

2006-2007 Negotiated Rulemaking Committee IV – Accreditation

SUMMARY OF REVISIONS TO DRAFT REGULATORY LANGUAGE

Issue #1: Due Process

Regulatory Cite: §602.3, §602.25, §602.20, §602.28

Tentative Agreement: Reached at session 3 (April 24-26, 2007)

Legend:

- Proposed deletions to existing regulatory language are indicated by ~~strikeouts~~.
- Proposed additions to existing regulatory language are indicated by **bold typeface**.
- Subsequent changes to proposed revisions presented at the March 26-28, 2007 session are indicated by **highlighted text**.

Language proposed by the Department of Education during the March 26-28, 2007 session	Draft regulatory language as of April 26, 2007	Summary of Change
<p>§602.3 What definitions apply to this part?</p> <p>* * * * *</p> <p>Adverse accrediting action or adverse action Adverse accrediting decision means the denial, withdrawal, suspension, revocation, or termination a decision to deny, withdraw, suspend, revoke, or terminate of accreditation or preaccreditation, or any comparable accrediting action an agency may take against an institution or program, that will become final unless appealed.</p>	<p>§602.3 What definitions apply to this part?</p> <p>* * * * *</p> <p>Adverse accrediting action or adverse action Adverse accrediting decision means the denial, withdrawal, suspension, revocation, or termination a decision to deny, withdraw, suspend, revoke, or terminate of accreditation or preaccreditation, or any comparable accrediting action decision an agency may take make against an institution or program, that will become final unless appealed.</p>	<ul style="list-style-type: none"> • Changes the word “action” to “decision” where necessary for the sake of consistency.
<p>§602.25 Due process.</p> <p>The agency must demonstrate that the procedures it uses throughout the accrediting process satisfy due process. The agency meets this requirement if the agency does the following:</p> <p>(a) The agency uses procedures that afford an institution or program a reasonable period of time to comply with the agency’s requests for information and documents.</p> <p>(b) In arriving at an adverse accrediting decision, the agency applies procedures that--</p> <p>(1) Require written notice of the deficiencies the institution or program is believed to have under the agency’s standards</p>	<p>§602.25 Due process.</p> <p>The agency must demonstrate that the procedures it uses throughout the accrediting process satisfy due process. The agency meets this requirement if the agency does the following:</p> <p>(a) The agency uses procedures that afford an institution or program a reasonable period of time to comply with the agency’s requests for information and documents.</p> <p>(b) In arriving at an adverse accrediting decision, the agency applies procedures that--</p> <p>(1) Require written notice of the deficiencies the institution or program is believed to have under the agency’s standards</p>	<ul style="list-style-type: none"> • Clarifies that procedures an agency must follow in arriving at an adverse accrediting decision including permitting an institution or program to provide written testimony and giving the agency the option of allowing oral testimony. • Modifies language such that agency representatives involved in both the initial decision and in the appeal should be objective and free of conflicts of interest. • Modifies language to accommodate the use of appeal panels that are not decision-making bodies.

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<p>and policies;</p> <p>(2) Provide a reasonable period of time for the institution or program to prepare its response to the deficiencies identified;</p> <p>(3) Permit the institution or program to present oral and written information to the agency’s decision makers in its response; and</p> <p>(4) Ensure that the agency’s decision makers are impartial and free of conflicts of interest.</p> <p>(cb) The agency notifies the institution or program in writing of any adverse accrediting action decision or an action to place the institution or program on probation or show cause. The notice describes the basis for the action.</p> <p>(de) The agency permits the institution or program the opportunity to appeal an adverse accrediting decision. The appeal procedures include--</p> <p>(1) action and The right to be represented by counsel during the that appeal-;</p> <p>(2) The right to decision makers who are impartial and free of conflicts of interest; and</p> <p>(3) If the agency allows institutions or programs the right to appeal other types of actions, the agency has the discretion to limit the appeal to a written appeal.</p> <p>(ed) The agency notifies the institution or program in writing of the result of its appeal and the basis for that result.</p>	<p>and policies;</p> <p>(2) Provide a reasonable period of time for the institution or program to prepare its response to the deficiencies identified;</p> <p>(3) Permit the institution or program to present oral and written information -- written and, if deemed necessary by the agency, oral -- to the agency’s decision makers in its response; and</p> <p>(4) Ensure that the agency’s decision makers are impartial objective and free of conflicts of interest.</p> <p>(cb) The agency notifies the institution or program in writing of any adverse accrediting action decision or an action to place the institution or program on probation or show cause. The notice describes the basis for the decision or action.</p> <p>(de) The agency permits the institution or program the opportunity to appeal an adverse accrediting decision. The appeal procedures include--</p> <p>(1) action and The right to be represented by counsel during the that appeal-;</p> <p>(2) The right to decision makers have individuals who are impartial objective and free of conflicts of interest hear and make the decision or the recommended decision on the appeal; and</p> <p>(3) If the agency allows institutions or programs the right to appeal other types of actions, the agency has the discretion to limit the appeal to a written appeal.</p> <p>(ed) The agency notifies the institution or program in writing of the result of its appeal and the basis for that result.</p>	
<p>§602.20 Enforcement of standards.</p> <p>(a) If the agency’s review of an institution or program under any standard indicates that the institution or program is</p>	<p>§602.20 Enforcement of standards.</p> <p>(a) If the agency’s review of an institution or program under any standard indicates that the institution or program is</p>	

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<p>not in compliance with that standard, the agency must--</p> <p>(1) Immediately initiate an action to deny, withdraw, suspend, revoke, or terminate accreditation or preaccreditation, or take comparable action against, adverse action against the institution or program; or</p> <p>(2) * * *</p> <p>* * * * *</p> <p>(b) If the institution or program does not bring itself into compliance within the specified period, the agency must take an immediate adverse action to deny, withdraw, suspend, revoke, or terminate accreditation or preaccreditation, or take comparable action against the institution or program unless the agency, for good cause, extends the period for achieving compliance.</p>	<p>not in compliance with that standard, the agency must--</p> <p>(1) Immediately initiate an action to deny, withdraw, suspend, revoke, or terminate accreditation or preaccreditation, or take comparable action against, adverse action against the institution or program; or</p> <p>(2) * * *</p> <p>* * * * *</p> <p>(b) If the institution or program does not bring itself into compliance within the specified period, the agency must take an immediate adverse action to deny, withdraw, suspend, revoke, or terminate accreditation or preaccreditation, or take comparable action against the institution or program unless the agency, for good cause, extends the period for achieving compliance.</p>	
<p><u>§602.28 Regard for decisions of States and other accrediting agencies.</u></p> <p>* * * * *</p> <p>(d) If the agency learns that an institution it accredits or preaccredits, or an institution that offers a program it accredits or preaccredits, is the subject of an adverse action to deny, withdraw, suspend, revoke, or terminate accreditation or preaccreditation, or take comparable action against the institution or program by another recognized accrediting agency or has been placed on probation or an equivalent status by another recognized agency, the agency must promptly review its accreditation or preaccreditation of the institution or program to determine if it should also take such adverse such adverse action or place the institution or program on probation or show cause.</p> <p>(e) The agency must, upon request, share with other appropriate recognized accrediting agencies and recognized State approval agencies information about the accreditation or preaccreditation status of an institution or program and any adverse adverse action</p>	<p><u>§602.28 Regard for decisions of States and other accrediting agencies.</u></p> <p>* * * * *</p> <p>(d) If the agency learns that an institution it accredits or preaccredits, or an institution that offers a program it accredits or preaccredits, is the subject of an adverse action to deny, withdraw, suspend, revoke, or terminate accreditation or preaccreditation, or take comparable action against the institution or program by another recognized accrediting agency or has been placed on probation or an equivalent status by another recognized agency, the agency must promptly review its accreditation or preaccreditation of the institution or program to determine if it should also take such adverse such adverse action or place the institution or program on probation or show cause.</p> <p>(e) The agency must, upon request, share with other appropriate recognized accrediting agencies and recognized State approval agencies information about the accreditation or preaccreditation status of an institution or program and any adverse adverse action</p>	

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<p>it has taken to deny, withdraw, suspend, revoke, or terminate accreditation or preaccreditation, or take comparable action against an accredited or preaccredited institution or program.</p>	<p>it has taken to deny, withdraw, suspend, revoke, or terminate accreditation or preaccreditation, or take comparable action against an accredited or preaccredited institution or program.</p>	
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SUMMARY OF REVISIONS TO DRAFT REGULATORY LANGUAGE

Issue #2: Substantive Change

Regulatory Cite: §602.22

Tentative Agreement: Reached at session 2 (March 26-28, 2007)

Legend:

- Proposed deletions to existing regulatory language are indicated by ~~strikeouts~~.
- Proposed additions to existing regulatory language are indicated by **bold typeface**.
- Subsequent changes to proposed revisions presented at the March 26-28, 2007 session are indicated by **highlighted text**.

