

U.S. Department of Education

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

RECOMMENDATION PAGE

1. **Agency:** Council On Occupational Education (1969/2011)
(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 and preaccreditation ("Candidacy Status") throughout the United States of postsecondary occupational education institutions offering non-degree and applied associate degree programs in specific career and technical education fields, including institutions that offer programs via distance education.
4. **Requested Scope of Recognition:** Same as above.
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 Council on Occupational Education (COE) is a national institutional accreditor. Its current scope of recognition is for the accreditation and preaccreditation (“Candidacy status”) throughout the United States of postsecondary occupational education institutions offering non-degree and applied associate degree programs in specific career and technical education fields, including institutions that offer programs via distance education.

COE was originally established in 1968 as a committee of the Southern Association of Colleges and Schools (SACS). In 1971 the Committee became the Commission on Occupational Education Institutions. In 1995, the agency formally separated from SACS, adopted its present name, and began to accredit and preaccredit institutions throughout the United States.

COE currently accredits 389 institutions and 50 candidate institutions in 31 states, the District of Columbia and Puerto Rico. COE’s accreditation enables the institutions it accredits to establish eligibility to participate in Title IV programs; thus it must meet the Secretary’s separate and independent requirements.

Recognition History

The U.S. Commissioner of Education first listed COE as a recognized accrediting agency in 1969 under the name “Committee on Occupational Education Institutions.” The former Secretary of Education last granted COE a recognition period of four years after deferring a decision on the agency’s recognition in 2005, due to outstanding issues concerning the agency’s review of institutions with distance education, its monitoring process, and its substantive change review process and review procedures. The former Secretary issued her decision letter in the Fall 2007, stating that the agency had sufficiently addressed those outstanding issues.

The last full review of the agency was conducted at the June 2011 National Advisory Committee on Institutional Quality and Integrity (NACIQI or the Committee) meeting. Department staff and the Committee both recommended, and the Secretary concurred, that the agency’s recognition be continued that it submit a compliance report addressing the issues identified in the staff analysis. This analysis is a review of that compliance report.

PART II: SUMMARY OF FINDINGS

§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.

When the agency was last reviewed, it was found out of compliance with this criterion because it had not yet fully implemented its amended student achievement standard. The agency was required to make policy and procedural changes to implement its evaluation of program-level outcomes data as part of its institutional student achievement standard and demonstrate its effective application of its student achievement standards.

The agency has provided evidence that demonstrates that it has implemented policy changes to address the deficiencies noted in the final report. Changes have been made and incorporated into the Handbook of Accreditation and the Policy and Rules of the Commission. The Handbook of Accreditation (see page 50) now requires institutions to compute and annually submit to the Commission program-level student achievement outcomes for comparison with benchmarks established by the agency, regarding student completion rates, placement rates, and when appropriate for the program, licensure/exam data. The agency has established the same benchmarks for all programs of 60% for program completion, 70% for placement, and 70% for licensure passage rates, if applicable. COE no longer uses institutional-level benchmarks as evidence of student achievement.

The Policy and Rules of the Commission (see page 42) contains the agency's guidelines for taking action against institutions that do not meet the established program-level benchmarks. Institutions are placed on heightened monitoring status when one or more of their programs fails to meet the agency's student achievement benchmarks. This publication also prescribes the required corrective action institutions must follow associated with being placed on heightened monitoring status and the timeframes for coming into compliance.

The Annual report excerpts (see exhibit 5, criterion 602.17(f)) demonstrate the agency's collection of student achievement data at the program level and comparison of this data to its established benchmarks. In addition, the Commission's review of student achievement data and decision to place two institutions on "heightened monitoring" for failure to meet program level benchmarks is evidenced in exhibit 6, criterion 602.17(f) and demonstrates the agency's enforcement of its standards.

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

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

When the agency was last reviewed, it was found out of compliance with this criterion. The agency was required to clarify and correct all statements to accurately reflect its accreditation of distance education as defined by the agency and the Department.

Corrections have been made to the Handbook of Accreditation, which clearly indicate that the agency only grants accreditation for distance education (see eligibility requirements). In addition, standard 11 (distance education) stipulates that the agency does not accredit institutions for correspondence education. The Handbook of Accreditation also defines both distance education and correspondence education which clearly explains these modes of instruction eliminating the possibility of misinterpreting these terms. Also, the Policies and Rules of the Commission make clear that the agency does not accredit institutions that offer instruction via correspondence education.

