

**U.S. Department of Education**

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

**RECOMMENDATION PAGE**

1. **Agency:** Accreditation Commission for Acupuncture and Oriental Medicine (1988/2006)

(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 pre-accreditation ("Candidacy" status) throughout the United States of first-professional master's degree and professional master's level certificate and diploma programs in acupuncture and Oriental medicine, as well as freestanding institutions and colleges of acupuncture or Oriental medicine that offer such programs.

4. **Requested Scope of Recognition:** The accreditation and preaccreditation ("Candidacy" status) throughout the United States of first-professional master's degree and professional master's level certificate and diploma programs in acupuncture and Oriental medicine and professional post-graduate doctoral programs in acupuncture and in Oriental Medicine (DAOM), as well as freestanding institutions and colleges of acupuncture or Oriental medicine that offer such programs

5. **Date of Advisory Committee Meeting:** June, 2011

6. **Staff Recommendation:** Grant the agency's request for an expansion of its scope of recognition to include its accreditation and pre-accreditation of professional post-graduate doctoral programs in acupuncture and in Oriental Medicine (DAOM). 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:**

The agency must demonstrate that it has and applies criteria for the selection of site evaluators, and appeal panelists. It also must demonstrate that the agency conducts comprehensive and consistent training for site team members. [602.15(a)(2)]

- The agency must demonstrate that its site evaluator pool includes a sufficient number of appropriately qualified members in each required category and that it composes site teams with the appropriate designated members for each site team. [602.15(a)(3)]
- The agency must demonstrate that its site evaluator pool includes a sufficient number of appropriately qualified members in each required category and that it composes site teams with the appropriate designated members for each site team. [602.15(a)(4)]
- The agency needs to demonstrate the effectiveness of its records retention policy as adopted. [602.15(b)]
- The agency must provide information and documentation on how it collects and evaluates for compliance with its standards, the assessment criteria that are set by the school rather than by the agency. [602.16(a)(1)(i)]
- The agency needs to demonstrate effective application of its revised policy clarifying what documents are made available to the commissioners in their deliberations. [602.17(e)]
- The agency must demonstrate that it provides its institutions/programs with a detailed written report on the institution's/program's performance with respect to student achievement. [602.17(f)]
- The agency needs to provide evidence of comprehensive and consistent site evaluator training as an effective control against the inconsistent application of the agency's standards. [602.18(b)]
- The agency must provide additional information and documented evidence of how its annual reports are reviewed and what follow-up actions are triggered by the reports. [602.19(b)]
- The agency must provide evidence that it applies its headcount policy. [602.19(c)(d)]
- The agency must provide documentation that institutions are cited and corrective action is taken within the specified timelines. [602.20(a)]

- The agency must provide evidence of its effective application of its policies pertaining to adverse action, including documentation and application of its policy and practices pertaining to extensions for good cause.  
[602.20(b)]
- The agency needs to demonstrate that it has conducted a systematic program of review of its standards in compliance with the requirements of this criterion. [602.21(a)(b)]
- The agency must provide additional information and documentation to demonstrate that feedback from all of the agency's constituencies is solicited and considered prior to the adoption of revised standards.  
[602.21(c)]
- The agency must provide evidence of its adoption of its policy and its review of requests for substantive changes involving the acquisition by one of its accredited members of any other institution, program, or location of another institution. [602.22(a)(2)(ix-x)]
- The agency must provide documentation of its implementation of its policy regarding the establishment of effective dates for the substantive changes its commission approves. [602.22(b)]
- The agency must supply additional information and documentation to demonstrate that any special committee formed to review complaints about the agency itself will be unbiased and have substantive input into the resolution of the complaint. [602.23(c)]
- The agency must provide evidence of its effective application of its policies pertaining to change in ownership or indicate it has not had opportunity to apply its policies. [602.24(b)]
- The agency must demonstrate that it has and has implemented evaluative criteria and a protocol by which it evaluates teach-out plans.  
[602.24(c)(2)]
- The agency must demonstrate it has and applies a review protocol for evaluating and approving teach-out agreements. [602.24(c)(5)]
- The agency must amend its appeals policies to make clear the types of actions that appeals panel may take and require that the hearing panel identify specific issues for the commission to address if the panel remands the decision back to the commission. The agency's policies must also be amended to clarify that the panel is empowered to direct the remand action of the commission. The agency must provide evidence of its application of its policy as applicable. [602.25(f)]

- The agency must amend its policies to require that it provide for written notice of the results of the appeal and the basis for the decision in a timely fashion. [602.25(g)]
- The agency must provide evidence of its effective application of its policy to submit summary statements to the Department, State licensing or authorizing agencies, appropriate accrediting agencies, and the public of the reason for its adverse action. [602.26(d)]

## **EXECUTIVE SUMMARY**

### **PART I: GENERAL INFORMATION ABOUT THE AGENCY**

ACAOM is a national programmatic and institutional accreditor. Its current scope of recognition is for the accreditation and pre-accreditation throughout the United States of first professional master's degree and professional master's level certificate and diploma programs in acupuncture and Oriental medicine, as well as freestanding institutions and colleges of acupuncture or Oriental medicine that offer such programs. The agency is requesting an expansion of its recognized scope to include its accreditation and pre-accreditation of professional post-graduate doctoral programs in acupuncture and in Oriental Medicine (DAOM). The agency currently accredits three doctoral programs and has four additional doctoral programs in pre-accreditation status. The agency accredits or pre-accredits programs and institutions in 21 states. Forty-seven of the agency's 61 accredited and candidate programs are in single-purpose, freestanding institutions of higher education. Only the accredited freestanding institutions of acupuncture and Oriental medicine may use the agency's accreditation to establish eligibility to participate in student financial aid and other related programs under the Higher Education Act.

