



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION

May 9, 2018

MaryEllen Elia  
Commissioner of Education  
State Education Department  
The University of the State of New York  
89 Washington Avenue  
Albany, NY 12234

Dear Commissioner Elia:

I am writing to inform you of my decision on the renewal of recognition of the New York State Board of Regents (NYBRE). U.S. Department of Education (Department) staff and the National Advisory Committee on Institutional Quality and Integrity (NACIQI) have each made recommendations to me. These recommendations were made under Sections 114 and 496 of the Higher Education Act of 1965, as amended, and pursuant to relevant statutory and regulatory provisions.

Both the Department staff and the NACIQI recommended that I continue NYBRE's recognition as a nationally recognized accrediting agency at this time, require the agency to come into compliance within 12 months from the date of this letter, and to submit a compliance report due 30 days thereafter that demonstrates NYBRE's compliance with the Secretary's Criteria for Recognition.

Staff found, and the NACIQI agreed, that NYBRE failed to meet the requirements related to administrative extensions in 34 C.F.R. § 602.20(a) and its extension for good cause policy found in 34 C.F.R. § 602.20(b). Specifically, related to § 602.20(a), staff stated that NYBRE must amend its standards to be explicit in its use of administrative extensions, and ensure that the enforcement timelines required by this criterion are not exceeded. For § 602.20(b), staff concluded NYBRE must provide documentation demonstrating that it has executed its extension for good cause policy or, if it has not had the opportunity to do so, to explain that.

I have reviewed the record thoroughly, noting both the Department staff's rationale for its compliance findings and the deliberations by the NACIQI members at the meeting that led to the committee's recommendation.

First, I agree with the NACIQI and Department staff that one of the examples provided by NYBRE to demonstrate application of its administrative extension policy actually reveals that NYBRE impermissibly extended the period specified in § 602.20(a) or, alternatively, failed to document an extension for good cause found in § 602.20(b). If NYBRE's exhibits would have evidenced consistent

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compliance then perhaps its existing rules would suffice. However, since it did not, NYBRE should clarify its rules or policies implementing the requirements of § 602.20(a).

Second, the issue related to non-compliance with 34 C.F.R. § 602.20(b) is easily resolved because of NYBRE's statements at the NACIQI meeting where it affirmed the agency has not had an opportunity to demonstrate application of its extension for good cause standard. Staff found NYBRE otherwise in compliance with this criterion. NYBRE should not be penalized for a lack of opportunity to apply this standard and staff agreed the agency otherwise had provided documentation of the extension for good cause policy. (Staff also did not have the benefit of NYBRE's NACIQI meeting testimony affirming it had not utilized its good cause policy when it made its recommendation to the NACIQI.) Accordingly, I find that NYBRE has met the minimum standards for 34 C.F.R. § 602.20(b).

I acknowledge the concerns of Department staff, but I am fully renewing NYBRE's recognition at this time for a period of five years. This renewal is, contingent upon it demonstrating full adherence to its administrative extension policy in 34 C.F.R. § 602.20(a) by submitting evidence to Department's accreditation staff within one year of this decision. NYBRE may demonstrate full compliance with § 602.20(a) by amending its rules to make clear they cannot be applied in a manner that would extend the enforcement timelines required by this criterion and that any extensions beyond that period must be made pursuant to NYBRE's good cause extension policy. Additionally, if NYBRE has occasion to utilize its administrative extension period within 12 months from the date of this letter (or has already since the time of the NACIQI meeting), it should also provide such documentation to staff. If staff finds NYBRE is not in compliance with this criterion after review of the materials provided by NYBRE then staff should follow the procedures outlined in 34 C.F.R. § 602.33(a)(2) for review of agencies during the period of recognition.

Scope of recognition: The accreditation of those degree-granting institutions of higher education in New York that designate the agency as their sole or primary nationally recognized accrediting agency for purposes of establishing eligibility to participate in HEA programs including accreditation of programs offered via distance education within these institutions.

Please convey my best wishes to the members of NYBRE. We do appreciate the work that NYBRE does to improve the quality and success of postsecondary education in New York.

Sincerely,



Diane Auer Jones  
Senior Policy Advisor  
Office of Postsecondary Education