

**Issue Papers**  
**Negotiated Rulemaking Accreditation Committee**

**Issue:** Due process

**Regulatory Cite:** §602.25(c) and (d)

**Summary of Issue:** Agencies and institutions have expressed confusion about the due process requirements. Recent court cases have underscored the need for more clarity in notice and hearing requirements.

**Issue:** Substantive change

**Regulatory Cite:** §602.22

**Summary of Issue:** The incidence and pace of change in higher education has increased in recent years. Institutions are adding locations, initiating distance education programs, developing programs in new curricular areas and at new levels, and undergoing changes in ownership. There is a great deal of variation in the way that accrediting agencies interpret the Secretary's substantive change criteria. A recent survey by the Department of a subset of institutional accrediting agencies documented differences in the types of changes that are considered to be substantive, the circumstances in which prior approval is required, how agencies conduct their reviews, and how they evaluate quality at institutions experiencing rapid growth. In addition, working groups involving institutional accreditors and Department staff have noted a lack of consistency in how changes in ownership are evaluated.

**Issue:** Monitoring of institutions

**Regulatory Cite:** §602.19

**Summary of Issue:** The combination of relatively long periods between accreditation comprehensive reviews, increased demand for accountability, and a changing higher education environment underscores the importance of regular monitoring of institutions by accrediting agencies to ensure their continued compliance with standards. Current regulations regarding monitoring of accredited institutions and programs are very general and there is wide variation in the approaches used by accrediting agencies. While most require annual reports, the contents of the reports differ greatly and lack comparability. Some reports do not provide sufficient information to allow the agency to determine continued compliance with its standards and agencies evaluate the information to various extents.

**Issue:** Relationship of input and resource standards to student achievement

**Regulatory Cite:** §602.16

**Summary of Issue:** In order to be recognized by the Secretary, accrediting agencies must have standards that address the quality of an institution or program in several areas. These standards include the outcomes-based student achievement standard and several standards that can be characterized as input and process standards. There is nothing in the HEA or regulations to define how an accrediting agency should consider the standards in relation to each other. Quality improvement initiatives typically use a systems approach that links input and process standards to outcomes standards.

Should the regulations make explicit how the two types of standards that accrediting agencies are required to have relate to one another?

**Issue:** Standard definitions of terms related to student achievement

**Regulatory Cite:** §602.16

**Summary of Issue:** There are many different ways that institutions calculate rates for retention, transfer, completion or graduation, and other key indicators of student achievement. For example, in calculating retention rates some institutions use the cohort-tracking method, the approach that is typically used by researchers, but do not put a student into a cohort until after the student has completed one to three courses. The argument for doing so is that many students try out a course or two to determine whether the institution's pedagogy and delivery mode are appropriate for them and that including such students in the calculation results in an artificially low retention rate. Also related to retention rates is the determination of the timeframe for re-enrollment. Some institutions calculate the percentage of students in a cohort who re-enroll the following term, while others consider those who re-enroll the following year, and still others include those who re-enroll within the following three terms. At least one institution calculates an "average annual retention rate," which is not based on cohort-tracking, but on a formula devised by the institution.

Institutions that participate in federal financial aid programs are required to report information on completion or graduation rates, and transfer rates, if appropriate, for full-time undergraduate students, and to provide this information to enrolled or prospective students upon request. The way these rates are to be calculated is defined in regulation. The NCAA, however, reports data provided by member institutions that include in the transfer calculation any student who left the institution in good standing.

Should accrediting agencies, as reliable authorities on the quality of the education or training provided by the institutions they accredit, be using common definitions of these key terms?

**Issue:** Quantitative standards for programs leading to gainful employment

**Regulatory Cite:** §602.16

**Summary of Issue:** A wide range of institutions is currently offering prebaccalaureate vocational programs, applied baccalaureate degree programs, and professional programs offering licensure and certification. It is difficult to gauge the success of these programs in fulfilling their purpose. Prospective students have little basis upon which to make decisions about which program to attend.

Institutions that participate in Title IV federal financial aid programs are required to meet minimum thresholds for completion and placement rates of at least 70 percent for short-term vocational programs. Some institutional and programmatic accrediting agencies have established minimum quantitative standards for longer programs. Nonetheless, a significant portion of institutions are accredited by agencies that do not have such standards.

For institutions that offer prebaccalaureate vocational programs, applied degree programs, and professional programs offering licensure and certification, the Department is considering whether to require agencies to establish minimum quantitative standards for completion rates, job placement rates, pass rates on licensing and professional certification examinations for those programs since gainful employment is their purpose.

**Issue:** Institutional success with respect to student achievement

**Regulatory Cite:** §602.16

**Summary of Issue:** Historically, accrediting agencies have paid a great deal of attention to institutional effectiveness, focusing on the process of assessment and on how the findings are used for institutional improvement. Assessment of student learning has been accorded an increasing level of importance by accreditors and institutions, and there is a growing sophistication in practice. This institutional improvement model has its strengths, but it does not lead to answers to questions such as whether the performance of the institution is good enough. Given the diversity of institutional missions and the diversity of accrediting agencies there needs to be further attention to the criterion that each agency applies to determine the adequacy of student academic achievement.