Language proposed by the Department of Education during the March 26-28, 2007 session	Draft regulatory language as of April 26, 2007	Summary of Change
<p>§602.22 Substantive change.</p> <p>* * * * *</p> <p>(a)(2) The agency's definition of a substantive change includes at least the following types of change:</p> <p>(i) Any change in the established mission or objectives of the institution.</p> <p>(ii) Any change in the legal status, form of control, or ownership of the institution.</p> <p>(iii) The addition of courses or programs that represent a significant departure, in either content, academic subject matter, or method of delivery, from those that were offered when the agency last evaluated the institution.</p> <p>(iv) The addition of courses or programs at a degree or credential level above different from that which is included in the institution's current accreditation or preaccreditation.</p> <p>(v) A change from clock hours to credit hours.</p> <p>(vi) A substantial increase in the number of clock or credit hours awarded for</p>	<p>§602.22 Substantive change.</p> <p>* * * * *</p> <p>(a)(2) The agency's definition of a substantive change includes at least the following types of change:</p> <p>(i) Any change in the established mission or objectives of the institution.</p> <p>(ii) Any change in the legal status, form of control, or ownership of the institution.</p> <p>(iii) The addition of courses or programs that represent a significant departure, in either content, academic subject matter, from the scope of existing offerings of educational programs, or method of delivery, from those that were offered when the agency last evaluated the institution.</p> <p>(iv) The addition of courses or programs at a degree or credential level above different from that which is included in the institution's current accreditation or preaccreditation.</p> <p>(v) A change from clock hours to credit hours.</p> <p>(vi) A substantial increase in the number of clock or credit hours awarded for</p>	<ul style="list-style-type: none"> • Clarifies that substantive change includes the addition of courses or programs that represent a significant departure from an institution or program's scope of existing offerings. • Eliminates the proposed requirement that a school applying to an agency for approval to add locations without getting individual prior approval submit a management plan and, instead, requires that the institution demonstrate that it has a system in place to ensure quality across a distributed enterprise. • Changes the period of time for which an agency can grant prior approval for the addition of multiple locations from four years to five years and clarifies that the approval may not remain in force if an institution undergoes a change in ownership resulting in a change in control. • Clarifies that agencies would do a new comprehensive evaluation of institutions where changes are extensive, rather than specifying that an agency must require an application for initial accreditation in such cases. • Allows an agency evaluating a change in ownership to designate the date of the change as the effective date for its approval as long as the decision is made within 30 days of the change.

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<p>successful completion of a program.</p> <p>(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 those programs offers more than 25 percent of one or more of the accredited institution's educational programs.</p> <p>(vii)(viii) If the agency's accreditation of an institution enables the institution to seek eligibility to participate in Title IV, HEA programs, the establishment of an additional location geographically apart from the main campus at which the institution offers at least 50 percent of an educational program. An addition of such a location must be approved by the agency in accordance with paragraph (c) of this section unless the accrediting agency determines, and issues a written determination stating, that the institution has been accredited for at least ten years, has at least three additional locations that the agency has approved, and has met criteria established by the agency indicating sufficient maturity to add additional locations without individual prior approvals, including, at a minimum, a management plan that provides satisfactory evidence of--</p> <p>(A) A system to ensure quality across a distributed enterprise;</p> <p>(B) Centralized academic control;</p> <p>(C) Centralized and regular evaluation of the locations;</p> <p>(D) Adequate faculty, facilities, resources, and academic and student support systems;</p>	<p>successful completion of a program.</p> <p>(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 those programs offers more than 25 percent of one or more of the accredited institution's educational programs.</p> <p>(vii)(viii) If the agency's accreditation of an institution enables the institution to seek eligibility to participate in Title IV, HEA programs, the establishment of an additional location geographically apart from the main campus at which the institution offers at least 50 percent of an educational program. An addition of such a location must be approved by the agency in accordance with paragraph (c) of this section unless the accrediting agency determines, and issues a written determination stating, that the institution has been accredited for at least ten years—has successfully completed at least one cycle of accreditation of maximum length offered by the agency and one renewal or has been accredited for at least ten years, has at least three additional locations that the agency has approved, and has met criteria established by the agency indicating sufficient maturity, capacity to add additional locations without individual prior approvals, including, at a minimum, a management plan that provides satisfactory evidence of-- satisfactory evidence of a system to ensure quality across a distributed enterprise that includes--</p> <p>(A) A system to ensure quality across a distributed enterprise;</p> <p>(B) Centralized academic control;</p> <p>(C) Centralized and regular evaluation of the locations;</p> <p>(D) Adequate faculty, facilities, resources, and academic and student support systems;</p>	
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<p>(E) Financial stability; and</p> <p>(F) Long-range planning for expansion.</p> <p>The agency's procedures must require timely reporting to the agency of every additional location established under this approval. Each agency determination or redetermination to preapprove the addition of multiple locations under this paragraph must be of limited duration, and may not exceed four years. The approval may not remain in force after an institution undergoes a change in ownership.</p> <p>(3) The agency's substantive change policy defines when the changes made or proposed are or would be sufficiently extensive to require the agency to process the application as a request for initial accreditation or preaccreditation of a new institution or program.</p> <p>(b) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, the</p>	<p>(E) Financial stability; and</p> <p>(F) Long-range planning for expansion.</p> <p>(A) Clearly identified academic control;</p> <p>(B) Regular evaluation of the locations;</p> <p>(C) Adequate faculty, facilities, resources, and academic and student support systems;</p> <p>(D) Financial stability; and</p> <p>(E) Long-range planning for expansion.</p> <p>The agency's procedures must require timely reporting to the agency of every additional location established under this approval. Each agency determination or redetermination to preapprove the addition of multiple locations under this paragraph must be of limited duration, and may not exceed five years. The approval may not remain in force after an institution undergoes a change in ownership. The agency may no longer preapprove an institution's addition of multiple locations under this paragraph after the institution undergoes a change of ownership resulting in a change in control as defined in 34 C.F.R. §600.31 until the institution demonstrates that it meets the conditions for the agency to preapprove multiple locations set forth in this paragraph.</p> <p>(3) The agency's substantive change policy must define when the changes made or proposed are or would be sufficiently extensive to require the agency to process the application as a request for initial accreditation or preaccreditation of a new institution or program do a new comprehensive evaluation of the institution.</p> <p>(b) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, the</p>	
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<p>procedures must specify an effective date, not retroactive, on which the change is included in the program's or institution's accreditation. Except as provided in paragraph (c) of this section, these may, but need not, require a visit by the agency.</p> <p>(c) If the agency's accreditation of an institution enables the institution to seek eligibility to participate in Title IV, HEA programs, the agency's procedures for the approval of an additional location described in paragraph (a)(2)(viii) of this section must determine if the institution has the fiscal and administrative capacity to operate the additional location. In addition, the agency's procedures must include--</p> <p>(1) A visit, within six months, to each additional location the institution establishes, if the institution--</p> <p>(i) Has a total of three or fewer additional locations;</p> <p>(ii) Has not demonstrated, to the agency's satisfaction, that it has a proven record of effective educational oversight of additional locations; or</p> <p>(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;</p> <p>(2) An effective mechanism for conducting, at reasonable intervals throughout the accreditation cycle, visits to a representative sample of additional locations of institutions that operate more than three additional locations; and</p> <p>(3) An effective mechanism, which may, at the agency's discretion, include visits to additional locations, for ensuring that accredited and preaccredited institutions that</p>	<p>procedures must specify an effective date, not retroactive, on which the change is included in the program's or institution's accreditation. An agency may designate the date of a change of ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change of ownership. Except as provided in paragraph (c) of this section, the agency's approval policies these for additional locations may, but need not, require a visit by the agency.</p> <p>(c) If the agency's accreditation of an institution enables the institution to seek eligibility to participate in Title IV, HEA programs, the agency's procedures for the approval of an additional location described in paragraph (a)(2)(viii) of this section must determine if the institution has the fiscal and administrative capacity to operate the additional location. In addition, the agency's procedures must include--</p> <p>(1) A visit, within six months, to each additional location the institution establishes, if the institution--</p> <p>(i) Has a total of three or fewer additional locations;</p> <p>(ii) Has not demonstrated, to the agency's satisfaction, that it has a proven record of effective educational oversight of additional locations; or</p> <p>(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;</p> <p>(2) An effective mechanism for conducting, at reasonable intervals throughout the accreditation cycle, visits to a representative sample of additional locations of institutions that operate more than three additional locations; and</p> <p>(3) An effective mechanism, which may, at the agency's discretion, include visits to additional locations, for ensuring that</p>	
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<p>experience rapid growth in the number of additional locations maintain educational quality.</p> <p>(d) The purpose of the visits described in paragraph (c) of this section is to verify that the additional location has the personnel, facilities, and resources it claimed to have in its application to the agency for approval of the additional location.</p>	<p>accredited and preaccredited institutions that experience rapid growth in the number of additional locations maintain educational quality.</p> <p>(d) The purpose of the visits described in paragraph (c) of this section is to verify that the additional location has the personnel, facilities, and resources it claimed to have in its application to the agency for approval of the additional location.</p>	
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Issue #3: Monitoring of institutions

Regulatory Cite: §602.19

Tentative Agreement:

Legend:

- Proposed deletions to existing regulatory language are indicated by ~~strikeouts~~.
- Proposed additions to existing regulatory language are indicated by **bold typeface**.
- Subsequent changes to proposed revisions presented at the March 26-28, 2007 session are indicated by **highlighted text**.

