

U.S. Department of Education

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

RECOMMENDATION PAGE

1. **Agency:** WASC Accrediting Commission For Senior Colleges and Universities (1952/2006)
(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)
2. **Action Item:** Petition for Continued Recognition
3. **Current Scope of Recognition:** The accreditation and preaccreditation ("Candidate for Accreditation") of senior colleges and universities in California, Hawaii, the United States territories of Guam and American Samoa, the Republic of Palau, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands and the Republic of the Marshall Islands, including distance education programs offered at those institutions.
4. **Requested Scope of Recognition:** Same
5. **Date of Advisory Committee Meeting:** December, 2012
6. **Staff Recommendation:** Continue the agency's current recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified below.
7. **Issues or Problems:** 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 is requested to provide information and documentation regarding the changes it is currently making to its organizational structure when it submits its upcoming compliance report. It is also

requested to revise its bylaws to ensure the required ratio of 1 public member for every 7 members going forward. [§602.14(b)]

-- The agency is requested to provide additional documentation regarding the qualifications of its current pool of on-site reviewers. The agency is also requested to provide additional documentation as to how the appeals panel members are trained, as well as the qualifications of the appeals panel's public member(s). [§602.15(a)(2)]

-- The Commission is changing its corporate structure, which means that the appeals process will no longer be applicable and will need to be newly created. As a result, the agency will need to address the requirement of this section regarding composition of appeals panels in its upcoming compliance report. [§602.15(a)(3)]

-- The agency is requested to provide documentation of its written policy in this area, as well as evidence that its appeals panels include a public representative who meets the Secretary's definition. [§602.15(a)(5)]

-- The agency is in the process of changing its conflict of interest policies. Therefore, the agency is requested to provide information and documentation of how its new process meets the requirements of this section in its upcoming compliance report. [§602.15(a)(6)]

-- The agency must provide documentation that makes clear on what basis the team and the commission make a compliance determination regarding the agency's recruiting and other practices standard. The agency is also requested to provide evidence that its confidential email solicitation yields information relevant to the agency's standards/guideline in this area. [§602.16(a)(1)(vii)]

-- The agency must provide information on how the information provided by an institution is reviewed to make a compliance determination regarding the agency's program length standard. [§602.16(a)(1)(viii)]

-- The agency is requested to revise its on-site review procedures in order to ensure it reviews all of the complaints it requires its institutions to maintain to identify a pattern of complaints over an extended period of time. [§602.16(a)(1)(ix)]

-- The agency is requested to provide information and documentation as to how its Title IV Compliance Policy is enforced. [§602.16(a)(1)(x)]

-- The agency is requested to revise its materials to remove references to correspondence education and to ensure the consistent use of terminology related to distance education and to provide documentation of the changes. [§602.16(b)(c)]

-- The agency is requested to provide documentation that institutions are provided the opportunity, within a reasonable amount of time, to review the draft on-site review teams' reports in order to correct factual errors. [§602.17(d)]

-- The agency is requested to provide a copy of its comprehensive review calendar as documentation that it is implementing its published ten-year review cycle. [§602.19(a)]

-- The agency must devise and implement a method for periodically collecting and analyzing information related to measures of student achievement, as required under this section. It must also provide documentation of its effective application of its policies and procedures in this area. [§602.19(b)]

-- The agency is requested to provide additional information regarding monitoring of growth and any requirements for institutions to provide annual headcounts of students, as required under this section. [§602.19(c)]

-- The agency is requested to provide additional information and documentation as to how it is collecting headcount information and monitoring significant growth. [§602.19(d)]

-- The agency is requested to provide documentation that it is enforcing the two-year enforcement timelines specified in this section. [§602.20(a)]

-- The agency is requested to provide an updated report of its current comprehensive review of standards in its upcoming compliance report, including detailed information and documentation regarding the constituencies from which it solicited and received feedback, and the nature of the feedback it received. The agency is also requested to provide information as to when its next scheduled comprehensive standards review process is scheduled to begin. [§602.21(a)(b)]

-- The agency is requested to document that its standards revision process is specified in its policies and procedures, including the requirement that it obtain input from all of its constituencies and interested parties, that it initiate action within 12 months to make changes to its standards, and that it complete that action within a reasonable period of time. [§602.21(c)]

-- The agency needs to provide documentation of its application of its policy regarding review of institutions experience rapid growth in the number of additional locations, or indicate it has not had an opportunity to do so. [§602.22(c)(3)]

- The agency is requested to address its compliance with the requirements of this section in its upcoming report. [§602.23(a)]

- The agency is requested to further revise its policies to reflect the requirements of this section. In addition, the agency needs to provide documentation of its evaluation of a teach-out plan, or indicate it has not had an opportunity to evaluate a plan under its revised policies. [§602.24(c)(2)]

- The agency is requested to provide documentation demonstrating that it reviews an institution's compliance with its revised transfer of credit policy. [§602.24(e)]

- The agency is in the process of developing a new appeals process and is therefore requested to provide additional information on the requirements of this section in its upcoming report. [§602.25(f)]

- The agency is in the process of revising its appeals process and is therefore requested to provide additional information about its compliance with the requirements of this section in its upcoming report. [§602.25(h)]

- The agency is requested to provide documentation of its timely notification to the relevant entities to demonstrate effective application of its policy. [§602.26(a)]

- The agency is requested to further revise its policies to meet the requirements of this section and to provide documentation of its timely notification to all listed entities. [§602.26(b)]

- The agency is requested to provide documentation of its application of its revised policy regarding the requirement to provide a brief summary within 60 days. [§602.26(d)]

- The agency is requested to provide documentation of the application of its revised policy related to notification of voluntary withdrawal. [§602.26(e)]

- The agency must amend its bylaws to be consistent with its revised policy on information-sharing with other accrediting/approval bodies and the requirements of this section of the criteria. [§602.28(e)]

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Accrediting Commission for Senior Colleges and Universities (WASC-Sr.) is one of three accrediting commissions that comprise the Western Association of Schools and Colleges (WASC). The agency is recognized as the regional accrediting body for the accreditation and preaccreditation of senior colleges and universities in California, Hawaii, the United States territories of Guam and American Samoa, the Republic of Palau, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands.

WASC-Sr. currently accredits 161 institutions located throughout its region. Accreditation by the agency enables those institutions to establish eligibility to participate in the Title IV student financial aid programs. The agency is a Title IV gatekeeper and meets the definition of separate and independent as required in the Secretary's Criteria for Recognition.

Recognition History

The U.S. Commissioner of Education listed the Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities on the initial list of recognized accrediting agencies in 1952. After establishing a successor in 1962, the Secretary has continued periodically to recognize this agency.

The NACIQI considered the agency's last full petition for renewal of recognition at its Fall 2006 meeting. The Secretary concurred with the NACIQI recommendation and granted the agency a five-year period of recognition. The Secretary also requested the agency to submit an interim report for review at the Spring 2008 NACIQI meeting, and the report was accepted at that time.

PART II: SUMMARY OF FINDINGS

§602.14 Purpose and organization

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

(1) The members of the agency's decision-making body--who decide the accreditation or preaccreditation status of institutions or programs, establish the agency's accreditation policies, or both--are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or membership organization;

(2) At least one member of the agency's decision-making body is a representative of the public, and at least one-seventh of that body consists of representatives of the public;

(3) The agency has established and implemented guidelines for each member of the decision-making body to avoid conflicts of interest in making decisions;

(4) The agency's dues are paid separately from any dues paid to any related, associated, or affiliated trade association or membership organization; and

(5) The agency develops and determines its own budget, with no review by or consultation with any other entity or organization.

The Western Association of Schools and Colleges' (Association) Accrediting Commission for Senior Colleges and Universities (WASC Sr. or commission) is one of three Association commissions. The Association's board of directors consists of nine members, comprised of three members elected by each of the three commissions (Ex. 1, p.ii). The Association, and the sister Commissions, are related membership organizations to WASC-Sr.

Election of commission members/independence of the Commission

The agency's bylaws (Ex. 3) specify the procedures for the election of members to serve on the WASC Sr. commission. The agency's nominating committee solicits nominations from the presidents of WASC Sr. member institutions, WASC Sr. commissioners, and the executive directors of WASC Sr.'s two sister commissions.. It is not clear whether the agency has the discretion to reject input from the other commissions. Article IV, Section 2(b) of the bylaws requires the Commission to include one person from each of the agency's two sister commissions, or a person who has served in administrative or faculty member at an institution accredited by those commissions. This requirement is a violation of the separate and independent requirements. The slate includes one candidate for each position. Commissioners are elected by the presidents of member institutions.