The amendments made to the agency's accreditation and policy publications are sufficient to bring it into compliance with this criterion.

§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--

(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

When the agency was last reviewed, it was found out of compliance with this criterion because the agency had not demonstrated that it provides institutions with a detailed written report with their performance regarding student achievement outcomes. When last reviewed, Department staff specifically noted that although the site visit reports referenced student achievement data from the annual reports, the site visit report did not provide institutions with a detailed assessment of their performance with respect to student achievement outcomes.

In its response, the agency references its annual report as one of its methods for providing institutions with an assessment of their performance in relationship to the agency's student achievement benchmarks. The agency has made changes to its annual reporting process and to its annual report document as discussed in criterion 602.16(a) (1) (i). The annual report (see exhibit 5) depicts on a chart the institution's student achievement outcomes. Through the use of its annual report software, the agency's then provides feedback to the institution by displaying on the annual report the specific program that has been triggered as not meeting student achievement benchmarks. The annual report also explains the next steps the institution must take to bring its self into compliance. Although, this is a unique method of providing institutions with an assessment of their performance regarding student achievement outcomes the annual report, in this case, does accomplish this requirement.

The Commission's decision letter (exhibit 7) includes a student achievement assessment report which also provides institutions with a detailed written assessment of their performance in relationship to the agency's student achievement benchmarks.

§602.19 Monitoring and reevaluation of accredited institutions and programs.

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

When the agency was last reviewed, it was found out of compliance with this criterion because the agency did not demonstrate that it monitors the growth of programs at institutions experiencing significant enrollment growth. The agency has amended its policy and accreditation publications to address Department staff concerns. (see exhibit 1 and 3). In accordance with its policy any increase in the total FTE of an institution that exceeds 25 percent of the established baseline will require the institution to submit a formal notice to the Commission (see exhibit 10). As discussed in the narrative, the baseline for each twelve-month period is the Full Time Equivalence (FTE) calculation reported in the most recent annual report.

The Commission action after being notified by the institution will be to place the institution on heightened monitoring status (see exhibit 9). An institution placed on heightened monitoring status must submit a formal notice to the Commission with its rationale for the FTE increase as well as specific data on enrollment in all programs and for all campuses that experienced significant growth contributing to the increase of total institutional FTE. The amended policy establishes a procedure, which allows the agency to monitor significant growth at both the institutional level and the program level.

Implementation of the agency's new monitoring policy is evidenced in (exhibit 5) annual report excerpts. The Commission letters provided as evidence by the agency also documents that it has fully implemented its new monitoring policy demonstrating compliance with this criterion.

§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.

When the agency was last reviewed, it was found out of compliance with this criterion because the agency's policy on review of student achievement data did not clearly require institutions to take the appropriate action to come into compliance with the agency's standards within a time period that must not exceed the requirements of this criterion. The agency also needed to provide documentation demonstrating the application of its revised policy.

The agency references its Policy and Rules of the Commission (revised July 2012) as containing its new policy addressing the requirements of this criterion. In accordance with the agency's policy, programs that fail to meet established program-level benchmarks for student achievement are placed on heightened monitoring and are required to submit documentation and may need to take other actions. Institutions that fail to bring triggered programs into compliance with the program-level benchmarks within the established timeframes, and that do not choose to discontinue enrolling students in the program(s), will be subject to an adverse action once the period for coming into compliance expires. That period is specified as twelve months, eighteen months, or two years, depending upon the length of the longest program offered by the institution. (When an institution is found out of compliance with any other standard, the agency provides only a 12-month period for achieving compliance. While establishing different timeframes for coming into compliance with various standards is not a violation of the Criteria for Recognition, it could be a source of confusion for the agency's institutions.) The agency's policy does not define "adverse action". Because the agency's policy (in the 2011 edition of the Handbook) previously defined adverse action as "warning, probation, show cause, or other", the agency should clarify in its policy the types of adverse actions the Commission must take. This criterion requires an agency to immediately initiate adverse action when an institution is not in compliance with any standard, or provide a limited timeframe for coming into compliance, and then taking adverse action. The regulations define adverse action as "denial, withdrawal, suspension, revocation or termination" of accreditation or preaccreditation.