#### **Recognition History**

The Secretary first recognized the agency in 1988 for its accreditation at the professional master's degree level in acupuncture. In 1992, the agency's recognition was expanded to include its accreditation of the first professional master's degree and professional master's level certificate and diploma programs in acupuncture and Oriental medicine. ACAOM's last full review occurred in December 2005. Following that meeting, in 2006, the Secretary granted the agency continued recognition for a period of five years, and an expansion of scope to include the agency's pre-accreditation ("Candidacy") status.

## **PART II: SUMMARY OF FINDINGS**

### **§602.15 Administrative and fiscal responsibilities**

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

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

**(a) The agency has--**

**(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;**

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### **DECISION-MAKERS**

The 11 members of the ACAOM commission establish the agency's standards, policies, and procedures, and make its accrediting and preaccrediting decisions. The agency's bylaws specify that there will be three institutional members, three public members, three practitioners, and two at-large members. Vitae were provided for nine current and two former commissioners. The agency's list of commissioners indicates that it currently has two vacancies.

All commissioners were appropriately qualified by education and experience. For instance, two practitioner members had doctorates in oriental medicine, and one was also an M.D. Institutional members included professors and presidents/deans of oriental medicine institutions/programs. An at-large member was a practitioner and former president of an oriental medicine organization. The two current public members include an administrative librarian at an education-related institute and a former professor who taught management at a technology institute. It should be noted that even with one public member vacancy, the agency still meets the required 7:1 commissioner:public member ratio. The two former commissioners whose terms recently ended included a private practitioner and a chief academic officer who had been specifically chosen for their expertise in guiding the agency during its expansion into the accreditation of doctoral programs.

An agenda from a recent new commissioner orientation/training session was provided and included numerous topics under the categories of: commissioner qualifications and responsibilities; commission committees and their functions; meetings, attendance, and fulfilling responsibilities; and commissioner conduct expectations. Those same topics are covered in a detailed commissioner's manual, which also includes sections on ED reporting requirements and

attachments containing information on the agency's by-laws, committee charters, code of conduct, legal responsibilities, and ED reporting policy.

Signed copies of the agency's commissioner code of conduct were provided for two of the current commissioners as examples of the application of its policy.

#### ON-SITE REVIEWERS

No specific information was provided on the agency's pool of on-site reviewers (numbers, selection criteria, qualifications, team role, etc.). A sign-in sheet was provided from a site visitor workshop that appeared to have had approximately 48 attendees, but no information was provided related to the agenda items that were covered during the training, and it is not clear how many of the attendees are in the current site visitor pool.

The agency does have a detailed site visitors manual that covers both its master's and doctoral programs. Topics included in the manual include information on: activities that occur prior to the visit; site visit arrangements; activities related to the visit; principal elements of the site visit process; activities that occur after the visit; guidelines for assessing compliance with the ACAOM standards; and numerous appendices.

The agency stated that it also employs contract staff to provide support in areas such as conducting the agency's eligibility and self-study workshops. This raises a concern as to whether such vendors would be adequately versed in the agency's accreditation requirements in order to provide this vital information to current and prospective schools.

#### APPEALS PANEL

The agency's policy manual states that the commission chair and the agency's executive director will choose three hearing panel (appeals panel) members when a notice to appeal is submitted to the agency. The policy manual also states that the hearing panel members will be subject to the agency's code of ethics. However, no information was provided regarding the qualifications of appeals panel members, nor how they will be trained.

Staff determination: The agency does not meet the requirements of this section. The agency must provide detailed information regarding its site visitor pool and the visitors' qualifications, team assignments, and site evaluator training. It must provide detailed information regarding its hearing panel pool and the panel members' qualifications and training. The agency must also provide information about the contract staff who provide information and other services to its member (and prospective) schools and programs.

#### **Analyst Remarks to Response:**

The agency provided additional information regarding its site visitor pool. The pool members' qualifications allow some flexibility in assignments, as they are eligible to serve under various assignment categories. The agency did not discuss its qualification/selection of competent and knowledgeable members for site teams. The agency site visitor form indicates that site team members are to self-designate their category. This is unsatisfactory unless the agency can document that it confirms the qualifications of each person in the site team pool against agency requirements.

The agency reports that site visitors are trained prior to participating in a site review, but the agency did not expound on the substance of the agency-conducted team training required of site evaluators before being selected to a site team. While the agency indicated that site team chairs conduct "training," the agency has not demonstrated the substance of that training nor how it ensures that this evaluator training is consistent and comprehensive across teams.

The agency addressed the relationship with its contractor, and reports that the training provided by the contractor is on the self study process, but did not address how it ensures that the training provided adheres to current agency expectations.

The agency has never had an appeal and does not maintain an appeals panel pool. Should the agency need an appeals panel, panelists would be chosen from a variety of cohorts including the agency's site visitor pool. Therefore, the above concerns also apply to the selection for sitting on an appeal panel. The agency provided a description of how the panelists would be trained in the event that their services were needed.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has and applies criteria for the selection of site evaluators, and appeal panelists. It also must demonstrate that the agency conducts comprehensive and consistent training for site team members.

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

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**DECISION-MAKING**

The commission's by-laws specify that three commissioners must be institutional members. The agency provided evidence that the current commission includes: a commissioner who is a faculty member at a school of oriental medicine and a preceptor in oriental medicine at a state university; a commissioner who is a dean at a college of oriental medicine within a larger university of health sciences; and a commissioner who is the president of an acupuncture institute.

## SITE VISITORS

The agency's policies specify that site visit teams shall include: educators; practitioners; management specialists; and educational specialists. While the agency provided a list of four site teams from 2009-2010 that includes designations of members for these required categories, no specific information was provided regarding members of the agency's site visitor pool to support these designations. More information is needed on the agency's on-site reviewers.

## APPEALS PANEL

While the agency narrative indicates it has had no opportunity to convene an appeal panel, the agency does have policy and procedures for the selection of an appeals panel as necessary. However, the agency policy/procedures do not reflect any requirement that the appeals panel will include the required composition of academics and administrators. No specific information was provided regarding members of the agency's appeals panel pool. More information is needed on the agency's appeals panel members.