Article II, Section 2 of the Association's Constitution (Ex 5) states that the Board of Directors "shall certify" actions taken by each Commission. ED staff interpret this to mean that the Board has only the discretion to approve the actions. In a similar vein, the Procedures and Internal Policies section of the Constitution (Section 1, paragraphs 2 and 3) would be acceptable if they were revised to incorporate the phrase "shall ratify", thereby making ratification mandatory. However, Article IV, Section 1 states that each commission "shall adopt its own standards and criteria, subject to the approval of the Board." Given the possibility that the Board would not give its approval, this is a violation of the separate and independent requirements. Article VI, sections 1 and 3 include that the Board picks the hearing panel that decides appeals, and the Association's president is the party to whom appeals are taken. In order to be in compliance, it would seem that the Board would need to be part of the agency and meet the separate and independent requirements, or that at least the hearing panel would need to be made part of the agency and meet those requirements.

Public representatives

A list of commissioners indicates that there are currently 25 members on the commission who serve overlapping three-year terms (Ex. 9). Three of the current commissioners are public members, which does not satisfy the 7:1 ratio specified in the ED regulations. The agency's bylaws dictate that the commission must have at least three public members. However, the number of commissioners is not specified in the agency's bylaws, and the bylaws are therefore unclear in requiring the 7:1 requirement specified in this part. The agency is requested to amend its bylaws to clarify that the ratio of commissioners to public members must be at least 7:1.

Conflicts of interest

Section V.1 of the Procedures and Internal Policies portion of the Association's Constitution (Ex. 5) specifies that each Commission must have in place a conflict of interest policy that has been approved by the Association's Board. Requiring Board approval is a violation of the separate and independent provisions. Also of concern is section V.2.D, which assumes the Board will have a substantive role in Commission decisions regarding conflicts of interest. The agency provided a copy of its conflict of interest policy (Ex. 18), a form used by commission members to declare conflicts of interest (Ex. 17), and a list of collated results showing conflicts reported by various commissioners (Ex. 19). The conflict of interest policy covers commissioners, as well as visiting team members, commission staff, and consultants and other representatives. The agency clearly defines what would constitute a conflict of interest and requires that commissioners recuse themselves from discussions/decisions if they have a conflict.

Dues payment

Institutions pay their membership fees directly to the commission, based upon their full-time equivalent enrollment. The agency provided copies of its dues and fees schedule (Ex. 22) and dues and fees invoice (Ex. 24) as documentation of its dues payment process.

Budget development

The agency reports that its annual budget is drafted by its chief financial officer, then presented to the commissions finance committee for revisions. The draft budget is then submitted to the full commission for interim approval and refined using more current information regarding revenues/expenses. The final budget is then approved by the finance committee, and then by the commission. Article III, Section 6 of the Constitution empowers the Board to delegate actual review and approval of commission budgets to accrediting commissions “to the extent it deems prudent.” It is not clear, given this provision, that the agency has authority over its own budget. The agency submitted committee (Ex. 25) and commission (Ex. 26) agendas as documentation related to its budget adoption process.

ED staff has noted the following provisions in the WASC constitution and in its procedures and internal policies, as well as in the WASC-Sr. bylaws, that raise additional concerns about the WASC board's control of the operations of WASC-Sr commission and whether or not they would meet the Secretary's requirements.

- Constitution Article VII states that each of the three WASC commissions will be assessed equally to support the work of the board. This raises concerns about compliance with 602.14(c) since the assessment is not based on a proportionate share, but rather assumes each commission uses these resources equally.
- Constitution Article VIII states that the size of an accrediting commission is subject to approval by the board. The board should not have approval authority.
- Procedures, Section V.1 should not indicate that the board is permitted to have veto power over the commission's conflict of interest policy.
- Procedures, Sections V.D and V.E are related to conflict of interest and will be addressed in the staff analysis under 602.15(a)(6).
- Procedures, Section VI indicates that ratification is not mandatory except where it is the board's opinion, upon review, that the commission complied with the provision on executive compensation. Ratification should be mandatory.

Analyst Remarks to Response:

In its response to the draft analysis regarding selection of Commissioners, the agency clarified that it solicits nominations from its sister agencies and also from heads of institutions accredited by these organizations to fill the two slots designated for a representative from the Commission for Schools and from the Accrediting Association for Community and Junior Colleges. It further states that it generally gets multiple nominations for these seats. With this clarification, and the agency's stated intention to change its corporate structure, the Department's concerns regarding selection of Commissioners have been adequately addressed.

The agency states in its response that its 25-member Commission meets the requirement for public member representation by including four public members, and lists their last names. However, neither the list of Commission members

provided by the agency (exhibit 9), nor the list of public members included in its petition (exhibit 15) supports this statement. In order to resolve the conflicting information provided by the agency, ED staff reviewed the list of Commission members posted on the agency's website and confirmed that the four members who are identified in the agency's response as representatives of the public are currently serving on the Commission. While the agency is currently in compliance with the public member requirement, its by-laws need to be revised to ensure the required ratio of 1 public member for every 7 members going forward.

In response to the other concerns raised in the draft analysis, and despite its objections, the agency noted that it is in the process of changing its corporate structure. The agency is therefore requested to provide information and documentation related to the completed changes when it submits its upcoming compliance report.

§602.15 Administrative and fiscal responsibilities

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

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

(a) The agency has--

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

Commissioners

As noted previously, the agency's commissioners are elected by its membership from a roster compiled by the nominating committee. The nominating committee is provided with general information about the qualifications of commission membership (Ex. 36). The current commission consists of 25 members. The agency provided a list of the commissioners and their qualifications. All appear well-qualified for service on the commission. Most are administrators and faculty members. There are three public members, who include two educational consultants and a foundation president (Ex. 15). The agency states that new commissioners receive orientation at a retreat each fall. The agency provided a copy of its orientation manual (Ex. 35). The manual addresses: WASC's structure; regional accreditation; types of accrediting agencies; relationships with state agencies; relationships with ED; composition of the commission; the roles of the commission; conflicts of interest and confidentiality; commission committees; institutional reviews and the panel process; substantive change;

ratification of decisions; commission action letters; public sessions; appeals; liability; and the agency's accreditation model and visit process. Although the agency provided a copy of its orientation manual, the manual does not provide sufficient evidence of training. The agency is requested to provide evidence of the training it provides its commissioners, such as meeting minutes, training agendas, and/or training slides.

On-site reviewers

The agency states that it has a roster of approximately 1300 on-site reviewers and that, of those, approximately 300 serve as reviewers in a given year. As noted previously, the agency provided a roster of its on-site reviewers (Ex. 7). The list includes titles and institutional affiliations, but the agency exhibits do not include information about the qualifications of the reviewers. When reviewers are chosen, they are required to either participate in an all-day training session or attend a training webinar. The agency provided a copy of its extensive evaluator training manual (Ex. 29), which is detailed and comprehensive. In addition, the agency provided slides from its evaluator training webinar that demonstrate the thoroughness of the training. The agency has developed a separate protocol for reviewing distance education (Ex. 30). Additional training is provided to team members who will be conducting reviews of distance education (the agency does not accredit correspondence education programs).

Appeals panel members

The agency has established a process by which an institution may request review of negative actions (probation, show cause, or an adverse action) taken by the Commission. In addition, there is a formal appeal process for adverse actions prescribed in the Association's Constitution. Only the formal appeals process is covered by the Secretary's criteria. The agency provided a list of the Association's Hearing Panel members (Ex. 13). The list includes members of WASC SR. and its two sister agencies. The Association's Board elects the 20-person Hearing Panel from which a five-person Hearing Board (appeals panel) will be selected on a random basis. The Constitution requires the Hearing Board to include one member representing each of the agencies and one lay (public) member. It is not clear that there are established requirements regarding the qualification of Hearing Panel/Board members. The Constitution mentions an Appeal Procedures Manual that might provide further clarity; however, that was not included in the agency's petition. In addition, no information was provided regarding the training of appeals panel members.

The agency's policies and procedures do not require and prescribe the type and frequency of training that will be provided for site evaluators, commissioners and appeals panel members.

Analyst Remarks to Response:

Commissioner training

In response to the draft staff analysis, the agency provided a copy of the agenda from an orientation session held for five new commissioners in November 2012 (Ex. 194). The training session included a review of the contents of the agency's New Commissioner Orientation Binder, the role of commissioners in the decision-making process, the role of commissioners in setting policy, the relationship between the agency and its parent body, and the agency's relations with ED. No additional information is needed in this area.

