

U.S. Department of Education

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

RECOMMENDATION PAGE

1. **Agency:** Accrediting Council for Independent Colleges and Schools (1956/2006)
(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:** Compliance Report
3. **Current Scope of Recognition:** The accreditation of private postsecondary institutions offering certificates or diplomas, and postsecondary institutions offering associate, bachelor's, or master's degrees in programs designed to educate students for professional, technical, or occupational careers, including those that offer those programs via distance education.
4. **Requested Scope of Recognition:** Same.
5. **Date of Advisory Committee Meeting:** June, 2013
6. **Staff Recommendation:** Renew the agency's recognition for a period of three years.
7. **Issues or Problems:** None.

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Accrediting Council for Independent Colleges and Schools (ACICS) is a national institutional accreditor that was founded in 1912. The agency currently accredits over 850 institutions located in 46 states and Puerto Rico. The agency's recognition enables its institutions to establish eligibility to receive Federal student assistance funding under Title IV of the Higher Education Act of 1965, as amended (Title IV). The agency serves as the Title IV gatekeeper for over 850 of the institutions it accredits.

Recognition History

The Secretary of Education first recognized ACICS in 1956 under the agency's former name, the Accrediting Commission for Business Schools. In 1985, ACICS requested an expansion of scope to include its accreditation of master's degree programs in senior colleges of business, which was subsequently granted by the Secretary. Since that time, the Secretary periodically reviewed the agency and granted it continued recognition.

The last full review of ACICS took place at the June 2011 meeting of the National Advisory Committee on Institutional Quality and Integrity (NACIQI). After that review the Department continued the current recognition of the agency, and required a compliance report in 12 months on the issues identified in the staff report. Although the agency had also requested an expansion of scope to include professional doctoral degrees, it was decided not to expand the agency's scope at that time. Currently, the agency is not requesting an expansion of its scope.

As part of its evaluation of the agency's compliance report, Department staff reviewed the agency's narrative and supporting documentation, and met with agency staff members in March 2013. No third-party comments were received in connection with the agency's compliance report.

PART II: SUMMARY OF FINDINGS

§602.12 Accrediting Experience

(b) A recognized agency seeking an expansion of its scope of recognition must demonstrate that it has granted accreditation or preaccreditation covering the range of the specific degrees, certificates, institutions, and programs for which it seeks the expansion of scope.

(NOTE: Only recognized agencies seeking an expansion of scope need to respond.)

As the agency noted in its narrative response, ACICS is not requesting an expansion of scope at this time.

§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--

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

Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that ACICS needed to have a clear written policy that requires it to have adequate representation of both academic personnel, and administrative personnel, as it makes its selections for site teams and decision-making bodies, including the individual Review Board Panels. In addition, the written policy needed to indicate what ACICS uses to designate a person to serve in one category, as distinguished from the other. Definitions of academic personnel and administrative personnel needed to be clear and consistent, as well as consistently applied in practice. Furthermore, the agency needed to provide clear evidence that it currently maintains adequate representation of both academic personnel, and administrative personnel, on its current site teams and all decision-making bodies.

Agency Response and Discussion: In response, the agency provided documentation to show that it has appropriately revised its published documents, and is complying with those revisions in practice.

In particular, ACICS revised its bylaws and adopted definitions so that the

agency will consistently fulfill what is required to be an academic, administrative or public member of an on-site team, or a decision-making body, including an appeals review board. As well, the agency enhanced its electronic system to ensure that those chosen for those roles are properly selected and meet the clarified requirements. In addition, the agency provided documentation that it has been following its revised and clarified publications, and that it has reassigned a current member of its main decision-making body to accurately reflect his conformity to the new definitions.

As a result of these documented clarifications and changes, the agency can be found in compliance with the requirements of this section.

§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.**

Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that ACICS needed to demonstrate that it evaluates student achievement against program-level data, as appropriate to the occupational missions of the institutions it accredits, particularly where licensure, registration or certification is involved.