Staff determination: The agency does not meet the requirements of this section. The agency must provide detailed information on its site visitor pool, including information about the pool members who would serve as academic/administrative members of the agency's site review teams. The agency must also provide information regarding its appeals panel pool members and demonstrate how its policy/procedures for appeals panels would satisfy the requirement for including academic and administrative personnel on this decision-making body.

### **Analyst Remarks to Response:**

The agency reports that its site visitor pool currently includes 15 academic and 23 administrative representatives to draw from in forming site visit teams. The agency has not addressed whether this is sufficient to address the site team projections of the agency review process.

The agency reports that it composes its site visit teams with one administrator, one academic, one educator, and one practitioner; while the agency provided a listing of 4 teams that included one member designated to each category, the agency provided no documentation to verify this composition. As noted previously, the site team members self-designate themselves with no evidence of agency criteria or documentation to support this designation or review by the agency to verify it.

As noted previously, the agency has never had an appeal and does not maintain an appeals panel pool. However, should an appeals panel be needed, the agency policies specify the representation on the appeal panel.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that its site evaluator pool includes a sufficient number of appropriately qualified members in each required category and that it

composes site teams with the appropriate designated members for each site team.

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**(4) Educators and practitioners on its evaluation, policy, and decision-making bodies, if the agency accredits programs or single-purpose institutions that prepare students for a specific profession;**

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As stated previously, the commission's by-laws specify that three commissioners must be institutional members. The agency provided evidence that the current commission includes one commissioner who is a faculty member at a school of oriental medicine and a preceptor in oriental medicine at a state university. The agency's bylaws also specify that three commissioners must be practitioners. The current commission includes two practitioners. A third practitioner's term has recently ended and the agency is in the process of electing a new commissioner to fill this position.

**SITE VISITORS**

The agency's policies specify that site team members shall include: educators; practitioners; management specialists; and educational specialists. While the agency provided a list of four site teams from 2009-2010 that includes designations of member for these required categories; no specific information was provided regarding members of the agency's site visitor pool to support these designations. More information is needed on the agency's on-site reviewers.

**APPEALS PANEL**

While the agency narrative indicates it has had no opportunity to convene an appeals panel, the agency does have policy and procedures for the selection of an appeals panel as necessary. However, the agency policy/procedures do not reflect any requirement that the appeals panel will include the required composition of educators and practitioners. No specific information was provided regarding members of the agency's appeals panel pool. More information is needed on the agency's appeals panel members.

Staff determination: The agency does not meet the requirements of this section. The agency must provide detailed information on its site visitor pool, including information about the pool members who would serve as educator/practitioner members of the agency's site review teams. The agency must also provide information regarding its appeals panel pool members and demonstrate how its policy/procedures for appeals panels would satisfy the requirement for including educators and practitioners on this decision-making body.

**Analyst Remarks to Response:**

The agency surveyed its site visitor pool and notes that it currently includes 20 educator and 20 practitioner representatives to draw from in forming site visit teams. The agency has not addressed whether this is sufficient to address the site team projections of the agency review process.

The agency reports that it composes its site visit teams with one administrator, one academic, one educator, and one practitioner; while the agency provided a listing of four teams that included one member designated to each category, the agency provided no documentation to verify this composition. As noted previously, the site team members self-designate themselves with no evidence of agency criteria or documentation to support this designation or review by the agency to verify it.

As noted previously, the agency has never had an appeal and does not maintain an appeals panel pool. However, should an appeals panel be needed, the agency policies specify the representation on the appeal panel.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that its site evaluator pool includes a sufficient number of appropriately qualified members in each required category and that it composes site teams with the appropriate designated members for each site team.

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**(b) The agency maintains complete and accurate records of--**

**(1) Its last full accreditation or preaccreditation reviews of each institution or program, including on-site evaluation team reports, the institution's or program's responses to on-site reports, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, and a copy of the institution's or program's most recent self-study; and**

**2) All decisions made throughout an institution's or program's affiliation with the agency regarding the accreditation and preaccreditation of any institution or program and substantive changes, including all correspondence that is significantly related to those decisions.**

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The agency states that the required records are maintained. However, the agency did not provide any documentation to support this statement, and no records retention policy was found in the agency's policies and procedures manual.

Staff determination: The agency does not meet the requirements of this section. The agency needs to submit its records retention policy and other supporting

documentation, as applicable, i.e. a file management system.

**Analyst Remarks to Response:**

The agency has adopted a records retention policy that meets the requirements of the ED regulations. It further clarified that the agency maintains all accreditation records, with recent documents housed at the agency's office and older documents archived off-site. However, it is not clear why the agency appended this policy to the commissioners' manual rather than including it under the agency's policy/procedures manual that guides its operations. An agency must demonstrate effective application of all of its policies and procedures to include internal operating procedures.

Staff determination: The agency does not meet the requirements of this section. The agency needs to demonstrate the effectiveness of its records retention policy as adopted.

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**§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:**

- (i) Success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates.**

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**MASTER'S**

For master's programs, the agency sets student achievement standards in the area of licensure and certification examination pass rates. The agency's master's criterion 8.12 specifies that if a master's program's licensure exam pass rate falls below 60% or if its NCCAOM certification pass rate falls below 70%, the agency will review the program to determine if it remains in compliance with the accreditation criteria. The agency does not have separate preaccreditation criteria.

The agency's criterion 7.2 requires master's programs to establish a variety of methods of ongoing assessment of student achievement. Assessment processes must measure student performance in the professional competency areas in accordance with the agency's standards and program objectives.

The agency collects data regarding its specified assessment baselines via self-studies, on-site review reports, and in its annual report form. However, it is not clear how the agency collects information about, or evaluates, assessment measures that are set by the schools rather than by the agency.

#### DOCTORAL

For doctoral programs, the agency sets student achievement standards in the area of retention and graduation rates. The agency's doctoral criterion 6.9 specifies that if a doctoral program's retention rate falls below 65%, or if its graduation rate falls below 60%, the agency will review the program to determine if it remains in compliance with the accreditation criteria. The agency does not have separate preaccreditation criteria.

