

U.S. Department of Education

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

RECOMMENDATION PAGE

1. **Agency:** Accreditation Council on Optometric Education (1952/2008)
(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 in the United States of professional optometric degree programs, optometric technician (associate degree) programs, and optometric residency programs, and for the preaccreditation categories of Preliminary Approval for professional optometric degree programs and Candidacy Pending for optometric residency programs in Department of Veterans Affairs facilities.
4. **Requested Scope of Recognition:** Same.
5. **Date of Advisory Committee Meeting:** June, 2013
6. **Staff Recommendation:** Continue the agency's current recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified below.
7. **Issues or Problems:** It does not appear that the agency meets the following sections of the Secretary's Criteria for Recognition. These issues are summarized below and discussed in detail under the Summary of Findings section.

-- The agency needs to have a clear written policy that requires it to have an adequate representation of both educators, and practitioners, as it makes its selections for all site teams. In addition, the written policy needs to indicate what the agency uses to designate a person to serve

in one category, as distinguished from the other. [§602.15(a)(4)]

-- The agency needs to clarify and document how it evaluates the institutionally-established student achievement benchmarks against the benchmarks established by ACOE in its monitoring protocols for Professional Optometric Programs. In addition, the agency needs to clarify and document the level of authority formally assigned to the student achievement benchmarks that ACOE applies to Professional Optometric Programs. [§602.16(a)(1)(i)]

-- The agency needs to ensure that any record of student complaints that was received directly by ACOE is made available to the on-site visiting team. [§602.16(a)(1)(ix)]

-- The agency needs to ensure that all of its preaccreditation standards are appropriately related to the agency's accreditation standards. In particular, the agency needs to avoid potential confusion in its public terminology, ensure that a site visit is conducted before granting any public status, and to clearly limit any preaccreditation status, or any combination of preaccreditation statuses, to five years total. In addition, the agency needs to provide documentation of its review and approval of program requests for preaccreditation status. [§602.16(a)(2)]

-- The agency needs to provide guidance to its programs, and to its reviewers, regarding what ACOE consistently considers to be significant changes that must be reported in the annual reports, and specially reviewed by the agency's decision-makers. [§602.19(b)]

-- The agency needs to clarify how it limits an extension granted for good cause before ACOE is required to take an adverse action against a program. [§602.20(b)]

-- The agency needs to clarify its written instructions to an appeal panel to ensure that the panel's authority to reverse an ACOE decision is not undermined. [§602.25(f)]

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The American Optometric Association, Accreditation Council on Optometric Education (ACOE) accredits professional optometric degree (O.D.) programs, optometric technician (associate degree) programs, and optometric residency programs. The agency currently accredits 17 professional optometric degree programs, 5 optometric technician programs, and 178 optometric residency programs. In addition, the agency preaccredits 4 professional optometric degree, and 2 optometric residency programs. These programs are all located throughout the United States and Puerto Rico. (The agency also accredits 2 professional optometric degree programs and 1 optometric residency program in Canada.)

The ACOE is a programmatic accreditor, and consequently is not required to meet the Secretary's "separate and independent" requirements. The agency's programs use the agency's accreditation to enable them to establish eligibility for federal programs under the Title VII Public Health Service Act and for participation in the Department of Veterans Affairs, Veterans Health Administration education and training program for optometry residency programs.

Recognition History

The American Optometric Association was first recognized by the U.S. Commissioner of Education in 1952. Since that time, the agency has been periodically reviewed and has been granted continued recognition.

ACOE last came before the National Advisory Committee on Institutional Quality and Integrity for a full review in December 2007, and was subsequently granted (in early 2008) continued recognition for a period of five years. The Department received no third-party comments in connection with the agency's petition for continued recognition.

As part of its review of the agency's request for continued recognition, Department staff reviewed the agency's petition and supporting documentation, and observed a decision-making meeting in Alexandria, Virginia on February 16, 2013.

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--

(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;

The agency provided abbreviated vitae for its current board members, which clearly indicate that there are both educators and practitioners on the ACOE decision-making body. As well, the agency's handbook indicates that educators and practitioners are to be represented on the decision-making body.

In addition, the agency provided its handbook containing the ACOE policy on the composition of any appeals panel, and the policy does require the participation of both an educator and a practitioner. And as previously noted, the agency has not had occasion to process an appeal, therefore documentation of policy implementation is not available at this time.

