

U.S. Department of Education

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

RECOMMENDATION PAGE

1. **Agency:** Middle States Commission on Higher Education (1952/2007)
(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)
2. **Action Item:** Petition for Continued Recognition
3. **Current Scope of Recognition:** The accreditation and preaccreditation ("Candidacy status") of institutions of higher education in Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, and the U.S. Virgin Islands, including distance education programs offered at those institutions.
4. **Requested Scope of Recognition:** The accreditation and preaccreditation ("Candidacy status") of institutions of higher education in Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, and the U.S. Virgin Islands, including distance education and correspondence education programs offered at those institutions.
5. **Date of Advisory Committee Meeting:** December, 2012
6. **Staff Recommendation:** Expand the agency's scope of recognition to include correspondence education. Continue the agency's recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified below.
7. **Issues or Problems:** It does not appear that the agency meets the following sections of the Secretary's Criteria for Recognition. These issues are summarized below and discussed in detail under the Summary of Findings section.

- The agency needs to document the completion of its separate incorporation, as well as to document the successful completion of the property transfer with solidified loan terms, in order to accurately calculate the agency's future indebtedness and its ability to avoid additional losses. [§602.15(a)(1)]

- The agency needs to provide current documentation that its standards review program is comprehensive; that it examines each of the agency's standards and the standards as a whole; and that it involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review. [§602.21(a)(b)]

- The agency needs to provide current documentation that the new policies and procedures for reviewing complaints is successfully processing all complaints in a consistently timely manner. [§602.23(c)]

- The agency needs to consistently seek information from each institution as to how it is assigning credit hours, and the visiting teams need to consistently describe what actual evidence they reviewed to come to their determination, beyond simply checking the institution's written policy. [§602.24(f)(2)]

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

Middle States Commission on Higher Education (MSCHE) is a regional accreditor that currently accredits 523 institutions of higher education located in five states, the District of Columbia, Puerto Rico, and the US Virgin Islands. In addition, the agency has approximately 9 institutions in candidacy status and is reviewing 11 applications for candidacy.

The agency's recognition enables its institutions to establish eligibility to receive Federal student assistance funding under Title IV of the Higher Education Act of 1965, as amended (Title IV). The agency serves as the Title IV gatekeeper for all but a handful of the institutions it accredits. Consequently, the agency must meet the Secretary's separate and independent requirements.

Recognition History

MSCHE appeared on the first list of recognized accrediting agencies in 1952 and has received periodic renewal of recognition since that time. The agency was last reviewed for continued recognition at the May 2007 meeting of the National Advisory Committee. At that time no issues were identified, and the agency was granted renewed recognition for a period of five years by the Secretary.

In conjunction with the current review of the agency's petition for continued recognition, Department staff reviewed the agency's petition and supporting documentation and observed an agency decision-making meeting in Pittsburgh, Pennsylvania on June 28, 2012. The Department received no third-party comments in connection with the agency's current petition for continued recognition.

PART II: SUMMARY OF FINDINGS

§602.15 Administrative and fiscal responsibilities

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

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

(a) The agency has--

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

The agency is adequately staffed for its size, and no complaints have been received at the Department indicating that there have been staffing problems. Agency staff members have been readily accessible and have been able to efficiently provide any requests for information. In addition, when Department staff attended the agency's decision-making meeting in June 2012 several staff members were interviewed and the agency's administrative processes were observed to be functioning efficiently.

Regarding finances, the agency's most recently available audited financial statement (FY 2011) indicates that MSCHE continues to have adequate revenues to conduct all accrediting activities expected of a recognized accrediting agency. The primary sources of revenue are the dues and fees paid by accredited institutions. (Each institution pays for the costs of its own on-site evaluation visit.) The remainder of the agency's revenue comes primarily from investment income and the sale of publications.

However, the petition notes that the agency may assume all of the occupancy expenses currently being paid by all three Commissions. In addition, this scenario is conditioned on MSCHE separately incorporating, which would enable it to take legal title to the properties.