Qualifications of reviewers

In response to the draft staff analysis, the agency provided a blank copy of its Evaluator Biography Form, which it uses to collect information regarding the qualifications of its on-site review team members (Ex. 189). The form requests contact information, as well as information on demographics, academic background, employment history and other qualifying experience, language fluency, areas of certification, and areas of experience and training. Although it appears that the agency is collecting ample information regarding the qualifications of its reviewers, no information was provided as to the qualifications of its current pool of reviewers . Additional information is still requested in this area.

Choosing and training appeals panel members; qualifications of public members
In its response to the draft staff analysis, the agency referred staff to its Appeals Procedures Manual (Ex. 186), its Constitution (Ex. 5), and a list of the current members of the WASC hearing panel (Ex. 191). The appeals manual states that the composition of a Hearing Board will be determined according to the WASC constitution (Ex. 186, p. 6). The constitution, in turn, states that five appeals panel members will be chosen, with at least one representative from each of the following categories: elementary/secondary schools, junior/community colleges, senior colleges/universities, lay (public) members (Ex. 5, Article VI, Section 3). Although the agency's response narrative states that its manual states that the appeals panel members will be trained, ED staff was unable to find a reference to training in the manual. The list of current appeals panel members includes the names of five lay (public) members (Ex. 191). One member is listed as a retired school superintendent, and one member is listed as a retired engineer. No information is provided regarding the qualifications of the other three members, including the one member that represents WASC Sr.

As noted in 602.25(f) and elsewhere in the agency's response, the agency it is in the process of changing its corporate structure and a new appeals process will therefore be created. As a result, the agency will need to address the requirements of this section as relevant to appeals panel members in its upcoming compliance report.

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

On-site evaluators

The agency collects information from each of its evaluators by means of its “Evaluator Biography Form” to include, for example, current and prior employment, degrees and relevant certifications, areas of experience/training, and specialized experience. This provides sufficient information for the agency to select administrators and academics to serve on teams. The agency provided extensive documentation of the composition of actual teams to demonstrate compliance.

Commissioners

The agency provided a list of its current commissioners (Ex. 9) demonstrating that the 25-member Commission includes both academic and administrative personnel.

Appeals panel members

As noted previously, the Association’s Board elects the 20-person Hearing Panel from which a five-person Hearing Board (appeals panel) will be selected on a random basis. The Constitution requires the Hearing Board to include one member representing each of the agencies and one lay (public) member. It is not clear that the hearing panels include academic/administrator representatives.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided a list of members of the 2012-2013 WASC hearing panel (Ex. 191). The list includes members appointed by the Accrediting Commission for Schools, the Accrediting Commission for Community and Junior Colleges, and the Accrediting Commission for Senior College and Universities. Five members of the current panel have been appointed by WASC-Sr., including two retired college presidents, a retired chancellor, a retired provost, and a vice chancellor for student affairs.

However, as noted in response to 602.25(f), the Commission is changing its corporate structure, which means that the appeals process will no longer be applicable and will need to be newly created. As a result, the agency will need to address the requirement of this section regarding composition of appeals panels in its upcoming compliance report.

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

Commissioners

The agency provided a public member affidavit that defines a public member as someone who is: not an employee, member of the governing board, owner, or shareholder of, or consultant to, an institution that is either accredited or pre-accredited by the agency or has applied for accreditation or pre-accreditation; or by or in candidacy status with, or has applied for eligibility with the agency; is not a member of any trade association or membership organization related to, affiliated with, or associated with the agency; and is not a spouse, parent, child, or sibling of an individual identified in the first two sections of the definition. This is in accord with the Secretary's definition.

The agency provided a copy of an unsigned affidavit whereby potential public members attest to their meeting the components of the definition of a public member. However, unsigned forms are not sufficient evidence that the agency meets the requirements of this section.

Appeals panel members

As noted previously, the Association's Board elects the 20-person Hearing Panel from which a five-person Hearing Board (appeals panel) will be selected on a random basis. The Constitution requires the Hearing Board to include one member representing each of the agencies and one lay (public) member. It is not clear whether the definition of a public member for these appeals panel members is the same as that described above for the commission's public members, and evidence was provided that the public members of appeals panels meet the regulatory definition.

Analyst Remarks to Response:

In the draft staff analysis, the agency was requested to provide signed affidavits or other documentation indicating that the agency's public members meet the agency's (and the Department's) definition of a public member. The agency provided signed copies of the affidavits, which have been attached by the ED analyst as supporting documentation for this section. The agency was also requested to clarify whether the definition of a public member for the WASC board's hearing panels is the same as the definition used by WASC-Sr. for its commissioners. The agency states in its narrative that the board does use the same definition, but no documentation of such a written policy was provided. Given that the appeals process will need to be newly created following the change in corporate structure (as discussed in 602.25(f)), the agency is requested to provide its revised policies and procedures for constituting an appeals panel, to include evidence that its appeals panels include a public representative who meets the Secretary's definition.

(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**
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Board members

The Procedures and Internal Policies portion of the Association's Constitution (Ex. 5) addresses conflicts of interest. The policies state that board members and officers must strive to avoid any activity or involvement that is in conflict with their duties. Examples of conflicts of interest include having a material financial interest in a matter before the association, or holding a position of influence, with or without compensation, such as a directorship or officer position, with another organization that is involved in a potential transaction before the association. If a board member is associated with an institution that is being considered by the association, that board member is not prevented from voting on the matter involving the institution, but must disclose the association. The minutes will note that the member is an "interested director" and when the vote is taken, there must be sufficient affirmative votes, not counting the vote of the interested director, to carry the motion or resolution as it applies to the institution in question.

Commissioners

As noted previously, the agency provided a copy of its conflict of interest policy (Ex. 18), a form used by commission members to declare conflicts of interest (Ex. 17), and a list of collated results showing conflicts reported by various commissioners (Ex. 19). The conflict of interest policy covers commissioners, as well as visiting team members, commission staff, and consultants and other representatives. Conflicts include situations where individuals are employees/former employees/applicants, board members, appointees, paid consultants, students/graduates, or instructors at an institution. Other personal relationships, including spouse/child/parent are also addressed. Commissioners must leave the room when deliberations/decisions are made regarding institutions with which they have a conflict of interest. Conflicts will be noted in minutes, and institutions will be notified that the person in question did not participate in the commission discussion or vote. The agency provided adequate evidence that it collects and tracks information regarding Commissioner conflicts of interest with institutions under review (Ex. 19, 21) and the members recuse themselves when they have a conflict (meeting minutes, Ex 20).

Evaluation team members

The agency's conflict of interest policy contains a section specific to visiting team

members (Ex. 18). The policy states that individuals are expected to decline to serve on reviews where they might have a conflict of interest. Additionally, on-site reviewers are barred for one year from serving as consultants to institutions that they have reviewed. On-site reviewers are required to sign a form related to standards of ethical conduct for visit team members (Ex. 45). Included in the form is a statement that notes that conflicts of interest must be avoided. The conflicts listed on the form mirror the ones listed for commissioners, above. The form includes a block where the reviewer must identify any conflicts relative to the institution being reviewed. The form must be signed and dated by the reviewer. The agency provided a copy of such a signed form as evidence of application of its policy.

Consultants and other agency representatives

The agency's conflict of interest policy addresses consultants and other agency representatives (Ex. 18). The policy states that consultants and others who have a formal contractual relationship with the agency will be required to complete the agency's conflict of interest form and that the agency will keep the completed form on file. However, the agency did not provide any evidence of application of this policy.

Administrative staff

The agency's conflict of interest policy includes commission staff (Ex. 18). The policy requires that staff members remove themselves from deliberations on decisions regarding institutions that they have been affiliated with in the past five years. Staff members may not serve as consultants or make other employment arrangements with agency-accredited institutions and may not receive honorary degrees or awards from those institutions. A record of the institutions with which an employee has conflicts of interest will be kept in the employee's personnel file.

The agency has established an Insider Trading Policy that further guards against conflicts of interest of its commissioners and evaluation team members regarding their review of for-profit institutions. This policy requires individuals to refrain from participating in reviews of, or decisions regarding, institutions in which they have an investment of \$25,000 or more. The policy also prohibits staff from participating as a liaison to any institution in which they have invested any amount of money.

As noted under 602.14(b), ED staff has concerns related to conflicts of interest as noted in the Association's Procedures and Internal Policies document (Ex. 5). Section V.2.D assumes that the board will be having a substantive role in commission decisions and policies, insofar as it gives the board the role of deciding on conflicts involving the WASC-Sr. commission chair. Section V.2.E.1 is concerning in that it allows voting by "Directors and Officers" (which ED Staff understand to mean Association Board members and its president, treasurer and secretary) having a five percent interest in a matter before the Association. In the case of some large for-profit entities, a five percent share could be a significant amount and constitute a potential conflict of interest.