The agency's criterion 7.2 requires doctoral programs to establish a variety of methods of ongoing assessment of student achievement. Assessment processes must measure a specific set of advanced skills that have been specified by the agency, but no benchmarks are set in these areas.

The agency collects data regarding its specified assessment baselines via on-site review reports and in its annual report form. As at the master's level, it is unclear how the agency collects information on and evaluates whatever additional assessment criteria the school may have set for itself.

Staff determination: The agency does not meet the requirements of this section. It must provide information and documentation on how it collects and evaluates for compliance with its standards, the assessment criteria that are set by the school rather than by the agency.

#### **Analyst Remarks to Response:**

The agency is currently working with its institutions and programs regarding the requirements with respect to student achievement.

Staff determination: The agency does not meet the requirements of this section. The agency must provide information and documentation on how it collects and evaluates for compliance with its standards, the assessment criteria that are set by the school rather than by the agency.

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#### **§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--**

**(e) Conducts its own analysis of the self-study and supporting documentation furnished by the institution or program, the report of the on-site review, the institution's or program's response to the report, and any other appropriate information from other sources to determine whether the institution or program complies with the agency's standards; and**

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[NOTE: Staff and commissioners are jointly assigned on an ongoing basis to individual schools and are referred to as "review committees." All reports, including annual reports, special reports, site visit reports, etc., are reviewed by the review committee assigned to a particular institution.]

According to the agency's policy manual, after the institution has been given the opportunity to respond to the final site visit report, the commission considers the institution's accreditation status based upon the institution's "program record." A hearing to clarify the record may be conducted at the request of either the commission or the institution. Written third party comments may also be submitted to the commission for review and are then submitted to the institution, which may provide a written response.

According to the agency's commissioner's manual, the self-study (or eligibility report for pre-accreditation), the site team report, and the institution's response to the site team report constitute the "commission record" for purposes of making an accrediting decision. The previously mentioned review committees receive the entire program record prior to the commission meeting. Review committee members are expected to take the lead for their assigned institutions during the commission review process. The rest of the commission members receive the site visit report and the institution's response (but not the self-study) as part of their agenda materials to assist in their decision-making.

There appears to be inconsistency among the terminology/descriptions provided in the agency's narrative and its published documents. It is unclear to ED staff if there are any differences among the "accreditation record" discussed in the narrative, the "program record" mentioned on p. 27 of the agency's policy manual, and the "commission record" mentioned on p. 7 of the commissioner's manual. It is not clear if these terms all refer to the same set of records.

The narrative states that the entire commission reviews an extensive list of school documents at the decision meetings and that all of those documents are provided for the entire commission's use in the agenda materials. The commissioner's manual (p. 7) indicates that the review committees receive only the self-study, the site review report, and the institution's response to the report prior to the meeting, and that the full commission receives only the site review report and the institution's response to the report (and no self-study) in their agenda materials.

Therefore, it is not clear to staff if the agency's published documents are

consistent in listing the materials that will be reviewed during the decision-making process, nor which commissioners are reviewing which materials in reaching an accreditation decision.

Staff determination: the agency does not meet the requirements of this section. The agency needs to clarify the list of materials reviewed by the commission during the decision-making process, as well as which Commissioners review which materials prior to rendering a decision.

**Analyst Remarks to Response:**

The agency has clarified that the self-study, the site review report, the institution's/program's response to the site review report, and any third party comments and responses are considered to be the accreditation record. In section 602.18 the agency reports, "ACAOM policies and procedures now specify that the each Commissioner (recusals excepted) receives the entire accreditation record as defined. (Exhibit R-01-Policies and Procedures Handbook, 3.14). The policies and procedures call for the full commission review of the entire accreditation record for every institution/program (other than those commissioners recused for specific institutions/programs." The revised policy clarifies what documents are made available to the commissioners in their deliberations. As these are new revision, the agency needs to demonstrate its application.

Staff determination; The agency does not meet the requirements of this section. The agency needs to demonstrate effective application of its revised policy.

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**(f) Provides the institution or program with a detailed written report that assesses--**

- (1) The institution's or program's compliance with the agency's standards, including areas needing improvement; and**
- (2) The institution's or program's performance with respect to student achievement;**

**and**

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The agency asserts that its compliance with this criterion, to provide institutions and programs with a detailed report assessing their compliance with agency standards and particularly success with respect to student achievement, is found in the detailed written report of the Commission's decision. However, this report provides a detailed report only on areas of deficiency; it does not address areas of compliance. The agency does, however, provide a site visit team report to an institution or program, and this document does provide sufficient detail regarding areas of compliance as well as noncompliance.

There is no evidence however, that the agency provides a sufficiently clear and

detailed assessment of an institution's or program's performance with respect to student achievement. The agency has been cited for a lack of a clear standard in the student achievement standard (602.16a(1)(i)) regarding its standards for assessing the institutionally-set student achievement standards. While the agency appears to review the assessment process, there is no evidence that there is any assessment of the institutionally-established standards themselves and the outcomes, and whether they meet the agency's expectations. The site team report is descriptive in its reporting on student outcomes; there is no clear or detailed assessment of whether they meet the agency expectations regarding program performance with respect to student achievement.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it provides its institutions and programs with a detailed written report on the institution's or program's performance with respect to student achievement.

**Analyst Remarks to Response:**

As noted previously, the agency is still working with its institutions/programs to meet the requirements related to student achievement.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it provides its institutions/programs with a detailed written report on the institution's/program's performance with respect to student achievement.