As a result, it is unclear how the agency's financial situation will change if MSCHE takes on all of the occupancy expenses with a new loan at potentially a higher rate. Although it could be offset by higher rental income from the other commissions, it is also clear that those commissions are struggling financially. Therefore, the agency needs to provide updated information regarding its separate incorporation, and the proposed agreement with the other commissions to take over the costs of the properties, and the impact all of this may have on MSCHE's finances.

Until this matter is addressed, a finding of compliance cannot be made.

Analyst Remarks to Response:

The draft staff analysis found that MSCHE needed to provide updated information regarding its separate incorporation, and the proposed agreement with the other commissions to take over the costs of the properties, and the impact all of this may have on MSCHE's finances.

In its response, the agency reported that the planned separate incorporation is progressing according to schedule, and without any significant roadblocks. As well, the agency's substantial reserves should be sufficient to cover the expected losses during the transition period and into the near future.

Nonetheless, Department staff believes that unexpected factors could adversely impact the agency's finances during the transition period, and that it is incumbent upon the Department to track the agency through the transition period before finding MSCHE in compliance with the requirements of this section.

Consequently, the agency needs to document the completion of its separate incorporation, as well as to document the successful completion of the property transfer with solidified loan terms, in order to accurately calculate the agency's future indebtedness and its ability to avoid additional losses.

Until the agency addresses these matters, a finding of compliance cannot be made.

§602.21 Review of standards.

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

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

- (1) Is comprehensive;**
 - (2) Occurs at regular, yet reasonable, intervals or on an ongoing basis;**
 - (3) Examines each of the agency's standards and the standards as a whole; and**
 - (4) Involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review.**
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MSCHE reviews its standards on both a comprehensive basis and on an ongoing basis. The ongoing review takes place after each site visit by inviting the on-site evaluation visit chair and the head of the institution to comment on the appropriateness of the standards, and to make suggestions as to how the standards and their interpretation could be improved.

The agency's written policies indicate that MSCHE conducts a comprehensive review of all of its standards every seven years. During that comprehensive review, the agency involves students, graduates, policy-makers, trustees, faculty, administrators, business leaders, and State officials to ensure that they are afforded a meaningful opportunity to provide their input. In addition, the agency conducts regional hearings to invite input from the public, as well as local constituents from the categories just listed. The comprehensive standards review process is guided by a steering committee that includes staff, public members, State agencies, as well as a wide variety of institutional representatives.

The agency's written policies, together with the documentation provided the last time the agency was reviewed, demonstrate that the MSCHE review of standards is comprehensive, examines each of the agency's standards and the standards as a whole, and involves all of the agency's relevant constituencies in the review by soliciting their input.

However, the problem is that the only current documentation of implementation the agency could provide is related to the upcoming review of standards. As well, MSCHE is not far enough along with that process for the documentation to be sufficient.

The agency's standards publication document indicates that the last major edition of the standards was published in 2002, around the same time as the last major comprehensive review. The petition narrative, and the document itself, indicate that there were some minor clarifications with editorial changes made to the January 2006 edition of the agency's standards. The petition documentation also indicates that the agency only began its planning process in 2012 for conducting the next comprehensive review. Rather than every seven years as required by MSCHE's own policies, it appears that the next comprehensive review is slated to take place more than a full decade after the last full review was conducted.

Whatever caused the delay is moot at this point. The question going forward is how expeditiously can the agency fulfill its written commitment to conduct the overdue comprehensive review? Therefore, the agency needs to document that it has a detailed plan, and corresponding calendar, for each of the steps needed to ensure that the current comprehensive review process will be implemented effectively and expeditiously.

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

Analyst Remarks to Response:

The draft staff analysis found that MSCHE needed to document that it has a detailed plan, and corresponding calendar, for each of the steps needed to ensure that the current comprehensive review process will be implemented effectively and expeditiously.

