

## FINAL ANALYSIS AND RECOMMENDATION FOR

### ACICS

**Meeting Date: 02/2021**

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		
Exhibit 19 Chair Training	Exhibit 19 Chair Training.pdf		
Exhibit 20 Evaluator Training	Exhibit 20 Evaluator Training.pdf		
Exhibit 21 Ethics Review Committee Members	Exhibit 21 Ethics Review Committee Members.pdf		
Exhibit 22 Ethics Review Committee Meeting Minutes - May 20	Exhibit 22 Ethics Review Committee Meeting Minutes - May 20.pdf		

### Analyst Worksheet- Narrative

Analyst Review Status:

Does not meet the requirements 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

Response:

602.15 Administrative and fiscal responsibilities

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

The Secretary's November 21, 2018, decision required ACICS to provide a compliance report addressing two recognition requirements. With regard to compliance with Section 602.15(a)(2), the Secretary directed ACICS to submit evidence regarding the training of ACICS's site visitors, the qualifications of the Data Integrity Reviewer, and the activities of the Ethics Review Board. ACICS provided the requested information in a compliance report submitted to the Department's Accreditation Group on December 19, 2019. On April 30, 2020, Department staff issued its Staff Report to the Senior Department Official on Recognition Compliance Issues ("Draft Report") following its review of the compliance report. ACICS herein provides its comments in response to the Draft Report and includes information that supports its response or that otherwise was requested in the Draft Report.

The Draft Report notes that ACICS provided training via a webinar for all of its team chairs and that 40 of the 45 individuals on the current roster of team chairs completed the webinar, but it found that ACICS did not indicate the disposition of the five individuals who did not complete the webinar. ACICS has confirmed that none of these five individuals has participated in a site visit since failing to complete the webinar and that all five have been marked inactive in the chair database so that they cannot be selected to chair a site visit until they have completed the webinar. See Exhibit 19.

The Draft Report also asserts that five individuals are listed as having served on site visit teams in 2019

who do not appear on the list of attendees at the refresher training for site visitors. One of these, Deborah Bird, did not serve on any evaluation teams in 2019 and should not have been listed in Exhibit 4. In a second case, Dennis Gnage in fact did complete training on January 10, 2019, prior to his service on a site visit team on January 24, 2019. See Exhibit 20. Gwendolyn Randall was recruited at the last minute as an emergency replacement on a site visit team, so the staff member trained Ms. Randall on site. Dr. Darlene Minore completed the team chair training on November 20, 2018, which satisfied the refresher training requirement. See Exhibit 3, page 17 Finally, Dr. David Teneyuca, who is a veteran ACICS evaluator, was a member of the ACICS Review Board of Appeals and now serves as an ACICS commissioner, has not yet been able to attend the refresher training.

The refresher training program was rolled out in January 2019. Since then, completion of the refresher training is a requirement for all evaluators, as confirmed on the ACICS webpage at <https://www.acics.org/evaluators-becoming> that describes how an individual can become an evaluator.

In addition to the mandatory refresher training for all site visitors, ACICS developed additional webinars focusing on educational activities and distance education. These specialized webinars are intended for site visitors who may be less familiar with these particular areas of review. They are not mandatory for site visitors assigned to these roles, but the attendee list provided in Exhibit 3 demonstrates that approximately 170 site visitors have completed these voluntary sessions.

The Draft Report notes that two individuals served in the educational activities role but did not complete that specific voluntary webinar. One of these individuals, Dr. David Teneyuca, is an Assistant Professor at the University of Texas at San Antonio, a long-time ACICS evaluator, and a current ACICS commissioner. The other, Dr. Darlene Minore, is the owner of Minore Educational Strategies, LLC, a long-time ACICS evaluator and a veteran member of the Intermediate Review Committee who also completed the team chair training on November 20, 2018 (see Exhibit 3, page 17), which covered much of the same material as the optional webinar. There can be little doubt that each of these site visitors is deeply knowledgeable regarding educational activities and ACICS accreditation standards. Although their attendance at a specialized workshop on educational activities would be a useful additional data point in this response, they certainly are competent to review educational activities during a site visit without having completed the optional workshop.