Analyst Remarks to Response:

The agency provided a response and supporting documentation, including conflict of interest forms that were uploaded by the ED analyst as supporting documentation, in response to the draft staff analysis. However, the agency is in the process of modifying its corporate structure in order to meet the Department's regulatory requirements and will also be changing its conflict of interest policies as a result. The agency will therefore address the requirements of this section in its upcoming compliance report.

§602.16 Accreditation and preaccreditation standards

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

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

(a)(1)(vii) Recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising.

The agency's requirements under this section are addressed under Standard 2 (Ex. 1, p. 16). For instance, institutions must collect and analyze student data and track achievement, satisfaction, and student climate, must ensure that students understand program requirements. Student support services must be provided, must be provided for transfer students, etc. The agency's guideline to institutions under Standard 2 (included alongside the standards) is specific to the requirements of this section and specifies that "recruiting and admission practices, academic calendars, publications, and advertising are accurate, current, complete, and are readily available to support student needs."

The agency's Evaluator Visit Guide (Ex. 29) indicates that the requirements of this section are evaluated as part of the on-site review. The agency employs Compliance Audit Checklists in the site visit process. Site reviewers are to confirm that: there are clearly defined admission requirements, undergraduate and graduate degree requirements, and level of achievement necessary for graduation; that expectations for student learning are reflected in information resources; timely information is provided; and there is appropriate information to, and treatment of, transfer students. However, the sample site visit report (Educational Effectiveness Review, Ex. 59) did not include a completed checklist and the report narrative did not address recruiting and other practices since that was not the subject of the four themes chosen by the institution for the review. The agency did not provide a sample site visit report of a Capacity and

Preparatory Review, or a completed self-study. Given the documentation provided, it is not clear on what basis the team and the commission make a compliance determination regarding the agency’s recruiting and other practices standard.

Analyst Remarks to Response:

In its response, the agency noted that it does not employ a prescriptive standard related narrowly to recruiting practices and points instead to its requirement that an institution exhibit integrity and transparency in all its dealing with students. However, as noted in the draft staff analysis, the agency does have a “Guideline” in its standard 2 stating: “Recruiting and admission practices, academic calendars, publications, and advertising are accurate, current, complete, and are readily available to support student needs.” Given that explicitness of the Guideline, ED staff would expect the agency to review an institution’s practices in these areas.

The agency submitted a CPR institutional self-study that includes a table that lists the agency's criteria for review (although without any of the guidelines), as well as the institution's evidence for how it meets each standard (Ex. 163, Appendix F). The evidence provided by the institution for standard 2.12 (with which Guideline is associated) and standards 1.6 and 1.7 (requiring an institution to exhibit integrity and transparency in all its dealings with students) includes, for example, catalog sections with admissions information, academic calendar, academic standards, fees and financial aid, and various policies (student rights and responsibilities, student grade appeal procedures). It is not clear, however, from the agency’s response and the other materials provided (site team reports) that, and how, this information is reviewed to assess whether the institution meets the agency’s standards. More information is needed in this area.

The agency cites its confidential email to the institutional community inviting students, staff and faculty to attend open meetings with the visiting team, and also encouraging students to “comment on issues of academic rigor and consistency, availability of student supports services, and other matters related to the quality of the educational experience.” However, the agency did not provide any evidence that such solicitation yields information relevant to the agency’s standards/guideline in this area. More information is needed in this area.

(a)(1)(viii) Measures of program length and the objectives of the degrees or credentials offered.

The agency's requirements under this section are addressed under Standard 2 and its associated guidelines (Ex. 1, pp. 14-15). Programs must be appropriate to the degree awarded. All degrees must be clearly defined in terms of graduation requirements. Program content and length must conform to recognized disciplinary or professional standards. Graduation competencies must be reflected in course syllabi. General education requirements must be at least 45 semester units or the equivalent, along with significant in-depth study for a major.

The agency's Visitor Evaluation Guide (Ex. 29) indicates that these requirements are evaluated as part of the on-site review process. The agency employs Compliance Audit Checklists in the site visit process. Site reviewers are to confirm that: there are clear indicators of achievement at the institutional and program level; programs are appropriate in content, standards, and degree level; and graduates achieve stated levels of attainment. However, the sample site visit report (Educational Effectiveness Review, Ex. 59) did not include a completed checklist and the report narrative did not address program length since that was not the subject of the four themes chosen by the institution for the review. The agency did not provide a sample site visit report of a Capacity and Preparatory Review, nor a completed self-study. Given the documentation provided, it is not clear on what basis the team and the commission make a compliance determination regarding the agency's program length standard.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency submitted a CPR institutional self-study that includes a table that lists the agency's criteria for review (although without any of the guidelines), as well as the institution's evidence for how it meets each standard (Ex. 163, Appendix F). The evidence provided by the institution for standards 2.1 and 2.2 includes, for example, academic program review procedures, baccalaureate and graduate curriculum policies and procedures, graduate curriculum policies and procedures, and general education and graduate assessment reports as well as catalog portions with baccalaureate degree requirements. Such documentation should be sufficient for the agency to assess whether the institution meets its expectations regarding program length. It is not clear, however, from the agency's response and the other materials provided (site team reports) that, and how, this information is reviewed to assess whether the institution meets the agency's standards. More information is needed in this area.

(a)(1)(ix) Record of student complaints received by, or available to, the agency.

The agency addresses the requirements of this section under Standard 1 and its associated guidelines (Ex. 1, p. 12). The standard specifies that the institution must truthfully represent its goals, programs and services to students. Students must be treated fairly through established policies and procedures, including student grievances. The institution must exhibit integrity in its operations, including timely and fair responses to complaints and grievances. Institutions must have published or readily available policies on student grievances and complaints. Records of student complaints must be maintained for six years.

The agency's Evaluator Visit Guide (Ex. 29) indicates that these requirements are evaluated as a part of the on-site review process. The agency employs Compliance Audit Checklists in the site visit process. Site reviewers are to confirm that there is timely and fair complaint handling. However, the agency did not provide evidence that it reviews records of student complaints to assess if there is a pattern that would bring into question the institution's fulfillment of one or more of the agency's expectations .

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided a sample on-site review team report showing that the team analyzed student complaint logs from five campuses for the prior year at the institution being reviewed (Ex. 192, p. 8). The team found that there had been few complaints and that the complaints had been resolved promptly.

Although the report does show that the review team reviewed complaints, the complaints reviewed were only for the prior year. As noted in the draft staff analysis, the agency requires an institution to maintain a record of student complaints over a six year period. Therefore, it is not clear why the team reviewed complaints over a span of only one year given the greater likelihood of a pattern emerging from a review of the entire record. The agency is requested to revise its review practices in order to ensure it reviews all of the complaints it requires its institutions to maintain to identify a pattern of complaints over an extended period of time.

(a)(1)(x) Record of compliance with the institution's program responsibilities under Title IV of the Act, based on the most recent student loan default rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and any other information that the Secretary may provide to the agency; and

Although the agency's standards (Ex. 1, pp. 12, 19) address sound business practices and financial stability, they do not specifically address the requirements of this section regarding an institution's Title IV responsibilities. However, the agency notes that it requires institutions to inform the agency of their student loan default rates as part of their annual reporting requirements, and the agency

requires institutions subject to default reduction plans to provide a copy of that plan as part of the agency's Capacity & Preparatory Review (Ex. 1, p. 32).

The agency also maintains a Title IV Compliance Policy (Ex. 54) that specifies that institutions participating in the Title IV programs under the HEA and designating WASC-Sr. as their gate-keeping agency shall be able to demonstrate diligence in keeping loan default rates at an acceptably low level and must also comply with program responsibilities as defined by the Department. The policy further notes that during the course of the Preparatory Review, the agency will review loan default rates and negative actions taken by the Department regarding compliance of the institution with the requirements of Title IV.

The agency did not provide a sample copy of a Capacity and Preparatory Review Report, nor any completed annual reports that are considered as a part of the accreditation review. The agency is requested to provide this documentation as evidence of its compliance with the requirements of this section.

Analyst Remarks to Response:

As noted in the draft staff analysis, the agency maintains a Title IV Compliance Policy (Ex. 54) that specifies that institutions participating in the Title IV programs under the HEA and designating WASC-Sr. as their gate-keeping agency shall be able to demonstrate diligence in keeping loan default rates at an acceptably low level and must also comply with program responsibilities as defined by the Department. The policy further notes that during the course of the Preparatory Review, the agency will review loan default rates and negative actions taken by the Department regarding compliance of the institution with the requirements of Title IV. However, in its response to the draft staff analysis, the agency stated that it does not place responsibility for reviewing compliance with its Title IV Compliance Policy on the on-site review team. This would seem to contradict the policy, which states that compliance will be verified during the course of the Preparatory Review. Additional information is requested in this area.