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**§602.18 Ensuring consistency in decision-making**

**The agency must consistently apply and enforce standards that respect the stated mission of the institution, including religious mission, and that ensure that the education or training offered by an institution or program, including any offered through distance education or correspondence education, is of sufficient quality to achieve its stated objective for the duration of any accreditation or preaccreditation period granted by the agency. The agency meets this requirement if the agency--**

**(b) Has effective controls against the inconsistent application of the agency's standards;**

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The agency has established a number of processes and requirements to support its compliance with this criterion. As noted previously, the agency has numerous documents that detail its standards and the accreditation process. New programs/institutions are required to host a one-day orientation session with agency staff prior to applying for candidacy status. Commissioners receive special orientation to their responsibilities. Agency developed site visit forms are provided to elicit feedback regarding: visitor evaluation of the accreditation process; visitor evaluation of the team chair; team chair evaluation of team members; site visit evaluation by the program director; and site visit evaluation

by faculty, administrators, and students. Review teams of staff and commissioners review all materials submitted by a program/institution relevant to the ongoing review process. Institutions may appeal commission decisions through an appeals panel (this has not occurred to date).

However, other processes that play a critical role in ensuring consistent application of the agency standards have not been demonstrated as applied effectively -- training; full commission review of the entire record.

Staff determination: The agency does not meet the requirements of this section. The agency needs to provide additional information about training and the commission review process.

**Analyst Remarks to Response:**

The agency provided documentation of commission training activities. It has also clarified its policies to specify that each commissioner will receive the entire accreditation record for each institution/program that the commission will review at a given meeting. However, the training has not been satisfactorily addressed. While the agency documented commissioner training, site team training, a critical component of a consistently applied accreditation review process, has not been sufficiently addressed.

Staff determination: The agency does not meet the requirements of this section. The agency needs to provide evidence of comprehensive and consistent site evaluator training as an effective control against the inconsistent application of the agency's standards.

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**§602.19 Monitoring and reevaluation of accredited institutions and programs.**

**(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.**

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As stated previously, the agency conducts periodic accreditation reviews, which include self-study reports, on-site team reviews, on-site review reports, commission review, and subsequent action letters to monitor its institutions at regular intervals.

In order to monitor its institutions between accreditation reviews, the agency requires institutions/programs to submit annual reports in either March or September of each year, depending upon the date of the institution's/program's last full review. The annual report form requires submission of data on: program statistics; program length; student enrollment; graduation rates; graduate placement rates; student retention rates; Title IV HEA programs; program cost; faculty; clinical training; licensure and certification pass rates; governance; authorization to operate; administrative and academic staff; institutional policies; admissions requirements; graduation requirements; curriculum; evaluation; financial status; facilities and new equipment; contractual affiliations; accreditation status with other accrediting agencies; acceptance of credits by other institutions; other programs and courses offered at the institution; recent or proposed changes at the institution; ongoing self-study; activities related to any current corrective actions the commission might have imposed; branch campus information; and an audited financial statement. The annual reports are reviewed by the institution's assigned staff/commissioner review team.

Although the agency provided sample copies of its annual reports, it is unclear how the agency identifies areas of concern in the reports outside of the specified outcomes data, and what type of follow-up actions are taken in response to any concerns that have been identified.

Staff determination: The agency does not meet the requirements of this section. The agency must provide additional information and documented evidence of how its annual reports are reviewed and what follow-up actions are triggered by the reports.

**Analyst Remarks to Response:**

The agency has not addressed the concern identified in this section that it has not documented how its annual reports are reviewed and what follow-up actions are triggered by the reports.

Staff determination: The agency does not meet the requirements of this section. The agency must provide additional information and documented evidence of how its annual reports are reviewed and what follow-up actions are triggered by the reports.

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**(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.**

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As stated previously, the agency collects copious information on student enrollment through its annual report. Information is collected on: number of classes admitted each academic year; dates of admittance of new students in the last academic year; number of credits required for admission; total number enrolled in the program; number admitted with two years at the baccalaureate level; number admitted with a bachelor's degree; number of full-time students; number of part-time students; total student headcount; number of male students; number of female students; and the number of international students.

The agency collects data, by program, on enrollment through its annual report requirement. The agency's policy specifies that if the number of students enrolled (as reported in the annual report) increases by 25% or more (as compared to the previous year's annual report), the institution must submit an analysis of the increase's impact on the institution's and program's capacity to continue to meet ACAOM's standards.

The agency submitted copies of its policies and its annual report forms to demonstrate compliance with the requirements of this section, however, the agency provided no evidence that the agency applies its policy when an institution exceeds the growth or so states if it has not happened.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence that it applies its headcount policy.

**Analyst Remarks to Response:**

The agency is currently analyzing its annual reports in order to meet the requirements related to annual headcounts.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence that it applies its headcount policy.

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

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All pre-accredited and accredited programs are required to report enrollment data on an annual basis.

**Analyst Remarks to Response:**

The agency collects data, by program, on enrollment through its annual report requirement. The agency's policy specifies that if the number of students enrolled (as reported in the annual report) increases by 25% or more (as compared to the previous year's annual report), the institution must submit an analysis of the increase's impact on the institution's and program's capacity to continue to meet ACAOM's standards.

The agency submitted copies of its policies and its annual report forms to demonstrate compliance with the requirement of this section, however, the agency provided no evidence that the agency applies its policy when an institution exceeds the growth or so states if it has not happened. The agency was directed to address this issue in its response to 602.19(c).

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### **§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.**

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An agency is not required to take adverse action immediately on initially finding an institution out of compliance. It appears that this agency, by policy, always gives institutions the opportunity to come back into compliance. The agency's written policies allowing institutions and programs up to two years to correct deficiencies comply with the requirements of this section.

However, the enforcement timeframe clock has to start with the agency determination that the institution is not in compliance with a standard. It is not clear if that happens before placing an institution on probation. It is unclear if the policies would extend periods of corrective action beyond the allowable timeline.

The agency did not provide documentation of effective application of its enforcement policies showing that an institution was cited and other documentation to show areas of non-compliance were corrected within the

specified timeframes.

Staff determination: The agency does not meet the requirements of this section. The agency must provide documentation that institutions are cited and corrective action is taken within the specified timelines.

**Analyst Remarks to Response:**

The agency is currently in the process of implementing a system to track enforcement timelines.

Staff determination: The agency does not meet the requirements of this section. The agency must provide documentation that institutions are cited and corrective action is taken within the specified timelines.