<b>Issue:</b>	Consideration of mission in application of standards
<b>Regulatory Cite:</b>	§602.16(a)(1)
<b>Summary of Issue:</b>	<p>Some institutions contend that accrediting agencies require them to do things that are not in accordance with their mission. An example is an accrediting agency pressuring a college that currently offers only a four-year degree in a discipline into offering graduate degrees in that same subject – thereby shifting from a mission focused on training students for basic professional employment into one focused more on research and on training future academicians. Some schools with a religious mission contend that accrediting agencies attempt to impose a viewpoint through the accreditation process that is at odds with the institution’s values and behavioral norms.</p> <p>The HEA requires that an agency consistently apply and enforce its standards. The HEA also contains a <i>religious exception</i> whereby the Secretary will consider an institution to be accredited or preaccredited for a period sufficient to allow the institution to obtain alternate accreditation if the loss of accreditation or preaccreditation is related to the religious mission or affiliation of the institution and not to its failure to satisfy the accrediting agency’s standards.</p>



**Issue:** Transfer of credit and acceptance of credentials

**Regulatory Cite:** §602.16(a)(1)(vii)

**Summary of Issue:** Each year thousands of students transfer from one postsecondary institution to another. Many of these students find that they are unable to transfer some or all of their credits, which may result in longer enrollment, more tuition payments and additional federal financial aid. In making determinations of which credits to accept, the receiving institution may consider the sending institution's accreditation and whether the courses taken at the sending institution are comparable to those offered by the receiving institution. Articulation agreements between institutions, and statewide transfer agreements, common core curricula and common course numbering systems facilitate the transfer of credits from one institution to another. In 2005, GAO did a study of the credit transfer process and determined that "institutions vary in how they evaluate and apply a student's transferable credits. Many officials from postsecondary institutions with regional accreditation told GAO that they would not accept credits earned from nationally accredited institutions." GAO reported that data was insufficient to allow GAO to determine the number of credits that do not transfer. The accrediting agencies that GAO reviewed generally adhere to the principle that institutions should not accept or deny transfer credit exclusively on the basis of a sending institution's type of accreditation.

Similar to the situation with transfer of credit, each year many students who have earned a baccalaureate degree from a nationally accredited institution are prevented from applying to, or being admitted to, graduate programs because the institution in which they seek to continue their studies does not recognize their degree.

**Issue:** Direct assessment programs

**Regulatory Cite:** §602.3, 602.18

**Summary of Issue:** The Higher Education Reconciliation Act added a new type of eligible program under Title IV of the HEA—an instructional program that uses direct assessment of student learning, or recognizes the direct assessment of student learning by others, in lieu of measuring student learning in credit hours or clock hours. The law requires that the assessment must be consistent with the institution’s or program’s accreditation and regulations require an institution seeking approval of its direct assessment program(s) for federal financial aid purposes to provide documentation from the institution’s accrediting agency indicating that the agency has evaluated the institution’s offering of direct assessment program(s) and has included the program(s) in the institution’s grant of accreditation.

Technical corrections:

- Include in regulations of the Secretary’s recognition of accrediting agencies a definition of direct assessment programs.
- Add to the definition of “scope of recognition” the coverage of accrediting activities related to direct assessment programs, if any.
- Revise §602.18 to reflect this new type of program.

<b>Issue:</b>	Scope of recognition
<b>Regulatory Cite:</b>	§602.2(a), §602.3, §602.12(b), 602.15, 602.22(a)(1), 602.27(d)(1), 602.30(a)(1), 602.32(a)(1)(ii) and (iii)
<b>Summary of Issue:</b>	<p>In a number of instances, an agency’s scope of recognition is so broad that Department staff have no cognizant authority to evaluate whether or not the agency is acting within its scope. Some use terms such as “principally” or “predominantly”, which do not provide a basis for excluding types of institutions or programs. There have been a number of instances where an agency that accredits primarily one kind of program will extend accreditation to a location offering a program in an entirely different area (for example, an institution that offers all allied health programs establishes a location to teach cosmetology).</p>

**Issue:** Recognition Procedures

**Regulatory Cite:** §602.3, Part 602, Subparts C and D

**Summary of Issue:** There are two separate sets of procedures in the current regulations – one set pertains to an agency’s application for initial or continued recognition, the other set pertains to the limitation, suspension or termination of recognition. The procedures establish different cycles for staff analysis and NACIQI review, and different types of actions that the advisory committee may recommend. The original intent of establishing a separate process for limitation, suspension or termination of recognition, with a subcommittee of NACIQI, was to streamline the review for these types of actions. In practice, however, this has not happened. Scheduling and workload issues make it very difficult for staff to manage two different processes. It is confusing and cumbersome to have different sets of procedures for different types of actions.

