Activit		
Exhibit 4D - Chronology of Monitoring Activities Documents 10-15	Exhibit 4D - Chronology of Monitoring Activit	-	-
Exhibit 4E - Chronology of Monitoring Activities Documents 16-18	Exhibit 4E - Chronology of Monitoring Activit	-	-
Exhibit 4F - Chronology of Monitoring Activities Documents 19-23	Exhibit 4F - Chronology of Monitoring Activit	-	-
Exhibit 4G - Chronology of Monitoring Activities Documents 24-33	Exhibit 4G - Chronology of Monitoring Activit	-	-
Exhibit 1 - Policies and Rules 2022 Edition 602.20a	Exhibit 1 - Policies and Rules 2022 Edition 6	-	-
Exhibit 5 - Handbook of Accreditation 2022 Edition 602..20a	Exhibit 5 - Handbook of Accreditation 2022 Ed	-	-
Policies and Rules Handbook 2023 Edition	Policies and Rules 2023 Edition.pdf	-	-
Notice of Apparent Deficiency FCC w Articles	Notification of Apparent Deficiency - Florida	-	-
Handbook of Accreditation 2023 Edition	Handbook of Accreditation 2023 Edition.pdf	-	-
Chronology of Monitoring Activities	Chronology of Monitoring Activities - UPDATED	-	-
Bounds Initial FCC Documentation Letter	Bounds Letter re FCC Documentation June 10 20	-	-
Bounds Decision Letter re FCC Documentation	Bounds Decision Letter re FCC Documentation D	-	-
Florida Career College Self Study 2022	Florida Career College Self Study 2022.pdf	-	-
Florida Career College Official Team Report 2022	Florida Career College Official Team Report 2	-	-
FCC Institutional Response	Florida Career College Response to Official T	-	-

Exhibit Title	File Name	Analyst Comments	Agency's Exhibit Comments
Annual Report 2022 Florida Career College	Annual Report 2022 - Florida Career College.p	-	-

Analyst Worksheet- Narrative

Analyst Review Status:

Does not meet the requirements of this section

Staff Determination:

The agency does not meet requirements of this section. The agency must provide evidentiary documentation demonstrating that per its complaint policies and procedures, it conducted an inquiry (including all steps) before issuing the notice of apparent deficiency. Upon completion of the agency’s complaint investigation and monitoring efforts, the agency must provide documentation outlining remaining monitoring activities and resolution (commission decision) and provide enforcement timeline/actions, if it determines FCC did not comply with requirements. The agency must provide documentation of the recent full-cycle review of FCC (self-study, FCC’s response to site visit report, and decision letter). The agency must provide the last annual report for FCC.

Analyst Remarks to Narrative:

As indicated in the Senior Department Official’s (SDO) letter dated October 27, 2021, the agency’s compliance report must demonstrate that it has meaningfully engaged with its obligations under section 602.20 to enforce its accreditation standards with respect to complaints of fraud and criminal activity at Florida Career College (FCC).

In addition, the SDO letter indicated the agency should provide evidence that it is monitoring compliance with its standards and evidence of actions the agency is taking to evaluate compliance in light of the FCC lawsuit regarding predatory recruiting and job placement fraud.

As indicated in the final staff analysis, the agency has adequate policies regarding enforcement timelines, monitoring, good cause extension, and evaluation/monitoring procedures for institutions found non-compliant with standards (Exhibit 5, Handbook of Accreditation, page 18-19).

The agency has not established a timeline for FCC to come into compliance because it has not determined the institution is not compliant with its accreditation standards, policies and procedures. The agency placed the institution on monitoring status and

issued a notice of apparent deficiency on May 2020 (Exhibit 4A), which presented the evidence of apparent violation relative to two news report articles and court case, and FCC responded within the required 30-day period, which was reviewed by the commission and continued the monitoring status (Exhibit 4A). The agency's handbook of accreditation outlines requirements of a notice of apparent deficiency (Exhibit 5, page 18).

As part of its monitoring efforts, the agency has taken several actions to investigate the issues and allegations against FCC, such as requiring periodic arbitration status reports/ultimate outcome and quarterly update reports that provided the progression of litigation, court filings and rulings, written notification of final resolution of lawsuit, and non-disclosure or confidentiality agreements with plaintiffs. The commission met and reviewed the quarterly reports and required subsequent information. The agency also interviewed complainants in the lawsuit and allowed the institution to respond. In addition, the agency has also reviewed FCC relative to the Department's Title IV program reviews, compliance audits, heightened cash monitoring, and pending investigation by the enforcement division. The agency also conducted a focused review to address FCC's standards related to educational programs, financial resources, human resource, student personnel services, and requirements relating to recruiting and advertising, and the focus review report, dated January 2022, indicated there were no findings of non-compliance (Exhibit 4F). Focus reviews may be prompted by a complaint, as indicated in the handbook of accreditation (Exhibit 5, page 17). The agency also responded to a general inquiry under CFR 34 602.33 from the Director of the Accreditation Group (June 2020) regarding a class-action lawsuit that was filed in the U.S. District Court against FCC alleging FCC engaged in unfair and deceptive practices including deceiving students into taking out Direct Loans; inducing students to enroll using false promises of job placement outcomes; and engaging in reverse redlining (Exhibit 4B). The Department stated in its inquiry closeout letter (December 2020) that the agency was following its standards, policies, and procedures in its review of the institution (Exhibit 4C).

However, it has been noted that the agency treated the lawsuit and news allegations in accordance with its complaint policy, and it appears the agency did not follow its compliant policy before it issued the notice of apparent deficiency. The agency specifically did not provide evidentiary documentation of conducting a compliant inquiry (before issuing the notice of apparent deficiency) that involved notifying FCC of the lawsuit and news allegations and allowing the institution to respond within 21 days. The notice of apparent deficiency was supposed to be issued after the commission reviewed and decision regarding FCC's response to the complaint inquiry. The agency stated in the narrative that its actions addressed the lawsuit and news allegations in accordance with its complaint policy and procedures, which indicates lawsuit charges against institutions can be considered a complaint for practical purposes and necessitate further inquiry and/or action by the commission

(Exhibit 5, Handbook of Accreditation, page 49 and Exhibit 1, Policies and Rules of the Commission, page 50). Department staff could not determine if the agency followed its complaint policy and procedures without evidentiary documentation relative FCC's compliant.