In regards to site visitors, the agency included its on-site evaluation policy, which requires representation by an educator and practitioner. However, the agency did not discuss any method, supported by documentation, to demonstrate that ACOE does consistently include educators and practitioners on all its site visit teams.

The last concern was raised because the agency's published glossary does not contain any indication of how the ACOE defines a practitioner or an educator. Without mutually exclusive definitions, the agency may be inconsistently assigning persons with similar backgrounds to one or the other required representative categories. As well, there appears to be no restriction on a person serving in both categories simultaneously at any given time. It appears to be currently possible for a person to be categorized as an educator while serving on the ACOE council, and designated as a practitioner while on a site visit.

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

Analyst Remarks to Response:

The draft staff analysis found that the agency needs to have a clear written policy that requires it to have an adequate representation of both educators, and practitioners, as it makes its selections for all site teams. In addition, the written policy needs to indicate what the agency uses to designate a person to serve in one category, as distinguished from the other. Furthermore, the agency needs to provide evidence that it currently maintains adequate representation of both educators, and practitioners, on all site teams.

More specifically, the original analysis found that the agency did not discuss any method, supported by documentation, to demonstrate that ACOE consistently includes educators and practitioners on all its site visit teams. The concern was raised because the agency's published glossary did not contain any indication of how the ACOE defines a practitioner or an educator. In addition, without mutually exclusive definitions, the agency could be inconsistently assigning persons with similar backgrounds to one or the other required representative categories. Furthermore, there appeared to be no restriction on a person serving in both categories simultaneously at any given time. As a result, it appeared to be possible for a person to be categorized as an educator while serving on the ACOE council, and designated as a practitioner while on a site visit.

In its response to the draft analysis, the agency provided a recent (May 2013) list of abbreviated biographies for its Accreditation Council members (Exhibit 65) that clearly identifies each member as an educator, practitioner or public member. In addition, the agency provided a list of trained consultants, from which it picks site visitors, and each person on the list was designated either as an educator or as a practitioner (Exhibit 66). Furthermore, the agency provided a roster of current team chairs in which each person was designated as either a practitioner or an educator (Exhibit 67). As well, the agency provided a roster of 2013 site visits where the team members are clearly identified as having been designated as an educator or a practitioner to ensure both categories are represented (Exhibit 68). (The agency response did not identify an ACOE written policy that requires an adequate representation of both educators and practitioners on all site teams.)

There is no question that the agency's recent documents all clearly reflect whether a person has been designated as an educator or as a practitioner. And there is no question that the accuracy of those recent documents hinges on how a person becomes designated as either a practitioner or as an educator in the first place.

The response narrative indicated that there are unpublished working definitions based on current employment that the ACOE uses internally to make the designations. The concern expressed in the original analysis was based on the fact that the agency did not make its working definitions public. As well, the lack of published definitions made it difficult for the agency to demonstrate that it was acting consistently when it made its designations. (Department staff is still concerned because a comparison of the designations in Exhibits 66 and 67 with each individual's current employment seems to indicate that the ACOE staff may

not be using the unpublished definitions in a consistent manner.)

In its response to the draft analysis, the agency indicated that it will adopt formal definitions in the future for purposes of clarity. In addition, the agency indicated it will include distinct definitions of a practitioner and an educator in a public document. Once fully implemented, those actions should make it easier for the agency to demonstrate that its designations are accurate and consistent.

As a result, the agency cannot be found in compliance with the requirements of this section at this time.

§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.**

The ACOE student achievement standards require programs to maintain and publish a current statement of its mission, together with the goals and objectives by which it intends to fulfill its mission. The outcomes measures used in assessing student achievement normally include career placement, national licensing examination results, performance on National Board of Examiners in Optometry, and program completion, as appropriate for each program type. Furthermore, the results of these measures are to be used to inform the improvement of the program. As well, each program is required to establish and apply a published set of clinical outcomes in preparing its students for entry-level practice. They must be based on ACOE's established list of expected clinical competencies by which all programs are evaluated (as found in the ACOE curriculum standards).

ACOE has been collecting the student achievement data, including licensure pass rates, from its programs annually, and has been performing its assessment of that data for the last several years. The agency has had little difficulty in having its programs meet the ACOE student achievement standards, and the agency has followed its special review protocols when the situation warranted. Department staff observed an ACOE decision meeting and found that the visiting

teams evaluate the self-study and review documentation to verify that all programs do in fact meet the agency's expectations regarding success with respect to student achievement.