The draft staff analysis found that the only current documentation of implementation that MSCHE could provide was related to a planned review of standards scheduled to take place in 2013. It appeared to Department staff that the agency's last full comprehensive review, one that would involve all relevant constituencies in a meaningful way, was last conducted in 2002. Furthermore, it appeared that the MSCHE policy required a full comprehensive review every seven years, not every ten years.

In its response, MSCHE seemed to equate the 2006 tweaking of the agency's standards, based on limited input received after site visits, with a comprehensive review of all standards that involved all its constituencies in a meaningful way. Furthermore, since it appears that the agency considers those limited activities as equivalent, MSCHE also considers itself as being on schedule, and in full compliance with its self-imposed seven-year schedule. Also, the agency has committed to completing the comprehensive review of all its standards during 2013. Interestingly, MSCHE just revised its published policy to require future comprehensive reviews to be on a ten-year schedule, since the agency's Executive Committee recently concluded that a seven-year cycle is no longer realistic.

In any event, MSCHE did not provide current documentation that its standards review program is comprehensive; that it examines each of the agency's standards and the standards as a whole; and that it involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review.

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

§602.23 Operating procedures all agencies must have.

(c) The accrediting agency must--

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

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

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

MSCHE has established policies and practices for the processing of complaints against member institutions, and against itself. The agency attested that it has not received any complaints directed against MSCHE itself. However, since timelines are inadequately incorporated into the two official complaint procedures, it is difficult to confirm if the overall process is fair and equitable to all the parties involved, but especially to the complainant.

For example, the agency's current written policy regarding complaints against institutions indicates that MSCHE may take one month to simply acknowledge receipt of the complaint. Then at some point, not bounded by any timeframe, the agency may send it to the institution for response. The institution may then take two months to respond to the complaint. Then at another point, again not bounded by any timeframe, the Commission may consider the matter. Finally, the agency does indicate that it will "attempt" to notify the complainant within one month after receiving the final response from the institution, whenever that eventually takes place. It is difficult to see how a complaint can be handled reasonably expeditiously since MSCHE has built so many delaying qualifiers into its complaint-handling system.

The agency picked an example of how it handled a complaint to demonstrate its compliance with this section. However, the sample complaint picked by the agency demonstrated that MSCHE did not even acknowledge the complaint for well over a month and a half. At that point the agency decided to ask for more information to extend the process even longer. The complainant received another letter three weeks later stating that the complaint was being forwarded to an MSCHE staff member to review. On October 5, 2009 the staff member had taken approximately 50 days to get back to the complainant to state that MSCHE could not forward the complaint to the institution (that MSCHE already postponed even acknowledging) without the complainant's permission.

The original complaint was received at MSCHE on June 11, 2009 and as of October 5, 2009 very little progress had been made in processing the complaint in a timely manner. The institution responded to MSCHE almost two months later. The complainant received a letter from MSCHE in January 2010 stating that the complaint was now considered closed, based on the information received (December 7, 2009) from the institution.

MSCHE needs to incorporate reasonable timeframes into every step of its two complaint policies, that is, for both complaints against institutions, and for

complaints against the agency itself (clearly including any complaints against agency staff members). Intervening timelines will help ensure that all parties are sufficiently and regularly informed as to the progress of the complaint as it makes its way through the MSCHE process. In addition, the agency needs to track how each complaint is being processed by the various staff members to ensure that they are being handled expeditiously according to published agency policy.

Analyst Remarks to Response:

The draft staff analysis found that MSCHE needed to incorporate reasonable timeframes into each step of its two review procedures for complaints against institutions and complaints against the agency itself, including agency staff. In addition, the agency needs to track the progress of every complaint through the MSCHE review processes to help ensure that timeliness is consistently being maintained.

In its response, MSCHE noted that it has revised its complaint procedures to reduce timelines for some steps in the process. For example, the agency response states that MSCHE will now acknowledge complaints against institutions within 10 days of receipt, and against the agency itself within 14 days. (In actuality, both policies state 14 days.) As well, the agency response indicates that the new policies should substantially reduce the amount of time it takes to process a complaint. Furthermore, the agency is requiring its staff members to log the complaints into a central system so that the processing times can be tracked from this point forward.