The agency provided a chronological chart of monitoring activities and evidentiary documentation (Exhibits 4, 4A-G).

Department staff cannot determine if the agency has thoroughly addressed the allegations against FCC according to its standards, policies and procedures because the agency has not concluded its monitoring/investigation, and the agency is also awaiting final resolution of the lawsuit, matters involving the Consumer Protection Directorate, the September site visit for reaffirmation of accreditation and other pending items/actions. This information would allow the Department to thoroughly assess if the agency complies with enforcement requirements. The agency must provide documentation of the recent full-cycle review of FCC (self-study, FCC's response to site visit report, and decision letter). The agency did not provide the last annual report for FCC.

In addition, the Department received one third-party comment. The commenter questioned FCC's inconsequential monitoring status, integrity, recruitment practices, program cost and quality, instructional resources and equipment, and job placement rates. The commenter also questioned the agency's monitoring and evaluation of FCC, enforcement of its benchmarks, and its posting accreditation decision on its website.

The commenter indicated that the Department should ascertain why FCC has remained in the relatively inconsequential monitoring status of "Notification of Apparent Deficiency" since June 2021. As noted previously in this analysis, the lawsuit allegations were processed by the agency as a complaint and the complaint process allows the agency to put FCC on monitoring status. The agency's policy indicates the notice of apparent deficiency monitoring status may be removed at any time by the commission upon clarification or remediation of the apparent deficiency (Exhibit 5, page 18). The policy does not have a specific timeline for institutions to resolve its monitoring status. Department staff reminds the agency that it must establish enforcement timelines if the institution is determined to be noncompliant during the period the agency is monitoring the institution as prescribed in 602.20(a)(2)). The commission has the discretion to determine the length of time it needs to fully investigate an institution's compliance with standards, policies and procedures, as well as the discretion to determine how long it will allow an institution to remedy its monitoring status and when the monitoring status will be escalated to a violation. The agency has demonstrated that the commission has met several times to review a multitude of information that was provided by FCC in response to its

monitoring status, and the commission decided to continue FCC's monitoring status several times to obtain additional information. The agency's notice of apparent deficiencies highlighted allegations presented in the two news report articles and the lawsuit as the basis for the institution's placement on monitoring status. The commenter referenced COE approving a new campus for FCC; however, the agency has not identified a violation/non-compliant issue that would have impacted the opening of a new campus because FCC remains on monitoring status. The commenter questioned the agency's application of monitoring status as a means to avoid alerting the public and appropriate oversight agencies about serious concerns with FCC's compliance; however, COE followed its complaint policy, which specifies a lawsuit is handled as a complaint. The compliant policy allows the agency to put an institution on monitoring status.

The commenter indicated that the agency should provide documentation demonstrating it has evaluated all job placement rates reported by FCC to COE, and that it has enforced its policies with respect to program benchmarks. The agency provided the site visit report (conducted in 2022) for FCC's reaffirmation of accreditation, and the report did not have any findings relative to benchmarks (Exhibit 4G). The report determined the institution provided accurate data on completion, job placement and licensing exam rates under Standard 3, and the team also assessed the quality of placement services under Standard 10. The agency did not provide documentation of a full-cycle review of FCC (self-study, FCC's response to site visit report, and decision letter). The agency indicated the commission was scheduled to review all materials related to the reaffirmation of accreditation at its December 2022 meeting. In addition, the agency did not provide the last annual report for FCC and assessment documentation to demonstrate it adequately evaluated FCC's student achievement/program outcomes. However, as noted previously, Department staff has asked that all documentation to be provided in COE's response to the draft staff analysis.

The commenter indicated the agency should provide evidence of its monitoring and evaluation of FCC's compliance with accreditation criteria pertaining to integrity, recruitment practices, program cost and quality, and instructional resources and equipment. The agency provided documentation of monitoring activities, as previously outlined in this analysis, for FCC conducted under the notice of apparent deficiencies. The agency conducted a focused review in 2022 to address allegations against FCC, and the commission customized the criteria for the site visiting team, specific to allegations in the news articles and lawsuit. The focused review report addressed several requirements, such as the institution's integrity of recruiting, advertising, and admissions, program length and tuition relative to entry level earnings, and financial and human resources. There were no findings of non-compliance presented in the focused review report (Exhibit 4F). The agency also conducted a site visit in 2022 for reaffirmation of accreditation. The site visit report

addressed several requirements, such as the adequacy of learning resources (Standard 5) and physical resources and technical infrastructure (Standard 6), and quality of educational programming (Standard 2). The site visit report demonstrated FCC recruitment practices were compliant with agency requirements (Exhibit 4G under Items 18 & 19). The site visit report did not cite any negative findings of noncompliance (Exhibit 4G). The agency indicated in its narrative that the commission was scheduled to review all materials related to reaffirmation of accreditation at its December 2022 meeting. However, as noted previously, Department staff has asked that all documentation to be provided in COE's response to the draft staff analysis.

The commenter also indicated the agency's website does not provide adequate notice to the public of accreditor decisions. Section 602.26b outlines notification requirements for negative decisions. The agency handbook (Exhibit 5, page 18) specifies that violation statuses are a matter of public record and will be published on the website in the form of a notification. The agency includes commission actions under the Resources tab on its website. The Department staff uploaded documentation of the agency's December 2022 post of commission actions on its website, which included FCC. The agency satisfies notification requirements of 602.26b.

List of Document(s) Uploaded by Analyst - Narrative

Exhibit Title	File Name
Website Notifications of Negative Actions	2022-December-Notification-of-Actions-Taken.pdf
FCC's incorrect teach-out plan	FCC Institutional Teach-Out Plan.pdf

Response:

1. The agency must provide evidentiary documentation demonstrating that per its complaint policies and procedures, it conducted an inquiry (including all steps) before issuing the notice of apparent deficiency.

