

**U.S. Department of Education**

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

**RECOMMENDATION PAGE**

1. **Agency:** New York State Board Of Regents (Public Postsecondary Vocational Ed) (1974/2005)

(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. **Scope of Recognition:** State agency for the approval of public postsecondary vocational education.

4. **Date of Advisory Committee Meeting:** December, 2011

5. **Staff Recommendation:** Continue the agency's 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.

6. **Issues or Problems:** The agency must demonstrate and provide evidence that it receives adequate and timely financial support, as shown by its appropriations, to carry out its operations (§603.24(a)(2)(ii)).

The agency must demonstrate that it selects competent and knowledgeable persons, qualified by experience and training, and selects such persons in accordance with nondiscriminatory practices, to participate on all visiting teams (§603.24(a)(2)(iii)(A)).

The agency must demonstrate that it consistently selects and includes examiners other than agency staff, to conduct on-site reviews for programs(§603.24(a)(3)(ii)(B)).

The agency must demonstrate that it has an advisory body constituted

in accordance with the requirements of this section. It must also demonstrate that the advisory body is carrying out the functions described in the criterion (§603.24(b)(1)(i)).

The agency must demonstrate that it has a functioning the advisory body that makes a real and meaningful contribution to the approval process(§603.24(b)(1)(ii)).

The agency must demonstrate its evaluations are conducted and decisions are rendered under conditions that assure an impartial and objective judgment, by ensuring that it consistently follows its procedures for approval(§603.24(b)(1)(vi)).

The agency must demonstrate it currently and regularly reviews its standards, policies and procedures in order that the evaluative process shall support constructive analysis, emphasize factors of critical importance, and reflect the educational and training needs of the students (§603.24(b)(1)(vii)).

The agency must provide evidence of its application of its credit hour requirements. (§603.24(c)(1)).

The agency must provide evidence of its application of its credit hour requirements (§603.24(c)(2)).

The agency must provide evidence of its application of such actions that it deems appropriate to address any deficiencies that it identifies at an institution as part of its reviews and evaluations under paragraph (c)(1)(i) and (ii) of this section (§603.24(c)(3)).

The agency must demonstrate that it will promptly notify the Secretary if, following the institutional review process, the agency finds systematic noncompliance with the agency's policies or significant noncompliance regarding one or more programs at those institutions (§603.24(c)(4)).

## **EXECUTIVE SUMMARY**

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

Established in 1784, the New York State Board of Regents is the oldest, formally organized accrediting body in the United States. The Regents oversee the education, licensure, practice and conduct of practitioners in 42 of the 44 licensed professions, including practical nursing. The Regents appoint a Commissioner of Education who heads the Education Department, the administrative arm of the Board of Regents. The Regents and the Commissioner of Education are authorized by the State constitution and bylaws to regulate educational activities in the State. More specifically, the State Education Department (SED) is responsible for accrediting, or registering, all credit-bearing programs, whether public or independent. Vocational education programs that lead to associate degrees and credit-bearing certificates and diplomas are included in the agency's application as a recognized approval agency. This application as a State approval agency for public postsecondary vocational education covers only the adult practical nursing programs offered by the Board of Cooperative Educational Services (BOCES), the Educational Opportunity Centers, and the New York City Board of Education to prepare persons for licensed practical nursing careers.

#### **Recognition History**

The agency was first recognized by the Secretary in 1974. The last full review of the agency occurred in June 2005, after which the Secretary granted continued recognition for a period of four years and required the agency to submit an interim report by June 13, 2006. The Secretary at the time accepted the agency's interim report in April 2007. The following year, the Higher Education Opportunity Act of 2008 (HEOA) was passed, which contained a number of provisions related to accrediting agency recognition that were effective upon enactment. The changes included, among others, a reconstitution of the NACIQI. As a consequence, all NACIQI meetings were held in abeyance pending reconstitution of the Committee. The agency's current petition for continued recognition is the subject of this analysis.

The Department staff's evaluation of the agency included a review of the petition and supporting documentation and a file review on August 9, 2011, at the State Education Department.