It is a fact that the agency's past handling of complaints in a timely manner could not be assured. It is also recognized that the adjustments to the MSCHE policies on complaint processing, and the central logging of all complaints, are welcome first steps to correct past problems. However, since these policies have only been recently revised, it will be necessary for MSCHE to provide actual dated letters as evidence that the logging system and the revised timelines are being consistently applied in practice. In other words, MSCHE needs to provide current documentation that the new policies and procedures for reviewing complaints is successfully processing all complaints in a consistently timely manner.

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

§602.24 Additional procedures certain institutional accreditors must have.

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

(2) In reviewing and evaluating an institution's policies and procedures for determining credit hour assignments, an accrediting agency may use sampling or other methods in evaluation, sufficient to comply with paragraph (f)(1)(i)(B) of this section.

The petition provided a draft “Credit Hour Policy” (Exhibit 353) in response to this relatively recent regulatory requirement that became effective in July 2011. The draft addresses the requirements of this new criterion in a concise manner, as befits an agency’s initial experiences in applying the requirements. Other documents provided by the agency for this section include general declarations to abide by all federal regulations that institutional representatives must sign, as well as team report excerpts where the team affirms the institution’s compliance.

However, the team affirmations do not adequately describe what they examined in a manner that benefitted the reader. Furthermore, it appears that there is no consistent method used by the teams to make their determinations in these matters. Although the agency’s policy references a document entitled “Credit Hour Procedures for Evaluation,” a copy of that document was not provided.

The agency appears to rely more heavily on the institution’s assurances that their students are learning at the levels set by the institution itself, than by any tangible sampling conducted by the on-site team. As well, the sample self-study excerpt (cf. Exhibit 206b) (from a school that relies on distance education methodologies) provided a very brief paragraph on “Academic Credit” that appeared to be all that the institution provided to document its compliance with the MSCHE credit hour requirements.

In summary, the agency has relatively little experience in applying its draft “Credit Hour Policy.” In addition, there is every possibility that the agency may significantly develop that draft policy before it becomes final, based on MSCHE’s recent experiences in applying its new requirements to more institutions.

Therefore, the agency needs to address these matters more fully, before a finding of compliance can be made.

NOTE: The agency’s training material appears to incorrectly indicate the Department’s rules require that “Institutions must document that any “reasonable equivalencies” to federal definition can be verified through student learning outcomes (cf. Exhibit 200, slide 9). In actuality, the Department expects MSCHE to document that it has reviewed the institution’s policies and procedures, and that MSCHE has made a reasonable determination as to whether the institution’s assignment of credit hours conforms to commonly accepted practice in higher education.

Analyst Remarks to Response:

The draft staff analysis found that MSCHE needed to demonstrate how it consistently makes a determination of whether the institution's assignment of credit hours conforms to commonly accepted practice in higher education.

In its response, the agency noted that it has adopted a final policy regarding the evaluation of an institution's assignment of credit hours for application by MSCHE on-site teams. In addition, the agency has developed a more guidance for informing institutions about complying with all federal requirements, including the credit hour requirements. Furthermore, the agency has provided documentation that has begun implementing its recently-adopted policy, and that on-site teams are verifying that they have examined the institution's policies regarding how it assigns credit hours.

The problem is that it appears MSCHE is satisfied when the site team report merely states that the institution is in compliance (see exhibit R23). It is not consistently clear as to what information provided the basis for the team's determination. It is not consistently clear as to what evidence was even reviewed by the team, other than simply checking the institution's written policy. It is especially important that the team describe what specific sample course assignments they actually reviewed when the institution offers both traditional and online courses. (Although the agency has each institution self-certify that it is in compliance with federal requirements, that practice is not sufficient to demonstrate compliance.)

In particular, the agency needs to consistently seek information from each institution as to how it is assigning credit hours, and the visiting teams need to consistently describe what actual evidence they reviewed to come to their determination, beyond simply checking the institution's written policy.

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

PART III: THIRD PARTY COMMENTS

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