The agency's Complaint Policies and Procedures are detailed in the Policies and Rules Handbook: 2023 Edition, pp. 51-54 (Exhibit 4). The policy includes the definition of a complaint and the various forms and sources as indicated in this excerpt:

“A complaint may be defined as any formal notification provided to the Commission alleging violations of the Standards, Criteria, Conditions, Policies, and/or procedures of the Commission. A complaint may be brought against an institution by one or more parties, including students, instructors, administrators, state or federal agencies,

employers, vendors, another institution, or others. A complaint may also take the form of a lien, lawsuit, disciplinary action, negative action by another accrediting body or a regulatory agency or board, or a decision of a criminal or civil court.” p. 51

The policy continues to highlight critical steps of Institutional Notification (Section C), Comment on Institutional Response (Section D) and Commission Review (Section E). The policy also provides for Issues of Serious Public Concern (Section J) which outlines the framework for actions that will be described in this narrative. Section J reads:

“The Commission and staff have a keen responsibility to recognize and act upon emergency complaints. When it appears that a complaint is of such magnitude or is of such a serious nature as to require immediate action, the complaint may be taken directly to the Commission Executive Committee or the Commission via telephone conference call for review and appropriate action. When neither the Commission nor the Commission Executive Committee is in session, the Executive Director may act on behalf of the Commission in response to such an emergency situation. Such matters as front-page news stories involving alleged improprieties, for example, may require an immediate inquiry on the part of the Commission.” p. 54

In April 2020, the Council received two news articles from the Republic Report and the Daily Business Review and a copy of a lawsuit filed against Florida Career College which alleged misconduct by the institution with regard to student enrollment and the processing of Title IV student financial aid. These articles and the lawsuit are attached to Exhibit 5 mentioned below. Consistent with its standard practices, the Council does not take action on unsubstantiated allegations.

During the same month, the Council’s then Executive Director, Dr. Gary Puckett, contacted the Accreditation Group, U.S. Department of Education, and spoke with Dr. Valerie Lefor, the Council’s representative, regarding the Department’s concerns about the serious nature of allegations made against Florida Career College. Minutes of these conversations were not recorded by the agency.

The Executive Director reviewed the allegations in the news articles and the lawsuits and analyzed the information received from Dr. Lefor. In light of the serious (although unsubstantiated) nature of the allegations, the Executive Director then took emergency action as outlined in the *Handbook of Accreditation* cited below and issued a Notification of Apparent Deficiency dated May 12, 2020.

“In instances where the nature of the complaint requires immediate action, the Executive Director, with concurrence from the chair of the Commission, may take emergency measures to determine the facts and present them either to the Executive Committee or to the Commission.”

(Exhibit 6: *Handbook of Accreditation: 2023 Edition*, page 52, e. Complaints, Bookmark 1)

The Council's Notification letter required the institution to respond to allegations made in the Republic article and in the lawsuit within 30 days (Exhibit 5). This timeline is in accordance with the Council's conditions regarding the imposition of Notification of Apparent Deficiency (Exhibit 6: *Handbook of Accreditation*, page 19, Bookmark 2).

In June 2020, the institution responded to the request indicating that the articles contained only accusations. In addition, the institution's response included documentation to refute the allegations and demonstrate adherence to the agency's standards and conditions. Exhibit 7 lists the chronology of events including communication sent to, and received from, the institution.

The following month, July 2020, the institution provided official court documents requesting arbitration or dismissal related to the ongoing legal case. The institution was required to provide regular reports on the status of the litigation.

In parallel with the above referenced actions, and following the issuance of the Notification on May 12, 2020, Mr. Herman Bounds, Director of the DOE Accreditation Group, issued a directive dated June 10, 2020 requesting that the Council submit documentation regarding the agency's latest accreditation review and specifically how that review addressed requirements related to 34 C.F.R. § 602.16(a)(1)(vii) recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising; and any as required by 34 C.F.R § 602.16(a)(1)(ix) record of student complaints received by, or available to, the agency. (Exhibit 8)

After review of the Council's submission (previous upload to eRecognition), Mr. Bounds issued a letter stating that the Accreditation Group's decision relative to the Council's compliance with 34 C.F.R. part 602 was that the agency demonstrated it was following its policies and procedures relative to the review of the institution and that the documentation provided indicated that the Council was closely monitoring information in the public domain and was closely monitoring the institution. The decision letter also requested updates regarding the monitoring of the institution relative to 34 CFR 602.33. (Exhibit 9)

Upon the arrival of the Council on Occupational Education's new Executive Director, Dr. Kirk Nooks, and in order to clarify the agency's policy regarding emergency actions, the Council Committee on Policies met August 2-3, 2023 and discussed and recommended changes to the *Policies and Rules of the Commission*. The Commission met on September 7 & 8, 2023 and approved the following revision under the *Issues*

of Serious Public Concern section.

“The Commission and staff have a keen responsibility to recognize and act upon emergency complaints. When it appears that a complaint is of such magnitude or is of such a serious nature as to require immediate action, the complaint may be taken directly to the Commission Executive Committee or the Commission via telephone conference call for review and appropriate action. When neither the Commission nor the Commission Executive Committee is in session, the Executive Director (START DELETION - may act on behalf of the Commission in response to such an emergency situation. Such matters as front-page news stories involving alleged improprieties, for example, may require an immediate inquiry on the part of the Commission. - END DELETION) (NEW) with concurrence of the chair of the Commission, may take emergency measures to conduct an inquiry to determine the facts. This may include, but is not limited to, a Notification of Apparent Deficiency to the institution and/or site visit. The emergency measures with findings and the institutional response will be presented to the Executive Committee and /or the Commission, within seven (7) days. Such matters as front-page news stories involving alleged improprieties, for example, may require an immediate inquiry on the part of the Commission.”

The (START / END) is the previous language and the NEW) is the updated language.

2. Upon completion of the agency’s complaint investigation and monitoring efforts, the agency must provide documentation outlining remaining monitoring activities and resolution (commission decision) and provide enforcement timeline/actions, if it determines FCC did not comply with requirements.

Monitoring of the institution continues to date with regard to the original allegations cited in news media outlets, the lawsuit, and other issues of concern and actions taken by the U.S. Department of Education and Federal Student Aid. These activities are summarized in the Chronology of Monitoring Activities that was previously submitted to the Department in its interim report submission dated November 28, 2022. The Chronology has been updated to reflect all actions to date. It includes all official Commission action letters, team reports, and institutional responses. (Exhibit 7)

Documentation regarding each monitoring activity and the resulting Commission action letter is provided in Exhibit 6. Bookmarks for each document collected or created after the submission of the Council’s November 28, 2022 interim report to the

Department is bookmarked in accordance with the numbering system indicated on the Chronology at the beginning of Exhibit 7.