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

### **§603.24 Criteria for State agencies**

**The following are the criteria which the Secretary of Education will utilize in designating a State agency as a reliable authority to assess the quality of public postsecondary vocational education in its respective State.**

- (ii) Receives adequate and timely financial support, as shown by its appropriations, to carry out its operations;**
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The agency stated in its narrative that its total budget for FY 2007-2008 was \$325,668 and for FY 2008-2009 its office was budgeted at a slight increase to \$339,069. The agency provided in its narrative an explanation regarding some of the different cost-cutting measures it presently performs and plans to perform in the future. Some of the cost-saving measures it uses are using Windows XP operating systems to better able staff to access the internet and LAN connections and to access data from schools, and other accreditors' internet sites.

However, the agency stated in its narrative that since May 2007 Committee meeting budgetary constraints have necessitated a restriction on travel and associated expenses. Consequently, there have been no Committee meetings of the Advisory Committee since May 2007. That budgetary constraints have restricted the existence of an Advisory Committee suggests that it does not receive adequate and timely financial support, as shown by its appropriations, to carry out its operations.

**Staff determination:** The agency does not meet the requirements of this section. The agency must demonstrate and provide evidence that it receives adequate and timely financial support, as shown by its appropriations, to carry out its operations.

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

The agency has provided a narrative description of its financial support and has highlighted the increases in its budget to carry out its operations. It has also stated that it will receive timely funds to reschedule Advisory Committee meetings. While the agency's description appears to demonstrate that the agency will receive adequate and timely financial support to carry out its operations, the agency has not supplied supporting documentation of such commitments.

**Staff determination:** The agency does not meet the requirements of this section. The agency must provide evidence that it receives adequate and timely financial support, as shown by its appropriations, to carry out its operations.

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**(A) to participate on visiting teams,**

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The agency provided documentation demonstrating the staff personnel it utilizes to participate on visiting teams are well-qualified to perform their duties. The agency stated in its narrative that it selects qualified consultants to participate on visiting teams, but did not respond completely to the requirement. The agency provided documentation that states its requirement for consultants who participate on visiting teams to be a licensed professional who is currently registered in the State of New York with a bachelor's degree in nursing and a master's degree in nursing or related field. Each consultant should have a minimum of five years teaching experience in practical nursing education. They must be currently employed in practical nursing education and demonstrate skills in written and verbal communication and be knowledgeable of the Commissioner's regulations pertaining to practical nursing. Each consultant's name and credential must be cleared by the institution before each site visit.

However, as evidenced from a sample of the agency's site visit reports, it is not clear that the agency consistently selects consultants to participate on visiting teams. It appears that some of the visits to nursing programs are only conducted by staff personnel.

**Staff determination:** The agency does not meet the requirements of this section. The agency must demonstrate that it selects competent and knowledgeable persons, qualified by experience and training, and selects such persons in accordance with nondiscriminatory practices, to participate on all visiting teams.

**Analyst Remarks to Response:**

The agency has stated that going forward, it will include consistent use of consultants to participate on visiting teams and that its budget commitments for 2011-2012 reflect such commitments. However, the agency has not provided documentation of its budgetary commitments nor other supporting documentation to demonstrate that it selects competent and knowledgeable persons, qualified by experience and training, and selects such persons in accordance with nondiscriminatory practices, to participate on all visiting teams.

**Staff determination:** The agency does not meet the requirements of this section. The agency must demonstrate that it selects competent and knowledgeable persons, qualified by experience and training, and selects such persons in accordance with nondiscriminatory practices, to participate on all visiting teams.

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**(B) The visiting team, which includes qualified examiners other than agency staff, reviews instructional content, methods and resources, administrative management, student services, and facilities. It prepares written reports and recommendations for use by the State agency.**

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The agency provided a narrative and site team reports demonstrating that it reviews instructional content, methods and resources, administrative management, student services, and facilities in its written reports during an on-site visit. The information provided includes examiners other than agency staff, to conduct on site reviews for programs. The team uses the agency's site visit report form for practical nursing education to evaluate whether quality indicators are met or need improvement. However, during the Department's file review of the agency on August 9, 2011, it was not clear whether the agency consistently selects and includes examiners other than agency staff, to conduct on-site reviews for programs.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it consistently selects and includes examiners other than agency staff, to conduct on-site reviews for programs.