In particular, the agency was cited for not taking into consideration program-level outcomes in their review of an institution's evaluation of student achievement. ACICS had established institutional benchmarks of 60% for placement rates and 60% for retention rates. However, a school was considered to be "marginally" in compliance, if it achieved a rate that was one standard deviation below the average for ACICS-accredited institutions. As a result, institutions would still be considered in compliance with a 40% institutional placement rate.

Agency Response and Discussion: In response, the agency provided documentation to show that it has appropriately revised its published documents, and is complying with those revisions in practice.

In particular, ACICS established new requirements regarding success with respect to student achievement at the program level, gained experience enforcing them during 2012, and then notified its institutions that the standards would be raised again. That is, ACICS is phasing in their new program level requirements for being found in compliance at 60% for placement rates and 60% for retention rates. In addition, programs that involve a license to become employed will now also be required to demonstrate at least a 60% first attempt pass rate on the relevant licensure exams, and to be in compliance with all state or national standards. Deviations below those rates will no longer be found in compliance.

During the transition period, program level standards were initially set at 50% minimum, and then raised to 60% minimum the following year. The agency is enforcing the new requirements by requiring detailed information regarding each program's success with respect to student achievement to be submitted annually. That information is then analyzed annually for compliance. Data that does not meet ACICS standards results in follow-up from the agency ranging from requests for additional information to the issuance of official warnings that may include a show-cause notice.

In addition to the annual data evaluations for compliance, ACICS on-site evaluators are receiving special training on reviewing the data during the visit itself, and the decision-makers are receiving special training on their decisions, which must incorporate the Secretary's timeframes for coming into full compliance.

During March 2013, Department staff met with ACICS representatives and learned the following about the agency's experience with enforcing its enhanced requirements. As a baseline, the agency annually monitors approximately 950 institutions with a total of 14,000 programs. So far, 36 institutions have been found out of compliance with the overall student achievement requirements. In addition, approximately 1000 programs have fallen below the required thresholds, that is, 533 programs for unsatisfactory placement rates and 443 programs for unsatisfactory retention rates.

Significantly, ACICS has experienced an increase in voluntary terminations of programs with unsatisfactory rates. That is, the institution foresees that some programs will not be able to achieve the established ACICS compliance levels, and voluntarily shuts them. In addition, Department staff learned that ACICS is expanding its efforts to verify placement data submitted by its schools. Previously, the agency had been doing spot checks of self-reported placement data during scheduled site visits. However, ACICS is now moving to regular independent verification by pre-approved third party auditors. Initially, 20% of campuses will be randomly selected to have their rates independently verified each year, while all institutions coming up for renewed accreditation will be independently audited for the accuracy of their submitted student achievement data.

As a result of receiving this clarifying documentation, the agency can be found in compliance with the requirements of this section.

§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**

Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that ACICS needed to ensure that its policy, in writing and in practice, is that all the commissioners are provided with the opportunity to see, and discuss, the complete institutional file before they determine whether an institution complies with the agency's standards.

Agency Response and Discussion: In response, the agency provided documentation to demonstrate that it has strengthened the emphasis on access to school information needed by the decision-makers. Specifically, the school records are all available electronically, the agency installs computers for the decision-makers during their meeting, and the decision-makers are trained in accessing all the records. In addition, before each meeting the decision-makers are reminded of their obligation to access the information, as well as being reminded how to access that information.

As a result of receiving this clarifying documentation, the agency can be found in compliance with the requirements of this section.

(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

Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that ACICS needed to complete its plans to provide each institution with a detailed written report that assesses the institution's performance with respect to student achievement that takes program-level outcomes into account.

Agency Response and Discussion: The agency provided additional documentation to show that it has implemented its new emphasis on student achievement at the program level. The agency now provides a detailed written report to each institution as part of the regular process for initial or renewed accreditation that includes the appropriate program-level findings.