The institution has provided all requested documentation by the deadlines specified by the Commission. The Council staff is continuing to review the information provided and continues to explore the nature of allegations in the context of institution provided documentation/support. At this point, the agency has not uncovered any evidence to substantiate the allegations and the institution has submitted exculpatory evidence. Hence, the Commission has not made a determination of non-compliance to date but continues the institution's Notification of Apparent Deficiency until all outstanding areas of concern are satisfactorily addressed.

Once all areas of concern are addressed through the Council's monitoring process, and if the Commission determines that the institution has failed to comply with one or more condition or criteria of its accreditation process, the Commission may elect to change the Notification of Apparent Deficiency to Probation status, issue a Show Cause Order, or drop the institution from accreditation.

The enforcement timeline that applies to a Probation status is a maximum of one year from the date of the Commission's official letter imposing the status. The Commission may specify a deadline for response of less than one year depending on the specific area of concern. If the institution is placed on Show Cause status, it has thirty calendar days (from the date of the Commission's official action letter) to show cause why the Commission should not drop the institution from accreditation.

Should the Commission elect to drop the institution from accreditation, the institution has twenty calendar days from the date of the Commission's official letter to file an intent to appeal the Commission's decision. The institution's status with the Commission is restored to its state prior to the drop once an intent to appeal is filed and will remain in place until completion of the appeal process.

Following any one of these actions, the Commission reviews institutional responses at its official meetings immediately following the date the institutional response is received. A summary of Commission actions after each official meeting are posted on the Council website and uploaded to the U.S. Department of Education's DAPIP system within 30 days after the Commission's official date of action.

3. The agency must provide documentation of the recent full-cycle review of FCC (Self-Study, FCC's response to the site visit report, and decision letter).

Florida Career College hosted a visiting team for a comprehensive review of its compliance with the Council's accreditation standards and for consideration for reaffirmation of its accreditation. Prior to the visit, the institution submitted its Self-Study presented in Exhibit 10 of this response. The site visit, conducted on September 19-22, 2022, resulted in the submission of an official report of the visiting team presented in Exhibit 11 of this response. The institution provided its response to the official report presented in Exhibit 12.

The Commission has not taken action on the institution's reaffirmation of accreditation but has deferred its decision until the resolution of all other outstanding concerns cited in the various letters addressing allegations made by the media and the U.S. Department of Education. As the September 2023 Commission Meeting recently took place, the latest letter deferring action was still being prepared at the time of this submission. However, highlights from the meeting are referenced in the Chronology of Events (Exhibit 7).

4. The agency must provide the last annual report for FCC.

Florida Career College submitted its 2022 Annual Report on March 7, 2023 before the March 15, 2023 deadline. This report is presented in Exhibit 13.

Analyst Worksheet - Response

Analyst Review Status:

Meets the requirements of this section

Analyst Remarks to Response

As noted in the draft staff analysis the Senior Department Official's (SDO) letter dated October 27, 2021, the agency's compliance report must demonstrate that it has meaningfully engaged with its obligations under section 602.20 to enforce its accreditation standards with respect to complaints of fraud and criminal activity at Florida Career College (FCC). In addition, the SDO letter indicated the agency should provide evidence that it is monitoring compliance with its standards and evidence of actions the agency is taking to evaluate compliance in light of the FCC lawsuit regarding predatory recruiting and job placement fraud.

While the SDO decision letter mentions monitoring it did not specifically list the agency as being noncompliant with the monitoring criteria in 602.19. However, in order to demonstrate that it has conducted continuous review and evaluation of the situation and concerns at FCC and that FCC continues to comply with the agency's standards, the agency has provided an ample amount of documentation. In addition, the SDO decision letter cited noncompliance with 34 CFR Part 602.20, therefore, the agency provided responses to all subsection in 602.20.

Specifically, the draft staff analysis indicated that the agency must provide evidentiary documentation demonstrating that per its complaint policies and procedures, it conducted an inquiry (including all steps) before issuing the notice of apparent deficiency. In response, the agency indicated that its policy allows for a complaint of a certain magnitude or seriousness in nature to require immediate action. Such complaints may be taken directly to the commission executive committee or the commission via telephone conference call for review and appropriate action. When neither the commission nor the commission executive committee is in session, the executive director may act on behalf of the commission in response to such an emergency situation. Matters such as front-page news stories involving alleged improprieties, for example, may require an immediate inquiry on the part of the Commission. (Exhibit 1, page 54). The handbook of accreditation also indicates instances where the nature of the complaint requires immediate action, the executive director, with concurrence from the chair of the commission, may take emergency measures to determine the facts and present them either to the executive committee or to the commission Exhibit 5, page 49. The commission approved an update to its policy on September 7 & 8, 2023 to further clarify issues of serious public concern process relative to the executive director's authority and notification of apparent deficiency. The agency provided a sufficient explanation as to why an inquiry was not conducted before issuing the notice of apparent deficiency to FCC. The agency's response to this issue is satisfactory and no additional information is required.

The draft staff analysis also indicated that upon completion of the agency's complaint investigation and monitoring efforts, the agency must provide documentation outlining remaining monitoring activities and resolution (commission decision) and provide enforcement timeline/actions, if it determines FCC did not comply with requirements. The agency has not implemented any enforcement timelines/actions because FCC's notification of apparent deficiency was extended last by the commission on 9/8/23, and the agency provided an updated chronology of monitoring activities that occurred after 11/28/22 (Exhibit 7). Department staff uploaded supporting documentation the agency emailed to demonstrate continued monitoring efforts (Exhibits 15-42). The commission is scheduled to meet on 12/6-7, 2023 to review FCC outstanding issues. The three outstanding matters are : 1) the on-going Federal lawsuit against the institution in the Southern District of Florida Court (Britt et al. v. IEC Corporations, et al.); 2) current investigation by the Departments FSA

Partner Enforcement and Consumer Protection Directorate; and 3) current program review by the Department for the 2017/18 year that disclosed significant findings.