**Analyst Remarks to Response:**

The agency has stated that it intends to use its budgetary commitments to reestablish consistency in selecting qualified examiners other than agency staff to participate in its evaluation teams. However, the agency has not provided documentation of its budgetary commitments nor other supporting documentation to demonstrate that it consistently selects and includes examiners other than agency staff, to conduct on-site reviews.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it that consistently selects and includes examiners other than agency staff, to conduct on-site reviews for programs

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**(i) Has an advisory body which provides for representation from public employment services and employers, employees, postsecondary vocational educators, students, and the general public, including minority groups. Among its functions, this structure provides counsel to the State agency relating to the development of standards, operating procedures and policy, and interprets the educational needs and manpower projections of the State's public postsecondary vocational education system;**

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The agency provided documentation that describes the make-up of its former advisory body which provides representation from public employers, employees, educators, students and general public, including minority groups. The agency's former advisory body is made up of six members in accordance with its standards and the Secretary's requirements to provide counsel. The function of the advisory body is to provide council to the agency relating to the development of standards, operation procedures and policy, and interpret the educational needs and manpower projections of the State's public postsecondary vocational education system. However, according to the agency, due to budget restrictions, the advisory committee has been in abeyance since 2007. Agency staff informed the Department that it anticipates that a new advisory committee could convene as early as late fall 2011.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has an advisory body constituted in accordance with the requirements of this section. It must also demonstrate that the advisory body is carrying out the functions described in the criterion.

**Analyst Remarks to Response:**

The agency has stated in its response that it has increased its fiscal capacity in order to re-establish consistent Advisory Committee meetings, and has stated that it has begun recruitment for the Committee. However, the agency has not provided evidence of its budgetary commitments for this function. The agency has indicated that it has taken preliminary action to constitute the Advisory Committee, however, the agency will need to provide evidence of a fully functioning Committee in order to demonstrate compliance with this criterion.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has an advisory body constituted in accordance with the requirements of this section. It must also demonstrate that the advisory body is carrying out the functions described in the criterion.

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**(ii) Demonstrates that the advisory body makes a real and meaningful contribution to the approval process;**

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The agency provided a narrative and documentation to show that it conducted meetings at least twice a year from 2005 through the spring of 2007. Due to budget cuts, at the time of its submission, the agency stated that it planned to resume its advisory meetings in the subsequent fiscal year.

The agendas and minutes that the agency provided from its advisory committee meetings suggest that the advisory committee discussed issues bearing on educational quality, supply and demand of practical nurses, and the financial revenue generated from BOCES practical nursing programs. It appears from the documentation that the committee engaged in meaningful and relevant

discussion regarding the education of practical nurses, as well as discussion contributing to the approval process. However, the documentation is from 2005-2007, and the agency did not provide current evidence of a functioning advisory body that makes a real and meaningful contribution to the approval process.

**Staff determination:** The agency does not meet the requirements of this section. The agency must demonstrate that it has a functioning the advisory body that makes a real and meaningful contribution to the approval process.

**Analyst Remarks to Response:**

The agency has stated that it has increased its fiscal capacity in order to re-establish consistent Advisory Committee meetings which are scheduled for late 2011 and 2012.

**Staff determination:** The agency does not meet the requirements of this section. The agency must demonstrate that it has a functioning the advisory body that makes a real and meaningful contribution to the approval process.

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**(vi) Demonstrates that it approves only those institutions or programs which meet its published standards; that its standards, policies, and procedures are fairly applied; and that its evaluations are conducted and decisions are rendered under conditions that assure an impartial and objective judgment;**

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The agency has provided documentation, such as clear guidance and sample site visit reports that help to ensure that decisions are based on the agency's standards, and that its standards, policies, and procedures are fairly applied. The agency's evaluations and decisions are conducted by agency staff who are civil servants of the State of NY and are held to the State's conflict of interest requirements which contribute to conditions that assure an impartial and objective judgment. However, the agency did not provide evidence of its use of other process controls, such as its careful selection of site team examiners (as required by the criteria), and its use of an Advisory Committee, are consistently applied.

**Staff determination:** The agency does not meet the requirements of this section. The agency must demonstrate its evaluations are conducted and decisions are rendered under conditions that assure an impartial and objective judgment, by ensuring that it consistently follows its procedures for approval.

**Analyst Remarks to Response:**

The agency has described the initial steps it has taken to reestablish consistency related to the selection of examiners and an advisory committee to ensure that its evaluations are conducted and decisions are rendered under conditions that assure an impartial and objective judgment. However, the agency did not provide evidence of its adoption of these processes and at the time of the response, was not able to demonstrate implementation of these measures.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate its evaluations are conducted and decisions are rendered under conditions that assure an impartial and objective judgment, by ensuring that it consistently follows its procedures for approval.

