

**DRAFT ANALYSIS**  
**ACICS**  
**Meeting Date: 07/2020**

**Type of Submission:**

Compliance Report

**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.

**Criteria: 602.15(a)(2) Competency of Representatives**

**Narrative:**

§ 602.15(a)(2) –Competency of Representatives

November 21, 2018 Decision

As stated in the Decision, this standard generally requires an agency to utilize qualified and competent individuals in performing its various activities leading up to accreditation decisions. With regard to volunteer training procedures, the SDO found that ACICS demonstrated in the Part II submission and 2018 Supplement that it had significantly improved its training regimen. However, the SDO found that ACICS had not yet documented that its volunteers had the benefit of the improved training processes. With regard to the Ethics Review Board, the SDO noted that ACICS had established the entity and engaged in some conflict resolution. However, the SDO found that the ERB had not formally convened. Finally, with regard to the data verification regime, the SDO found ACICS had failed to provide the qualifications of its Data Integrity Reviewer.

The Secretary agreed with the SDO and provided the agency 12 months to demonstrate compliance. Specifically, the Secretary mandated that ACICS submit a compliance report within 12 months providing additional evidence responding to whether existing evaluators have received the improved training and to answer questions regarding qualifications of the Data Integrity Reviewer. In addition, the Secretary ordered that the compliance report explain how ACICS has made progress to ensure its Ethics Review Board had met and to explain how it will be an integrated part of ACICS's efforts to remain compliant with this criterion.

ACICS Response

Evaluator Training

ACICS, over the last twelve months, has fully implemented its Evaluator Training Initiatives to ensure that all evaluators, prior to their assignment to an evaluation review, have completed training. This directive was communicated to all active evaluators as well as to ACICS staff to ensure consistent practice (Exhibit 1, Communication of Training Requirements). Because of their leadership role on the

team, and the elevated responsibility in providing guidance to other team members while also working with the institution, Team Chairs were required to participate in, or complete the recorded, Fall 2018 Chair Debrief and Training, prior to any assignment in 2019 (Exhibit 2, Fall 2018 Chair Debrief and Training Presentation). Of its 45 active chairs, 40 (89%) completed the training (Exhibit 3, Multi-Session Attendee Report).

All other evaluators were required to complete the Evaluator Refresher Training, which was conducted via simulation via Go-To-Webinar technology. This format allowed evaluators, especially those who are employed full time, to complete the training at their convenience. In order to satisfy the training requirement, the entire webinar had to be viewed and the certificate of completion awarded. The system tracked completion, automatically sent the certificate and ACICS is able to record the training in the evaluator's electronic profile. Additional training activities included sessions for the Educational Activities and Distance Education specialists. A report of all those who have completed these training webinars is detailed in Exhibit 3, as well as a list of the evaluators who have served on at least one visit during 2019 (Winter, Spring, or Fall) (Exhibit 4, Volunteer Evaluator Usage 2019). A copy of the training materials is provided as Exhibit 5, Evaluator Training Materials.

As additional evidence of ACICS' commitment to ensuring that its volunteer evaluators are current on its evaluation standards and expectations, ACICS now requires signed attestation of evaluators' participation in the pre-visit meeting session. A standard practice of the on-site evaluation process, this meeting of the team focuses on discussing the initial observations of the evaluators from their review of the institution's application materials. Further, the team is briefed by the ACICS staff on any new policy and procedural changes that are being implemented. At that time, ACICS staff will also provide an institutional summary to the team which provides both historical context and current assessment of institutional risk factors. We provide a sample of this training for visits conducted throughout 2019 in Exhibit 6, Sample Pre-Visit Training Materials.

#### Data Integrity Reviewer

The Data Integrity Review (DIR) responsibilities, following the full implementation of the Placement Verification Program (PVP), are now fulfilled by the ACICS staff representative on the visit. As detailed in its PVP Report, the inclusion of the data integrity reviewer on every full team site visit was to focus primarily on verifying the reliability of the placement information reported by institutions on their Campus Accountability Report (CAR). With the verification of placement taking place solely through the PVP system, the DIR role in its original form was no longer necessary.

The role of the DIR has evolved into verifying those graduates classified as not available for placement – that is, those graduates who were waived from the placement requirement because of health, continuing education, military service, incarceration, enrollment in an English as a Second Language (ESL) program, or visa restrictions. These exemptions positively affect the placement rate reported so ACICS deemed it necessary to ensure that there was integrity in these designations. Similarly, those students who withdrew because of an acceptable waiver – incarceration, death, active military duty – would also improve retention rates, so documentation to support these exemptions also needed to be reviewed. With its tracking of graduation, information on campuses processes for tracking graduation cohorts, leave of absences, and transfers was also added to the DIR's purview.