Although not specified in the policy, the Guidelines for Review (revised August 2012) require the Commission to act to place an institution on probation status several months before the deadline for achieving compliance if the program performance is not satisfactory enough to comply with benchmarks by the end of the period for coming into compliance. The Guidelines further require that the institution be placed on Show Cause if it has failed to demonstrate compliance or stop enrollment in triggered programs by the established deadline. Taken together, these documents define a policy/process that is compliant with this criterion. However, the policy itself needs to include actions the Commission would take to place the institution on probation and issue a Show Cause order if the institution fails to demonstrate compliance with the agency's program-level student achievement benchmarks.

The agency provided copies of letters to two institutions placing them on

heightened monitoring for failing to meet student achievement benchmarks and specifying actions they are required to take. The agency states that it has not yet imposed probation status or taken adverse action concerning program-level student achievement outcomes.

§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.

When the agency was last reviewed, it was found out of compliance with this criterion because it did not provide evidence that it involves all of its relevant constituencies in its standards review process and affords them a meaningful opportunity to provide input. To address Department staff's concerns, and to demonstrate compliance, the agency discussed in its last submission its plans to develop a website which would provide a place for input to be solicited from the agency's constituencies regarding its accreditation standards.

The agency has documented that its new website is operational and indeed allows direct input from constituencies (the general public, institutional members and potential employers) in the review of its accreditation standards. The documentation provided by the agency includes screen shots from the website depicting feedback from the public. The agency has also attached surveys taken via the website from constituencies rating the relevance of the agency accreditation standards.

To further address Department staff's concerns, the agency has also initiated a policy that requires institutions that are hosting accreditation visiting teams to engage their occupational advisory committees in the Council's web site survey see (Exhibit 1). The surveys are evidenced exhibit 16.

The agency has provided ample documentation in its response to demonstrate that it not only involves relevant constituencies in the review of its accreditation standards, but it also affords them direct input in the review and evaluation of its accreditation standards.

The agency's policy and standards manuals have been updated to reflect the changes made to its systematic review of standards policy.

(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.**

When the agency was last reviewed, Department staff highlighted that the agency had made notable changes to its policies and procedures to ensure that members of the public and potential employers are included in its notification and opportunity for comment policy. However, Department staff noted that the agency must demonstrate the implementation of the changes made to its standards revision process.

The agency discusses in its narrative, two unresolved actions at the time of the review. First, it had not demonstrated that it forwards standards survey results from its constituencies to the Councils Committee on Accreditation Standards and Conditions in accordance with its policy. Secondly, the agency had not yet established policy requiring institutions to make the agency's website available in their publications before hosting accreditation visiting teams, to encourage the public to provide comment on the standards review process.

The agency has provided as evidence, an agenda dated August 10, 2011 for the Committee on Accreditation Standards and Conditions meeting. Agenda topics include survey results from institutional members and Commissioners, documenting the Committee's review of survey results. Evidenced in exhibit 22 are proposed changes to the agency's accreditation standards as a result of the surveys. In addition, the Handbook of Accreditation has been amended and requires that institutions include the agency's website in their notices in

newspaper(s) and/or media services before hosting accreditation visiting teams. The agency has not attached any documentation to demonstrate the application of this policy. However, it has provided examples of public notices (see exhibit 53 for criterion 602.23(b)) placed in newspapers.

§602.22 Substantive change.

(a) If the agency accredits institutions, it must maintain adequate substantive change policies that ensure that any substantive change to the educational mission, program, or programs of an institution after the agency has accredited or preaccredited the institution does not adversely affect the capacity of the institution to continue to meet the agency's standards. The agency meets this requirement if--

(1) The agency requires the institution to obtain the agency's approval of the substantive change before the agency includes the change in the scope of accreditation or preaccreditation it previously granted to the institution; and

When the agency was last reviewed, the agency was required to revise and adhere to a substantive change policy that requires the Commission to review and approve all of the types of substantive changes required by 602.22(a) (2) prior to an inclusion into the agency's grant of accreditation and demonstrate the application of its policy.

The agency states in its narrative that its Handbook of accreditation has been amended; although, the policy still allows the executive director to approve certain types of substantive changes, the amended policy requires the Commission to review and approve the types of substantive changes required by this criterion. A chart in the Handbook of Accreditation identifies which substantive changes can be approved by the executive director and which must be approved by the Commission.

The agency has also provided documentation which demonstrates the entire approval cycle (institution's application, the agency's evaluation of the application, results of a site visit and the Commission's decision) for a change of ownership/change of control and Commission letters approving a variety of types of substantive changes, that clearly specify the effective date as the date of the Commission's decision.