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**(b) If the institution or program does not bring itself into compliance within the specified period, the agency must take immediate adverse action unless the agency, for good cause, extends the period for achieving compliance.**

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The agency has a written policy specifying the circumstances under which it will take an adverse action, however it has not provided evidence of its application of this policy.

Further, it is not clear that the agency has policy and procedures to grant extensions for good cause. The agency must demonstrate that it has a written policy regarding the agency's practices pertaining to extensions for good cause. If the agency does allow extensions for good cause, it needs to identify what factors it considers in making that determination and demonstrate that its use is applied in only exceptional circumstances.

The agency is cautioned in its use of "Deferral"; it needs to be clear that, in practice, it is not used in lieu of taking an adverse action.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its effective application of its policies pertaining to adverse action, including documentation and application of its policy and practices pertaining to extensions for good cause.

**Analyst Remarks to Response:**

The agency is currently in the process of implementing a system to track enforcement timelines.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its effective application of its policies

pertaining to adverse action, including documentation and application of its policy and practices pertaining to extensions for good cause.

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**§602.21 Review of standards.**

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

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

**(1) Is comprehensive;**

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

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

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

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The agency has written policy and procedures for administering its systematic program of review and revision of its standards every five years and for ongoing reviews that are to occur as proposals for standards revisions are forwarded to the committee or when outside entities provoke required revisions/additions to agency standards. Responsibility for the standards review is placed on a Standards and Criteria Committee which consists of up to seven commissioners and includes a balance of institutional, practitioner, and public commissioners.

The agency identifies its communities of interest as, but not limited to: stakeholders of institutions/programs in the accreditation process; relevant state and accrediting agencies; acupuncture and oriental medicine organizations; practitioners; and members of the public . While the agency has the necessary internal and external constituencies identified, their meaningful involvement in the standards review process is not evident.

The agency provided a transcript of a public hearing regarding proposed standards, but it is insufficient to demonstrate a quality review of the agency's standards, either as a whole or individually, as the appropriate measurements of educational quality for evaluating educational programs in the profession. Nor is it evidence of the involvement of all of the agency's relevant constituencies.

Staff determination: The agency does not meet the requirements of this section. The agency needs to demonstrate that it has conducted a systematic program of

review of its standards in compliance with the requirements of this criterion.

**Analyst Remarks to Response:**

The agency states that it is currently revising its Master's standards. It did not, however, provide any additional information or documentation regarding the agency's systematic review of standards to ascertain that they are the appropriate measurements for evaluating the quality of the educational program or institution.

Staff determination: The agency does not meet the requirements of this section. The agency needs to demonstrate that it has conducted a systematic program of review of its standards in compliance with the requirements of this criterion.

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**(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.**

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Both the agency's policy manual and its standards review committee charter specify that if the commission finds during the standards review process that changes to the standards are needed, action will be initiated within 12 months to make the changes and adds that action for revising standards must be completed within a reasonable time.

A transcript of a public hearing on revisions to the agency's standards, which was held in April 2009, was provided as documentation, in addition to the policy manual. However, no information was provided to demonstrate that the proposed revisions were disseminated to all of the agency's constituencies, that members of all constituencies were involved in the April 2009 public hearing or additional public hearings, or if comments were received by parties other than the few who spoke at the public hearing.

Staff determination: The agency does not meet the requirements of this section. The agency must provide additional information and documentation to demonstrate that feedback from all of the agency's constituencies is solicited

and considered prior to the adoption of revised standards.

**Analyst Remarks to Response:**

The agency states that it is currently revising its Master's standards but did not provide any additional documentation for this section.

Staff determination: The agency does not meet the requirements of this section. The agency must provide additional information and documentation to demonstrate that feedback from all of the agency's constituencies is solicited and considered prior to the adoption of revised standards.

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**§602.22 Substantive change.**

**(ix) The acquisition of any other institution or any program or location of another institution.**

**(x) The addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution that has ceased operating before all students have completed their program of study.**

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The agency has not addressed the requirements of these criteria.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its adoption of its policy and its review of requests for these types of substantive changes.

**Analyst Remarks to Response:**

The agency provided documentation that it has modified its substantive change policy to reflect the new requirement of the ED regulation addressing the addition of a permanent location at a site at which the institution is conducting a teachout of another institution that has ceased operating. However, the agency has not addressed the requirement that it review and approve as a substantive change, the acquisition by one of its accredited members of any other institution, program, or location of another institution.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its adoption of its policy and its review of requests for substantive changes involving the acquisition by one of its accredited members of any other institution, program, or location of another institution.

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**(b) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, these procedures must specify an effective date, which is not retroactive, on which the change is included in the program's or institution's accreditation. An agency may designate the date of a change in ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change in ownership. Except as provided in paragraph (c) of this section, these procedures may, but need not, require a visit by the agency.**

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The agency's narrative addresses the notification requirements that specify the amount of advance notice the commission requires for various types of substantive changes. However, this does not address the requirement of this criterion which is that the agency has in place policies and procedures that specify the date on which all/any approved substantive change is included in the institution's grant of accreditation. This date cannot be retroactive to any time prior to the agency's approval of the substantive change with the exception of specific terms under a change of ownership. The agency has not indicated nor demonstrated that it has appropriate policies and procedures in place that address the establishment of an effective date that is not retroactive once the commission has approved a requested substantive change. More information is needed on this section.

Staff determination: The agency does not meet the requirements of this section. The agency must provide additional information and documentation of its compliance regarding the establishment of effective dates for the substantive changes its commission approves.

**Analyst Remarks to Response:**

The agency provided documentation that it has modified its substantive change policy to reflect the new requirements of the ED regulations. Per the agency's revised handbook, "Substantive changes may not be initiated by the program prior to receiving approval from a review committee or the full Commission, where said approval shall specify an effective date of the change, which shall not be retroactive." However, the agency has not demonstrated its implementation of the policy.