ACICS determined that the ACICS staff members who is involved in the Council's discussion, policy

development and implementation, and serve as the Council's liaison on the visits, i best suited to assume these enhanced DIR responsibilities. This ensures consistency with every review and provides ACICS with direct feedback on its effectiveness. Staff training was conducted on the PVP process and how that influences the DIR role (Exhibit 7, Staff Training on DIR). For illustration of the current role of the DIR, a sample of the current DIR section of the team's report is provided as Exhibit 8, Sample DIR Report Sections.

#### Ethics Review Committee (formerly Ethics Review Board)

The Ethics Review Board, a standing committee of the Board of Directors of ACICS, was initially established to:

"...have the authority to review perceived or actual conflicts of interest by a commissioner or Director and decide if the individual is to be directed to resign."

September 2018 Accreditation Criteria

With such a narrow focus, ACICS determined that there was no opportunity for the ERB to convene given that any potential conflict of interest with a Director or Commissioner would have been separately addressed through other established means. With additional perspective shared by Dr. Judee Timm, ACICS public commissioner and former Ethics Professor at Monterey Community College (Exhibit 9, Judee Timm Resume), the Council reassessed the role and purpose of the ERB and approved an expansion of the Board's role. As detailed in the minutes of the Council's February 2019 Policy meeting, see Exhibit 10, the name of the Board was revised for consistency with other committees, and the purpose redefined:

"Ethics Review Committee. The Ethics Review Committee shall consist of four individuals selected by ACICS consisting of two independent, public members, one member affiliated with an ACICS institution, and one current Director. The committee shall meet at least annually, to allow for continuous evaluation of the ethical practices that govern the Council, staff, and its institutions. In addition, as needed, the committee shall meet to review any actual or perceived ethical violations of the Directors and provide recommendations for resolution."

Dr. Timm was also designated to serve as the Board of Director's representative, given her knowledge and experience in that area. Exhibit 10, February 2019 Policy Meeting Minutes Excerpt.

Two new public members were appointed, and with a new directive, the Committee met twice at the ACICS 2019 Professional Development Conference and Annual Meeting (Exhibit 11, ERC Meeting Minutes) to discuss the first area of review – development, with feedback from the membership at the conference, of a Code of Conduct guidance document. One of the conference sessions, Establishing a Culture of Ethics, was used as a platform to share the Committee's initial work and to gather feedback from campus leadership concerning their practices as well as their expectations of ACICS (Exhibit 12, ERC Conference Session Summary). Collectively, these materials were used to draft a Code of Ethics document that was prepared for discussion by the Board of Directors at its August 2019 meeting (Exhibit 13, August 2019 Board of Directors Meeting Minutes Excerpt). The first iteration of the Code, expected to be revised in the future, was shared with the membership and published on the ACICS website on September 30, 2019 (Exhibit 14, Public Notice and Publication of Code). Violations of the Code will be evaluated by the ERC with a recommendation on any needed

action. The ERC's next scheduled meeting is May 2020, at which time the Code of Ethics document, ACICS practices, and changes in the membership, will all be reevaluated for improvement. Given that the 2019 edition of the Code of Conduct is a reflection of a dynamic organization, the document is expected to be reviewed yearly and will be incorporated into training sessions that reflect the current values, norms, and procedures of ACICS.

**Document(s) for this Section**

Exhibit Title	File Name	Analyst Comments	Agency's Exhibit Comments
Exhibit 1 Communication of Training Requirements	Exhibit 1 Communication of Training Requirements.pdf		
Exhibit 2 Fall 2018 Chair Debrief and Training Presentation	Exhibit 2 Fall 2018 Chair Debrief and Training Presentation.pdf		
Exhibit 3 Multi Session Attendee Report	Exhibit 3 Multi Session Attendee Report.pdf		
Exhibit 4 Volunteer Evaluator Usage 2019	Exhibit 4 Volunteer Evaluator Usage 2019.pdf		
Exhibit 5 Evaluator Training Materials	Exhibit 5 Evaluator Training Materials.pdf		
Exhibit 6 Sample PreVisit Training Materials	Exhibit 6 Sample PreVisit Training Materials. pdf		
Exhibit 7 Staff Training on DIR	Exhibit 7 Staff Training on DIR.pdf		
Exhibit 8 Sample DIR Report Sections	Exhibit 8 Sample DIR Report Sections.pdf		
Exhibit 9 Judee Timm Resume	Exhibit 9 Judee Timm Resume.pdf		
Exhibit 10 February 2019 Policy Meeting Minutes Excerpt	Exhibit 10 February 2019 Policy Meeting Minutes Excerpt.pdf		
Exhibit 11 ERC Meeting Minutes	Exhibit 11 ERC Meeting Minutes.pdf		
Exhibit 12 ERC Conference Session Summary	Exhibit 12 ERC Conference Session Summary.pdf		
Exhibit 13 August 2019 Board of Directors Meeting Minutes	Exhibit 13 August 2019 Board of Directors Meeting Minutes.pdf		
Exhibit 14 Public Notice and Publication of Code	Exhibit 14 Public Notice and Publication of Code.pdf		