(2) The agency's definition of substantive change includes at least the following types of change:

(i) Any change in the established mission or objectives of the institution.

(ii) Any change in the legal status, form of control, or ownership of the institution.

(iii) The addition of courses or programs that represent a significant departure from the existing offerings of educational programs, or method of delivery, from those that were offered when the agency last evaluated the institution.

(iv) The addition of programs of study at a degree or credential level different from that which is included in the institution's current accreditation or preaccreditation.

(v) A change from clock hours to credit hours.

(vi) A substantial increase in the number of clock or credit hours awarded for successful completion of a program.

(vii) If the agency's accreditation of an institution enables the institution to seek eligibility to participate in title IV, HEA programs, the entering into a contract under which an institution or organization not certified to participate in the title IV, HEA programs offers more than 25 percent of one or more of the accredited institution's educational programs.

When the agency was last reviewed, Department noted that the agency's definition of substantive change included all of the types of substantive change required by this criterion except its policy was out of compliance with paragraph (vii). The agency was required to amend its policy to meet the requirement of paragraph (vii) of this criterion. To address Department staff concerns, the agency has amended its Handbook of accreditation. This publication no longer contains the term "contracts or consortium agreements" as a type of substantive change. The agency's current policy uses the term "contracts for instruction" and defines the term on page 37 of the Handbook of Accreditation. The Handbook of Accreditation also prescribes the review process for this type of substantive change. The agency has developed reader sheets for the review of contracts of instructions which provides addition guidance for Commissioners. The agency has also developed and provided as evidence its application form for contracts of instruction.

According to the policy, institutions that are eligible to participate in Title IV HEA programs shall not contract more than 25 percent of the instruction of one or more of its programs with an external entity, whether or not that entity is certified to participate in Title IV, HEA programs. This is a more restrictive policy than required by the Secretary's criteria, both in terms of the percentage of the program offered by the external entity, and the external entity's Title IV-eligibility status. The agency's policy specifically requires the Commission to evaluate and approve these types of substantive change; therefore, the policy is compliant.

The agency also states in its narrative that it has not had the opportunity to apply this policy. However, the agency did provide information about the criteria it would use in conducting the review.

(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.

When the agency was last reviewed, it was required to more clearly define when substantive changes requested by an institution are sufficiently extensive to require a new comprehensive evaluation. The agency states in its narrative that it has amended its policy to address this criterion and demonstrate it compliance. The agency's amended policy is displayed in the Handbook of Accreditation on page 26.

The policy identifies the circumstances when a substantive change proposed by an institution would be sufficiently extensive to require a new comprehensive evaluation of institutions. However, the policy is vague and it is not clear upon what basis the Commission would determine that the institution's ability to maintain its compliance with state or federal law, or with the agency's standards, is compromised. Further clarity could be achieved by including examples of the kinds of conditions that would trigger a review.

In addition, while the agency's amended policy stipulates that a site visit will be conducted, it is not clear whether the agency would conduct a full review to include submission of a self-study, site visit, site team reports, and new accreditation decision. The agency must further amend its policy to clarify what constitutes a new comprehensive evaluation. The agency must also provide documentation of its application of its policy, or indicate it has not had the opportunity to do so.

Analyst Remarks to Response:

In the draft staff analysis, the agency was found out of compliance with this criterion. The agency was required to amend its policy to clarify what constitutes a new comprehensive evaluation. The agency had to further amend its policy so that it makes clear upon what basis the Commission would determine that the institution's ability to maintain its compliance with state or federal law, or with the agency's standards, is compromised. The agency was also required to demonstrate the effective application of its policy or indicate it has not had the opportunity to do so.

In its response, the agency informs Department staff that it has amended its previous policy. This new policy does provide a more clear and succinct description of when a new comprehensive evaluation would be required. The policy also clearly indicates that institutions required to undergo a new

comprehensive evaluation must submit a self-study and host a site visit, and that the Commission will confirm the institution's compliance with accreditation conditions, standards, criteria, and policy. The agency's amended policy addresses Department staff's concerns and satisfies the requirements of this criterion.