Language proposed by the Department of Education during the March 26-28, 2007 session	Draft regulatory language as of April 26, 2007	Summary of Change
<p>§602.19 Monitoring and reevaluation of accredited institutions and programs.</p> <p>(a) The agency must reevaluate, at regularly established intervals, the institutions or programs it has accredited or preaccredited.</p> <p>(b) The agency must monitor institutions or programs throughout their accreditation or preaccreditation period, including conducting special evaluations or site visits, as necessary, to ensure that the institution or program--</p> <p>(1) Resolves identified problems related to compliance with agency standards; and</p> <p>(2) Implements concrete and reasonable steps to improve the institution's or program's performance in relation to the institution's educational mission.</p> <p>(c) The agency must regularly collect and analyze information on key performance indicators, such as enrollments, financial audits, retention and completion rates, and other measures of student achievement identified by the agency, to signal the need for intervention.</p>	<p>§602.19 Monitoring and reevaluation of accredited institutions and programs.</p> <p>(a) The agency must reevaluate, at regularly established intervals, the institutions or programs it has accredited or preaccredited.</p> <p>(b) The agency must monitor institutions or programs throughout their accreditation or preaccreditation period, including by requiring periodic reports and conducting special evaluations or site visits, as necessary, to ensure that the institution or program--</p> <p>(1) Resolves identified problems related to compliance with agency standards; and</p> <p>(2) Implements concrete and reasonable steps to improve the institution's or program's performance in relation to the institution's educational mission.</p> <p>(c) To signal the need for agency review of the status of the institution or program, the agency must regularly collect and analyze information on key performance indicators. such as These may include, but are not limited to, enrollments, financial audits or other financial information, retention rates, and completion rates, job placement</p>	<ul style="list-style-type: none"> • Adds periodic reports to the list of ways agencies monitor institutions and programs and removes language indicating that agencies use monitoring to ensure the resolution of problems and continued improvement in the institution's or program's performance. • Clarifies that agencies do not have to collect and analyze information on the entire list of key performance indicators, and provides greater flexibility by adding additional performance indicators to the list. • Removes the provision related to providing a rationale for the intervals between evaluations and institutional reporting. • Adds a provision that provides greater flexibility for agencies to use different monitoring and reevaluation approaches for various programs and institutions.

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<p>(d) The agency must provide a rationale acceptable to the Secretary, which may include consideration of the length of educational offerings, for the intervals between evaluations and institutional reporting that takes into consideration the length of the accreditation period.</p>	<p>rates, and State license examination pass rates, and other measures of student achievement identified by the agency. to signal the need for intervention</p> <p>(d) The agency must provide a rationale acceptable to the Secretary, which may include consideration of the length of educational offerings, for the intervals between evaluations and institutional reporting that takes into consideration the length of the accreditation period.</p> <p>(d) The agency must demonstrate it has, and effectively applies, a set of monitoring and reevaluation approaches that enables the agency to identify potential problems with an institution's or program's continued compliance with agency standards and that take into account institutional or program strengths and stability.</p>	
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Issue #4: Relationship of input and resource standards to student achievement

Regulatory Cite: §602.16

Summary of draft regulatory language as of April 26, 2007:

This issue was dropped by the Department in response to input from negotiators.

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SUMMARY OF REVISIONS TO DRAFT REGULATORY LANGUAGE

Issue #5: Standard definitions of terms related to student achievement

Regulatory Cite: §602.16

Summary of draft regulatory language as of April 26, 2007:

This issue was dropped by the Department in response to input from negotiators.

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Issue #6: Quantitative standards for programs leading to gainful employment

Issue #7: Institutional success with respect to student achievement

Regulatory Cite: §602.16

Tentative agreement: Not reached – Two dissentions

Legend:

- Proposed deletions to existing regulatory language are indicated by ~~strikeouts~~.
- Proposed additions to existing regulatory language are indicated by **bold typeface**.
- Subsequent changes to proposed revisions presented at the March 26-28, 2007 session are indicated by **highlighted text**.

Language proposed by the Department of Education during the March 26-28, 2007 session	Draft regulatory language as of April 26, 2007	Summary of Change
<p>§602.16 Accreditation and preaccreditation standards.</p> <p>(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--</p> <p>(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:</p> <p>(i) Success with respect to student achievement in relation to the institution's mission, including as appropriate, consideration of course completion, State licensing examinations, and job placement rates. For standards under paragraph (a)(1)(i) of this section, the agency must--</p>	<p>§602.16 Accreditation and preaccreditation standards.</p> <p>(a) The agency must demonstrate that it has standards for accreditation and, if offered, 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--</p> <p>(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:</p> <p>(i) Success with respect to student achievement in relation to the institution's mission, which may include different standards for different types of institutions or programs, including as appropriate, consideration of course completion, State licensing examinations, and job placement rates. For standards under paragraph (a)(1)(i) of this section, the agency Standards satisfying this criterion must include expected levels of performance that are either established by the agency, or established by the institution or program under subparagraphs (A) and (B). In addition--</p>	<ul style="list-style-type: none"> • Incorporates language provided by non-federal negotiators to clarify the role of institutions in specifying goals for student achievement, establishing expected levels of performance, determining performance measures, and providing qualitative and quantitative evidence of that performance. • Incorporates language provided by non-federal negotiators to clarify the role of accrediting agencies in establishing expected levels of performance if they are not established by the institution and demonstrating that its standards and processes allow it to evaluate whether the evidence provided by the institution or program is acceptable. • Incorporates language provided by non-federal negotiators addressing completion rates, job placement rates, and as applicable, pass rates on State licensing examinations or other appropriate measures of occupational competency for prebaccalaureate vocational programs and degree programs leading to initial professional licensure or certification. • Incorporates language provided by non-federal negotiators providing flexibility for institutional accrediting agencies to consider information at either the program level, the aggregate level, or both in making the institutional accreditation decision.

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<p>(A) For any prebaccalaureate vocational or occupational education program to be included in the institution's accreditation, establish minimum levels of expected student performance using quantitative measures, including a prescribed method of computation, for--</p> <p>(1) Completion rates;</p> <p>(2) Job placement rates; and</p> <p>(3) Pass rates on State licensing examinations or other appropriate measures of occupational competency.</p> <p>(B) For any baccalaureate or professional degree program that is to be accredited or included in an institution's accreditation, and that has as its objective the preparation of students for employment in an occupation or profession that requires successful performance on a certification or licensing exam, establish minimum expected levels of student performance using quantitative measures, including a prescribed method for computation, for--</p> <p>(1) Completion rates;</p> <p>(2) Job placement rates; and</p> <p>(3) Pass rates on State licensing examinations or other appropriate measures of occupational or professional competency.</p> <p>(C) Measure institutional success with respect to student achievement by--</p> <p>(1) Determining whether the programs offered by an institution, or the institution's programs in each subject area, meet an expected level of performance with respect to student achievement on quantitative and qualitative measures established by the agency for all institutions it accredits; or</p> <p>(2) Developing and ensuring compliance with a set of evaluative rubrics, applicable</p>	<p>(A) For any prebaccalaureate vocational or occupational education program to be included in the institution's accreditation, establish minimum levels of expected student performance using quantitative measures, including a prescribed method of computation, for--</p> <p>(1) Completion rates;</p> <p>(2) Job placement rates; and</p> <p>(3) Pass rates on State licensing examinations or other appropriate measures of occupational competency.</p> <p>(B) For any baccalaureate or professional degree program that is to be accredited or included in an institution's accreditation, and that has as its objective the preparation of students for employment in an occupation or profession that requires successful performance on a certification or licensing exam, establish minimum expected levels of student performance using quantitative measures, including a prescribed method for computation, for--</p> <p>(1) Completion rates;</p> <p>(2) Job placement rates; and</p> <p>(3) Pass rates on State licensing examinations or other appropriate measures of occupational or professional competency.</p> <p>(C) Measure institutional success with respect to student achievement by--</p> <p>(1) Determining whether the programs offered by an institution, or the institution's programs in each subject area, meet an expected level of performance with respect to student achievement on quantitative and qualitative measures established by the agency for all institutions it accredits; or</p> <p>(2) Developing and ensuring compliance with a set of evaluative rubrics, applicable</p>	
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<p>to multiple institutions with similar missions, that include a variety of quantitative and qualitative measures related to student achievement and, for each institution, weighting the components of each rubric in accordance with the particular characteristics of the institution and specifying an expected level of performance; or</p> <p>(3) For each program the institution offers, requiring the institution to: specify the educational objective(s) of the program; using quantitative and qualitative measures -- which must include those developed under paragraphs (a)(1)(i)(A) and (B) of this section, when applicable -- establish expected levels of performance, acceptable to the agency, with respect to student achievement consistent with the program's objective(s) and the institution's mission; make a showing satisfactory to the agency that the program has met the expected levels of performance it has established; and demonstrate to the satisfaction of the agency that it makes available to the public and to each prospective student the institution's mission as well as the program's objective(s), expected levels of performance on qualitative and quantitative measures, and the actual performance on these measures.</p>	<p>to multiple institutions with similar missions, that include a variety of quantitative and qualitative measures related to student achievement and, for each institution, weighting the components of each rubric in accordance with the particular characteristics of the institution and specifying an expected level of performance; or</p> <p>(3) For each program the institution offers, requiring the institution to: specify the educational objective(s) of the program; using quantitative and qualitative measures -- which must include those developed under paragraphs (a)(1)(i)(A) and (B) of this section, when applicable -- establish expected levels of performance, acceptable to the agency, with respect to student achievement consistent with the program's objective(s) and the institution's mission; make a showing satisfactory to the agency that the program has met the expected levels of performance it has established; and demonstrate to the satisfaction of the agency that it makes available to the public and to each prospective student the institution's mission as well as the program's objective(s), expected levels of performance on qualitative and quantitative measures, and the actual performance on these measures.</p> <p>(A) If the agency does not establish the expected levels of performance with respect to student achievement, the institution or program, at the institution or program level respectively, must--</p> <p>(1) Specify its goals for student achievement;</p> <p>(2) Establish the expected level of performance; and</p> <p>(3) Demonstrate its performance against those expected levels of performance using quantitative and qualitative evidence, including, as appropriate, external indicators.</p> <p>(B) For prebaccalaureate vocational</p>	
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	<p>programs and degree programs leading to initial professional licensure or certification, expected levels of performance must include completion rates, job placement rates, and, as applicable, pass rates on State licensing examinations or other appropriate measures of occupational competency.</p> <p>(C) Every agency must demonstrate that its standards and processes allow it to evaluate whether the evidence provided by the institution or program shows that the institution's or program's performance is acceptable. In any instances when the institution or program establishes the expected levels of performance, the agency must also demonstrate that its standards and processes allow it to evaluate the institution's or program's expected levels of performance. The agency will take into account the institution's or program's use of other externally-set performance measures or criteria.</p> <p>(D) Institutional accreditors will consider information provided by the institution about program level performance either in the aggregate, or at both the program level and in the aggregate, in making the institutional accreditation decision.</p>	
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Issue #8: Consideration of mission in application of standards

Regulatory Cite: §602.17

Tentative Agreement: Reached at session 2 (March 26-28, 2007)

Legend:

- Proposed deletions to existing regulatory language are indicated by ~~strikeouts~~.
- Proposed additions to existing regulatory language are indicated by **bold typeface**.
- Subsequent changes to proposed revisions presented at the March 26-28, 2007 session are indicated by **highlighted text**.