**Analyst Worksheet- Narrative**

**Analyst Review Status:**

Does not meet the requirement of this section.

**Staff Determination:**

The agency must provide additional information and documentation concerning its training of site visitors. The agency must also provide documentation that the ERC members meet the composition requirements.

**Analyst Remarks to Narrative:**

On November 21, 2018, Secretary Betsy DeVos issued her decision on the recognition status of ACICS, which included a compliance report for two sections of the Secretary's Criteria for Recognition. This section is one of the two sections in which the agency was required to provide information and documentation for compliance purposes. Specifically, the Secretary adopted the recommendation of the senior Department official (SDO) to require the agency to provide additional evidence regarding the training of site visitors, the qualifications of a Data Integrity Reviewer, and the function of the agency's Ethics Review Board.

In response to the Secretary's decision, the agency provided information and documentation related to its competency of representatives. Regarding the training of site visitors, ACICS provided a narrative description of the training provided along with documentation of the communication of the required training and training activities. Those activities included a debrief and training for team chairs via webinar (Exhibit 2). The agency stated in the narrative that team chairs were required to

complete the training prior to participation in a site visit in 2019, and that 89% (40 of 45 active team chairs) did so (Exhibit 3). However, the agency did not state the outcome of the five that did not complete the training, such as were they removed from the active team chair list, or did they eventually complete the training, or another outcome.

The training activities also included a refresher training for all site visitors via webinar (Exhibit 5), to include team chairs. There were two additional training webinars in specialized areas - educational activities and distance education - which was applicable to those site visitors qualified to serve in that role. The agency did not indicate if completion of the training was required prior to participation in a site visit, which would be a reasonable assumption. The agency provided the attendee list (Exhibit 3) and the list of site visitors utilized in teams in 2019 (Exhibit 4); however, the list of site visitors includes five that do not appear on the attendee list for the refresher training. In addition, the agency did not provide the date of the site visits nor the role(s) filled by the site visitors, so it is unclear if the site visitors completed the training requirement(s) prior to participation or for the roles assigned. Based on the comparison of team compositions included in Exhibits 6 and 8, there are two site visitors listed in the "Educational Activities" role that do not appear on the attendee list for that specialized training.

Within the narrative and the communication of the training (Exhibit 1), ACICS states that "entire webinar had to be viewed" for "the certificate of completion awarded." Based on the information and documentation provided, it does not appear that any assessment of learning from the webinar was conducted. Therefore, it is not clear that these webinars are effective in providing training to site visitors. Also see concerns raised by third-party comments, Written Comment #2 - Clare McCann con, Written Comment #4 Antoinette Flores con, and Written Comment #5 - Seventeen organizations con, concerning the competency of agency representatives, as required by this section.

Additional training is provided to site visitors at the mandatory pre-visit meeting session, which includes initial observations by site visitors from the institutional materials, and an institutional summary and new policy and procedural briefing by ACICS staff. The agency provided documentation of six pre-visit meeting sessions in 2019 via signed attestations of the site visitors, as well as the materials covered by ACICS staff at the meeting. Department staff observed a mandatory pre-visit meeting session in February 2020, which included the topics noted in the narrative and training materials (Exhibits 5 and 7).

With regards to the Data Integrity Reviewer (DIR), ACICS provided a narrative description of how the role has changed from being filled by a site visit team member to those responsibilities being included under the ACICS staff member role with the implementation of the Placement Verification Program (PVP). Based on the site visitor training materials provided (Exhibit 5, page 5), the review of retention rate data is still the purview of a site visitor, specifically the "Student Relations" role, and that the ACICS staff member reviews only the retention and placement waivers. The agency provided documentation of the DIR training provided to staff (Exhibit 7), as well as six examples of DIR sections in site visit reports (Exhibit 8). However, it is not clear how and by whom the DIR role is currently fulfilled.