The revised policy was developed with guidelines that would trigger a new comprehensive evaluation based on the type and number of substantive changes made or proposed by institutions within a 12-month period. The policy also contains two additional guidelines which do not involve a time component as part of the criteria triggering a new comprehensive evaluation. These guidelines include the following: Changes made or proposed compromise the institution's ability to fulfill its responsibility to deliver promised instruction and support services to the students it serves. Changes made or proposed compromise its ability to sustain financial stability requirements. These guidelines are linked to the agency accreditation standards and the policy clearly explains the areas of concern associated with these guidelines.

In addition, exhibit one identifies that the new policy was not approved by the commission until April 26, 2013; therefore, it is apparent that the agency has not had the occasion to apply this policy.

(c)(1) A visit, within six months, to each additional location the institution establishes, if the institution--

- (i) Has a total of three or fewer additional locations;**
- (ii) Has not demonstrated, to the agency's satisfaction, that it has a proven record of effective educational oversight of additional locations; or**
- (iii) Has been placed on warning, probation, or show cause by the agency or is subject to some limitation by the agency on its accreditation or preaccreditation status;**

When the agency was last reviewed, the agency was required to demonstrate that it effectively applies its revised policy regarding the review and approval of additional locations. The agency has provided the necessary documentation to demonstrate the application of its policy for approval of addition locations (which it refers to as a branch or extension). The attached application (exhibit 46) clearly illustrates that the agency reviews the financial and administrative capacity of the institution as part of its approval process. In addition, the agency's entire approval process is evidenced in the documentation provided for this criterion. The documentation includes an initial application, site visit report, the Commission's initial approval of the additional location and the Commission's final decision after it has reviewed all of the required documentation.

§602.23 Operating procedures all agencies must have.

(b) In providing public notice that an institution or program subject to its jurisdiction is being considered for accreditation or preaccreditation, the agency must provide an opportunity for third-party comment concerning the institution's or program's qualifications for accreditation or preaccreditation. At the agency's discretion, third-party comment may be received either in writing or at a public hearing, or both.

When the agency was last reviewed, it was required to demonstrate the effective application of its proposed revisions for providing opportunity for third-party comments. The Handbook of Accreditation has been amended and requires that institutions being considered for pre-accreditation, initial accreditation, or reaffirmation of accreditation give notice in the appropriate newspaper(s) and/or media services and indicate where comments should be sent. The specifics of the policy can be found on page 39 of the publication. However, the agency's amended policy is out of compliance with this criterion. The policy stipulates that it only applies to institutions processing Title IV funds or those that may apply. In addition, the supporting documentation (public announcement requirement, exhibit 52) also contains this same limitation. Third-party comment should be solicited by all institutions not just those participating in Federal Student Aid programs, or planning to do so. Although the agency's policy is out of compliance it has provided examples of public notices (see exhibit 53) placed in newspapers.

When last reviewed, the agency noted that it would also solicit third-party comment regarding an institution's consideration for accreditation through its website which would be operational in May 2011. As discussed in criterion 602.21(a) (b) the agency has documented that its new website is operational and indeed provides an area for public comment regarding an institution's consideration for accreditation. The agency has provided screen shots from the feedback area on the website as evidence. The agency notes that it has not received any comments from the public regarding institutions hosting teams for pre-accreditation, initial accreditation, or reaffirmation of accreditation.

Analyst Remarks to Response:

In the draft staff analysis, the agency was found out of compliance with this criterion. The agency was required to amend its policy to clearly indicate that it requires all of the institutions it accredits to solicit 3rd-party comment during an accreditation review, not just those participating in Federal Student Aid programs as its policy stipulated.

In its response, the agency informs Department staff that it has amended its policy to require all of the institutions it accredits to solicit 3rd party comments during an accreditation review. The agency has provided the meeting minutes

displaying the Commission approval of the policy. The policy is displayed in the Handbook of Accreditation on page 39. The agency's policy amendment addresses Department staff concerns and is compliant with this criterion. The agency indicates that it has not had the opportunity to apply its newly-revised policy.

§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:

(a) Branch campus.

(1) The agency must require the institution to notify the agency if it plans to establish a branch campus and to submit a business plan for the branch campus that describes--

(i) The educational program to be offered at the branch campus;

(ii) The projected revenues and expenditures and cash flow at the branch campus; and

(iii) The operation, management, and physical resources at the branch campus.

(2) The agency may extend accreditation to the branch campus only after it evaluates the business plan and takes whatever other actions it deems necessary to determine that the branch campus has sufficient educational, financial, operational, management, and physical resources to meet the agency's standards.