Regarding student achievement for Optometric Residency Programs, ACOE's published standards require that they achieve a completion rate of at least 70% over a 7 year period, as well as attain a placement rate (in a clinical, educational, research or administrative setting) of at least 70% for its graduates within one year of completing the program. And regarding student achievement for Optometric Technician Programs (Associate Degree), ACOE's published standards require that they attain a placement rate of 60% of graduates within one year of program completion over a 7 year period.

ACOE expresses its student achievement expectations for Professional Optometric Programs in a significantly different manner. The agency conducts a special review of any Professional Optometric Program that achieves a less than 70% pass rate on the national licensing exam for two years, or that demonstrates a decrease of 20 percentage points or more from the prior year's ultimate pass rate. The program reports that data to ACOE on each annual report. The foundation for that ACOE activity is a motion that was adopted during a 2007 decision-making conference call, and revised during a 2011 decision-making meeting. The agency also has a standard for its Professional Optometric Programs (O.D. 1.3) that requires an institution to set its own outcome measures. However, it is not clear how ACOE evaluates these institutionally-established benchmarks, nor how they relate to the benchmarks established by the agency in its monitoring protocols.

As stated, ACOE currently maintains the practice of specially reviewing any Professional Optometric Program that fails to meet the agency's expectations regarding student achievement. Department staff is concerned because those expectations were initially adopted in a decision-makers' conference call and later revised by the same small group with little, if any, input from the agency's constituents.

It is unclear as to why the agency does not include its student achievement expectations for Professional Optometric Programs within its published standards, as it does for the Optometric Residency Programs and for the Optometric Technician Programs. (Note: Department staff wishes to clarify that ACOE is not required by the Secretary's criteria to place its student achievement requirements for Professional Optometric Programs on the same authoritative level as it does for Optometric Residency Programs and for Optometric Technician Programs.) It is also clear, however, that another conference call of the decision-makers could just as easily alter, or eliminate altogether, those student achievement requirements without input from ACOE constituents. As well, ACOE constituents need to consider that permitting the agency's decision-makers to adopt informal requirements that are similar to standards, but without formalized program input, carries serious potential risk.

In any case, until these matters are addressed, a finding of compliance cannot be made.

Analyst Remarks to Response:

The draft analysis found that the agency needs to clarify and document how it evaluates the institutionally-established student achievement benchmarks against the benchmarks established by ACOE in its monitoring protocols for Professional Optometric Programs. In addition, the agency needs to clarify and document the level of authority formally assigned to the student achievement benchmarks that ACOE applies to Professional Optometric Programs. More specificity regarding the issues that ACOE needs to completely address can be found in the original analysis.

In its response to the draft analysis, the agency indicated that it will need to study the matter further. After that, the agency will act on the solutions necessary to bring ACOE into full compliance. When the agency is prepared to address the solutions, it will need to discuss and demonstrate how the specific concerns elaborated upon in the original analysis were resolved.

As a result, the agency cannot be found in compliance with the requirements of this section at this time.

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

ACOE expects each program to keep and maintain a record of student complaints, to note them in the self-study, and to have them available for review by the visiting team. As well, each program is expected to publish its policies and procedures regarding student complaints, and to maintain accurate records of receiving, adjudicating and resolving the complaints.

Department staff observed an ACOE decision meeting and found that the visiting team reviews any record of student complaints received by the program relative to compliance with the agency's standards, including the resolution of each complaint. However, it is not clear that the team is provided with any record of student complaints received directly by ACOE, at least any record since the last on-site review. Consequently, the full record does not appear to become part of the agency's review of the program. Until this matter is addressed, a finding of compliance cannot be made.

Analyst Remarks to Response:

The draft analysis found that the agency needs to ensure that any record of student complaints that was received directly by ACOE is made available to the on-site visiting team. More specificity regarding the issues that ACOE needs to completely address can be found in the original analysis.

In its response to the draft analysis, the agency indicated that it will need to study the matter further. After that, the agency will act on the solutions necessary to bring ACOE into full compliance. When the agency is prepared to address the solutions, it will need to discuss and demonstrate how the specific concerns elaborated upon in the original analysis were resolved.

As a result, the agency cannot be found in compliance with the requirements of this section at this time.

(a)(2) The agency's preaccreditation standards, if offered, are appropriately related to the agency's accreditation standards and do not permit the institution or program to hold preaccreditation status for more than five years.