In addition, the draft staff analysis indicated that the agency must provide documentation of the recent full-cycle review of FCC (self-study, FCC's response to site visit report, and decision letter). The agency must provide the last annual report for FCC. In response, the agency provided 2022 full-cycle documentation for FCC: self-study (Exhibit 10) team report (Exhibit 11) and FCC's response to the team report (Exhibit 12). The agency also provided the 2022 annual report for FCC (Exhibit 13).

Finally, although the agency's review and evaluation of FCC is ongoing, the agency has provided ample information and documentation, which has enabled Department staff to conclude that COE continues to conduct meaningful reviews and evaluation of FCC's compliance with its standards. Therefore, Department staff finds the agency compliant with this criterion. FCC has not been found noncompliant with the agency's standards, therefore, the enforcement timelines required by this criterion have not been implemented. As noted in the agency's renewal petition, no issues were found with the agency's written policy related to this criterion. Department staff will continue to monitor the agency's oversight and review of FCC.

List of Document(s) Uploaded by Analyst - Response

Exhibit Title	File Name
Website Notifications of Negative Actions	2022-December-Notification-of-Actions-Taken.pdf
FCC's incorrect teach-out plan	FCC Institutional Teach-Out Plan.pdf

Criteria: 602.20(b-d)

Description of Criteria

(b) Notwithstanding paragraph (a) of this section, the agency must have a policy for taking an immediate adverse action, and take such action, when the agency has determined that such action is warranted.

(c) If the institution or program does not bring itself into compliance within the period specified in paragraph (a) of this section, the agency must take adverse action against the institution or program, but may maintain the institution's or program's accreditation or preaccreditation until the institution or program has had reasonable time to complete the activities in its teach-out plan or to fulfill the obligations of any teach-out agreement to assist students in transferring or completing their programs.

(d) An agency that accredits institutions may limit the adverse or other action to particular programs that are offered by the institution or to particular additional locations of an institution, without necessarily taking action against the entire institution and all of its programs, provided the noncompliance was limited to that particular program or location.

Narrative:

602.20(b):

The following response was provided in the Council's petition for re-recognition submitted to the Department in February, 2020, and has been updated to reflect current references to Council publications. The Department's Draft Staff Report (October, 2020) and Final Staff Report (June, 2021) reflected that the Council was in compliance with this criterion as this criterion was not cited in section 7 of these reports under the heading "Issues or Problems". (Exhibit 6 – U.S. Department of Education Staff Reports)

The *Handbook* specifies circumstances under which immediate adverse action will be taken against a non-compliant institution.

When the Commission takes immediate adverse action, it may drop an institution without the prior assignment of any status such as Warning, Probation, or Show Cause. (Exhibit 5 – *Handbook of Accreditation*, p. 20, Bookmark 4)

Extreme circumstances described in the *Handbook of Accreditation* are as follows:

1. Failure to Submit Institutional Annual Report, Financial Information, or Other Requested Documentation (Exhibit 5 – *Handbook of Accreditation*, pp. 17 and 23, Bookmarks 14 and 15)
2. Other Circumstances are:
3. When an institution fails to notify the Commission of a substantive change (Exhibit 5 – *Handbook of Accreditation*, p. 33, Bookmark 16);
4. When, as the result of a complaint, the Commission takes emergency action to determine the facts of the allegations and acts to sever its relationship with the institution based on the facts revealed. (Exhibit 1 - *Policies and Rules*, p. 53-54, Bookmarks 7 and 8; Exhibit 5 – *Handbook of Accreditation*, p. 49, Bookmark 17)
5. When an institution fails to host a required site visit for approval of a substantive change (Exhibit 5 – *Handbook of Accreditation*, p. 33, Bookmark 18); or,
6. When an institution fails to host a comprehensive evaluation visit after being directed to do so by the Commission (Exhibit 5 – *Handbook of Accreditation*, p. 34, Bookmark 19).

As stated previously, Florida Career College has not been found out of compliance with a Commission standard such that immediate adverse action is warranted under the Commission's policies and procedures. The institution continues on monitoring status, that is, *Notification of Apparent Deficiency*. However, if the Commission determines that FCC, or any accredited institution, is out of compliance with standards or policies, it has the authority within its stated policies to initiate immediate adverse action as described above.

602.20(c):

The Council's *Handbook of Accreditation* includes a statement that provides the Commission with flexibility after dropping an institution of extending accreditation or preaccreditation status until such a time that an institution can implement its teach-out plan or fulfill obligations of any teach-out agreement. (Exhibit 5 – *Handbook of Accreditation*, p. 18, Bookmark 7)

Florida Career College has had no findings of non-compliance with Commission standards, however, should there be a finding in the future that warrants adverse action against FCC or any other accredited institution by the Commission, the Commission has the flexibility within its procedures to consider an extension of status that may serve students of the institution seeking to complete their programs of study or transfer to an institution with similar programs of study.

Agency Response Regarding Compliance with 34 C.F.R. Section 602.24(c):

The Department has requested information regarding COE's requirement that institutions on HCM2 status must submit a teach out plan. This requirement falls under 602.24(c), but COE was instructed to provide this evidence together with its response to 602.20.

The *Handbook of Accreditation* states that institutions must submit a teach-out plan upon the occurrence of any of the following events:

(a) The Secretary of Education notifies the Council that the Secretary has initiated an emergency action against an institution, in accordance with section 487(c)(1)(G) of the HEA, or an action to limit, suspend, or terminate an institution participating in any Title IV, HEA program, in accordance with section 487(c)(1)(F) of the HEA, and that a teach-out plan is required.

(b) A State licensing or authorizing agency notifies the Council that an institution's license or legal authorization to provide an educational program has been or will be revoked.

(c) The Council acts to withdraw, terminate, or suspend the accreditation or

candidacy of the institution.

(d) The institution notifies the Council that it intends to cease operations entirely or close a location that provides 100% of at least one program or closes a program before enrolled students complete.

(Exhibit 5 – *Handbook of Accreditation*, p. 44, Bookmark 20)

Additionally, the *Handbook* specifies that teach-out plans must include a list of currently enrolled students, academic programs offered by the institution, and the names of other institutions that offer similar programs and that could potentially enter into a teach-out agreement with the institution. (Exhibit 5 – *Handbook of Accreditation*, p. 44, Bookmark 21)

Documentation is provided for Florida Career College and all other institutions currently on HCM2 status in Exhibit 7.