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**(vii) Regularly reviews its standards, policies and procedures in order that the evaluative process shall support constructive analysis, emphasize factors of critical importance, and reflect the educational and training needs of the students;**

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The agency has provided agendas and minutes from its advisory committee meetings that suggest that a greater part of the committee's work is concerned with an ongoing review of standards. Agenda items and discussion captured in the minutes suggest that the agency is engaged in a regular review of its standards, policies and procedures in order that the evaluative process shall support constructive analysis, emphasize factors of critical importance, and reflect the educational and training needs of the students. The agency has also provided a systematic evaluation plan document that indicates the regularity with which each registration document and standards are to be reviewed. However, with the abeyance of an advisory committee since 2007, it is not clear how much of the agency's resources are directed toward review of standards.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate it currently and regularly reviews its standards, policies and procedures in order that the evaluative process shall support constructive analysis, emphasize factors of critical importance, and reflect the educational and training needs of the students.

**Analyst Remarks to Response:**

The agency has described its commitment to regularly review its standards with the reestablishment of its advisory committee meetings. The agency must demonstrate its implementation of these measures which it plans to commence in late 2011.

Staff determination: The agency does not meet the requirements of this section.

The agency must demonstrate it currently and regularly reviews its standards, policies and procedures in order that the evaluative process shall support constructive analysis, emphasize factors of critical importance, and reflect the educational and training needs of the students.

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(1) The State agency meets this requirement if--

(i) It reviews the institution's--

- (A) Policies and procedures for determining the credit hours, as defined in 34 CFR 600.2, that the institution awards for courses and programs; and
- (B) The application of the institution's policies and procedures to its programs and coursework; and

(ii) Makes a reasonable determination of whether the institution's assignment of credit hours conforms to commonly accepted practice in higher education.

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The agency has not provided a response to the requirement addressed in this section of the criterion; , that is, the requirement that if an agency approves (LPN) program length in credit hours sans clock hours, it must review an institution's policies and procedures for determining the number of credit hours, as defined in 34 CFR 600.2, that the institution awards for courses and programs. It appears from the excerpts of site visit reports attached below, that the agency reviews as part of its curricula standard, how an institution applies clock hours. In the absence of the agency's response, Department staff could not make an assessment under this section.

Staff determination: The agency does not meet the requirements of this section. The agency must provide a response identifying whether it approves LPN courses and programs in clock hours, credit hours, or both, and, if it does allow/require any LPN courses and programs to be offered in credit hours, demonstrate how it will review an institution's policies and procedures for determining credit hours, the application of the institution's policies and procedures to its programs and coursework, and make a reasonable determination of whether the institution's assignment of credit hours conforms to commonly accepted practice in higher education.

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

The agency has described its process of review for credit bearing programs and its requirements that a credit hour is equivalent to 15 hours of 50 minutes each of instruction, and 30 hours of supplementary requirements. The agency's requirements are in accord with the requirements under 34 CFR 600.2 (definition of credit hour). As described in the agency's response, the agency's

requirements for credit-bearing programs are prescribed by regulation and the agency conducts its own review of a program's compliance with credit hour requirements. The agency site visit report template reflects the agency's review of credit hours and clock hours. However, though the agency has been reviewing an institution's assignments for credit hour on a routine basis, it has not provided an example of how it applies its requirements for Department staff to review. The examples provided are for non-credit certificate programs.

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

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**(2) In reviewing and evaluating an institution's policies and procedures for determining credit hour assignments, a State agency may use sampling or other methods in evaluation, sufficient to comply with paragraph (c)(1)(i)(B) of this section.**

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The agency has not responded to the requirements of this section, and it is unclear what kind of review the agency plans to undertake in reviewing and evaluating an institution's policies and procedures for determining credit hour assignments, if applicable. It appears from the excerpted site visit reports attached below, that the agency currently assesses clock hour equivalents as part of its evaluation under its curricula standard. However, if the agency bases approval on credit hours, it must respond to how it plans to implement a systematic procedure for reviewing and evaluating an institution's policies and procedures for determining credit hour assignments.

Staff determination: The agency does not meet the requirements of this section. The agency must describe and provide evidence of its procedures for reviewing and evaluating an institution's policies and procedures for determining credit hour assignments, if applicable.