The agency letter documenting its approval of the (substantive) change in location that is provided with the petition indicates only that the agency, "approves the substantive change application to change the location of the XXXX, pending receipt of the balance of the fee due." This is not sufficient to meet the requirement that the agency specify an effective date. The agency must demonstrate its application, of its revised policies re-establishing that the agency will specify an effective date of the change which shall not be retroactive.

Staff determination: The agency does not meet the requirements of this section. The agency must provide documentation of its implementation of its policy

regarding the establishment of effective dates for the substantive changes its commission approves

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**§602.23 Operating procedures all agencies must have.**

**(c) The accrediting agency must--**

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

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

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

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**INSTITUTIONS**

The agency's complaint procedures are detailed in its policy manual under section 3.9. The policy specifies that the commission will accept and review complaints from students, faculty, staff, other institutions or programs, and members of the public. The policies require that complaints allege violations of the agency's eligibility requirements, standards, policies, or procedures.

Complaints must be submitted on the agency's complaint form. The form is available on the agency's web page. The agency will acknowledge receipt of the complaint within 15 days. The agency will review the complaint to verify that it meets the acceptance requirements. If the complaint is found to be relevant, the agency will notify the institution's CEO within 30 days and require a written response within an additional 30 days.

Following a response from the institution, the agency may seek an informal resolution of the complaint, and the complaint will be closed, documented in the institution's file, and notices sent to affected parties.

If an informal resolution is not possible, the complaint is forwarded to the institution's staff/commissioner review committee. The committee may: seek additional information; dismiss the complaint as not constituting a violation of the agency's policies, et.al; require corrective action, including an earlier comprehensive review, additional reports, focused visit, or response to a show

cause letter; or place the complaint on the meeting agenda for full commission action.

The agency will notify the CEO and the complainant within 30 days of a decision regarding the complaint. Complaints are normally addressed within 120 days of the date when the CEO was originally notified of the complaint.

The agency's complaint policy is clearly stated, sufficiently specific, with timelines that provide timely review and resolution of complaint allegations including time for institution to respond to the complaint. Though the agency provided as documentation a complaint that it received and the action it took to address the complainant's allegations, it provided no evidence of the response it received or the final resolution of the complaint.

#### **AGENCY**

The agency's complaint policy under 3.12 addressed complaints against the agency itself. Written complaints against the agency are forwarded within 10 days of receipt to the commission chair and the agency's executive director. The chair will review the complaint and gather additional information as necessary from the complainant, agency staff, or commissioners. The chair will appoint a special committee to study the complaint and summarize its findings for action by the commission at its next regularly scheduled meeting. The complainant will be notified in writing within 30 days of the commission meeting of any action taken.

The policy does not specify who will be the members of the special committee, how many members there will be, or what decision or enforcement powers they will have. The agency needs to provide additional information regarding its procedures, its effectiveness in ensuring unbiased judgment and evidence of the application of its procedures.

Staff determination: The agency does not meet the requirements of this section. The agency must supply additional information and documentation to demonstrate that any special committee formed to review complaints about the agency itself will be unbiased and have substantive input into the resolution of the complaint.

#### **Analyst Remarks to Response:**

The agency has not yet had an opportunity to take the steps necessary to respond to this finding.

Staff determination: The agency does not meet the requirements of this section. The agency must supply additional information and documentation to demonstrate that any special committee formed to review complaints about the agency itself will be unbiased and have substantive input into the resolution of the complaint.

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**§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:**

**(b) Change of ownership.**

**The agency must undertake a site visit to an institution that has undergone a change of ownership that resulted in a change of control as soon as practicable, but no later than six months after the change of ownership.**

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The agency's policies on substantive change are detailed in its policy manual under section 2.14.2.7. The policy defines various types of change in ownership, control, or legal status at an institution. All of these changes require a 90 day notice to the commission. The commission "may" require the institution to undergo a total re-evaluation, placing the institution into a new accreditation cycle. "If" a re-evaluation is required, the institution must prepare a new self-study and host a site visit within six months of the change.

Staff notes that the agency's policies state that a re-evaluation "may" be required by the commission and that a site visit must be hosted "if required by the commission." The agency's policies must be revised to make clear that all institutions undergoing a change of control will be visited within six months of the change.

Staff determination: The agency does not meet the requirements of this section. The agency must revise its policies to clarify that any institution that undergoes a change in control will be visited within six months of such a change and provide evidence of its effective application of its policies.

**Analyst Remarks to Response:**

The agency has revised its policies to clarify that any institution that undergoes a change in control will be visited within six months of such a change. However, the agency did not provide evidence of its conduct of a site visit for a change in ownership.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its effective application of its policies pertaining to change in ownership or indicate it has not had opportunity to apply its policies.

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**(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.**

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As in the previous section, the agency's requirements are found under section 3.11 of its policy manual, and the wording of the agency's policy mirrors the language of the regulation. It is not clear, however, that the agency has criteria by which it will conduct that review and determine that the teach-out plan provides for the equitable treatment of students and on what basis it determines, for example, that the teach out plans for notifications are clear, timely and fair, and whether additional charges, if any, are made known and are appropriate and reasonable.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has evaluative criteria and a process by which it evaluates teach-out plans.

**Analyst Remarks to Response:**

The agency reports that it is still in the process of developing the criteria by which it will evaluate teach-out plans.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has and has implemented evaluative criteria and a protocol by which it evaluates teach-out plans.