Language proposed by the Department of Education during the March 26-28, 2007 session	Draft regulatory language as of April 26, 2007	Summary of Change
<p>§602.17 Application of standards in reaching an accrediting decision.</p> <p>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--</p> <p>(a) Shows due regard for institutional mission in applying agency standards and policies that are unrelated to educational quality;</p> <p>(ab) Evaluates whether an institution or program--</p> <p>(Renumber as necessary)</p>	<p>§602.17 Application of standards in reaching an accrediting decision.</p> <p>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--</p> <p>(a) Shows due regard for institutional mission in applying agency standards and policies that are unrelated to educational quality;</p> <p>(g) Applies its accreditation standards in a manner that does not undermine the stated religious mission of any institution of higher education.</p>	<ul style="list-style-type: none"> • Requires accrediting agencies to not undermine the religious mission of an institution when applying their standards.

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Issue #9: Transfer of credit and acceptance of credentials

Regulatory Cite: §602.16(a)(1)(vii)

Tentative Agreement: Not reached – One dissention

Legend:

- Proposed deletions to existing regulatory language are indicated by ~~strikeouts~~.
- Proposed additions to existing regulatory language are indicated by **bold typeface**.
- Subsequent changes to proposed revisions presented at the March 26-28, 2007 session are indicated by **highlighted text**.

Language proposed by the Department of Education during the March 26-28, 2007 session	Draft regulatory language as of April 26, 2007	Summary of Change
<p>§602.16 Accreditation and preaccreditation standards.</p> <p>(a) The agency must demonstrate that it has standards for accreditation and, if offered, 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 --</p> <p>(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:</p> <p>* * *</p> <p>(vii) Recruiting and admissions practices, including those related to transfer of credit and acceptance of credentials, academic calendars, catalogs, publications, grading, and advertising.</p> <p>(A) The agency must ensure that decisions about transfer of credit and acceptance of credentials are not made solely on the source of accreditation of a sending institution or program, as long as the accreditation in question is from a recognized accrediting agency and within that agency's scope, and must also ensure that the institutions or programs it accredits provide a</p>	<p>§602.16 Accreditation and preaccreditation standards.</p> <p>(a) The agency must demonstrate that it has standards for accreditation and, if offered, 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 --</p> <p>(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:</p> <p>* * *</p> <p>(vii) Recruiting and admissions practices, including those related to transfer of credit and acceptance of credentials, academic calendars, catalogs, publications, grading, and advertising.</p> <p>(A) The agency must ensure Agency standards on admissions must provide that decisions about transfer of credit and acceptance of credentials are not made solely on the source of accreditation of a sending institution or program, as long as the accreditation in question is from a recognized accrediting agency and within that agency's scope, and must also ensure that the</p>	<ul style="list-style-type: none"> • Clarifies that the regulation would not require an audit of practice.

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complete description to prospective students of their policies concerning transfer of credit and acceptance of credentials.	institutions or programs it accredits provide a complete description disclose to prospective students of their policies concerning transfer of credit and acceptance of credentials.	
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Issue #10: Direct assessment programs

Regulatory Cite: §602.3, §602.18

Tentative Agreement: Reached at session 3 (April 24-26, 2007)

Legend:

- Proposed deletions to existing regulatory language are indicated by ~~strikeouts~~.
- Proposed additions to existing regulatory language are indicated by **bold typeface**.
- Subsequent changes to proposed revisions presented at the March 26-28, 2007 session are indicated by **highlighted text**.

Language proposed by the Department of Education during the March 26-28, 2007 session	Draft regulatory language as of April 26, 2007	Summary of Change
<p>§602.3 What definitions apply to this part?</p> <p>* * * * *</p> <p><i>Direct assessment program</i> means an instructional program that, in lieu of credit hours or clock hours as a measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others.</p> <p><i>Direct assessment of student learning</i> means a measure by the institution of what a student knows and can do in terms of the body of knowledge making up the education program. Examples of direct measures include projects, papers, examinations, presentations, performances, and portfolios.</p> <p>* * *</p> <p><i>Scope of recognition or scope</i> means the range of accrediting activities for which the Secretary recognizes an agency. The Secretary may place a limitation on the scope of an agency's recognition for Title IV, HEA purposes. The Secretary's designation of scope defines the recognition granted according to--</p>	<p>§602.3 What definitions apply to this part?</p> <p>* * * * *</p> <p><i>Direct assessment program</i> means an instructional program that, in lieu of credit hours or clock hours as a measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others.</p> <p><i>Direct assessment of student learning</i> means a measure by the institution of what a student knows and can do in terms of the body of knowledge making up the education program. Examples of direct measures include projects, papers, examinations, presentations, performances, and portfolios.</p> <p>* * *</p> <p><i>Scope of recognition or scope</i> means the range of accrediting activities for which the Secretary recognizes an agency. The Secretary may place a limitation on the scope of an agency's recognition for Title IV, HEA purposes. Except with respect to programs approved by the Secretary under 34 C.F.R. §668.10, scope does not include accreditation or preaccreditation granted to or comprising any program offered in whole or in part as a direct assessment program. The Secretary's designation of scope defines the recognition granted according to--</p>	<ul style="list-style-type: none"> • The definition of "direct assessment of student learning" has been removed. Agencies will be regarded as recognized for their accreditation of direct assessment programs only to the extent the direct assessment programs they accredit are approved by the Secretary for Title IV purposes under §668.10.

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<p>* * *</p> <p>(4) Types of preaccreditation status covered, if any; and</p> <p>(5) Coverage of accrediting activities related to distance education, if any; and</p> <p>(6) Coverage of accrediting activities related to direct assessment programs, if any.</p>	<p>* * *</p> <p>(4) Types of preaccreditation status covered, if any; and</p> <p>(5) Coverage of accrediting activities related to distance education, if any; and</p> <p>(6) Coverage of accrediting activities related to direct assessment programs, if any.</p>	
<p><u>§602.18 Ensuring consistency in decision-making.</u></p> <p>The agency must consistently apply and enforce its standards to ensure that the education or training offered by an institution or program, including any offered through distance education, and any utilizing direct assessment of student learning in lieu of credit or clock hours, is of sufficient quality to achieve its stated objective for the duration of any accreditation or preaccreditation period granted by the agency. The agency meets this requirement if the agency--</p> <p>* * *</p>	<p>§602.18 Ensuring consistency in decision-making.</p> <p>The agency must consistently apply and enforce its standards to ensure that the education or training offered by an institution or program, including any offered through distance education, and any utilizing direct assessment of student learning in lieu of credit or clock hours, is of sufficient quality to achieve its stated objective for the duration of any accreditation or preaccreditation period granted by the agency. The agency meets this requirement if the agency--</p> <p>* * *</p>	

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Issue #11: Scope of Recognition

Regulatory Cite: §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)

Summary of draft regulatory language as of April 26, 2007:

This issue was dropped by the Department in response to input from negotiators.

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Issue #12: Recognition procedures
Issue #13: Decision-making authority

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

Tentative Agreement:

Legend:

- Proposed deletions to existing regulatory language are indicated by ~~strikeouts~~.
- Proposed additions to existing regulatory language are indicated by **bold typeface**.
- Subsequent changes to proposed revisions presented at the March 26-28, 2007 session are indicated by **highlighted text**.

Language proposed by the Department of Education during the March 26-28, 2007 session	Draft regulatory language as of April 26, 2007	Summary of Change
<p>§602.3 What definitions apply to this part? * * *</p> <p><i>Recognition means an unappealed determination by the senior Department official under 34 C.F.R. §602.34, or a determination by the Secretary on appeal under 34 C.F.R. §602.36, that an accrediting agency complies with the criteria for recognition listed in Subpart B of this part and that the agency is effective in its performance with respect to those criteria. Recognition is conditional and may be revoked at any time prior to its expiration upon a determination made in accordance with 34 C.F.R. §602.34 or 34 C.F.R. §602.36, as applicable, that the agency no longer complies with the Subpart B criteria or that it has become ineffective in its performance with respect to those criteria.</i></p>	<p>§602.3 What definitions apply to this part? * * *</p> <p><i>Recognition means an unappealed determination by the senior Department official under 34 C.F.R. §602.34, or a determination by the Secretary on appeal under 34 C.F.R. §602.36, that an accrediting agency complies with the criteria for recognition listed in subpart B of this part and that the agency is effective in its performance with respect to those criteria. Recognition is conditional and may be revoked at any time prior to its expiration upon a determination made in accordance with 34 C.F.R. §602.34 or 34 C.F.R. §602.36, as applicable, that the agency no longer complies with the subpart B criteria or that it has become ineffective in its performance with respect to those criteria.</i></p>	<ul style="list-style-type: none"> • NOTE: Non-federal negotiators are currently developing alternative language for issues #12/#13 and will present it at the June 1, 2007 negotiation session. • A new definition of “Recognition” clarifies that recognition is conditional and may be revoked at any time during the agency’s period of recognition if the agency is found to be out of compliance with the criteria for recognition or is no longer effective in its performance. • A change in §602.31(b)(1) clarifies that as part of Department staff analysis of an agency’s application, a site visit to the agency and/or institutions or programs the agency accredits is required. The senior Department official, rather than the Secretary, will receive and act upon NACIQI’s recommendations. The Secretary will be the decision-making authority for appeals. The appeal procedures are detailed in a new §602.35. • A new §602.32 details the procedures for conducting an investigation into the compliance of a recognized agency with the criteria for recognition in the midst of the recognition period, for soliciting information from the agency, and for bringing the agency before NACIQI. • Two procedural subparts, one for the recognition process and the other for the limitation, suspension or termination of recognition, are combined.
<p>Subpart C – The Recognition Process</p> <p>§602.31 How does Department staff review an agency’s application?</p>	<p>Subpart C – The Recognition Process</p> <p>§602.31 How does Department staff review an agency’s application?</p>	