602.20(d):

At this time, the dropping of individual programs or locations of Florida Career College has not been considered by the Commission as the institution has not been found out of compliance with any condition, standard, policy or procedure. However, the Council has revised the list of possible Commission actions in its *Handbook of Accreditation* to include the option of dropping individual programs or specific locations from preaccreditation or accreditation status. (Exhibit 5 – *Handbook of Accreditation*, p. 17, Bookmark 8)

Document(s) for this Section

Exhibit Title	File Name	Analyst Comments	Agency's Exhibit Comments
Exhibit 1 - Policies and Rules 2022 Edition 602.20b-d	Exhibit 1 - Policies and Rules 2022 Edition 6	-	-
Exhibit 5 - Handbook of Accreditation 2022 Edition 602..20b-d	Exhibit 5 - Handbook of Accreditation 2022 Ed	-	-
Exhibit 6 - US Department of Education Staff Reports 602.20b-d	Exhibit 6 - US Department of Education Staff	-	-
Exhibit 7 - Teachout Plans for HCM2 Institutions	Exhibit 7 - Teachout Plans for HCM2 Instituti	-	-
Chronology of Monitoring Activities	Chronology of Monitoring	-	-

Exhibit Title	File Name	Analyst Comments	Agency's Exhibit Comments
	Activities - UPDATED		

Analyst Worksheet- Narrative

Analyst Review Status:

Does not meet the requirements of this section

Staff Determination:

The agency does not meet requirements of this section. Upon completion of the agency's complaint investigation and monitoring efforts, the agency must provide documentation outlining remaining monitoring activities and resolution (commission decision) and provide enforcement timelines/actions, if it determines FCC did not comply with requirements.

Analyst Remarks to Narrative:

As indicated in the final staff analysis, the agency has an adequate policy for taking immediate adverse action when the agency has determined that such action is warranted and when the program does not bring itself into compliance within a specified period, as outlined in its handbook for accreditation (Exhibit 5, page 18-20). FCC is currently on monitoring status and the institution has been notified of an apparent deficiency status, which signifies the institution is apparently deficient with respect to a requirement. This status may be removed at any time by the commission upon clarification or remediation of the apparent deficiency, or it may be changed by the commission to a violation status (Exhibit 5, page 18). As indicated in the narrative, the agency has not taken any adverse action because FCC is currently on monitoring status to determine if FCC is in compliance with the agency's standards, policies and procedures in response to the allegations presented in the news articles. The agency has provided a chronology of its monitoring efforts/activities (Exhibit 4) that were implemented to thoroughly address the allegations. The agency has indicated in the narrative that the commission determines FCC is out of compliance with standards or policies, it has the authority within its stated policies to initiate immediate adverse action as described above.

Discovered noncompliance under 602.24 (c)(2)(i) and 602.24(a)(3)

In the course of Department staff's review of the situation at FCC college and the agency's monitoring activities of FCC, Department staff learned that the agency had not required FCC to submit a teach-out plan in accordance with 602.24(c)(2)(i). After

discussion with the agency, it required FCC to submit a teach-out plan and the agency provided the teach-out plan for Department staff's review. Upon further review of the teach-out plan, Department staff informed the agency that the teach out plan was lacking critical elements. Specifically, the teach-out plan failed to list all currently enrolled students, and did not include the names of other institutions that offers similar programs that could potentially enter into a teach-out agreement with the institution, in accordance with 602,24(a)(3). It should be noted, the agency has since changed its policy which is now compliant with the aforementioned regulations. The agency has provided its revised policy and teach-out plans for all institutions on HCM2 status to demonstrate the consistent application of its revised policy (Exhibit 7). No additional information or response is required of the agency regarding this particular issue and its compliance with 34 CFR Parts **602.24 (c)(2)(i) and 602,24(a)(3).**

Section 602.24(c)(1-2) requires a teach-out plan if an institution is placed on heightened cash monitoring status. The Department placed FCC on heightened cash monitoring status in July 2022 based on serious issues regarding student eligibility and misrepresentations to students that were uncovered during the Office of Federal Student Aid's ongoing investigation of FCC's administration of the Title IV programs.

List of Document(s) Uploaded by Analyst - Narrative

No files uploaded

Response:

Upon completion of the agency's complaint investigation and monitoring efforts, the agency must provide documentation outlining remaining monitoring activities and resolution (commission decision) and provide enforcement timeline/actions, if it determines FCC did not comply with requirements.

Monitoring of the institution continues to date with regard to the original allegations cited in news media outlets, the lawsuit, and other issues of concern and actions taken by the U.S. Department of Education and Federal Student Aid. These activities are summarized in the Chronology of Monitoring Activities that was previously submitted to the Department in its interim report submission dated November 28, 2022. The Chronology has been updated to reflect all actions to date. It includes all official Commission action letters, team reports, and institutional responses. (Exhibit 14)

Documentation regarding each monitoring activity and the resulting Commission

action letter is provided in Exhibit 14. Bookmarks for each document collected or created after the submission of the Council's November 28, 2022 interim report to the Department is bookmarked in accordance with the numbering system indicated on the Chronology at the beginning of Exhibit 14.

The institution has provided all requested documentation by the deadlines specified by the Commission. The Council staff is continuing to review the information provided and continues to explore the nature of allegations in the context of institution provided documentation/support. At this point, the agency has not uncovered any evidence to substantiate the allegations and the institution has submitted exculpatory evidence. Hence, the Commission has not made a determination of non-compliance to date but continues the institution's Notification of Apparent Deficiency until all outstanding areas of concern are satisfactorily addressed.

Once all areas of concern are addressed through the Council's monitoring process, and if the Commission determines that the institution has failed to comply with one or more condition or criteria of its accreditation process, the Commission may elect to change the Notification of Apparent Deficiency to Probation status, issue a Show Cause Order, or drop the institution from accreditation.

The enforcement timeline that applies to a Probation status is a maximum of one year from the date of the Commission's official letter imposing the status. The Commission may specify a deadline for response of less than one year depending on the specific area of concern. If the institution is placed on Show Cause status, it has thirty calendar days (from the date of the Commission's official action letter) to show cause why the Commission should not drop the institution from accreditation.