(3) The agency must undertake a site visit to the branch campus as soon as practicable, but no later than six months after the establishment of that campus.

When the agency was last reviewed, it was found out of compliance with this criterion. Department staff noted that the agency had revised its policy requiring the Commission and not agency staff to approve the establishment of a branch campus prior to its inclusion in an institution's grant of accreditation. However, the agency had not demonstrated the application of its policy. In its response, the agency has provided the necessary documentation to demonstrate full compliance with this criterion. The documentation (application package, Commission meeting minutes, and Commission decision letters) provides evidence of the full review and evaluation of the institution request. It should also be noted, the agency provided a site visit report in its previous response to demonstrate that it conducted a site visit within the timeframe required by this criterion and its policy.

(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.

When the agency was last reviewed, it was found out of compliance with this criterion. Although the agency had demonstrated that a site visit was conducted within the 180 day requirement for the establishment of a branch campus, it had not done so for a change of ownership. In its response the agency has provided the necessary documentation to demonstrate its compliance. The Commission letter granting initial approval of the change of ownership displays an effective date of September 12, 2011 and the site visit report provided as documentation is dated February 8, 2012

(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.

When the agency was last reviewed, it was found out of compliance with this criterion because it had not demonstrated the application of its revised procedure for evaluating teach-out plans to ensure they provide for the equitable treatment of students.

The agency has provided the necessary documentation to demonstrate its evaluation of teach-out plans and its compliance with this criterion. The teach-out application and subsequent decision letter from the Commission illustrates the agency's application of its policy. The agency has also provided as evidence its assessment tool (see exhibit 55) which it uses to evaluate teach-out plans.

(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.

When the agency was last reviewed, Department staff noted that its revised policy meets the requirements of this criterion. However, the agency needed to demonstrate the effective application of its revised policy. The agency has attached its assessment tool for teach-out agreements as evidence. The agency states in its narrative that it has not had the opportunity to apply this policy. However, this statement is somewhat confusing. The agency provided as evidence for the previous criterion (602.24(c) (2)) a completed assessment form (reader sheet) to demonstrate its assessment of a teach-out plan. However, the section of the document used by the agency to assess teach-out agreements was also completed. In addition, it appears that the assessment document was developed based on the agency's revised policy. The agency must provide additional information to explain whether it has or has not, had an opportunity to apply this policy.

Analyst Remarks to Response:

In the draft staff analysis, the agency was found out of compliance with this criterion. The agency was required to provide additional information clearly explaining whether it has, or has not, had the opportunity to demonstrate the application of its policy regarding teach-out agreements.

In its response, the agency explains that the reader sheets provided as evidence in its compliance report were filled out incorrectly by the Commissioners assigned as readers. This mistake caused the confusion as to whether the agency had applied its policy regarding teach-out agreements. The agency further explains in its narrative that the reader sheet used by Commissioners included sections for the assessment of both a teach-out plan and a teach-out agreement. The Commissioners mistakenly completed the agreement assessment as well as the plan assessment; although, there was no requirement to complete the teach-out agreement section of the reader sheet. The agency states that it has edited its policy to better clarify when a teach-out agreement is required (see page 34 of the Handbook of accreditation). The agency has also amended its reader sheets in an attempt to prevent mistakes of this nature in the future. Department staff is appreciative of the agency's efforts to provide better

clarity in its policy. The agency states that it has not had an opportunity to apply its policy regarding the approval of teach-out agreements.

§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.

When the agency was last reviewed, Department staff noted that the agency's revised policy for timely notification to listed entities of an action to place an institution on probation satisfied the requirements of this criterion; however, department staff noted that the agency had not provided documentation of an appeal under its revised policy. In its response, the agency informs Department staff that it has not had an opportunity to apply its revised policy.

§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--

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

(1) A final decision to place an institution or program on probation or an equivalent status.

(2) A final decision to deny, withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of an institution or program;

(3) A final decision to take any other adverse action, as defined by the agency, not listed in paragraph (b)(2) of this section;

When the agency was last reviewed, Department staff noted that the agency had revised its policy to comply with the requirements under this section regarding placement of an institution or program on probation or an equivalent status. However, the agency had not provided evidence that it adheres to its revised policy.

In its compliance report, the agency provided as evidence a letter to the institution dated 03-15-12. The letter indicates the methods of transmission were fax, email and Federal Express. Faxing would indicate that the institution was notified on 03-15-12. The agency also provided an email it sent to the Department and other entities dated 03-16-12. This documentation clearly indicates that notification to the entities required by this criterion did not occur at the "same time" the agency notified the institution.