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<p>* * *</p> <p>(b) Department staff analyzes the agency's application to determine whether the agency satisfies the criteria for recognition, taking into account all available relevant information concerning the compliance of the agency with those criteria and any deficiencies in the agency's performance with respect to the criteria. The analysis includes--</p> <p>(1) At the Secretary's discretion, site visits, on an announced or unannounced basis, to the agency and, at the Secretary's discretion, to some of the institutions or programs it accredits or preaccredits.</p> <p>* * *</p>	<p>* * *</p> <p>(b) Department staff analyzes the agency's application to determine whether the agency satisfies the criteria for recognition, taking into account all available relevant information concerning the compliance of the agency with those criteria and any deficiencies in the agency's performance with respect to the criteria. The analysis includes--</p> <p>(1) At the Secretary's discretion, site visits, on an announced or unannounced basis, to the agency and, at the Secretary's discretion, to some of the institutions or programs it accredits or preaccredits.</p> <p>* * *</p>	
<p>§602.32 What other type of review may Department staff conduct?</p> <p>(a) Department staff may conduct an investigation into the compliance of a recognized agency with the criteria for recognition at any time, on its own initiative, at the request of the Advisory Committee, or in response to a third party complaint. The investigation may include, but need not be limited to, any of the activities described in 34 C.F.R. §602.31(b)(1), (b)(2), (b)(3), and (c).</p> <p>(b) If, in the course of the investigation, Department staff identifies one or more areas of apparent non-compliance with the criteria for recognition, it--</p> <p>(1) May request that an agency file a report (including documentation) addressing the criteria with which the agency's continued compliance is in question;</p> <p>(2) Establishes a schedule for the</p>	<p>§602.32 What other type of review may Department staff conduct? procedures will the Department staff follow in investigating recognized agencies?</p> <p>(a) Department staff may conduct an investigation into the compliance of a recognized agency with the criteria for recognition at any time, on its own initiative, at the request of the Advisory Committee, or in response to a third party complaint or based on any other relevant information received, including any third party complaint that appears credible and raises issues relevant to recognition. The investigation may include, but need not be limited to, any of the activities described in 34 C.F.R. §602.31(b)(1), (b)(2), (b)(3), and (c).</p> <p>(b) If, in the course of the investigation, Department staff identifies concludes that one or more areas of apparent non-material deficiencies may exist in the agency's compliance with the criteria for recognition, it--</p> <p>(1) May request that an agency file a report (including documentation) addressing the criteria with which the agency's continued compliance is in question;</p> <p>(2) Establishes a schedule for the</p>	

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<p>review of the issues by the National Advisory Committee on Institutional Quality and Integrity;</p> <p>(3) Publishes a notice in the Federal Register inviting the public to comment on the agency's compliance with the criteria in question and establishing a deadline for receipt of public comment;</p> <p>(4) Provides State licensing or authorizing agencies, all currently recognized accrediting agencies, and other appropriate organizations with copies of the Federal Register notice; and</p> <p>(5) Prepares a written analysis of the agency's compliance with the criteria identified that reflects the results of the investigation, and that includes a recommendation regarding what action to take with respect to recognition. Possible recommendations include, but are not limited to, limiting, suspending, or terminating recognition.</p> <p>(c) The Department staff sends its analysis and all supporting documentation to the agency for response, and, if necessary, prepares an addendum, all in accordance with §602.31(e)(2), (e)(3), (f), and (g).</p> <p>(d) Before the Advisory Committee meeting, Department staff provides the Advisory Committee with any materials generated or obtained under this section, along with any other information Department staff relied on in developing its analysis.</p> <p>(e) At least 30 days before the Advisory Committee meeting, the Department publishes a notice of the meeting in the Federal Register inviting interested parties, including those who submitted third-party comments concerning the agency's compliance with the criteria for recognition, to make oral presentations before the Advisory Committee.</p>	<p>review of the issues by the National Advisory Committee on Institutional Quality and Integrity;</p> <p>(3) Publishes a notice in the Federal Register inviting the public to comment on the agency's compliance with the criteria in question and establishing a deadline for receipt of public comment;</p> <p>(4) Provides State licensing or authorizing agencies, all currently recognized accrediting agencies, and other appropriate organizations with copies of the Federal Register notice; and</p> <p>(5) Prepares a written analysis of the agency's compliance with the criteria identified that reflects the results of the investigation, and that includes a recommendation regarding what action to take with respect to recognition. Possible recommendations include, but are not limited to, limiting, suspending, or terminating recognition.</p> <p>(c) The Department staff sends its analysis and all supporting documentation to the agency for response, and, if necessary, prepares an addendum, all in accordance with §602.31(e)(2), (e)(3), (f), and (g).</p> <p>(d) Before the Advisory Committee meeting, Department staff provides the Advisory Committee with any materials generated or obtained under this section, along with any other information Department staff relied on in developing its analysis.</p> <p>(e) At least 30 days before the Advisory Committee meeting, the Department publishes a notice of the meeting in the Federal Register inviting interested parties, including those who submitted third-party comments concerning the agency's compliance with the criteria for recognition, to make oral presentations before the Advisory Committee.</p> <p>(1) Must notify the agency in writing of the criteria and issues of concern and discuss the matter with agency representatives;</p>	
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	<p>(2) If not satisfied with the agency's explanation, establishes a time period, not to exceed three months from the date of the notice provided under paragraph (1), during which the agency must file a written report (including documentation) demonstrating compliance with the criteria cited by the staff and resolving all issues the staff has raised;</p> <p>(3) Reviews any report submitted by an agency under paragraph (2) and, if still dissatisfied-</p> <p>(i) Establishes a schedule for the review of the issues by the Advisory Committee;</p> <p>(ii) Publishes a notice in the Federal Register inviting the public to comments on the agency's compliance with the criteria in question and establishing a deadline for receipt of public comment;</p> <p>(iii) Provides State licensing or authorizing agencies, all currently recognized accrediting agencies, and other appropriate organizations with copies of the Federal Register notice;</p> <p>(iv) Prepares a written analysis of the agency's compliance with the criteria identified that reflects the results of the investigation, and that includes a recommendation regarding what action to take with respect to recognition. Possible recommendations include, but are not limited to, limiting, suspending, or terminating recognition;</p> <p>(v) Sends its analysis and all supporting documentation to the agency for response and, if necessary, prepares an addendum, all in accordance with §602.31(e)(2), (e)(3), (f), and (g);</p> <p>(vi) Before the Advisory Committee hearing, provides the Advisory Committee with any materials generated or obtained under this section, along with any other information Department staff relied on in developing its analysis; and</p>	
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	<p>(vii) At least 30 days before the Advisory Committee meets to conduct hearings for review of agencies, publishes a notice of the meeting in the Federal Register inviting interested parties, including those who submitted third-party comments concerning the agency's compliance with the criteria for recognition, to make oral presentations before the Advisory Committee.</p>	
<p>§602.323 What is the role of the Advisory Committee and the senior Department official in the review of an agency's application?</p> <p>(a) The Advisory Committee considers an agency's application for recognition, or a staff analysis prepared under §602.32 together with the associated agency report, if any, at a public meeting and invites Department staff, the agency, and other interested parties to make oral presentations at the meeting. A transcript is made of each Advisory Committee meeting.</p> <p>(b) When it concludes its review, the Advisory Committee recommends that makes such recommendations to the senior Department official as the Committee deems appropriate, including, but not limited to, a recommendation to either approve, or deny, limit, suspend, or terminate recognition, or that the Secretary to defer a decision on the agency's application for recognition.</p> <p>(1)(i) The Advisory Committee recommends approval of recognition if the agency complies with the criteria for recognition listed in subpart B of this part and if the agency is effective in its performance with respect to those criteria.</p> <p>(ii) If the Advisory Committee recommends approval, the Advisory Committee also recommends a recognition period and a scope of recognition.</p>	<p>§602.323 What is the role of the Advisory Committee and the senior Department official in the review of an agency's application? How are Advisory Committee hearings for review of agencies conducted?</p> <p>(a) The Advisory Committee considers an agency's application for recognition and staff analysis prepared under §602.31, or a staff analysis prepared under §602.32 together with the associated agency report, if any, and response, at in a public meeting hearing and invites Department staff, the agency, and other interested parties to make oral presentations at during the meeting hearing. A transcript is made of each all Advisory Committee meeting hearings.</p> <p>(b) When it concludes its review, the Advisory Committee recommends that makes such recommendations to the senior Department official as the Committee deems appropriate, including, but not limited to, a recommendation to either approve, or deny, limit, suspend, or terminate recognition, or that the Secretary to defer a decision on the agency's application for recognition.</p> <p>(1)(i) The Advisory Committee recommends approval of recognition if the agency complies with the criteria for recognition listed in subpart B of this part and if the agency is effective in its performance with respect to those criteria.</p> <p>(ii) If the Advisory Committee recommends approval, the Advisory Committee also recommends a recognition period and a scope of recognition.</p> <p>(iii) If the recommended scope or</p>	<p>Deleted: ¶</p>