The Draft Report asserts that “it is not clear that these webinars are effective in providing training to site visitors” because “it does not appear that any assessment of learning from the webinar was conducted.” The Draft Report also references third-party comments that question the competency of ACICS representatives.

ACICS respectfully suggests that the Draft Report is creating compliance hurdles where none exist. Section 602.15(a)(2) requires the agency to have competent individuals who have been trained for their roles. It is undisputed that ACICS has done so, and the Draft Report does not provide any assessment or determination that the training was deficient in any way.

The third-party comments referenced by the Draft Report question the competence of ACICS representatives by pointing to Virginia International University, Reagan National University, and Education Corporation of America. Those comments are misplaced and certainly do not qualify as findings by the Department’s staff.

In the case of Virginia International University (VIU), both ACICS and the State Council for Higher Education in Virginia conducted site visits, cited VIU for various findings of noncompliance with their requirements, and required the institution to demonstrate that it had corrected these findings. The fact that these different agencies conducted site visits at different times, applied different sets of standards, and

found different concerns does not indicate that either assessment was incomplete or that ACICS's representatives somehow were delinquent.

Reagan National University (RNU) was the subject of an article in USA Today, which on February 15, 2020, published a story questioning whether RNU was in operation. ACICS previously had conducted a site visit to RNU, found it to be out of compliance with the accreditation standards, and directed it to show cause why its accreditation should not be withdrawn. RNU voluntarily relinquished its accreditation on February 8 rather than provide the information that ACICS had demanded, and it is ACICS's understanding that RNU closed on or about February 8. The sensationalistic story in USA Today and its repetition by third-party commenters who do not know the relevant facts is no basis for questioning the competence of ACICS representatives.

Regarding Virginia College (VC), it is well known that ACICS-accredited institutions scrambled to seek and obtain alternate accreditation following the Department's withdraw of ACICS's recognition in December 2016. VC's efforts to satisfy the standards of another agency so that it could achieve alternate accreditation within 18 months ultimately were unsuccessful. The other agency denied VC's application for accreditation in May 2018, just days after the Secretary had restored ACICS's recognition.

Within days after receiving the other agency's action, ACICS issued a show-cause directive to VC requiring it to explain the situation with the other agency, including why that agency's findings did not indicate VC's failure to comply with ACICS standards. ACICS continued the show-cause order to December 2018 and requested an extensive response to areas not satisfactorily addressed in the institution's first response and testimonies. ACICS subsequently withdrew VC's accreditation because of financial stability concerns after the Department put VC on HCM2.

The extraordinary actions regarding VC do not call into question the competence of ACICS representatives. Instead, they reflect the extreme challenges placed on institutions and other accrediting agencies by the Department's decision to remove ACICS's recognition in 2016.

The Draft Report notes that ACICS has established the Ethics Review Committee (ERC) and revised and expanded its composition and role. The ERC now comprises four members, as follows, with each of their current resumes provided at Exhibit 21:

1. Dr. Judee Timm – Current ACICS Director
2. Gregory Ferguson – Public Member
3. Jin-Hwa Frazier – Public Member
4. Matthew Johnston – Representative of an ACICS-Accredited Institution

The ERC meets at least annually and more frequently if needed. The most recent meeting was held on May 20, 2020, and minutes of that meeting are provided at Exhibit 22.

ACICS takes seriously its obligations to ensure that its representatives are capable and competent to fulfill their assigned roles, including providing appropriate training. Additionally, the ERC is an important element in ACICS's ethics oversight efforts.

The information and documentation provided in this response fully address the remaining issues raised in the Draft Report and demonstrate that ACICS complies with the requirements of Section 602.15(a)(2). ACICS respectfully requests that the Draft Report be revised to reflect ACICS's full compliance.

**Analyst Worksheet - Response**

Analyst Review Status for Response:

Does not meet the requirements of this section

Staff Determination:

The agency failed to demonstrate that it has competent and knowledgeable individuals, qualified by education and experience in their own right and trained by the agency on their responsibilities, as appropriate for their roles, regarding the agency's standards, policies, and procedures.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided additional information and documentation concerning its competency of representatives.