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

(c) If the agency has or seeks to include within its scope of recognition the evaluation of the quality of institutions or programs offering distance education or correspondence education, the agency's standards must effectively address the quality of an institution's distance education or correspondence education in the areas identified in paragraph (a)(1) of this section. The agency is not required to have separate standards, procedures, or policies for the evaluation of distance education or correspondence education;

The agency states that it accredits institutions with distance education programs, but that none of its institutions offers correspondence programs. However, the agency's Substantive Change Policy lists as a substantive change "50% or more of a program is offered through correspondence, distance education or is electronically mediated." Under 602.27(a)(5), the agency states that it does not wish to have correspondence education in its scope. That being the case, the agency is advised to revise its materials to remove references to correspondence education.

The agency's 2012 Substantive Change Manual includes definitions of "distance education" and "correspondence education" that mirror the Secretary's definition. However, other agency documents are not clear in making this distinction. For example, the agency's Distance Education and Technology-Mediated Instruction Policy refers to "any distance learning modality – satellite, video, internet or any other kind of technology-mediated modality." Because technology is often used to deliver materials to students enrolled in correspondence education programs, this policy fails to adequately define distance education. The agency needs to ensure that it uses the terms consistently in all its materials.

The agency has not developed separate standards for distance education, but has developed an additional process for the review of distance education to ensure that on-site evaluators are reviewing distance education programs in a consistent manner (Ex. 30). The agency's protocol employs The Guidelines for the Evaluation of Distance Education (On-line Learning) that have been developed by the Council of Regional Accrediting Commissions (C-RAC). The protocol provides tips to be used prior to the review, during both types of the agency's on-site reviews (Capacity/Preparatory Review and Educational Effectiveness Review), and after the review.

The guidelines address distance education components in eight areas and provide examples of evidence in each area:

- 1) On-line learning is appropriate to the institution's mission and purposes
- 2) The institution's plans for developing, sustaining and, if appropriate, expanding on-line learning offerings are integrated into its regular planning and evaluation processes
- 3) On-line learning is incorporated into the institution's systems of governance and academic oversight
- 4) Curricula for the institution's on-line learning offerings are coherent, cohesive, and comparable in academic rigor to programs offered in traditional instructional formats
- 5) The institution evaluates the effectiveness of its on-line learning offerings, including the extent to which the on-line learning goals are achieved, and uses the results of its evaluations to enhance the attainment of the goals
- 6) Faculty responsible for delivering the on-line learning curricula and evaluating the students' success in achieving the on-line learning goals are appropriately qualified and effectively supported

- 7) The institution provides effective student and academic services to support students enrolled in on-line learning offerings
- 8) The institution provides sufficient resources to support and, if appropriate, expand its online learning offerings

The agency provided copies of two substantive change requests for approval to offer a program by distance education (Ex. 98, 102). In the application an institution is required to provide extensive information, including, for example, projections of the number and types of students, program description and evaluation, how the institution will ensure timely and appropriate levels of interaction, the selection and training of faculty, curriculum development and approval, student support services, technology used and training provided. The agency also provided an action letter (Ex 100) approving the substantive change request. This documentation shows that the agency does a thorough review, based on its standards, of the request. The agency also provided a copy of the supplemental form used by teams reviewing institutions with distance education components (Ex. 31). However, this is not sufficient documentation of its assessment of distance education as part of its comprehensive review of an institution for accreditation.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided a sample on-site review report that indicates that the review included a distance education component at the institution being reviewed (Ex. 162, pp. 45-49). The report included data related to the number and type of courses that were offered, the campus where they were offered, enrollment numbers, persons interviewed, etc. In addition, it included the completed form wherein the team assessed the distance learning infrastructure, student support services, connection of faculty to the institution, relationship of the institutions goals for CPR/EER reviews to distance learning activities, the context of distance learning to the broader institution, and educational effectiveness preparedness. The team's detailed observations and findings demonstrate that it thoroughly evaluated the quality of the institution's offering of distance education in the context of its standards.

ED staff also notes that the agency's response did not indicate whether it has taken the steps specified in the draft staff analysis to remove references to correspondence education from its materials or to ensure that terminology is used consistently throughout its materials. Additional information and documentation are needed in this area.

§602.17 Application of standards in reaching an accrediting decision.

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

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

The agency's Commission Code of Good Practice and Ethical Conduct (Ex. 1, p. 3) states that the agency is committed to providing institutions due process concerning accrediting decisions the Commission makes (see. #10). The code states that institutions will be provided an opportunity to respond in writing to draft on-site review team reports in order to correct factual errors. Institutions will also be allowed to respond to "issues of substance" on final team reports, and to appear before the Commission when the reports are considered.

The agency submitted a sample team report, action letter, and institutional response as documentation of one component of this process (Ex. 75). However, the agency did not provide documentation that institutions are provided the opportunity, within a reasonable amount of time, to review the draft on-site review teams' reports in order to correct factual errors.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided (in its response narrative) the wording of a typical letter that it states is sent to an institution's president and campus liaison providing an opportunity for corrections of errors of fact. The agency also stated in its narrative that the institution in question responded within a few days. However, the agency did not provide any documentation of the actual letter that was sent, nor of the institution's response. Additional documentation is still requested in this area.

§602.19 Monitoring and reevaluation of accredited institutions and programs.

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

The agency's maximum grant of accreditation is for ten years, but many institutions receive a shorter grant of accreditation. The agency submitted an Accreditation Cycle Retrospective (Ex. 153) that provides an analysis of its accreditation actions from 2003 to 2011. During that time, 28 institutions received ten-year grants of accreditation, with five special visits and 18 interim reports required. Seventeen institutions received nine-year grants of accreditation, with four special visits and 14 interim reports required. Twenty-six institutions received eight-year grants of accreditation, with five special visits and 24 interim reports required. Fifty institutions received seven-year grants of accreditation, with 17 special visits and 30 interim reports required. The agency states that its institutions rarely receive the entire ten-year grant of accreditation without any additional monitoring required in the interim.

Although the agency provided an analysis of recent actions taken related to its ten-year review cycle, it did not provide any documentation related to its schedule of reviews. The agency is requested to provide a copy of its master review calendar as documentation that it is reviewing its institutions in accordance with its published ten-year review cycle.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided information as to how many institutions received reaffirmation, as well as for how many years the reaffirmation was granted. However, the agency did not provide a copy of its master review calendar (schedule of actual upcoming reviews), as requested, as documentation that it is reviewing its institutions in accordance with its published ten-year review cycle. Additional documentation is still requested in this area.

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

The agency collects annual reports from its institutions. It submitted sample annual report forms for for-profit, not-for-profit, and state supported institutions (Exs. 55, 56, 57). The forms gather information regarding location, web site address, governance, the designated agency contact person at the institution, degrees awarded, degree modality (i.e., on-campus or distance education), other accreditors, numerous financial indicators tailored to the type of institution, and information related to Title IV cohort default rates.

ED staff was unable to find any information collected on a periodic basis regarding measures of student achievement, as required under this section. Additional information is requested in this area.

Under section 602.19(c), the agency provided a copy of its annual report review protocol (Ex. 81), which includes its criteria for review of the annual report and triggers for further action. The protocol considers, among other things, financial data, changes in enrollment, rapid growth of off-campus sites and distance education programs, establishment of new programs without prior approval, and loss of accreditation or sanctions imposed by another agency. The protocol also references information, not available in the annual report that would prompt agency follow-up, such as media reports, excessive leadership changes, and

numerous credible complaints. However, the agency did not provide any documentation to include completed forms and actions it took based on its annual report review.

Analyst Remarks to Response:

The draft staff analysis requested that the agency provide information as to how it collects student achievement data on a periodic basis. The agency was also requested to provide completed copies of its annual reports, as well as information related to actions it took based upon such reports.

In its response, the agency notes that it does not collect student achievement data on a recurring basis. Instead, it depends upon its on-site review teams to verify student achievement data as a part of the comprehensive on-site review. However, this criterion specifically requires, as a part of its monitoring of institutions between comprehensive reviews, that an agency periodically collect and analyze key data and indicators, including measures of student achievement. The agency may identify which specific measures of student achievement it deems most useful in monitoring the institution's compliance with its standards.

The agency did not provide completed copies of its annual report forms, nor information as to any actions taken as a result of the information provided in them. Instead, the agency provided a graph showing the number of special visits scheduled from 2004-2015. No information was provided as to what had triggered the visits.

Additional information is still requested in this area.