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<p>(iii) If the recommended scope or period of recognition is less than that requested by the agency, the Advisory Committee explains its reasons for recommending the lesser scope or recognition period.</p> <p>(2)(i) If the agency fails to comply with the criteria for recognition in subpart B of this part cited in the Department staff analysis, or if the agency is not effective in its performance with respect to those criteria, the Advisory Committee recommends denial, limitation, suspension, or termination of recognition, unless the Advisory Committee concludes that a deferral by the senior Department official under paragraph (b)(3) of this section is warranted.</p> <p>(ii) If the Advisory Committee recommends denial, limitation, suspension, or termination of recognition, the Advisory Committee specifies the reasons for its recommendation, including all criteria the agency fails to meet and all areas in which the agency fails to perform effectively.</p> <p>(iii) If the Advisory Committee identifies areas of noncompliance with the criteria for recognition (or in the effectiveness of agency performance with respect to those criteria) that are not identified in the Department staff analysis before the Advisory Committee, the Advisory Committee postpones further consideration of the agency until its next meeting and recommends that the Department staff conduct an investigation under 34 C.F.R. §602.32.</p> <p>* * *</p> <p>(c) At the conclusion of its meeting, the Advisory Committee forwards its recommendations to the Secretary through the senior Department official, except as provided in subparagraph (b)(2)(iii) of this section.</p>	<p>period of recognition is less than that requested by the agency, the Advisory Committee explains its reasons for recommending the lesser scope or recognition period.</p> <p>(2)(i) If the Advisory Committee determines that the agency fails to comply with the criteria for recognition in subpart B of this part cited in the Department staff analysis, or if it determines that the agency is not effective in its performance with respect to those criteria, the Advisory Committee recommends denial, limitation, suspension, or termination of recognition, unless the Advisory Committee concludes that a deferral by the senior Department official under paragraph (b)(3) of this section is warranted.</p> <p>(ii) If the Advisory Committee recommends denial, limitation, suspension, or termination of recognition, the Advisory Committee specifies the reasons for its recommendation, including all criteria the agency fails to meet and all areas in which the agency fails to perform effectively.</p> <p>(iii) If the Advisory Committee identifies areas of noncompliance with the criteria for recognition (or in the effectiveness of agency performance with respect to those criteria) that are not identified in the Department staff analysis before the Advisory Committee, the Advisory Committee postpones further consideration of the agency until its next meeting, and recommends that the Department staff conducts an investigation under 34 C.F.R. §602.32 of the new issues raised by the Advisory Committee.</p> <p>* * *</p> <p>(c) At the conclusion of its meeting hearings for review of agencies, the Advisory Committee forwards its recommendations to the Secretary through the senior Department official, except as provided in paragraph (b)(2)(iii) of this section.</p>	
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<p>(D) For any Advisory Committee recommendation not appealed under § 602.33, the senior Department official includes with the Advisory Committee materials forwarded to the Secretary a memorandum containing the senior Department official's recommendations regarding the actions proposed by the Advisory Committee.</p>	<p>(D) For any Advisory Committee recommendation not appealed under § 602.33, the senior Department official includes with the Advisory Committee materials forwarded to the Secretary a memorandum containing the senior Department official's recommendations regarding the actions proposed by the Advisory Committee.</p>	
<p>§602.33 How may an agency appeal a recommendation of the Advisory Committee?</p> <p>———— (a) Either the agency or the senior Department official may appeal the Advisory Committee's recommendation. If a party wishes to appeal that party must —</p> <p>———— (1) Notify the Secretary and the other party in writing of its intent to appeal the recommendation no later than 10 days after the Advisory Committee meeting;</p> <p>———— (2) Submit its appeal in writing to the Secretary no later than 30 days after the Advisory Committee meeting; and</p> <p>———— (3) Provide the other party with a copy of the appeal at the same time it submits the appeal to the Secretary.</p> <p>———— (b) The non appealing party must file a written response to the appeal. If that party wishes to do so, it must —</p> <p>———— (1) Submit its response to the Secretary no later than 30 days after receiving its copy of the appeal; and</p> <p>———— (2) Provide the appealing party with a copy of its response at the same time it submits its response to the Secretary.</p> <p>———— (c) Neither the agency nor the senior Department official may include any new evidence in its submission; i.e., evidence it did not previously submit to the Advisory Committee.</p>	<p>§602.33 How may an agency appeal a recommendation of the Advisory Committee?</p> <p>———— (a) Either the agency or the senior Department official may appeal the Advisory Committee's recommendation. If a party wishes to appeal that party must —</p> <p>———— (1) Notify the Secretary and the other party in writing of its intent to appeal the recommendation no later than 10 days after the Advisory Committee meeting;</p> <p>———— (2) Submit its appeal in writing to the Secretary no later than 30 days after the Advisory Committee meeting; and</p> <p>———— (3) Provide the other party with a copy of the appeal at the same time it submits the appeal to the Secretary.</p> <p>———— (b) The non appealing party must file a written response to the appeal. If that party wishes to do so, it must —</p> <p>———— (1) Submit its response to the Secretary no later than 30 days after receiving its copy of the appeal; and</p> <p>———— (2) Provide the appealing party with a copy of its response at the same time it submits its response to the Secretary.</p> <p>———— (c) Neither the agency nor the senior Department official may include any new evidence in its submission; i.e., evidence it did not previously submit to the Advisory Committee.</p>	
<p>§602.34 What does the Secretary senior</p>	<p>§602.34 What does the Secretary senior</p>	

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<p><u>Department official</u> consider when making a recognition decision?</p> <p>The Secretary senior Department official makes a decision regarding recognition of an agency based on the entire record of the agency's application, including the following:</p> <p>(a) The Advisory Committee's recommendation.</p> <p>(b) The senior Department official's recommendation, if any.</p> <p>(eb) The agency's application and supporting documentation.</p> <p>(dc) The Department staff analysis of the agency.</p> <p>(ed) All written third-party comments forwarded by Department staff to the Advisory Committee for consideration at the meeting.</p> <p>(fe) Any agency response to the Department staff analysis and third-party comments.</p> <p>(gf) Any addendum to the Department staff analysis.</p> <p>(hg) All oral presentations at the Advisory Committee meetings.</p> <p>(i) Any materials submitted by the parties, within the established timeframes, in an appeal taken in accordance with §602.33.</p>	<p><u>Department official</u> consider when making a recognition decision?</p> <p>The Secretary senior Department official makes a decision regarding recognition of an agency based on the entire record of the agency's application, including the following:</p> <p>(a) The Advisory Committee's recommendation.</p> <p>(b) The senior Department official's recommendation, if any.</p> <p>(eb) The agency's application and supporting documentation.</p> <p>(dc) The Department staff analysis of the agency.</p> <p>(ed) All written third party comments forwarded by Department staff to the Advisory Committee for consideration at the meeting.</p> <p>(fe) Any agency response to the Department staff analysis and third party comments.</p> <p>(gf) Any addendum to the Department staff analysis.</p> <p>(hg) All oral presentations at the Advisory Committee meetings.</p> <p>(b) The Department staff analysis of the agency.</p> <p>(c) Any addendum to the Department staff analysis.</p> <p>(d) Any agency response to the Department staff analysis and third-party comments.</p> <p>(e) The agency's application submitted under 34 C.F.R. §602.31, or its report submitted under 34 C.F.R. §602.32, and supporting documentation.</p> <p>(f) All written third-party comments forwarded by Department staff to the Advisory</p>	
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	<p>Committee for consideration at the made during the Advisory Committee meeting hearing.</p> <p>(g) All oral presentations at made during the Advisory Committee meeting hearing.</p>	
<p><u>§602.35 What information does the Secretary senior Department official’s recognition decision include?</u></p> <p>(a) The Secretary senior Department official notifies the agency in writing of the Secretary’s senior Department official’s decision regarding the agency’s application for recognition.</p> <p>(b) The decision Secretary the senior Department official may make includes, but is not limited to, approving, denying, limiting, suspending, or terminating recognition, either approves or denies recognition or defers deferring a decision on the agency’s application for recognition.</p> <p>(1)(i) The Secretary senior Department official approves recognition if the agency complies with the criteria for recognition listed in Subpart B of this part and if the agency is effective in its performance with respect to those criteria.</p> <p>(ii) If the Secretary senior Department official approves recognition, the Secretary’s recognition decision defines the scope of recognition and the recognition period.</p> <p>(iii) If the scope or period of recognition is less than that requested by the agency, the Secretary senior Department official explains the reasons for approving a lesser scope or recognition period.</p> <p>(2)(i) If the agency fails to comply with the criteria for recognition in subpart B of this part, or if the agency is not effective in its performance with respect to those criteria, the Secretary senior Department official denies, limits, suspends, or terminates recognition, unless the Secretary senior Department official concludes that a deferral under paragraph (b)(3) of this section</p>	<p><u>§602.35 What information does the Secretary senior Department official’s recognition decision include?</u></p> <p>(a) The Secretary senior Department official notifies the agency in writing of the Secretary’s senior Department official’s decision regarding the agency’s application for recognition.</p> <p>(b) The decision Secretary the senior Department official may make includes, but is not limited to, approving, denying, limiting, suspending, or terminating recognition, either approves or denies recognition or defers deferring a decision on the agency’s application for recognition.</p> <p>(1)(i) The Secretary senior Department official approves recognition if the agency complies with the criteria for recognition listed in Subpart B of this part and if the agency is effective in its performance with respect to those criteria.</p> <p>(ii) If the Secretary senior Department official approves recognition, the Secretary’s recognition decision defines the scope of recognition and the recognition period.</p> <p>(iii) If the scope or period of recognition is less than that requested by the agency, the Secretary senior Department official explains the reasons for approving a lesser scope or recognition period.</p> <p>(2)(i) If the agency fails to comply with the criteria for recognition in subpart B of this part, or if the agency is not effective in its performance with respect to those criteria, the Secretary senior Department official denies, limits, suspends, or terminates recognition, unless the Secretary senior Department official concludes that a deferral under paragraph (b)(3) of this section</p>	