ACOE currently offers the preaccreditation category of "Preliminary Approval" for professional optometric degree programs. In addition, the agency currently offers the preaccreditation category of "Candidacy Pending" for optometric residency programs located in Department of Veterans Affairs facilities. The agency does not offer a preaccreditation category for optometric technician (associate degree) programs.

To obtain "Preliminary Approval" a professional optometric degree program is required to submit a self-study to verify its compliance with the agency's standards. The self-study is then reviewed by the ACOE to determine whether basic planning and development have progressed to a degree that would warrant an on-site visitation. The agency's publications note that a site visit to a professional optometric degree program is "required prior to the consideration of a preaccreditation or accreditation status." In addition, the ACOE degree program manual clearly states that the agency will not grant preaccreditation to a degree program for longer than five years. (The agency has developed standards for preaccreditation that are closely related to its accreditation standards, but more specific with regards to what is expected for a program seeking preaccreditation. These standards have not yet been adopted.)

"Candidacy Pending" is a preaccreditation classification awarded to optometric residency programs at Veterans Affairs facilities that are in their planning stages, prior to receipt of Veterans Affairs funds. The ACOE can grant this preaccreditation category based solely on its "judgment of the total educational effectiveness of the program and the degree it meets the standards of the ACOE." A site visit is scheduled after the first resident has been admitted.

However, the agency does not require any kind of site visit before it will grant a preaccreditation status to a residency program. As a result, it is difficult to see how the agency's requirements for accreditation are appropriately related to this preaccreditation status. In addition, the ACOE manual for residency programs does not clearly limit the preaccreditation status for residency programs to five years maximum.

Furthermore, the agency is considering the revamping of its preaccreditation categories for the professional optometric degree programs. Among the proposals being considered for professional programs is to award a status called "Candidate." However, unlike commonly accepted practice and terminology, the ACOE would not consider a program that has been officially designated as a candidate as being in a preaccreditation category.

When making revisions to its preaccreditation categories, ACOE needs to be more mindful of commonly accepted terminology and practice in order to minimize potential confusion for the public. (Already, for example, the agency informs the public that a residency program has attained the preaccreditation category of "Candidacy Pending," a designation that would commonly be interpreted to mean that the program is on its way to being a candidate. However, there is no candidate designation even available to a residency program, since it must go from "Candidacy Pending" to actual accreditation, or else be terminated.)

Also, the agency did not provide any documentation of its review and approval of program requests for preaccreditation status.

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

Analyst Remarks to Response:

The draft analysis found that the agency needs to ensure that all of its preaccreditation standards are appropriately related to the agency's accreditation standards. In particular, the agency needs to avoid potential confusion in its public terminology, ensure that a site visit is conducted before granting any public status, and to clearly limit any preaccreditation status, or any combination of preaccreditation statuses, to five years total. In addition, the agency needs to provide documentation of its review and approval of program requests for preaccreditation status. More specificity regarding the issues that ACOE needs to completely address can be found in the original analysis.

In its response to the draft analysis, the agency indicated that it will need to study the matter further. After that, the agency will act on the solutions necessary to bring ACOE into full compliance. When the agency is prepared to address the solutions, it will need to discuss and demonstrate how the specific concerns elaborated upon in the original analysis were resolved.

As a result, the agency cannot be found in compliance with the requirements of this section at this time.

§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.

The agency monitors its programs by requiring each of them to keep ACOE fully informed of its activities by submitting applications for substantive changes. In addition, the agency monitors the information on each program that it receives in the required annual reports. The information monitored annually includes significant changes concerning areas such as enrollments, finances and student achievement. (Student achievement is discussed under §602.16(a)(1)(i).)

The agency monitors these reports for “significant” changes to help ensure that the programs remain compliant with agency standards. If a program does not remain compliant, ACOE may conduct an interim visit to investigate. (The agency provided documentation regarding one program that received an interim visit due to problematic annual report data concerning licensing examination results.)

Except for percentages identified by ACOE as significant for funding changes, and for licensing examination results, there is not much guidance for the programs, and the ACOE annual report reviewers, to help them consistently determine what constitutes a “significant” change that must be reported, and reviewed for potential follow-up.

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

Analyst Remarks to Response:

The draft analysis found that the agency needs to provide guidance to its programs, and to its reviewers, regarding what ACOE consistently considers to be significant changes that must be reported in the annual reports, and specially reviewed by the agency's decision-makers. More specificity regarding the issues that ACOE needs to completely address can be found in the original analysis.