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

The agency has cited the relevant regulation which defines credit and semester hour and under which the agency reviews credit-bearing programs. The site visit report form with guidance clearly states requirements for evaluators to review credit hour assignments. The agency's review of credit hour assignments are therefore, not a review of the institution's policies and procedures, but are prescribed directly by the agency. According to the agency's narrative, evaluators review each nursing course syllabus to determine that the appropriate amounts of time are allocated to classroom and clinical instruction.

However, though it appears that the agency has, (in effect), been reviewing an institution's policies and procedures for determining credit hour assignments as its regular practice, the agency has not provided an example of its application of

its credit hour requirements.

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

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**(3) The State agency must take such actions that it deems appropriate to address any deficiencies that it identifies at an institution as part of its reviews and evaluations under paragraph (c)(1)(i) and (ii) of this section, as it does in relation to other deficiencies it may identify, subject to the requirements of this part.**

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It appears from the excerpts of site visit reports provided by the agency, that it reviews as part of its curricula standard, how an institution applies clock hours in establishing course and program length. If the agency approves courses and programs in credit hours, it will need to demonstrate that it reviews and cites deficiencies in the institutions' application of credit hours and require corrective action by the institution for registration/approval purposes. More information is required to determine if the agency is required to comply with this section of the criteria.

Staff determination: The agency does not meet the requirements of this section. The agency must provide a response identifying whether it approves LPN courses and programs in clock hours, credit hours, or both. If it approves courses /programs based on credit hours, it must demonstrate that it reviews and cites deficiencies in the assignment of credit hours and require corrective action by the institution for registration/approval purposes.

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

The agency reports that it ensures that deficiencies are noted and fixed before signing off on the course and the program when the course proposal is submitted for approval. The agency provided no evidence of the remediation process prior to that approval.

Also as described in the agency's response and supported by the site visit report form template provided, the agency has prescribed requirements for credit hour assignments and its review during regular reevaluations. However, the agency has not provided evidence of its application of its credit hour requirements or any attendant actions it has taken as a result of any deficiencies at an institution as part of its reviews and evaluations under paragraph (c)(1)(i) and (ii) of this section.

Staff determination: The agency does not meet the requirements of this section. The agency must provide evidence of its application of such actions that it deems appropriate to address any deficiencies that it identifies at an institution as part of its reviews and evaluations under paragraph (c)(1)(i) and (ii) of this section.

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**(4) If, following the institutional review process under this paragraph (c), the agency finds systemic noncompliance with the agency's policies or significant noncompliance regarding one or more programs at the institution, the agency must promptly notify the Secretary.**

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The agency has stated the procedures it will adopt to notify the Secretary if, following the institutional review process under paragraph (c), the agency finds systemic noncompliance with the agency's policies or significant noncompliance regarding one or more programs at the institution.

The agency states that it will initiate action to deregister the program in accordance with its regulations if an institution fails to take necessary corrective action with credit hour requirements, and that it will notify the Secretary of the institution's noncompliance. However, without knowing whether the agency approves LPN courses and programs in clock hours, credit hours, or both, Department staff could not make an assessment of whether this section applies to the agency. If the agency approves courses /programs based on credit hours, it must demonstrate that it will promptly notify the Secretary if, following the institutional review process, the agency finds systematic noncompliance with the agency's policies or significant noncompliance regarding one or more programs at the institution.

Staff determination: The agency does not meet the requirements of this section. The agency must clarify whether the agency approves LPN courses and programs in credit hours. If the agency approves LPN courses and programs in credit hours, it must demonstrate that it will promptly notify the Secretary if, following the institutional review process, if the agency finds systematic noncompliance with the agency's policies or significant noncompliance regarding one or more programs at those institutions.

**Analyst Remarks to Response:**

Though the agency has stated in its response that it will promptly notify the Secretary if, following the institutional review process, the agency finds systematic noncompliance with the agency's policies or significant noncompliance regarding one or more programs at those institutions, the agency has not provided evidence that it has codified this practice into its written procedures nor demonstrated application of the requirements of this criterion, as applicable.

Staff determination: The agency does not meet the requirements of this section. The agency must demonstrate that it will promptly notify the Secretary if, following the institutional review process, the agency finds systematic noncompliance with the agency's policies or significant noncompliance regarding one or more programs at those institutions.

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

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