To support the new process, the evaluators receive special training in what to look for and how to incorporate their findings into the final report. Sample site visit reports, and the subsequent decision letters, indicate that the institutions are notified when the acceptable student achievement levels cannot be demonstrated or verified, as well as the mandated reporting requirements that resulted from those findings.

As a result of receiving this clarifying documentation, the agency can be found in compliance with the requirements of this section.

§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.

Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that ACICS needed to document and elaborate on the criteria used to monitor licensure pass rates to ensure a consistent evaluation by agency staff, and by agency site team members. More specifically, consistency was a concern because site visitors were expected to determine what level of pass rates was sufficient in order to demonstrate an acceptable level of quality, based on their expertise and knowledge. As well, the agency did not indicate how licensure pass rate information was evaluated between periodic site visits.

Agency Response and Discussion: As discussed above in more detail under

§602.16(a)(1)(i), ACICS has provided additional documentation to show that it has implemented a program to closely monitor licensure pass rates on an annual basis. This is now done in addition to the on-site monitoring of licensure pass rates done during a new and the periodic accreditation review.

As part of the new process, the agency revised its written template for on-site reviews to ensure consistency of the site evaluators, as well as training the evaluators beforehand in what to verify regarding licensure pass rates. In addition, the agency has instituted annual reviews of key student achievement indicators including licensure pas rates for individual programs, as appropriate.

Licensure is defined by the agency to include registration or certification pass rates, if applicable. The minimum acceptable rate is now 60% for each program, and it reflects “the percent of graduates who take a licensure, certification or registration examination during the reporting period and receive a passing score on the first attempt as reported to the school by the certifying agency.” The requirement is applied when an examination is required for entry-level employment in the state where an institution is located. As well, ACICS applies the standard to an institution that “prepares students for licensure examinations in other states where licensure is required for employment.” Furthermore, if a state or national agency issues a pass rate requirement for a particular program, then that requirement must be met in order to be found in compliance by ACICS. The agency applies the pass rate to every program with a minimum of ten students to ensure the usefulness of the application. Programs with less than ten students are evaluated on a case-by-case basis.

As a result of receiving this clarifying documentation, the agency can be found in compliance with the requirements of this section.

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

Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that ACICS needed to demonstrate that its more detailed monitoring process has been successfully implemented, and that the new information obtained is now satisfactory. More specifically, the agency previously determined that its monitoring process did not provide the level of detail that was needed to evaluate significant growth. As a result, ACICS decided to revise its data instrument to obtain the additional information, but it was too soon to demonstrate implementation.

Agency Response and Discussion: The agency provided additional documentation to show that it has implemented its expanded data gathering and evaluation process, and in particular, the attention given to significant growth.

Now, the agency's annual monitoring process includes the identification of institutions that have at least 200 students and report growth of 100% or more. Those institutions are specially reviewed by the decision-makers together with other relevant information, such as the type of growth, any complaints or financial problems, cohort default rate and student outcomes data. Based on its review, the agency determines if the significant growth has had a negative impact on the institution and its ability to serve its students satisfactorily.

The agency provided evidence that it has implemented the described process, and that the identified schools were assessed by the decision-makers, as planned. The assessment determined that no negative effects requiring more immediate reporting were required from the identified institutions before the next annual data review. As a result of receiving this clarifying documentation, the agency can be found in compliance with the requirements of this section.

§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.

Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that ACICS needed to ensure that when an institution is found out of compliance with any agency standard, that the agency takes immediate adverse action, or else clearly requires the institution to come into compliance within the maximum timeframes permitted by the criteria.

More specifically, when it came to measurements of student achievement, it appeared that ACICS was not clearly distinguishing the quality improvement efforts recommended prior to negatively crossing a threshold, from the remediation efforts required after actually crossing that threshold (to prevent loss of accreditation). In other words, ACICS needed to clarify when it was finding an institution actually out of compliance, as opposed to becoming dangerously close

to being out of compliance, in order to demonstrate consistent application of the enforcement timelines required by the Secretary's criteria.