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

As noted in the previous section, the agency collects annual reports from its institutions and submitted sample report forms applicable to for-profit, not-for-profit, and state institutions. The agency's form requires reporting of headcount enrollment data, and the agency has protocols to review enrollment increases (including triggers). However, the agency submitted no actual annual reports, and the agency's form is inadequate documentation of its compliance with the requirements of this section.

Analyst Remarks to Response:

In the draft staff analysis, the agency was requested to provide completed copies of its annual report forms as documentation related to annual headcounts. In its response, the agency stated that it employs a person to evaluate the headcount figures from its annual reports. However, the agency did not submit samples of its completed annual report forms, as requested. This additional documentation is still needed.

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

As noted in previous sections, the agency collects annual reports from its institutions. It submitted sample annual report forms applicable to for-profit, not-for-profit, and state institutions (Ex. 55, 56, 57), which require reporting of headcount enrollment by type. The agency has provided a checklist to be used by agency staff in evaluating annual reports that evidence rapid growth (Ex. 83) and include triggers for follow-up. In cases where an institution reports growth of 20% or more for each of two consecutive years or growth of 30% in a single year, staff will assess whether it is “significant” and, if so, require the institution to report on the 3-5 degree programs that account for the majority of the growth. The agency must do additional follow-up, as needed, to ensure continued compliance with agency standards, including the triggers for follow-up.

The agency did not provide any documentation the agency did not provide any documentation to include completed forms and actions it took based on its review of rapid enrollment growth.

Analyst Remarks to Response:

In the draft staff analysis, the agency was requested to provide completed copies of its annual report forms as documentation of its review of significant growth, as well as information on actions taken as a result of this information. In its response, the agency stated that it employs a person to evaluate the headcount/growth figures from its annual reports. However, the agency did not submit samples of its completed annual report forms, as requested. This additional documentation is still needed. The agency did indicate that since no institution has reached the established growth trigger requiring it to take follow-up action it cannot provide documentation of such action.

§602.20 Enforcement of standards

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

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

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

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

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

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

The agency's handbook addresses sanctions that may be imposed by its commission (Ex. 1, pp. 42-44). The agency's policy clearly states that when its commission finds that an institution fails to meet the agency's standards, it will notify the institution of its findings and give the institution up to two years to correct the situation. The policy notes that if the deficiencies have not been remedied at the end of two years (which does not exceed the length of the longest program offered by the types of institutions that the agency accredits), the agency must take an adverse action to terminate accreditation.

The agency has provided sample notification letters placing institutions on warning and probation (Ex. 80,85,148), which restates the agency's expectations for the institutions to come into compliance within the given timeframe, demonstrating that it follows to its policy. However, this does not provide evidence of the application of the policy to allow up to two years to come into compliance. Additional documentation is requested.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency submitted a lengthy 2006 commission action letter in which it outlines an institution's history of issues with the agency (Ex. 174). The letter closes by informing the institution that the institution is being placed on warning and that the institution must demonstrate at the time of its next visit by the agency that it is in compliance with the agency's standards. The letter also notes that the institution must bring itself into compliance with the agency's standards within two years and that failure to do so could result in the termination of the institution's accreditation.

Although the letter provides evidence that the agency warned the institution about the two-year enforcement timeline, no evidence was provided to show whether the institution brought itself into compliance within two years or whether

any actions were taken if it did not do so. The agency is requested to provide documentation that it is enforcing (not simply notifying institutions of) the two-year enforcement timelines specified in this section.

§602.21 Review of standards.

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

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

(1) Is comprehensive;

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

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

(4) Involves all of the agency's relevant constituencies in the review and affords them a meaningful opportunity to provide input into the review.

The agency reports that its most recent review of its standards occurred in 2006-2007, following a prior review in 2001. The agency first reviewed its standards in relation to its CPR process in 2006, then subsequently reviewed its standards as related to its EER process in 2007. Reports were issued following each step of the process and provided to the commissioners and circulated within the region. The agency further reports that an external research firm also conducted a "survey-supported analysis" of its standards, including 42 Criteria for Review. It is unclear to ED staff how this portion of the review process differed from the CPR and EER review process, or which constituencies were actively involved in either process. The narrative states that changes were circulated to the "region" for review, but it is unclear what constitutes the region (schools, students, faculty, administrators, interested third parties, etc.). The agency states that task groups and listening sessions were held to gain additional input into the changes, but information is not provided as to who participated in these sessions. Additional information is requested regarding the constituencies that were involved throughout the review process.

The agency provided several exhibits as documentation for this section. However, they do not appear to be specifically related to the 2006-2007 standards review process. Exhibit 77 appears to indicate a review of the agency as a whole, as well as its processes, and is not specific to standards review. Exhibit 87 provides a timeline for standards review beginning in 2010 and would

therefore appear related to a current review of standards, as opposed to providing information about the 2006-2007 review cycle. Exhibit 89 provides a list of the revised standards resulting from the 2006-2007 review, but provides no information regarding the review process. Exhibit 90 indicates that the changes made in 2008 as a result of the 2006-2007 review process are again being revised, but provides no information regarding the review process.

ED staff emphasizes that the purpose of this section is to gather descriptive information and evidence related to an agency's standards review process, not about the results of the review process. The agency is requested to provide information as to the process that was followed for the agency's most recent (completed) cycle of standards review. This information should be specific to a review of the agency's standards and not delve into its associated processes. The agency should also provide information/documentation of which constituencies were involved at each stage of the standards review process, as well as how any proposed changes were developed, subsequently adopted, and who ultimately made the decision as to which changes would be accepted. Much additional information and documentation is needed in this area.

Analyst Remarks to Response:

In the draft analysis, ED staff noted numerous issues with the agency's most recent (2007-2008) review of standards. In its response, the agency acknowledged that this review of standards was of "minimal scope" and consisted of "only minor editorial refinements." Obviously, this does not constitute a comprehensive review of the agency's standards, as required under this section.

However, the agency also noted in its response that it is currently finishing an additional review of standards. The proposed revisions were put out for final comment in November 2012, and it is anticipated that the standards will be adopted in final form in February 2013. Information and documentation provided by the agency indicate that this standards review process was more encompassing. The review process began in 2010 when the agency contracted with an outside organization to survey institutional chief executive officers, chief academic officers, and campus accreditation liaison officers regarding the agency's standards and criteria (Ex. 204). The survey results were then provided, in November 2011, to a steering committee that included commissioners, public members, an undergraduate student, and a graduate student (Ex. 205). The steering committee initially focused on the institutional review process, but then reportedly turned to revising the agency's standards in May 2012. A draft revision was presented to the agency's commission for a first reading in June 2012. A commission-approved draft was then uploaded to the agency's website in September 2012, and eleven meetings were held in various parts of the region with a variety of constituencies. A public hearing was reportedly held in November 2012 on proposed changes. The final draft was adopted by the commission in November 2012 and is being circulated "to the region" for final comment, with final adoption expected at the February 2013 commission meeting.

In light of the fact that the agency's most recently completed review of standards was not a comprehensive review, and the current comprehensive review has not yet been completed, the agency is requested to provide an updated report of its current comprehensive review of standards in its upcoming compliance report. The agency is specifically requested to provide detailed information and documentation regarding the constituencies from which it solicited and received feedback, and the nature of the feedback it received. The agency is also requested to provide information as to when its next scheduled comprehensive standards review process is scheduled to begin.

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

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

Although the agency reportedly has a systematic standards revision process, ED staff could find no place in the agency's policies and procedures manual where this process was specified. Similarly, staff could find no requirement that the agency must initiate action within 12 months to make the changes and must complete that action within a reasonable period of time. No documentation was provided related to the requirements of this section. The agency is requested to document that its standards review process is specified in its policies and procedures, including the requirement that the agency must initiate action within 12 months to make changes to its standards and must complete that action within a reasonable period of time.

Analyst Remarks to Response:

In the draft staff analysis, the agency was requested to document that its standards review process is specified in its policies and procedures. In its response, the agency did not indicate that this information is included in its policies, but instead referred to its assertion under 602.21(a)(b) that its current standards review process has been accomplished over a period of 12 months. This is not sufficient. The agency is requested to revise its policies and procedures to reflect the requirements of this section, including the requirement

that it provide notice to all of its relevant constituencies and other known parties, give the constituencies and other interested parties adequate opportunity to comment on the proposed changes, and take into account any comments on the proposed changes submitted timely by the relevant constituencies and by other interested parties in order to meet the requirements of this section.

§602.22 Substantive change.

(c)(3) An effective mechanism, which may, at the agency's discretion, include visits to additional locations, for ensuring that accredited and preaccredited institutions that experience rapid growth in the number of additional locations maintain educational quality.