For the Ethics Review Committee (ERC, formerly the Ethics Review Board), ACICS provided a narrative description of the revision to the ERC's established authority and the rationale for that change.

Instead of only reviewing real or perceived conflicts of interests of ACICS directors or commissioners, the ERC will now also evaluate the ethical practices that govern ACICS. The ERC is required to meet at least annually, and is comprised of two public members, one member affiliated with an ACICS institution, and one current ACICS director, per the new policy (Exhibit 10). However, the agency did not provide documentation that the ERC members met the agency's composition requirements (i.e. two public members and one member affiliated with an ACICS institution).

The agency provided documentation of the initial meetings of the ERC in 2019 (Exhibit 11), along with the newly implemented agency Code of Ethics that was initially drafted by the ERC (Exhibit 14). The ERC plans to meet again in May 2020 to review the Code of Ethics, ACICS practices, and changes in membership. Department staff requests documentation of the scheduled 2020 meeting of the ERC, if available.

### **List of Document(s) Uploaded by Analyst - Narrative**

No files uploaded

#### **Criteria: 602.15(a)(6) Conflict of Interest**

#### **Narrative:**

§ 602.15(a)(6) – Conflict of Interest

November 21, 2018 Decision

In her Decision, the Secretary recognized that ACICS has made significant improvements to its procedures to avoid conflicts of interest and adopted the SDO recommendation that ACICS be given 12 months to come into compliance. Specifically, the Secretary provided ACICS 12 months to submit a compliance report evidencing it requires its Intermediate Review Committee (IRC) members to sign conflicts of interest attestations.

#### **ACICS Response**

In the 2016 Final Staff Report, the Department acknowledged ACICS policies in place requiring all decision-makers, staff and site visitors to disclose any conflicts of interest before assignments are made to review reports, to participate in site visits, and to take action on any institutions. The Report also noted that reminders of the agency's controls against conflicts of interest are part of the training provided to those involved in various aspects of the agency's operations. The Department staff also observed an ACICS decision-making meeting and noted that various commissioners were identified and left the room when consideration of an institution where a conflict, or potential conflict, could be involved. The only issue identified was lack of clarity as to whether every member of the Intermediate Review Committee (IRC) signs any kind of attestation connected with conflicts of interest, although the Department acknowledged the IRC is not a decision-making body formally subject to application of this criteria. Even though the IRC is not a decision-making body, the Department concluded that lack of evidence about conflict of interest attestation was a sufficient basis for non-compliance.

With respect to the IRC, all IRC members are evaluators, and the same conflict of interest definition has always applied to them. The ethical expectations of evaluators are expressed at the beginning of the process for vetting, training and selecting members of on-site review teams, see May 2018

submission, Exhibit B-O-75, Visit Evaluation Procedures and Guidelines, at 4; Exhibit B-O-81, Evaluator Training Binder, at 30. Evaluators are informed that the credibility of ACICS accreditation is “based upon the singular integrity of all those individuals charged with the adoption of policies, procedures, and standards and with the evaluation and measurement of institutional performance.” (Exhibit B-O-75, Visit Evaluation Procedures and Guidelines, at 4).

ACICS policy requires evaluators to “avoid impropriety and the appearance of impropriety,” to perform his or her duties “impartially and diligently,” and to “refrain from any business activity inappropriate to accreditation responsibilities, including the offering of any materials or information pertinent to the institution's operation or services.” Id. The policy further requires evaluators to refrain from the review of “any institution with which he or she has been, is currently, or presently intends to be directly or indirectly involved.” Id. Before an evaluator is assigned to a site review visit, he or she must sign and return for the file the Canons of Ethical Responsibility attestation. See May 2018 Submission, Exhibit B-O-103, Evaluator Conflict of Interest Forms.

ACICS further strengthened this process in 2016 for the IRC, as explained in the May 2018 Submission. Individuals assigned to serve on the Intermediate Review Committee (“IRC”) sign the IRC Conflict of Interest Attestation prior to every scheduled review. See May 2018 Submission, Exhibit B-O-92, IRC Training Manual, at 4-5; Exhibit B-O-91, Sample IRC Roster with Designation; see also ACICS Appeal to the Secretary (October 21, 2016), at Exhibit 263.

As a matter of policy, IRC members are not assigned to review a school file from a team visit on which they served as an evaluator.

ACICS submits here evidence that each individual assigned to serve on the Intermediate Review Committee (“IRC”) has signed the IRC Conflict of Interest Attestation prior to every scheduled review. See Exhibit 15, IRC Training Binder at 3-5; Exhibit 16, IRC Roster; and Exhibit 17, Signed Conflict of Interest Forms. ACICS requires the execution of such attestation prior to each scheduled review and maintains such documentation.