Agency Response and Discussion: The agency provided additional documentation to show that it has taken the steps necessary to clarify when an institution needs to demonstrate compliance within the timelines specified by the Secretary's criteria.

The agency accomplished this by revising its policies and procedures to ensure that when an institution is found out of compliance with any agency standard, ACICS must either take immediate adverse action, or require the institution to come into compliance within the maximum permitted timeframes. The specific issue of compliance with ACICS student achievement standards was resolved by clarifying the thresholds that automatically trigger a finding of noncompliance (as discussed under §602.16(a)(1)(i)).

As part of the implementation process, the agency notified its institutions, trained its staff, site visitors and decision-makers, and applied the revised mechanisms as appropriate. In particular, the decision-makers and the institutions have consistent information regarding the timelines that will be enforced as a result of every compliance determination. As well, the agency provided exhibits showing that ACICS incorporates the maximum timeframe for coming into compliance into its tracking system, beginning with the decision letters sent to the affected institutions.

As a result of receiving this clarifying documentation, the agency can be found in compliance with the requirements of 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.**
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Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that ACICS needed to demonstrate that its regular systematic review process effectively involves all relevant constituencies, including but not limited to faculty, students, graduates, employers of graduates, and state regulatory authorities, as appropriate, and that the process consistently affords them a meaningful opportunity to provide input. More specifically, it appeared that the agency's previous attempts to involve various constituencies in the standards review process were having limited success, aside from school administrators.

Agency Response and Discussion: The agency provided additional documentation to show that it has successfully revised its process for involving various constituencies in the ACICS standards review process. Now, in addition to an enhanced annual survey of accredited institutions, the agency conducts webinars, electronic surveys and third-party interviews. In particular, the annual survey sent to 1,648 people now includes several hundred faculty, employers, evaluators and 37 state regulatory agencies in addition to the regular school administrators.

Furthermore, the agency has restructured and extensively highlighted its relevant webinars to involve more constituencies, including faculty and students. The agency reported that the first of the enhanced webinars involved 1,300 administrators, 335 faculty, 690 employers, 11 state regulatory representatives, 7 students and 5 graduates. Their comments were analyzed for the decision-makers for their review and follow-up action.

In addition to these activities, the agency has begun using social media to increase awareness of the opportunities for constituents to comment, and has contracted with an independent consultant to conduct interviews with a cross-section of state regulatory officials, state career college association executives, institutions that were recently site-visited, employers of graduates, commissioners, evaluators and staff. As a result of these activities, the independent contractor produced a report with several sets of recommendations that were discussed by a special session of the decision-makers in 2012.

The agency contracted with a consultant to conduct an electronic survey of employers that resulted in more than 1000 responses. It covered the employers' expectations regarding career colleges for ensuring that graduates possess needed workforce skills. The results were presented at a policy forum held in Washington, DC with subsequent meetings held in five cities across the country involving business leaders and educators. And as before, the agency continues to survey students at each of the site-visited institutions prior to each visit so that the team members will be aware of possible compliance issues. Those results are also reviewed by the agency three times each year for any implications regarding necessary changes.

As a result of receiving this clarifying documentation, the agency can be found in

compliance with the requirements of this section.

(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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Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that ACICS needed to demonstrate that it consistently and effectively invites comments from all of its constituencies, including but not limited to faculty, students, graduates, employers of graduates, and state regulatory agencies, as appropriate, and takes those comments into account before finalizing any proposed standards changes.

More specifically, as related to the previous criterion, it was not clear how effectively ACICS notified all its constituents and interested parties, and who among them regularly received the invitation to comment, before ACICS finalized any proposed standards changes.

Agency Response and Discussion: The agency provided additional documentation to show that it has significantly improved its methods to effectively notify all its constituents and interested parties before finalizing any proposed changes.