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<p>is warranted.</p> <p>(ii) If the Secretary Secretary senior Department official denies, limits, suspends, or terminates recognition, the Secretary senior Department official specifies the reasons for this decision, including all criteria the agency fails to meet and all areas in which the agency fails to perform effectively with respect to the criteria.</p> <p>(3)(i) The Secretary senior Department official may defer a decision on recognition if the Secretary senior Department official concludes that the agency's deficiencies do not warrant immediate less denial, limitation, suspension, or termination of recognition and if the Secretary senior Department official concludes that the agency will demonstrate or achieve compliance with the criteria for recognition and effective performance with respect to those criteria before the expiration of the deferral period.</p> <p>(ii) In the deferral decision, the Secretary senior Department official states the bases for the Secretary's senior Department official's conclusions, specifies any criteria for recognition the agency fails to meet, and identifies any areas in which the agency fails to perform effectively with respect to the criteria.</p> <p>(iii) The Secretary senior Department official also establishes a deferral period, which begins on the date of the Secretary's senior Department official's decision.</p> <p>(iv) The deferral period may not exceed 12 months, either as a single deferral period or in combination with any expiring deferral period in which similar deficiencies in compliance or performance were cited by the Secretary senior Department official, except that the Secretary senior Department official may grant an extension of an expiring deferral period at the request of the agency for good cause shown.</p> <p>(c) The No recognition period may not exceed five years. Prior to the expiration of</p>	<p>is warranted.</p> <p>(ii) If the Secretary Secretary senior Department official denies, limits, suspends, or terminates recognition, the Secretary senior Department official specifies the reasons for this decision, including all criteria the agency fails to meet and all areas in which the agency fails to perform effectively with respect to the criteria.</p> <p>(3)(i) The Secretary senior Department official may defer a decision on recognition if the Secretary senior Department official concludes that the agency's deficiencies do not warrant immediate less denial, limitation, suspension, or termination of recognition and if the Secretary senior Department official concludes that the agency will demonstrate or achieve compliance with the criteria for recognition and effective performance with respect to those criteria before the expiration of the deferral period.</p> <p>(ii) In the deferral decision, the Secretary senior Department official states the bases for the Secretary's senior Department official's conclusions, specifies any criteria for recognition the agency fails to meet, and identifies any areas in which the agency fails to perform effectively with respect to the criteria.</p> <p>(iii) The Secretary senior Department official also establishes a deferral period, which begins on the date of the Secretary's senior Department official's decision.</p> <p>(iv) The deferral period may not exceed 12 months, either as a single deferral period or in combination with any expiring deferral period in which similar deficiencies in compliance or performance were cited by the Secretary senior Department official, except that the Secretary senior Department official may grant an extension of an expiring deferral period at the request of the agency for good cause shown.</p> <p>(c) The No recognition period may not exceed five years. Prior to the expiration of</p>	
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<p>a period of recognition, an agency desiring renewal must apply under 34 C.F.R. §602.31.</p> <p>(d) If the Secretary senior Department official does not reach a final decision to approve, or deny, limit, suspend, or terminate an agency's application for continued recognition before the expiration of its recognition period, the Secretary senior Department official automatically extends the recognition period until the final decision is reached.</p> <p>(e) Unless appealed in accordance with 34 C.F.R. §602.36, the senior Department official's decision is the final decision of the Secretary.</p>	<p>a period of recognition, an agency desiring renewal must apply under 34 C.F.R. §602.31.</p> <p>(d) If the Secretary senior Department official does not reach a final decision to approve, or deny, limit, suspend, or terminate an agency's application for continued recognition before the expiration of its recognition period, the Secretary senior Department official automatically extends the recognition period until the final decision is reached.</p> <p>(e) Unless appealed in accordance with 34 C.F.R. §602.36, the senior Department official's decision is the final decision of the Secretary.</p>	
<p><u>§602.36 How may an agency appeal the senior Department official's decision?</u></p> <p>(a) The agency may appeal the senior Department official's decision to the Secretary. If an agency wishes to appeal, the agency must--</p> <p>(1) Notify the Secretary and the senior Department official in writing of its intent to appeal the decision no later than 10 days after receipt of the decision;</p> <p>(2) Submit its appeal to the Secretary in writing no later than 30 days after receipt of the decision; and</p> <p>(3) Provide the senior Department official with a copy of the appeal at the same time it submits the appeal to the Secretary.</p> <p>(b) The senior Department official may file a written response to the appeal. To do so, the senior Department official must--</p> <p>(1) Submit a response to the Secretary no later than 30 days after receipt of a copy of the appeal; and</p> <p>(2) Provide the agency with a copy of the senior Department official's response at the same time it is submitted to the Secretary.</p>	<p><u>§602.36 How may an agency appeal the senior Department official's decision?</u></p> <p>(a) The agency may appeal the senior Department official's decision to the Secretary. If an agency wishes to appeal, the agency must--</p> <p>(1) Notify the Secretary and the senior Department official in writing of its intent to appeal the decision no later than 10 days after receipt of the decision;</p> <p>(2) Submit its appeal to the Secretary in writing no later than 30 days after receipt of the decision; and</p> <p>(3) Provide the senior Department official with a copy of the appeal at the same time it submits the appeal to the Secretary.</p> <p>(b) The senior Department official may file a written response to the appeal. To do so, the senior Department official must--</p> <p>(1) Submit a response to the Secretary no later than 30 days after receipt of a copy of the appeal; and</p> <p>(2) Provide the agency with a copy of the senior Department official's response at the same time it is submitted to the Secretary.</p>	

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<p>(c) Neither the agency nor the senior Department official may include any new evidence in its submission, i.e., evidence it did not previously submit to the Advisory Committee.</p> <p>(d) On appeal, the Secretary makes a recognition decision in accordance with 34 C.F.R. §602.34, rendering a final decision after taking into account the senior Department official's decision and the parties' written submissions on appeal, as well as the entire record before the Advisory Committee and the Advisory Committee's opinion. The Secretary notifies the agency in writing of the Secretary's decision regarding the agency's recognition.</p>	<p>(c) Neither the agency nor the senior Department official may include any new evidence in its submission, i.e., evidence it did not previously submit to the Advisory Committee.</p> <p>(d) On appeal, the Secretary makes a recognition decision in accordance with 34 C.F.R. §602.34, rendering a final decision after taking into account the senior Department official's decision and the parties' written submissions on appeal, as well as the entire record before the Advisory Committee and the Advisory Committee's opinion. The Secretary notifies the agency in writing of the Secretary's decision regarding the agency's recognition.</p>	
<p><u>§602.367 May an agency appeal the Secretary's final recognition decision to deny, limit, suspend, or terminate its recognition?</u></p> <p>An agency may appeal the Secretary's decision under this part in the Federal courts as a final decision in accordance with applicable Federal law.</p>	<p><u>§602.367 May an agency appeal the Secretary's final recognition decision to deny, limit, suspend, or terminate its recognition?</u></p> <p>An agency may appeal the Secretary's decision under this part in the Federal courts as a final decision in accordance with applicable Federal law.</p>	
<p>Subpart D – Limitation, Suspension, or Termination of Recognition Limitation, Suspension, and Termination Procedures</p> <p>§602.40 How may the Secretary limit, suspend, or terminate an agency's recognition?</p> <p>———— (a) If the Secretary determines, after notice and an opportunity for a hearing, that a recognized agency does not comply with the criteria for recognition in subpart B of this part, or that the agency is not effective in its performance with respect to those criteria, the Secretary—</p> <p>———— (1) Limits, suspends, or terminates the agency's recognition; or</p> <p>———— (2) Requires the agency to take appropriate action to bring itself into compliance with the criteria and achieve effectiveness within a timeframe that may not exceed 12 months.</p>	<p>Subpart D – Limitation, Suspension, or Termination of Recognition Limitation, Suspension, and Termination Procedures</p> <p>§602.40 How may the Secretary limit, suspend, or terminate an agency's recognition?</p> <p>———— (a) If the Secretary determines, after notice and an opportunity for a hearing, that a recognized agency does not comply with the criteria for recognition in subpart B of this part, or that the agency is not effective in its performance with respect to those criteria, the Secretary—</p> <p>———— (1) Limits, suspends, or terminates the agency's recognition; or</p> <p>———— (2) Requires the agency to take appropriate action to bring itself into compliance with the criteria and achieve effectiveness within a timeframe that may not exceed 12 months.</p>	