As noted previously, the agency's policies specify that institutions must submit substantive change applications when proposing the establishment of an additional location that is geographically apart from the main campus and at which the institution offers at least 50 percent of an educational program (Ex. 91). The agency states in its narrative that reviewers are aware of the number of new locations implemented in the three years prior to the review. It is not clear how reviewers are made aware of this information. The agency's compliance checklist for candidacy and initial accreditation, and special and Pathway reviews, includes a section related to substantive change, in which the institution provides information about the number of off-campus sites and when they were established. This same information is not included in the checklist for reaccreditation. In addition, the agency's policies do not appear to specifically address any mechanism that the agency is using to monitor rapid growth in the number of additional locations at an institution. Additional information and documentation are requested in this area.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency revised its substantive change manual to specify that institutions that seek approval of more than four off-campus locations in a year will be subject to a staff review, which "could" trigger either a special visit or a comprehensive review (Ex. 176, p. 11). The agency's new policy is in compliance with this criterion. However, the agency did not provide any documentation of its application of its revised policy.

§602.23 Operating procedures all agencies must have.

(a) The agency must maintain and make available to the public written materials describing--

(1) Each type of accreditation and preaccreditation it grants;

- (2) The procedures that institutions or programs must follow in applying for accreditation or preaccreditation;**
- (3) The standards and procedures it uses to determine whether to grant, reaffirm, reinstate, restrict, deny, revoke, terminate, or take any other action related to each type of accreditation and preaccreditation that the agency grants;**
- (4) The institutions and programs that the agency currently accredits or preaccredits and, for each institution and program, the year the agency will next review or reconsider it for accreditation or preaccreditation; and**
- (5) The names, academic and professional qualifications, and relevant employment and organizational affiliations of--**
- (i) The members of the agency's policy and decision-making bodies; and**
 - (ii) The agency's principal administrative staff.**
-

As noted previously the agency publishes an accreditation handbook (Ex. 1) that describes the types of pre-accreditation/accreditation it grants, its accreditation process and procedures, its standards, and the types of accrediting actions that may be taken by its commission.

The agency also maintains a web site where it lists information related to the institutions that is currently pre-accredits/accredits, including dates. The web site also provides the required information regarding the relevant qualifications of its professional staff and members of its decision-making bodies. ED staff verified that the information is available on the agency's web site. However, ED staff was unable to find information related to appeals panel pool members on the agency's web site. Additional information is requested in this area.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency notes that it has not had an appeal in over 20 years. However, since the agency is in the process of modifying its corporate structure, its appeal process will also be modified as a result, and the agency will therefore need to address those changes in its upcoming compliance report.

§602.24 Additional procedures certain institutional accreditors must have.

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

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

The agency's teach-out plans and agreements policy (Ex. 136) specifies that a teach-out plan will be a written plan developed by an institution that provides for the equitable treatment of its students. The same document specifies that a teach-out agreement (not plan) must provide for the equitable treatment of students and that it must specify additional charges, if any, that will be levied by the teach-out institution and provide for the notification to student of any additional charges. While the agency's policy does include the required provision, it is included only under teach-out agreements and not also under teach-out plans, as required under this section. In addition the agency has not provided information about the criteria it has established to evaluate the teach-out plan.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency revised its teach-out plans and agreements policy (Ex. 177) to state that a teach-out plan should describe how the institution will provide for the equitable treatment of students. The revised policy also describes what must be included in the plan (presumably the criteria against which the agency would evaluate it). However, while the agency's policy still requires that any teach-out agreements must specify additional charges and provide for student notification, that specific requirement has not been added to the section on teach-out plans, as required by this criterion. The agency is requested to further revise its policies to reflect the requirements of this section. In addition, the agency needs to provide documentation of its evaluation of a teach-out plan, or indicate it has not had an opportunity to evaluate a plan under its revised policies.

(e) Transfer of credit policies.

The accrediting agency must confirm, as part of its review for initial accreditation or preaccreditation, or renewal of accreditation, that the institution has transfer of credit policies that--

- (1) Are publicly disclosed in accordance with §668.43(a)(11); and**
 - (2) Include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.**
- (Note: This criterion requires an accrediting agency to confirm that an**

institution's teach-out policies are in conformance with 668.43 (a) (11). For your convenience, here is the text of 668.43(a) (11):

“A description of the transfer of credit policies established by the institution which must include a statement of the institution's current transfer of credit policies that includes, at a minimum –

- (i) Any established criteria the institution uses regarding the transfer of credit earned at another institution; and
 - (ii) A list of institutions with which the institution has established an articulation agreement.”)
-

The agency provided a copy of its transfer of credit policy (Ex. 141). The policy states that the agency will confirm that the institution has publicly disclosed its transfer of credit policies, including a statement of the criteria it has established regarding the acceptance of credit earned at another institution. However, the policy does not include that the agency will verify that a list of institutions with which the institution has established articulation agreements is made publicly available, as required by this criterion. In addition, the agency has not provided documentation demonstrating that it reviews an institution’s compliance with this requirement.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency revised its transfer of credit policy (Ex. 185). The policy now states that the agency will confirm, as part of an institution's review, that the institution has publicly disclosed its transfer of credit policy and that it will also verify that a list of the institutions with which the institution has established articulation agreements is made publicly available. The agency did not provide any documentation demonstrating that it reviews an institution’s compliance with this requirement.

§602.25 Due process

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

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

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

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

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

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

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

The agency's appeals process is described in the WASC constitution (Ex. 5) that governs all three WASC commissions. The agency's narrative makes reference to an additional appeals process manual, but that exhibit was not attached to the agency's narrative on this section, and ED staff is unable to find it in the comprehensive list of exhibits. The Association's constitution states that an institution may appeal an accrediting commission's denial or termination of candidacy or accreditation within 30 days of receipt of the notice of the action by filing notice of appeal to the President of the Association. The task of coordinating an appeal will fall to whichever of the three WASC commissions is currently providing support for the Association's corporate activities, which is shared on a rotating basis. In the event that WASC-Sr.'s staff was providing support at the time of the appeal, the appeal would then be shifted to the Association president or one of the other two commissions.

The overall Association board of directors elects a hearing panel annually, from which a hearing board (an appeals panel under the purposes of this section) would be chosen. The panel consists of 20 members, with five from elementary/secondary schools, five from junior/community colleges, five from senior colleges and universities, and five lay members. None of the 20 may be commissioners (Ex. 5, Section VI.2). The five-member hearing panel, including at least one person from each of the categories, is selected on a random basis and appointed by the Association's Secretary/Treasurer. As noted under 602.14(b) with respect to Articles VI.1 and VI.3 of the Constitution, the agency's process for selecting appeals panels, including the involvement of the Board and of the other commissions, is in violation of the separate and independent requirements. That problem applies to all of the appeal provisions discussed below.

The constitution stipulates that the Association board shall establish, and revise as necessary, an appellate conflict of interest policy to be signed by hearing board members prior to hearing an appeal (Ex. 5, Section VI.4). The agency has not provided a copy of that policy.

The constitution states that the board may act to affirm, amend, reverse, or remand the decision being appealed and that the agency will implement the board's decision (Ex. 5, Section VI.9).

If the hearing board finds that there are additional issues that the agency should consider, it remands the decision back to the agency's commission, but must identify the issues that must be addressed and include any instructions that it believes are necessary in order that the commission's final action be consistent with the board's decision (Ex. 5, Section VI.9).

The constitution specifies that the institution has a right, but is not required, to have legal counsel present. However, the constitution does not specify the right of the institution to have its legal counsel make its presentation, as required under this section (Ex. 5, Section VI.7). The agency's appeals procedures must reflect this requirement.

The agency has established an additional or preliminary WASC-Sr. review process that is applicable to cases of warning, probation, show cause, denial of candidacy or accreditation, or termination of candidacy or accreditation and is described in the agency's handbook under a section on the commission review process (Ex. 1, pp. 45-47). Institutions may request review under this process, and also appeal an adverse decision. Since this is not the formal, final appeals process, it is not subject to the requirements of this section of the criteria. However, the agency will need to ensure that use of this process does not result in extending the deadlines applicable under 602.20.

Analyst Remarks to Response:

Although the agency provided additional information regarding the specific appeals requirements under this section, it also notes that it is in the process of changing its corporate structure and that a new appeals process will therefore be created. As a result, the agency will need to address the requirements of this section in its upcoming compliance report.

(h)(1) The agency must provide for a process, in accordance with written procedures, through which an institution or program may, before the agency reaches a final adverse action decision, seek review of new financial information if all of the following conditions are met:

(i) The financial information was unavailable to the institution or program until after the decision subject to appeal was made.

(ii) The financial information is significant and bears materially on the financial deficiencies identified by the agency. The criteria of significance and materiality are determined by the agency.