Those methods include a widely dispersed "Memorandum to the Field" that reaches more than 1,600 school owners, administrators, evaluators, and other interested parties. In addition, as also described under the previous criterion, the agency has vastly increased participation in its web-based seminars on proposed changes that include a call for comment with instructions on how to submit them in a timely manner. As well, the agency posts its proposed changes on its website to ensure that they are readily accessible to any and all interested parties before finalization.

As a result of receiving this clarifying documentation, the agency can be found in

compliance with the requirements of this section.

§602.22 Substantive change.

(3) The agency's substantive change policy must define when the changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution.

Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that ACICS needed to have a written policy that defines when substantive changes/proposed substantive changes are, or would be, sufficiently extensive to clearly require ACICS to conduct a new comprehensive evaluation.

More specifically, the agency's previous policy indicated that a minimum of five institutional changes and/or proposed changes would trigger a discussion to consider the possibility of conducting a new comprehensive evaluation. In order to strengthen that policy, the agency sent out proposed revisions for comment that attempted to define when substantive changes/proposed substantive changes are, or would be, sufficiently extensive to require ACICS to conduct a new comprehensive evaluation. Since the revision process was still underway at that time, the agency did not know what changes to the policy would finally be adopted.

Agency Response and Discussion: The agency provided additional documentation to show that the policy in question has been strengthened and implemented. First, the final language was adopted that requires ACICS to "conduct a comprehensive on-site evaluation of the institution if substantive changes that have been made or are proposed are sufficiently extensive that the institution's capacity to maintain compliance with accreditation standards requires an immediate assessment." The trigger determining whether the proposed/adopted changes are "sufficiently extensive" was further defined by the agency. That is, when "the types and/or number of changes are so substantial that the nature and scope of the accredited institution will no longer be the same since last evaluated and in its place a new institution has evolved." And in order to monitor the proposed/adopted substantive changes at each institution, the agency developed a "Matrix for Monitoring Extensive Substantive Changes." The matrix assigns points for various levels of changes resulting in a report for the decision-makers to review.

Under the previous policy, ACICS reported that it had not experienced a situation which necessitated a comprehensive evaluation as a result of an institution's formal submission of extensive substantive changes. Now, however, the new monitoring matrix identified one institution whose substantive changes identified it as one that required an automatic new evaluation. That evaluation was conducted and three areas of noncompliance with ACICS standards were

identified. They are currently pending a timely resolution by the institution in order for it to maintain its accreditation.

As a result of receiving this clarifying documentation, the agency can be found in compliance with the requirements of this section.

§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:

(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.

Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that ACICS needed to provide documentation that it comprehensively evaluates and verifies all the elements required of a teach-out agreement before approving it.

More specifically, the agency had policies that covered all the teach-out agreement requirements. However, the checklist previously used by ACICS staff to verify the individual elements was incomplete. As a result, the agency needed to expand the checklist, or to provide some other evidence that it was verifying all the requirements contained in the ACICS teach-out agreement policy. At the

time, ACICS expeditiously expanded the checklist, but it did not sufficiently reflect the qualitative criteria/factors used by ACICS to determine the adequacy of the teach-out agreement. As a result, the agency still needed to improve its process for evaluating teach-out agreements before approving them.

Agency Response and Discussion: The agency provided additional documentation to show that it has sufficiently revised its written policies and process for evaluating teach-out agreements before it will approve them. The agency now has a comprehensive “Teach-out Agreement Checklist and Approval Form” that highlights all the required areas that must be submitted to ACICS for review before the agreement can be approved. The required evidence includes -- (1) the teach-out campus is geographically proximate to the closing institution or otherwise can provide students with reasonable access to its programs and services; (2) the teach-out campus has the necessary experience, resources, and support services to provide an educational program that is of acceptable quality and is reasonably similar in content, structure and scheduling to that provided by the closing institution; (3) students will be provided, without additional charge, all of the instruction promised but not yet provided by the closing institution; (4) the teach-out campus' accreditation status is in good standing and is from a nationally accredited agency, recognized by the U.S. Department of Education; (5) a list of programs at the closing campus that are being taught out at the teach-out campus and programs offered at the teach-out campus in a side-by-side comparison; and (6) the names of all students enrolled in the closing school listed by program with their estimated graduation date.