In addition, the Department has received a number of complaints from outside sources about recognized accrediting agencies that have raised questions about various agencies’ continued compliance with the standards for recognition. Such questions can also arise in conjunction with the Department’s review of an institution’s participation in federal financial aid programs.

The nature of the Secretary’s recognition is not explicitly stated in the current regulations and it is possible that agencies could infer that once it is granted for a period of time, recognition is an entitlement or a right throughout that period.

Should the two procedural subparts be combined, in view of: 1) the responsibility of staff to put its concerns about an agency’s compliance before the advisory committee in a timely manner; 2) the responsibility of recognized agencies to maintain and be prepared to demonstrate complete compliance throughout the period of recognition; and 3) the responsibility of the advisory committee to exercise its best judgment regarding continued recognition any time an agency is brought before it that it views as out of compliance? Do the regulations need additional clarity in notifying agencies that Department staff may conduct an investigation into agency compliance at any time during the

period of recognition and, by filing a written analysis, bring the agency back before NACIQI if there are concerns that the agency is no longer in compliance with one or more of the criteria for recognition? Do the regulations need additional clarity as to the ability of NACIQI to recommend imposition of a limitation, suspension or termination of recognition at any time the agency is brought before the committee and fails to demonstrate compliance, notwithstanding the existence of an unexpired grant of recognition and/or a prior finding of compliance?

Are there other things that should be clarified or changed in the recognition procedures?

**Issue:** Decision-making authority

**Regulatory Cite:** §602.3, §602.33, §602.44

**Summary of Issue:** Under current procedures, the National Advisory Committee on Institutional Quality and Integrity (NACIQI) forwards its recommendations through the Senior Department Official to the Secretary on an agency's petition for recognition. Except in the case of an administrative appeal, the Senior Department Official can make recommendations regarding the actions proposed by NACIQI. The procedures also provide for an appeal of the NACIQI recommendation to the Secretary by either the agency or the Senior Department Official. The Secretary makes a decision based on the entire record of the application, including the appeal papers, if any, and is not bound by the recommendations of NACIQI or of the Senior Department Official.

Are there advantages to making the administrative appeal available after an otherwise final decision has been made, and having the appeal decided by a different official?

**Issue:** Agency Materials -- Record Keeping and Confidentiality

**Regulatory Cite:** §602.15(b), §602.27(f), §602.30(c)

**Summary of Issue:** Department staff have encountered some difficulties in getting information from accrediting agencies that is pertinent to Title IV compliance and eligibility. In some cases, the accrediting agencies do not retain the information. This has been the case, for example, with evaluative information about substantive changes. In other instances, accrediting agencies have been reluctant to provide information to Department staff because of confidentiality concerns.

The regulations say that the Secretary does not make available to the public any confidential agency materials a Department employee reviews during the evaluation of the agency's application for recognition or the agency's compliance with criteria for recognition. This is not consistent with FOIA and there is no statutory provision in the Higher Education Act authorizing the Department to not follow FOIA in this instance. Deleting this regulation would clarify that the Department's ability to withhold from public disclosure documentation supplied by agencies depends entirely on FOIA and FACA.

Should other changes be made in the regulations? Should regulations specifically address the type of information that should be retained relevant to Title IV compliance and eligibility? Should regulations be amended to make clear the accrediting agencies' responsibility for providing information to the Department?

<b>Issue:</b>	Providing information to the public
<b>Regulatory Cite:</b>	§602.16(a)(1)(vii), (x), §602.23(a), §602.26
<b>Summary of Issue:</b>	<p>The Secretary’s Commission on the Future of Higher Education identified as a concern the lack of information currently available to the public about student performance and learning at colleges and universities. Accrediting agencies have access to information related to academic quality and student success that other entities do not have.</p> <p>The HEA and regulations require each accrediting agency to make available to the public information about its standards and procedures, the status of the institutions and programs that the agency accredits or preaccredits, and a summary of a final decision to withdraw or deny accreditation. Some accrediting agencies provide additional information. For the most part, however, the primary purpose being served by accrediting agencies in providing information to the public is typically not to assist a prospective student in choosing an institution or program in which to enroll. On the other hand, the HEA does require accrediting agencies to have standards addressing recruiting and admissions, publications, grading and advertising, and title IV compliance, although at present regulations provide no further specifics.</p> <p>Institutions that participate in federal financial aid programs are required to disclose information as part of the Student Right to Know provisions of the HEA. The National Center for Education Statistics has created a Web site (College Opportunities Online Locator-COOL) where members of the public can search for schools using criteria such as type of institution, academic programs, geographic location, Title IV eligibility and size. The site also includes information about tuition, enrollment, degrees conferred, retention and graduation rates, financial aid, accreditation, and campus crime statistics. However, these data are limited to full-time, first-time degree- or certificate-seeking students.</p> <p>Should the role of accrediting organizations in informing the public about quality and what it means to be accredited by that agency be expanded? If so, what kinds of information should be provided?</p>