Should the Commission elect to drop the institution from accreditation, the institution has twenty calendar days from the date of the Commission's official letter to file an intent to appeal the Commission's decision. The institution's status with the Commission is restored to its state prior to the drop once an intent to appeal is filed and will remain in place until completion of the appeal process.

Following any one of these actions, the Commission reviews institutional responses at its official meetings immediately following the date the institutional response is received. A summary of Commission actions after each official meeting are posted on the Council website and uploaded to the U.S. Department of Education's DAPIP system within 30 days after the Commission's official date of action.

Analyst Worksheet - Response

Analyst Review Status:

Meets the requirements of this section

Analyst Remarks to Response

As noted in the previous section, the SDO decision letter mentions monitoring it did not specifically list the agency as being noncompliant with the monitoring criteria in 602.19. However, in order to demonstrate that it has conducted continuous review and evaluation of the situation and concerns at FCC and that FCC continues to comply with the agency's standards, the agency has provided ample documentation. In addition, the SDO decision letter cited noncompliance with 34 CFR Part 602.20, therefore, the agency provided responses to all subsections in 602.20.

Specifically, the draft staff analysis indicated that upon completion of the agency's complaint investigation and monitoring efforts, the agency must provide documentation outlining remaining monitoring activities and the resolution (commission decision) and provide enforcement timelines/actions, if it determines FCC did not comply with requirements. In response, the agency provided an updated chronology of monitoring activities that transpired since the November 28, 2022 relative to the commission monitoring efforts and actions, the U.S. Department of Education (ED) Federal Student Aid (FSA) investigation, and institutional responses (Exhibit 14). The agency demonstrated that it continues to monitor FCC under its notification of apparent deficiency for three outstanding matters: 1) the on-going Federal lawsuit against the institution in the Southern District of Florida Court (Britt et al. v. IEC Corporations, et al.); 2) current investigation by the ED FSA Partner Enforcement and Consumer Protection Directorate; and 3) current program review by ED for the 2017/18 year that disclosed significant findings.

Commission Actions

The commission met on 1/10/2023, 3/10/23, 6/7/2023, and 9/8/2023 to review updated information on the three outstanding issues and decided to continue FCC's monitoring status at that time. The commission is planning to meet again 12/6-7/23 to continue the review and actions regarding the outstanding issues. Several actions of the commission were presented in the activities update to demonstrate monitoring/investigation efforts. On 12/13/22, the commission contacted FSA to request additional information about the FCC investigation. The commission deferred action on reaffirmation of FCC's accreditation until outstanding issues were resolved (12/13/22, 3/10/23, 6/7/23, and 9/8/23).

The agency commission (which is the decision-making body) required an unannounced focused review of FCC's the Houston Southwest campus (3/10/23), the review was conducted on 5/9-10/23, and the focused review report was accepted by the commission on 6/7/23. The commission required the institution to submit a response to the focused review report within 30 days of receipt of the report. The commission accepted FCC's response to the focused review report and the institution's

financial viability plan on 9/8/23.

On 6/7/23, the commission denied FCC's request for co-location of the FCC Houston Southwest campus with Sage Truck Driving School, and it ordered a third-party, independent auditor to conduct a review of student achievement data and the institution's financial viability plan.

FCC Actions/Responses

FCC provided a response (1/26/23, 4/27/23, 7/3/23, 7/20/23) several times to the commission continuation of the notification of apparent deficiency. FCC notified the commission that it was pausing operations at the Houston Southwest campus until FSA approved Title IV funding on 2/13/23. The institution requested approval from the commission for approval of co-location of Sage Truck Driving School at the FCC Houston, Texas (Southwest) campus on 3/2/23. The institution provided an update to the commission on the Britt, et al. v. FCC lawsuit and arbitration on 3/28/23, which demonstrated FCC prevailed on the merits of all claims.

ED's Federal Student Aid Investigation

The agency provided an update in the chronological monitoring activities that related to ED's Federal Student Aid investigation. The agency requested information from FSA regarding the investigation (12/13/23). The agency was notified by FSA that FCC was denied recertification of application to participate in Federal Student Financial Aid program (4/11/2023). The institution shared its letter with the agency that was sent to FSA for reconsideration of the denial (5/24/23). The agency was notified of a letter from FSA to the institution claiming the institution made inaccurate statements during a public meeting of the Florida Commission for Independent Education (6/5/23). The institution provided its response to FSA's letter to the commission regarding allegations of inaccurate statements made before the State licensing agency at the public meeting (6/6/23). On 8/8/23, the commission issued a request to FCC for additional information regarding FSA's allegations of misrepresentation, and the institution responded to the commission's request on 8/18/23. FCC notified the commission on 9/7/23 that FSA issued a notice to IEC on 7/31/2023 regarding the ongoing investigation into the United Education Institute and UEI College. FCC had a meeting with Senior ED officials on 8/9/23, which resulted in a proposed resolution term agreement between the IEC Corporation and the ED. Department staff uploaded supporting documentation that the agency emailed to demonstrate continued monitoring efforts (Exhibits 15-42).

The agency updated chronology of monitoring activities demonstrates the commission continues to monitor and investigate FCC regarding the three outstanding issues in accordance with its notification of apparent deficiency policy. The

commission last continued the notification of apparent deficiency for FCC on 9/8/23 and did not take any adverse action against FCC.

As noted in the agency's renewal petition, no issues were found with the agency's written policy related to this criterion.

List of Document(s) Uploaded by Analyst - Response

No file uploaded

Criteria: 602.20(e)

Description of Criteria

(e) All adverse actions taken under this subpart are subject to the arbitration requirements in 20 U.S.C. 1099b(e).

Note: 20 U.S.C. 1099b(e) Initial Arbitration Rule. – The Secretary may not recognize the accreditation of any institution of higher education unless the institution of higher education agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

Narrative:

The *Handbook of Accreditation* contains a requirement for institutions in pre-accredited and accredited status to agree to its arbitration policy. (Exhibit 5 – *Handbook of Accreditation*, p. 22, Bookmark 22)

Document(s) for this Section

Exhibit Title	File Name	Analyst Comments	Agency's Exhibit Comments
Exhibit 5 - Handbook of Accreditation 2022 Edition 602..20e	Exhibit 5 - Handbook of Accreditation 2022 Ed	-	-

Analyst Worksheet- Narrative

Analyst Review Status:

Meets the requirements of this section

Analyst Remarks to Narrative:

The agency has an adequate policy regarding arbitration requirements that is provided in the handbook of accreditation, which requires candidates for accreditation and accredited institutions to agree to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action (Exhibit 5, page 22).