The agency also provided documentation that it has successfully implemented its new process. The sample teach-out approval request from man institution included the necessary documentation, as well as evidence that the documentation was reviewed and evaluated by the agency for completeness and adequacy before it was finally approved. As a result of receiving this clarifying documentation, the agency can be found in compliance with the requirements of this section.

§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.

Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that the agency needed to address the issues cited regarding due process, including the distinctions ACICS makes between a re-hearing and an appeal, and to demonstrate how ACICS ensures that adverse actions are ultimately made final in a timely manner.

More specifically, in the recent past ACICS offered institutions two opportunities for due process when they received an adverse decision. With one exception, a school could request a re-hearing by the original decision-makers at their next meeting. The institution was also offered a separate appeal process before a body that contained no original decision-makers. The issue was that it was unclear if an institution had to choose either type of due process, or if it needed to have a re-hearing first before requesting an appeal. Furthermore, if an institution could choose both processes in succession, then Department staff was concerned whether a final decision could be postponed beyond the maximum enforcement limits specified elsewhere in the Secretary's criteria (cf. §602.20(a)).

On a related matter, ACICS did not document how it implements its due process policies when the original action of the main decision-makers (ACICS Council) was amended or reversed by the special appeal body (ACICS Review Panel), and then sent back to the ACICS Council for their deliberation and final action, while at the same time identifying the specific issues that needed to be addressed. Of course, it was possible that no appeal body had remanded a case back to the ACICS Council for final action. In any case, the agency was asked to provide evidence documenting compliance, or to attest that no appeal panel had remanded a case back to the ACICS Council for final action.

Agency Response and Discussion: The agency provided additional documentation to show that it has substantially clarified its due process procedures to address the cited concerns. First, the agency has eliminated the re-hearing process conducted by the original decision-makers (ACICS Council). The agency now only offers the appeals process in order to ensure that an institution found to be out of compliance with ACICS standards will either come into compliance within the timeframes mandated by the Secretary's criteria or face loss of accreditation.

As well, the agency has publicized the changes throughout its communities of interest, has trained all those involved in the process regarding the implications of the changes, and has revised the relevant portions of its written policies, together with the supporting mechanisms such as the template letters to the affected institutions.

On the related matter regarding remands to the ACICS Council from an appeal panel, the agency attested that it has not had occasion to process an appeal that was amended, reversed or remanded by an appeal panel. The agency provided documentation showing that the only two appeals that were heard by an appeal panel had resulted in the affirmation of the original adverse decision made by the ACICS Council.

As a result of receiving this clarifying documentation, the agency can be found in compliance with the requirements of this section.

§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

Previous Issue or Problem: During its June 2011 review of the agency, Department staff noted that the appropriate ACICS process and written policy was adequate, after it was revised to more clearly provide the adversely-affected institution an opportunity to add comments to the notification statement before its release. (No institutions had chosen to do so up to that time.)

However, to demonstrate implementation, ACICS still needed to submit actual examples of the specified statements it had provided to the required entities. Those sample statements needed to summarize the reasons for the adverse action taken by ACICS, together with any official comments the adversely-affected institution may have chosen to make.

Agency Response and Discussion: The agency provided additional documentation to show that it had successfully implemented its policy and process to provide the required summary statement, together with any comments the institution may have chosen to make.

The documentation showed that ACICS solicited comments from an adversely-affected institution and incorporated those comments into the specified notification letter. As well, the documentation showed that the notification letter contained a brief summary of the reasons for the adverse action, as required.

As a result of receiving this clarifying documentation, the agency can be found in compliance with the requirements of this section.

PART III: THIRD PARTY COMMENTS

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