Regarding the training of team chairs, the agency stated that the five team chairs included on the roster, but who did not complete the team chair training, have not participated in a site visit and have been listed as inactive. ACICS provided documentation to support those statements (Exhibit 19). Exhibit 19 also states that guidance was provided to travel staff as to which team chairs had completed the training and therefore would be eligible to serve on a site team as such. ACICS referenced supporting documentation in "Exhibit X," but that exhibit was not provided in its response.

ACICS provided additional information and documentation concerning the five site visitors who did not appear to have completed the refresher training prior to participating on a site visit. The agency stated that D. Bird was included on the list of site visitors in error; D. Gnage completed his training; G. Randall was an emergency replacement and completed her training on-site with a staff member; D. Minore completed the team chair training instead; and D. Teneyuca did not complete the training, as required. The agency provided documentation for D. Bird who did not participate in a site visit and D. Gnage who completed the training in Exhibit 20 and referenced Exhibit 3.

ACICS stated that D. Minore completed the team chair training and the agency therefore asserted that the individual met the training requirement. The communication of the training initiative (Exhibit 1) stated that "[a]t a minimum, everyone must complete the General Refresher Training before serving on a team," and did not state that team chair training would satisfy this requirement. ACICS also stated a few times in its narrative that the refresher training was mandatory for all site visitors – with no exception noted for team chairs.

The agency stated that G. Randall was an emergency replacement and completed her training on-site with a staff member, but provided no documentation of that just-in-time training. ACICS also acknowledged that D. Teneyuca still has not completed the mandatory training.

In regard to the two individuals, D. Teneyuca and D. Milnore, who served in the "Educational Activities" role, ACICS stated in its response that the specialized webinars for site visitors for that role were "voluntary." However, this is contrary to the communication sent to all site visitors of the training initiative (Exhibit 1), which stated that "all evaluators in every role that they are qualified to serve in, must complete additional training in the following areas: General Evaluator Refresher Training (all); Chair Training; Student Relations; Educational Activities; Distance Education." ACICS contends that D. Teneyuca and D. Milnore did not need to complete the training because they were "deeply knowledgeable regarding educational activities and ACICS accreditation standards." Although this may be true, it is in violation of the training policy it described in the communication to site visitors (Exhibit 1), which requires mandatory training in the areas described, without exception to for expertise or experience. Therefore, ACICS has failed to demonstrate that it consistently trains its representatives for their roles and follows its own policies

and procedures, as required by regulation.

In the draft staff analysis, Department staff raised concerns about lack of an assessment of learning by ACICS from the training webinar provided. In its response, ACICS asserted that the regulation in this section only requires training to be provided but does not require ACICS to demonstrate that its training is effective, describing the draft staff analysis finding as a “compliance hurdle.” As specified in the Department's regulations and by statute, recognized agencies are required not only to comply with the criteria for recognition but to be effective in their application of those criteria. See 34 C.F.R. § 602.3, definition of "Recognition"; 20 U.S.C. § 1099b(1)(1). Relying on the conclusory statement that “it is undisputed that ACICS” has “competent individuals who have been trained for their roles,” ACICS has failed to address the Department staff’s concern about the effectiveness of the training – it has not submitted any information or documentation that it has evaluated whether the training provided to site visitors is effective for their roles and responsibilities.

Rather than addressing effectiveness of its training program, ACICS attempts to deflect the Department’s concern by challenging the third-party comments that questioned the competency of representatives in the reviews of Virginia International University (VIU, now Fairfax University of America), Reagan National University (RNU), and Virginia College. Overall, the agency stated that none of these institutional examples are reflective of the incompetence of site visitors or members of the decision-making body or their lack of training, but that the failure to uncover the significant issues at those institutions could be due to other factors.

In addition to this Compliance Report, ACICS has not demonstrated via the RNU Inquiry that ACICS has the administrative capacity to carry out its accreditation activities in light of its requested scope of recognition, to include sufficient training of agency representatives.

Regarding the Ethics Review Committee, ACICS provided information and documentation that the members met the composition requirements (Exhibit 21) and of the May 2020 meeting of the ERC (Exhibit 22).