### Document(s) for this Section

Exhibit Title	File Name	Analyst Comments	Agency's Exhibit Comments
Exhibit 15 IRC Training Binder	Exhibit 15 IRC Training Binder.pdf		
Exhibit 16 IRC Roster	Exhibit 16 IRC Roster.pdf		
Exhibit 17 Signed Conflict of Interest Forms	Exhibit 17 Signed Conflict of Interest Forms. pdf		

### Analyst Worksheet- Narrative

#### Analyst Review Status:

Does not meet the requirement of this section.

#### Staff Determination:

The agency must provide additional documentation related to its clear and effective controls against conflicts of interest, or the appearance of conflicts of interest by the representatives of the agency to provide a complete record in the review of this compliance report. The agency also must provide the signed conflict of interest forms from the March 2020 IRC to demonstrate compliance with the section.

#### Analyst Remarks to Narrative:

On November 21, 2018, Secretary Betsy DeVos issued her decision on the recognition status of ACICS, which included a compliance report for two sections of the Secretary's Criteria for Recognition. This section is one of the two sections in which the agency was required to provide information and documentation for compliance purposes. Specifically, the Secretary adopted the recommendation of the senior Department official (SDO) to require the agency to submit evidence that it requires its Intermediate Review Committee (IRC) members to sign conflict of interest attestations.

In response to the Secretary's decision, the agency provided information and documentation related to its clear and effective controls against conflicts of interest, or the appearance of conflicts of interest, by the agency's IRC members. The agency provided a narrative response with extensive citations to exhibits previously submitted to the Department for review by the SDO and Secretary (Exhibits B-O-75, B-O-81, B-O-103, B-O-92, B-O-91, and 263). However, as those exhibits were not attached to this compliance report, the complete record was not provided for this review by Department staff and must be submitted for review.

With regards to the IRC evidence, the agency stated that the Department was incorrect in applying the requirements of this section to the IRC, since the IRC is not a decision-making body. However, this section is applicable to all individuals who represent the agency, as provided in the regulation by "other agency representatives," which would include the IRC. In response, the agency provided the IRC roster (Exhibit 16) and signed conflict of interest forms (Exhibit 17). Three conflict of interest forms were not signed and one was missing from the roster of 75 IRC participants since 2016. Department staff request the signed conflict of interest forms from the March 2020 IRC to demonstrate compliance with this section. The agency also provided the IRC training binder to illustrate the expectations for the IRC with regards to conflict of interest and the procedures for the IRC assignments to avoid conflicts of interest (Exhibit 15).

### **List of Document(s) Uploaded by Analyst - Narrative**

No files uploaded

### **3rd Party Written Comments**

Document Title	File Name	Pro/Con
Written Comment #1 W Ochinko con	Written Comment #1 W Ochinko con.docx	CON
Written Comment #2 Clare McCann con	Written Comment #2 Clare McCann con.docx	CON
Written Comment #3 R Scott and S Davis con	Written Comment #3 R Scott and S Davis con.pdf	CON
Written Comments #4 Antoinette Flores con	Written Comment #4 Antoinette Flores con.docx	CON
Written Comment #5 Seventeen organizations con	Written Comment #5 Seventeen organizations con.docx	CON

### **Staff Analysis of 3rd Party Written Comments**

Five written third-party comments were received regarding this agency, and all the comments reflect negative views regarding ACICS. The commenters include two members of Congress, representatives of a veterans' organization, representatives of two separate education organizations, and a group of 17 organizations (which includes three organizations that submitted separate comments).

Mostly, the commenters submitted areas of noncompliance noted in prior and other reviews by the Department, such as financial and administrative capability, monitoring, etc. All of the commenters referenced the decision of the prior administration to deny recognition to ACICS in December 2016 and make the request for ACICS to again be denied recognition in this review.

Three of the comments tied their areas of alleged noncompliance to Section 602.15(a)(2) of the Secretary's Criteria for Recognition (Criteria), and are included in that section.

The scope of this review is to assess the agency in the two specific areas of noncompliance noted in the Secretary's decision on recognition dated November 21, 2018. Therefore, only information and documentation concerning actions or examples in Sections 602.15(a)(2) and 602.15(a)(6) of the Criteria would be applicable to this analysis. No matter, the agency may wish to respond to the comments in its response to the draft staff analysis.

#### 3rd Party Request for Oral Presentation

There are no oral comments uploaded for this Agency.