Analyst Remarks to Response:

In the draft staff analysis, the agency was found out of compliance with this criterion. The agency had to provide documentation to demonstrate that it provides notification of probation to the entities required by this criterion at the same time it notifies the institution of the decision, but no later than 30 days after it reaches the decision.

In its response, the agency has provided the necessary documentation to demonstrate its compliance with this criterion. Although, the documentation is not specifically related an institution on probation the documentation does demonstrate the agency's same time notification for a negative accreditation decision. Department staff noted that the agency "policy" was compliant with this

criterion in the draft staff analysis.

The agency has provided a notification letter to an institution informing the institution that it has been dropped from accreditation status while on show cause. The notification letter is dated May 1, 2013. The letter was faxed and emailed to the institution. Documentation of this is provided in exhibit 7. Evidence of the agency's notification of the required entities at the same time it notified the institution is provided in exhibit 8. All notifications were communicated on May 1, 2013.

(c) Provides written notice to the public of the decisions listed in paragraphs (b)(1), (b)(2) and (b)(3) of this section within 24 hours of its notice to the institution or program;

When the agency was last reviewed, Department staff noted that it had revised its policy to comply with the requirements under this section regarding placement of an institution or program on probation or an equivalent status. However, the agency had not provided evidence that it adheres to its revised policy. The decision letter denying preaccreditation to American Health Technology Institute and the screen shots from the agency's website demonstrates that the agency notifies the public within 24 hours of its notice to the institution for an adverse action. The decision letter placing New Community Workforce Development Center on probation and the screen shots from the agency's website provides additional evidence of the agency's compliance with this criterion.

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

(c) The agency may grant accreditation or preaccreditation to an institution or program described in paragraph (b) of this section only if it provides to the Secretary, within 30 days of its action, a thorough and reasonable explanation, consistent with its standards, why the action of the other body does not preclude the agency's grant of accreditation or preaccreditation.

When the agency was last reviewed, Department staff discovered that COE had granted accreditation to an institution that was subject to an adverse action by another agency and that COE had failed to provide to the Secretary the explanation required under this criterion. To address department staff's concerns, the agency has provided documentation which includes a detailed timeline explaining why the action of the other accrediting body did not preclude its accreditation of the institution (see exhibit 62). The course of action taken by COE appears to be reasonable based on the unique circumstances surrounding the incident and the recommendations the agency received by legal counsel

concerning this manner.

PART III: THIRD PARTY COMMENTS

Staff Analysis of 3rd Party Written Comments

There was one third-party written comment received in conjunction with the Council on Occupational Education (COE) compliance report.

The commenter discusses an issue regarding COE accreditation of the school in question. The commenter maintains that COEs grant of accreditation for this school included distance education for its construction trades programs. The commenter also contends that COE had been told in advance that the construction trades programs were translated into a distance learning format and COE was informed of the distance learning method of delivery through a self-study. The commenter also states that COE conducted a site visit to the school in question and found no substantive change or other problems with the method of delivery of these programs. The commenter maintains that when questioned by the Department of Education, hereinafter the Department, in 2005 COE informed the Department that its grant of accreditation for the school did not include distance education. The commenter states that this action by COE led to the closing of the school as students enrolled in the construction trades programs were not eligible to receive federal student aid.

The commenter also informs the Department that he is the Trustee of the Chapter 7 Bankruptcy Estate of the school in question and has attached court rulings along with the written comments.

The Staff conducted its own thorough investigation of this matter prior to the litigation, and concluded that COE had not approved the offering of distance education by the school in question. Over the years, Staff has found no evidence of dishonesty in its dealings with COE, and the Department took COE's handling of this school into consideration in deciding on COE's recognition in 2005 and 2007. The Staff has reviewed the Trustee's submission, including the court rulings attached, but notes that (i) the submission contains no evidence of dishonesty, (ii) the court decisions are under appeal; and (iii) bankruptcy proceedings are directed to protecting creditors' rights rather than educational quality. Given these circumstances, the Trustee's submission has not changed the Staff's current recommendation to the Senior Department Official. If evidence bearing on COE's recognition comes to light in the future, whether in relation to this school or otherwise, Staff has the ability to review it at that time under the procedures of 34 C.F.R. 602.33, which include an opportunity for COE to respond.