In its response to the draft analysis, the agency indicated that it will need to

study the matter further. After that, the agency will act on the solutions necessary to bring ACOE into full compliance. When the agency is prepared to address the solutions, it will need to discuss and demonstrate how the specific concerns elaborated upon in the original analysis were resolved.

As a result, the agency cannot be found in compliance with the requirements of this section at this time.

§602.20 Enforcement of standards

(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.

The ACOE written policy and procedures are clear regarding the enforcement of its standards. Those standards require ACOE to determine the appropriate action if a program does not bring itself into compliance within a specified amount of time period, and those time periods are monitored using an electronic database.

ACOE determines whether or not the program has come into compliance during its review of annual reports, progress reports or site visit reports. If the program is not in compliance with the agency's standards when the established deadline for compliance is reached, ACOE will deny or revoke accreditation, unless good cause exists for an extension of the time frame.

Specifically, the agency will only grant a good cause extension for situations where the program has made substantial, but not complete, progress toward compliance with ACOE standards, where a limited amount of time is needed to reach full compliance, and where all reasonable alternatives for achieving compliance within the appropriate time period have been exhausted. In addition, the petition's documentation demonstrated that ACOE follows its enforcement policies as they are currently written.

However, it is unclear from the agency's written policy if ACOE sets a definitive time limit on any extension granted. In addition, it appears that ACOE may grant more than one extension. The concern is whether ACOE requires itself to make hard decisions in a timely manner. In other words, it is unclear at which point ACOE requires a program to finally come into compliance, or else the agency will take an adverse action.

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

Analyst Remarks to Response:

The draft analysis found that the agency needs to clarify how it limits an extension granted for good cause before ACOE is required to take an adverse action against a program. More specificity regarding the issues that ACOE needs to completely address can be found in the original analysis.

In its response to the draft analysis, the agency indicated that it will need to study the matter further. After that, the agency will act on the solutions necessary to bring ACOE into full compliance. When the agency is prepared to address the solutions, it will need to discuss and demonstrate how the specific concerns elaborated upon in the original analysis were resolved.

As a result, the agency cannot be found in compliance with the requirements of this section at this time.

§602.25 Due process

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

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

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

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

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

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

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

The agency's policies and procedures regarding appeals contain all the elements required by this section, to include the composition, function, and authorized actions of the appeals body. The appeals process also allows for the program to be represented by legal counsel.

Since the agency stated that it has not had an appeal, documentation to verify implementation of ACOE policies and procedures is unavailable.

Although the ACOE is required to act in a manner consistent with the appeal panel, Department staff is concerned because the written instructions to the appeal panel may be considered contradictory, and may undermine the intent of the Secretary's requirements. That is, the appeal panel is reminded the ACOE "is the agency of the profession which has been established to evaluate and accredit optometric educational programs. As such, its judgment is entitled to great weight and shall not be modified or reversed simply because the Appeals Panel, if it had initially heard the evidence, might reasonably have reached a different result." In addition, the appeal panel is reminded that its purpose "is to review the appeal to determine whether prejudicial error has occurred, not to completely rehear the entire matter. Therefore, only if the Appeals Panel concludes that the Council could not reasonably have acted as it did, may the Appeals Panel so direct the Council as to the action it considers appropriate."

As written, the only way an appeal panel could reverse an ACOE decision is if the appeal panel can show that the original ACOE decision was unreasonable. The ACOE could have acted unfairly, arbitrarily, and/or inconsistently, but as long as the decision could be considered "reasonable" then the appeal panel cannot overturn it. It is unclear how the published ACOE policy, as currently written, protects the authority of the appeal panel to reverse ACOE decisions. Until this matter is addressed, a finding of compliance cannot be made.

Analyst Remarks to Response:

The draft analysis found that the agency needs to clarify its written instructions to an appeal panel to ensure that the panel's authority to reverse an ACOE decision is not undermined. More specificity regarding the issues that ACOE needs to completely address can be found in the original analysis.

In its response to the draft analysis, the agency indicated that it will need to study the matter further. After that, the agency will act on the solutions necessary to bring ACOE into full compliance. When the agency is prepared to address the solutions, it will need to discuss and demonstrate how the specific concerns elaborated upon in the original analysis were resolved.

As a result, the agency cannot be found in compliance with the requirements of this section at this time.

PART III: THIRD PARTY COMMENTS

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