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

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		
Exhibit 23 Visit Evaluation Procedures and Guidelines (previously B-075)	Exhibit 23 Visit Evaluation Procedures and Guidelines (previously B-075).pdf		
Exhibit 24 Evaluator Training Binder (previously B-O-81)	Exhibit 24 Evaluator Training Binder (previously B-O-81).pdf		
Exhibit 25 IRC Rosters wDesignations and Resumes (previously B-O-91)	Exhibit 25 IRC Rosters wDesignations and Resumes (previously B-O-91).pdf		
Exhibit 26 IRC Training Binder (previously B-O-92)	Exhibit 26 IRC Training Binder (previously B-O-92).pdf		
Exhibit 27 Evaluator Conflict of Interest Forms (previously B-O-103)	Exhibit 27 Evaluator Conflict of Interest Forms (previously B-O-103).pdf		
Exhibit 28 Electronic Signatures and Missing Form	Exhibit 28 Electronic Signatures and Missing Form.pdf		
Exhibit 29 March 2020 IRC COI Forms	Exhibit 29 March 2020 IRC COI Forms.pdf		

### Analyst Worksheet- Narrative

Analyst Review Status:

Does not meet the requirements 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

Response:

602.15 Administrative and fiscal responsibilities

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

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

The Secretary's November 21, 2018, decision required ACICS to provide a compliance report addressing two recognition requirements. With regard to compliance with Section 602.15(a)(6), the Secretary directed ACICS to submit evidence that it requires the members of its Intermediate Review Committee (IRC) to sign conflict of interest attestations. ACICS provided the requested information in a compliance report submitted to the Department's Accreditation Group on December 19, 2019. On April 30, 2020, Department staff issued its Staff Report to the Senior Department Official on Recognition Compliance Issues (Draft Report) following its review of the compliance report. ACICS herein provides its comments in response to the Draft Report and includes information that supports its response or that otherwise was requested in the Draft Report.

ACICS noted in its compliance report that all IRC members also are evaluators and are subject to the evaluator conflict-of-interest requirements, and it documented that each IRC member signs the IRC Conflict of Interest Attestation each time they participate in an IRC session. In several cases, it referenced certain materials that it had provided to the Department in earlier submissions, but the Draft Report requires that all supporting documentation be provided with this response. Accordingly, ACICS is including many of the documents mentioned in the compliance report as outlined below, although it has determined that the exhibit from the October 2016 Appeal to the Secretary is unnecessary to demonstrate compliance with this section and therefore is not included.

1. Visit Evaluation Procedures and Guidelines, see page 4 (Exhibit 23). This was provided in the May 2018 submission.

2. Evaluator Training Binder, see page 30 (Exhibit 24). This was provided in the May 2018 submission.
3. Evaluator Conflict of Interest Forms (Exhibit 25). These were provided in the May 2018 submission.
4. IRC Training Manual, see pages 5-7 (Exhibit 26). This was provided in the May 2018 submission.
5. Sample IRC Roster with Designation (Exhibit 27). This was provided in the May 2018 submission.

As an exhibit to the compliance report, ACICS provided IRC Conflict of Interest Attestation forms for IRC members. The Draft Report, however, noted that three of these forms were not signed and a form was not provided for one individual. ACICS has since obtained signatures for the three forms that previously contained only typed signatures and has obtained the missing form. See Exhibit 28. The Draft Report also requests the signed conflict of interest forms from the March 2020 IRC session to demonstrate compliance with this section. See Exhibit 29.

The information provided in this response fully addresses all of the remaining issues identified in the Draft Report. ACICS fully complies with the requirements of Section 602.15(a)(6) and respectfully requests that the Draft Report be revised to reflect such compliance.

### **Analyst Worksheet - Response**

Analyst Review Status for Response:

Meets the requirements of this section

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided additional information and documentation concerning its clear and effective controls against conflict of interest. Specifically, the agency provided the documents that it had previously submitted to the Department for review by the SDO and Secretary in 2018 and cited in its initial submission of the Compliance Report.

ACICS also provided completed versions of the missing or unsigned IRC Conflict of Interest Attestation forms, as well as the completed forms for the IRC members who participated in the March 2020 IRC session.

The Department notes that ACICS had a year to prepare its Compliance Report and failed to provide a complete set of signed forms in its initial submission, and only provided the required documentation after Department staff noted the deficiency in its draft staff analysis.

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

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.

### 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.

### 3rd Party Request for Oral Presentation

There are no oral comments uploaded for this Agency.