List of Document(s) Uploaded by Analyst - Narrative

No files uploaded

Analyst Worksheet - Response

Analyst Review Status:

Not Reviewed

Criteria: 602.20(f-g)

Description of Criteria

(f) An agency is not responsible for enforcing requirements in 34 CFR 668.14, 668.15, 668.16, 668.41, or 668.46, but if, in the course of an agency's work, it identifies instances or potential instances of noncompliance with any of these requirements, it must notify the Department.

(g) The Secretary may not require an agency to take action against an institution or program that does not participate in any title IV, HEA or other Federal program as a result of a requirement specified in this part.

Narrative:

602.20(f):

The Council is not responsible for enforcing requirements of 34 CFR 668.14, 668.15, 668.16, 668.41, or 668.46, however, it does have a condition in its *Handbook of Accreditation* which specifies the requirement for the Council to provide the Department of Education with any information it may have that relates to an institution's participation in Title IV, HEA programs. This includes information relating to issues involving program participation agreements, standards of

administrative capability, reporting and disclosure of information regarding institutional and financial assistance, and institutional security policies and crime statistics. (Exhibit 5 – *Handbook of Accreditation*, p. 51, Bookmark 9)

To date, the Council has not identified any instances or potential instances of noncompliance with these specific requirements in its work with regard to Florida Career College that require notification to the Department. All information regarding the status of the institution’s compliance with the Department’s regulations have come to COE’s attention either through the institution’s reporting on federal compliance audits and federal program reviews or from the Department of Education.

602.20(g):

The Council applies its standards, conditions, policies and procedures consistently to all member institutions regardless of whether or not they participate in any Title IV, HEA programs or other Federal programs.

Document(s) for this Section

Exhibit Title	File Name	Analyst Comments	Agency's Exhibit Comments
Exhibit 5 - Handbook of Accreditation 2022 Edition 602..20f	Exhibit 5 - Handbook of Accreditation 2022 Ed	-	-

Analyst Worksheet- Narrative

Analyst Review Status:

Meets the requirements of this section

Analyst Remarks to Narrative:

The agency has an adequate policy relative to non-compliance with Parts of 34 CFR 668. The agency’s handbook of accreditation stipulates that it will provide the Department with any information it may have that relates to an institution’s participation in Title IV, HEA programs, which includes information relating to issues involving program participation agreements, standards of administrative capability, reporting and disclosure of information regarding institutional and financial assistance, and institutional security policies and crime statistics (Exhibit 5, page 51). The agency indicated in the narrative that it has not identified any instances or potential instances of noncompliance with Parts of 34 CFR 668 with regards to Florida Career College that require notification to the Department. The agency also

indicated in the narrative that it applies its standards, conditions, policies and procedures consistently to all member institutions regardless of whether or not they participate in any Title IV, HEA programs or other Federal programs.

List of Document(s) Uploaded by Analyst - Narrative

No files uploaded

Analyst Worksheet - Response

Analyst Review Status:

Not Reviewed

3rd Party Written Comments

Document Title	File Name	Pro/Con
-	-	CON
-	-	CON

Staff Analysis of 3rd Party Written Comments

The Department received two third-party comments for this agency. The first commenter (Justice Della) questioned FCC's inconsequential monitoring status, integrity, recruitment practices, program cost and quality, instructional resources and equipment, and job placement rates. The commenter also questioned the agency's monitoring and evaluation of FCC, enforcement of its benchmarks, and its posting accreditation decision on its website. The Department staff analysis of this third-party comment is provided in 602.20(a). The second comment for this agency was mostly unrelated to the agency's compliance with the recognition regulations. The commenter (Edward Conroy) stated that the Department's solicitation of written third-party comments occurred without access to the agency's the compliance report or related materials. The Department's solicitation of written third-party comments sought comment on the agency's compliance with the regulation in question pursuant to 34 C.F.R. §§ 602.32(c) and (l), not on the agency's compliance report or related materials. The purpose of the call for written third-party comment is to allow anyone who has any knowledge of an agency undergoing a recognition review by the Department and the agency's compliance or non-compliance with Departmental regulations to provide that information and/or documentation so that Department staff can utilize it in the comprehensive analysis of the agency. The comment also stated that complaint processes used by accrediting agencies should be more accessible to complainants. The Department's recognition review process assesses whether or not an accrediting agency meets the Secretary's Criteria for Recognition (Criteria) at 34 C.F.R. Part 602. The Criteria include a requirement that an agency must review in a timely, fair, and equitable manner any complaint it receives against an accredited institution or program or itself, per 34 C.F.R. § 602.23(c)(1-3). The scope of this review is to assess the agency in the specific areas of noncompliance noted in the senior Department official's decision on recognition dated October 27th, 2021. Therefore, only information and documentation concerning actions or examples in 34 C.F.R. § (§) 602.15(a)(3) and 34 C.F.R. §602.20 of the Criteria would be applicable to this analysis. No matter, the agency may wish to respond to the comment in its response to the draft staff analysis. The comment noted the Sweet v. Cardona case and settlement and stated that NACIQI should review accrediting agencies and their actions related to individual institutions included in the case. The Criteria include a requirement that an agency must submit to the Department any institution or program it accredits that it has reason to believe is failing to meet its title IV, HEA program responsibilities, per 34 C.F.R. § 602.27(a)(5). Department staff use information and documentation related to individual institutions and programs to ensure that an accrediting agency acts in accordance with both its own policies and procedures and with the Criteria. The recognition review process is not intended

to review individual institutions or programs that are accredited by the agency, but the agency itself. As noted above, the scope of this review is to assess the agency in 34 C.F.R. § (§) 602.15(a)(3) and 34 C.F.R. §602.20 of the Criteria. The agency may still wish to respond to the comment in its response to the draft staff analysis.

Response to 3rd Party Comments

No response to 3rd Party Written Comments

Document(s) Uploaded in response to 3rd Party Comments

No files were uploaded in response to 3rd Party Comments.

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