(iii) The only remaining deficiency cited by the agency in support of a final adverse action decision is the institution's or program's failure to meet an agency standard pertaining to finances.

(h)(2) An institution or program may seek the review of new financial information described in paragraph (h)(1) of this section only once and any determination by the agency made with respect to that review does not provide a basis for an appeal.

The agency provided a copy of the association's constitution, which addresses new financial evidence under Article VI, Section 6 (Ex. 5). The constitution states that an appealing institution may file financial information on one occasion only and not later than 30 days prior to the date of the hearing. The new financial evidence must have been unavailable to the institution until after the date upon which the agency permitted the institution to submit evidence that was considered in connection with the action being appealed. The new financial evidence must also bear materially and significantly on the financial deficiencies and be likely to cause the agency to reverse the decision being appealed.

The procedures for evaluating new financial evidence provide for the Association's Hearing Board to conduct the review, which, as noted in 602.25(g), is not compliant. The agency did not provide documentation of its review of new financial evidence.

Analyst Remarks to Response:

In its response to the draft staff analysis, the agency indicated where its policy regarding the evaluation of new financial information is located. The draft staff analysis had acknowledged that the agency had a policy but noted that the agency's appeals process was not in compliance. As has been noted previously, the agency is in the process of changing its corporate structure, and a new appeals process will therefore be created. As a result, the agency will need to address the requirements of this section in its upcoming compliance report.

§602.26 Notification of accrediting decisions

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

(a) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public no later than 30 days after it makes the decision:

(1) A decision to award initial accreditation or preaccreditation

to an institution or program.
(2) A decision to renew an institution's or program's accreditation or preaccreditation;

The public disclosure document referenced in the agency's narrative (Ex. 84) specifies under section IV that "upon inquiry" the agency will release information about accredited, candidate, or applying institutions, including dates of candidacy and/or accreditation. However, the policy referenced does not include the stipulation that it will provide written notice of decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public no later than 30 days after it makes the decision. Additional information and documentation are requested in this area.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency revised its policy on public disclosure of accreditation documents and commission actions. The revised policy states that, within 30 days of awarding candidacy, initial accreditation, or reaffirmation of accreditation, the agency will provide written (email) notification to the Department and relevant recognized accrediting agencies, and will post the information on its web site for viewing by the public and governmental agencies (Ex. 187, Section IV). However, the agency did not provide any documentation of its timely notification to the relevant entities to demonstrate effective application of its policy.

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

- (1) A final decision to place an institution or program on probation or an equivalent status.
 - (2) A final decision to deny, withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of an institution or program;
 - (3) A final decision to take any other adverse action, as defined by the agency, not listed in paragraph (b)(2) of this section;**
-

The public disclosure document referenced in the agency's narrative (Ex. 84) specifies under section IV that "upon inquiry" the agency will release information about accredited, candidate, or applying institutions, including dates of denial or removal from candidacy and, for institutions placed on probation or show cause status, denied candidacy, or accreditation, or whose candidacy or accreditation is terminated, the dates of the actions and a statement of the reasons for the

sanction. However, the policy referenced does not include the stipulation that it will provide written notice of negative decisions to the Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies, at the same time it notifies the institution, but no later than 30 days after it makes the decision. Additional information and documentation are requested in this area.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency revised its policy on public disclosure of accreditation documents and commission actions. The revised policy states that, within 30 days of imposing the sanctions of warning, probation or show cause, or making a decision to terminate accreditation, the agency will provide written (email) notification to the Department and relevant recognized accrediting agencies, and will post the information on its web site for viewing by the public and governmental agencies (Ex. 187, Section IV). However, the revised policy does not include the requirement that the notification be at the same time that the agency notifies the institution of the decision. The agency is requested to further revise its policies to reflect this requirement and to provide documentation of its timely notification to all listed entities.

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

The agency has not provided a copy of its policies pertaining to the requirements of this section. The agency is requested to provide additional information and documentation in this area.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency revised its policy on public disclosure of accreditation documents and commission actions (Ex. 187, Section IV). The revised policy specifies that the agency will make available to the Secretary and relevant state and accrediting agencies the nature of any adverse actions, as well as any official response the institution may choose to make, within 60 days of imposing the sanction. The revised policy also includes that the Commission will link from its public notification of negative action to the institution's web site where the official response is to be found. However, the agency did not provide documentation of its application of this policy.

(e) Notifies the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and, upon request, the public if an accredited or preaccredited institution or program--

(1) Decides to withdraw voluntarily from accreditation or preaccreditation, within 30 days of receiving notification from the institution or program that it is withdrawing voluntarily from accreditation or preaccreditation; or

(2) Lets its accreditation or preaccreditation lapse, within 30 days of the date on which accreditation or preaccreditation lapses.

The public disclosure document referenced in the agency's narrative (Ex. 84) specifies various instances under section IV that "upon inquiry" the agency will release information about accredited, candidate, or applying institutions. However, voluntary withdrawals are not addressed under this section, nor are the notification requirements required under this section. Additional information and documentation are requested in this area.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency revised its policy on public disclosure of accreditation documents and commission actions. The revised policy states that, within 30 days of decisions to acknowledge the voluntary withdrawal of, or allowance of a lapse of accreditation of, an institution, the agency will provide written (email) notification to the Department and relevant recognized accrediting agencies, and will post the information on its web site for viewing by the public and governmental agencies (Ex. 187, Section IV). However, the agency did not provide documentation of its application of this policy.

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

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

WASC-Sr. did not provide documentation that it has a policy in place regarding information-sharing with other accrediting or approval bodies. However, ED staff notes that the agency's bylaws address information sharing under Article VII.2 (Ex. 3). The bylaws state that files that the agency maintains will only be disclosed to third parties, if required by law, with the consent of the institution affected. This would appear to be in conflict with the requirements of this section

that such information must be shared upon request.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency revised its policy on Sharing of Accreditation Information with Other Agencies (Ex. 196). The revised policy states that if the agency receives a formal request from a recognized agency requesting the release of information regarding one of its pre-accredited/accredited institutions beyond that which is publicly available, the agency will release the requested information to the agency and notify the institution that it has done so. While the agency's revised policy is compliant, the agency's bylaws continue to include that files that the agency maintains will only be disclosed to third parties, if required by law, with the consent of the institution affected. The agency must amend its bylaws to be consistent with its revised policy and requirements of this section of the criteria.

PART III: THIRD PARTY COMMENTS

Staff Analysis of 3rd Party Written Comments

In his third-party comment, Dr. Douglas Yoder refers to documents that he provided in relation to a series of complaints about WASC-Sr. that he has submitted to the Department over the past year. In his comment, Dr. Yoder states that "According to Department of Education policy the NACIQI will have received a copy of the complaint against WASC-Sr. for its review." However, Dr. Yoder does not have an accurate understanding of the regulations guiding the review process. The procedures for Departmental review of agencies in 602.32 stipulate that the staff analysis will include, as appropriate, the review of complaints or legal actions involving the agency. However, the procedures for the NACIQI review in 602.34(c) do not include that the NACIQI will be provided with copies of complaints against an agency as part of the record on which the Committee bases its recommendation.

Furthermore, while it is true that Dr. Yoder sent copies of his complaints and supporting documentation to the NACIQI chair, it was not in accordance with Department of Education policy. NACIQI members are not allowed to accept materials that have been sent directly to them, rather than being submitted for the meeting record. As was noted in the Federal Register notice inviting third-party comments for the December 2012 meeting, "Only material submitted by the deadline to the email address listed in this notice, and in accordance with these instructions, become part of the official record concerning agencies scheduled for review and are considered by the Department and the NACIQI in their deliberations. Please do not send material directly to the NACIQI members." Therefore, the materials Dr. Yoder sent directly to the NACIQI chair have not been reviewed by the chair or by the NACIQI. It should be emphasized, however, that although the materials were not reviewed by the Committee as

part of Dr. Yoder's third-party comment, they have been thoroughly analyzed by Department staff in connection to the complaints that he has submitted to the Department.

Over the past year Dr. Yoder has lodged complaints with the Department, accompanied by hundreds of pages of documentation, alleging that WASC-Sr. failed to comply with the Secretary's Criteria for Recognition in handling two complaints he lodged with the agency against a university where he and his wife were formerly employed. Department staff duly considered his allegations and documentation and concluded that the agency had followed its established procedures in investigating the complaints.

As was noted in letters sent to Dr. Yoder by three different Department officials in March 2012, April 2012, and September 2012, the Department only responds to issues in which accrediting agencies are found to be violating sections of the Criteria for Recognition and does not have jurisdiction to address his complaints. As it stressed in its letters, the Department found no evidence that the agency did not follow its procedures and therefore considers the matter to be closed.