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**(5) The agency must require an institution it accredits or preaccredits that enters into a teach-out agreement, either on its own or at the request of the agency, with another institution to submit that teach-out agreement to the agency for approval. The agency may approve the teach-out agreement only if the agreement is between institutions that are accredited or preaccredited by a nationally recognized accrediting agency, is consistent with applicable standards and regulations, and provides for the equitable treatment of students by ensuring that--**

**(i) The teach-out institution has the necessary experience, resources, and support services to--**

**(A) Provide an educational program that is of acceptable quality and reasonably similar in content, structure, and scheduling to that provided by the institution that is ceasing operations either entirely or at one of its locations; and**

**(B) Remain stable, carry out its mission, and meet all obligations to existing students; and**

**(ii) The teach-out institution demonstrates that it can provide students access to the program and services without requiring them to move or travel substantial distances and that it will provide students with information about additional charges, if any.**

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The agency's teach-out policies appear under section 3.11.1 of its policy manual. The language of the agency's policies essentially mirror the requirements under 602.24(c)(5)(i) and (ii). The agency specifically limits its approval of any teach out agreements solely to agreements between ACAOM accredited or pre-accredited (candidate) institutions. However, the agency has not identified any criteria by which it will evaluate the teachout agreement nor do the teach out agreement, application, and sample agreement request, provide sufficient information for the agency to demonstrate that it evaluates and ensures that the teach-out institution will fulfill the requirements under this section of the criteria. More specifically, it is not evident from agency polices and the teach-out agreement guidelines that the agency's mechanisms ensure that all students are treated equitably. The sample provided did not address the requirements of the criterion.

Staff determination: The agency does not meet the requirements of this section. The agency must identify the criteria by which it will evaluate teach-out agreements.

**Analyst Remarks to Response:**

The agency reports that it is is still in the process of developing the criteria necessary to evaluate teach-out agreements and has provided its progress on developing a teachout agreement template. The agency also provided a teachout agreement between two institutions (Exhibit 46); however, it is unclear what action the agency took on the teachout agreement.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate it has and applies a review protocol for evaluating and approving teach-out agreements.

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**§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.**

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The agency has a 2-step process for appealing an adverse action. An institution must first request a reconsideration from the Commission. If the adverse action is not resolved via reconsideration, the institution may appeal.

The agency's policy manual addresses reconsideration and appeals procedures under section 3.5 and conforms to some of the requirements of this section. For instance, an institution must file a written notice of intent to appeal a commission decision within 10 days of receipt of the notice of the commission's action. The policies related to the selection of the hearing panel specify that the members are subject to the agency's conflict of interest policy and may not have participated in any way in the process leading to the decision being appealed. The chair of the panel will control all aspects of the hearing. The panel may recommend to the commission that an adverse action be affirmed, reversed, or modified, and the decision is then remanded to the commission for a final decision. If the commission's resulting action is not consistent with the panel's recommendation, the remand is appealable to the same hearing panel again in order for the panel to determine whether its earlier directions were carried out, and if not, provide further direction to the commission. Both the agency and the appellant may have counsel present during the appeals process.

However, ED staff has concerns regarding the agency's compliance with section 602.25(f)(1)(iv). The agency's policies limit the panel's authority to one of a recommending body. The criterion requires that appeal bodies have decision making authority; specifically, it must have the authority to affirm, amend, or reverse an adverse decision, or to remand it back to the commission. There is

no requirement in the agency's policy that the hearing panel act as a decision making body, or that, when remanding the decision back to the commission that it identify specific issues for the commission to address. There is also no requirement that the commission act in a manner consistent with the hearing panel's decision. Instead, the policy states that if the commission takes an action that is inconsistent with the panel's recommendation, the appellant may again go before the hearing panel, which will give further direction to the commission. This would seem to present at least the possibility that the panel could make a recommendation to the commission, which could take action contrary to the panel's recommendation, which could be appealed and once again remanded to the commission, which could again deny the panel's recommendation. Even if the panel remands the commission has to act in a manner consistent with the appeals panel instructions and/or decision. The appeals panel must be empowered to direct the remand action of the commission.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its appeals policies to make clear the types of actions that appeals panel may take and require that the hearing panel identify specific issues for the commission to address if the panel remands the decision back to the commission decision differs from the commission's earlier decision. The agency's policies must also be amended to clarify that the panel is empowered to direct the remand action of the commission.

**Analyst Remarks to Response:**

The agency is in the process of revising its policies in order to meet this requirement.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its appeals policies to make clear the types of actions that appeals panel may take and require that the hearing panel identify specific issues for the commission to address if the panel remands the decision back to the commission. The agency's policies must also be amended to clarify that the panel is empowered to direct the remand action of the commission. The agency must provide evidence of its application of its policy as applicable.

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**(g) The agency notifies the institution or program in writing of the result of its appeal and the basis for that result.**

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The agency's policies do not address this requirement that the decision-making entity, either the commission or the appeal panel, is required, by policy, to provide the institution or program with the result of the appeal and the basis of the decision.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its policies to require that it provide for written notice of

the results of the appeal and the basis for the decision in a timely fashion.

**Analyst Remarks to Response:**

The agency has indicated it has never had an appeal. The agency is in the process of revising its policies in order to meet the procedural requirements of the criterion.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its policies to require that it provide for written notice of the results of the appeal and the basis for the decision in a timely fashion.

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**§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--**

(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**

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While the agency's policies under 3.1.3 essentially mirror the requirements of this section, the recently added requirement that the agency provide evidence that the affected institution has been offered the opportunity to provide official comment is not contained within the policy. Neither did the agency provide evidence of its application of its policy.

Staff determination: The agency does not meet the requirements of this section. The agency must amend its policies to include the new requirement that the agency provide evidence that an institution has been given an opportunity to comment if no comment has been included, and evidence of its effective application of the policy to submit statements to the Department.

**Analyst Remarks to Response:**

The agency has amended its policies to include the new requirement that the agency provide evidence that an institution has been given an opportunity to comment if no comment has been included. The agency has indicated that it has not had a final decision to deny, withdraw, suspend, revoke, or terminate preaccreditation or accreditation of an institution or program since July 1, 2010.

Therefore the Department would not expect the agency to be able to demonstrate that it had given an institution/program an opportunity to comment. However, the agency has not provided evidence of its effective application of its policy to submit statements to the Department, State licensing or authorizing agencies, appropriate accrediting agencies, and the public that was in effect prior to July 1, 2010.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its effective application of its policy to submit summary statements to the Department, State licensing or authorizing agencies, appropriate accrediting agencies, and the public of the reason for its adverse action.

### **PART III: THIRD PARTY COMMENTS**

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