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<p>_____ (b) If, at the conclusion of the timeframe specified in paragraph (a)(2) of this section, the Secretary determines, after notice and an opportunity for a hearing, that the agency has failed to bring itself into compliance or has failed to achieve effectiveness, the Secretary limits, suspends, or terminates recognition, unless the Secretary extends the timeframe, on request by the agency for good cause shown.</p>	<p><u>_____ (b) If, at the conclusion of the timeframe specified in paragraph (a)(2) of this section, the Secretary determines, after notice and an opportunity for a hearing, that the agency has failed to bring itself into compliance or has failed to achieve effectiveness, the Secretary limits, suspends, or terminates recognition, unless the Secretary extends the timeframe, on request by the agency for good cause shown.</u></p>	
<p>§602.41 What are the notice procedures?</p> <p>_____ (a) Department staff initiates an action to limit, suspend, or terminate an agency's recognition by notifying the agency in writing of the Secretary's intent to limit, suspend, or terminate recognition. The notice _____</p> <p>_____ (1) Describes the specific action the Secretary seeks to take against the agency and the reasons for that action, including the criteria with which the agency has failed to comply;</p> <p>_____ (2) Specifies the effective date of the action; and</p> <p>_____ (3) Informs the agency of its right to respond to the notice and request a hearing.</p> <p>_____ (b) Department staff may send the notice described in paragraph (a) of this section at any time the staff concludes that the agency fails to comply with the criteria for recognition in subpart B of this part or is not effective in its performance with respect to those criteria.</p>	<p><u>§602.41 What are the notice procedures?</u></p> <p><u>_____ (a) Department staff initiates an action to limit, suspend, or terminate an agency's recognition by notifying the agency in writing of the Secretary's intent to limit, suspend, or terminate recognition. The notice _____</u></p> <p><u>_____ (1) Describes the specific action the Secretary seeks to take against the agency and the reasons for that action, including the criteria with which the agency has failed to comply;</u></p> <p><u>_____ (2) Specifies the effective date of the action; and</u></p> <p><u>_____ (3) Informs the agency of its right to respond to the notice and request a hearing.</u></p> <p><u>_____ (b) Department staff may send the notice described in paragraph (a) of this section at any time the staff concludes that the agency fails to comply with the criteria for recognition in subpart B of this part or is not effective in its performance with respect to those criteria.</u></p>	
<p>§602.42 What are the response and hearing procedures?</p> <p>_____ (a) If the agency wishes either to respond to the notice or request a hearing, or both, it must do so in writing no later than 30 days after it received the notice of the Secretary's intent to limit, suspend, or terminate recognition.</p>	<p><u>§602.42 What are the response and hearing procedures?</u></p> <p><u>_____ (a) If the agency wishes either to respond to the notice or request a hearing, or both, it must do so in writing no later than 30 days after it received the notice of the Secretary's intent to limit, suspend, or terminate recognition.</u></p>	

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<p>(1) The agency's submission must identify the issues and facts in dispute and the agency's position on them.</p> <p>(2) If neither a response nor a request for a hearing is filed by the deadline, the notice of intent becomes a final decision by the Secretary.</p> <p>(b)(1) After receiving the agency's response and hearing request, if any, the Secretary chooses a subcommittee composed of five members of the Advisory Committee to adjudicate the matter and notifies the agency of the subcommittee's membership.</p> <p>(2) The agency may challenge membership of the subcommittee on grounds of conflict of interest on the part of one or more members and, if the agency's challenge is successful, the Secretary will replace the member or members challenged.</p> <p>(c) After the subcommittee has been selected, Department staff sends the members of the subcommittee copies of the notice to limit, suspend, or terminate recognition, along with the agency's response, if any.</p> <p>(d)(1) If a hearing is requested, it is held in Washington, DC, at a date and time set by Department staff.</p> <p>(2) A transcript is made of the hearing.</p> <p>(3) Except as provided in paragraph (c) of this section, the subcommittee allows Department staff, the agency, and any interested party to make an oral or written presentation, which may include the introduction of written and oral evidence.</p> <p>(e) On agreement by Department staff and the agency, the subcommittee review may be based solely on the written materials Submitted.</p>	<p>(1) The agency's submission must identify the issues and facts in dispute and the agency's position on them.</p> <p>(2) If neither a response nor a request for a hearing is filed by the deadline, the notice of intent becomes a final decision by the Secretary.</p> <p>(b)(1) After receiving the agency's response and hearing request, if any, the Secretary chooses a subcommittee composed of five members of the Advisory Committee to adjudicate the matter and notifies the agency of the subcommittee's membership.</p> <p>(2) The agency may challenge membership of the subcommittee on grounds of conflict of interest on the part of one or more members and, if the agency's challenge is successful, the Secretary will replace the member or members challenged.</p> <p>(c) After the subcommittee has been selected, Department staff sends the members of the subcommittee copies of the notice to limit, suspend, or terminate recognition, along with the agency's response, if any.</p> <p>(d)(1) If a hearing is requested, it is held in Washington, DC, at a date and time set by Department staff.</p> <p>(2) A transcript is made of the hearing.</p> <p>(3) Except as provided in paragraph (c) of this section, the subcommittee allows Department staff, the agency, and any interested party to make an oral or written presentation, which may include the introduction of written and oral evidence.</p> <p>(e) On agreement by Department staff and the agency, the subcommittee review may be based solely on the written materials Submitted.</p>	
<p>§602.43 How is a decision on limitation,</p>	<p>§602.43 How is a decision on limitation,</p>	

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<p>suspension, or termination of recognition reached?</p> <p>_____ (a) After consideration of the notice of intent to limit, suspend, or terminate recognition, the agency’s response, if any, and all submissions and presentations made at the hearing, if any, the subcommittee issues a written opinion and sends it to the Secretary, with copies to the agency and the senior Department official. The opinion includes—</p> <p>_____ (1) Findings of fact, based on consideration of all the evidence, presentations, and submissions before the subcommittee;</p> <p>_____ (2) A recommendation as to whether a limitation, suspension, or termination of the agency’s recognition is warranted; and</p> <p>_____ (3) The reasons supporting the subcommittee’s recommendation.</p> <p>_____ (b) Unless the subcommittee’s recommendation is appealed under § 602.44, the Secretary issues a final decision on whether to limit, suspend, or terminate the agency’s recognition. The Secretary bases the decision on consideration of the full record before the subcommittee and the subcommittee’s opinion.</p>	<p>suspension, or termination of recognition reached?</p> <p>_____ (a) After consideration of the notice of intent to limit, suspend, or terminate recognition, the agency’s response, if any, and all submissions and presentations made at the hearing, if any, the subcommittee issues a written opinion and sends it to the Secretary, with copies to the agency and the senior Department official. The opinion includes—</p> <p>_____ (1) Findings of fact, based on consideration of all the evidence, presentations, and submissions before the subcommittee;</p> <p>_____ (2) A recommendation as to whether a limitation, suspension, or termination of the agency’s recognition is warranted; and</p> <p>_____ (3) The reasons supporting the subcommittee’s recommendation.</p> <p>_____ (b) Unless the subcommittee’s recommendation is appealed under § 602.44, the Secretary issues a final decision on whether to limit, suspend, or terminate the agency’s recognition. The Secretary bases the decision on consideration of the full record before the subcommittee and the subcommittee’s opinion.</p>	
<p>§602.44 How may an agency appeal the subcommittee’s recommendation?</p> <p>_____ (a) Either the agency or the senior Department official may appeal the subcommittee’s recommendation. If a party wishes to appeal, that party must—</p> <p>_____ (1) Notify the Secretary and the other party in writing of its intent to appeal the recommendation no later than 10 days after receipt of the recommendation;</p> <p>_____ (2) Submit its appeal to the Secretary in writing no later than 30 days after receipt of the recommendation; and</p> <p>_____ (3) Provide the other party with a copy of the appeal at the same time it submits the</p>	<p>§602.44 How may an agency appeal the subcommittee’s recommendation?</p> <p>_____ (a) Either the agency or the senior Department official may appeal the subcommittee’s recommendation. If a party wishes to appeal, that party must—</p> <p>_____ (1) Notify the Secretary and the other party in writing of its intent to appeal the recommendation no later than 10 days after receipt of the recommendation;</p> <p>_____ (2) Submit its appeal to the Secretary in writing no later than 30 days after receipt of the recommendation; and</p> <p>_____ (3) Provide the other party with a copy of the appeal at the same time it submits the</p>	

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<p>appeal to the Secretary.</p> <p>(b) The non-appealing party may file a written response to the appeal. If that party wishes to do so, it must—</p> <p>(1) Submit its response to the Secretary no later than 30 days after receiving its copy of the appeal; and</p> <p>(2) Provide the appealing party with a copy of its response at the same time it submits its response to the Secretary.</p> <p>(c) Neither the agency nor the senior Department official may include any new evidence in its submission, i.e., evidence it did not previously submit to the subcommittee.</p> <p>(d) If the subcommittee's recommendation is appealed, the Secretary renders a final decision after taking into account that recommendation and the parties' written submissions on appeal, as well as the entire record before the subcommittee and the subcommittee's opinion.</p>	<p>appeal to the Secretary.</p> <p>(b) The non-appealing party may file a written response to the appeal. If that party wishes to do so, it must—</p> <p>(1) Submit its response to the Secretary no later than 30 days after receiving its copy of the appeal; and</p> <p>(2) Provide the appealing party with a copy of its response at the same time it submits its response to the Secretary.</p> <p>(c) Neither the agency nor the senior Department official may include any new evidence in its submission, i.e., evidence it did not previously submit to the subcommittee.</p> <p>(d) If the subcommittee's recommendation is appealed, the Secretary renders a final decision after taking into account that recommendation and the parties' written submissions on appeal, as well as the entire record before the subcommittee and the subcommittee's opinion.</p>	
<p>§602.45 May an agency appeal the Secretary's final decision to limit, suspend, or terminate its recognition?</p> <p>An agency may appeal the Secretary's final decision limiting, suspending, or terminating its recognition to the Federal courts as a final decision in accordance with applicable Federal law.</p>	<p>§602.45 May an agency appeal the Secretary's final decision to limit, suspend, or terminate its recognition?</p> <p>An agency may appeal the Secretary's final decision limiting, suspending, or terminating its recognition to the Federal courts as a final decision in accordance with applicable Federal law.</p>	

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Issue #14: Agency materials — record keeping and confidentiality

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

Tentative Agreement: Reached at session 3 (April 24-26, 2007)

Legend:

- Proposed deletions to existing regulatory language are indicated by ~~strikeouts~~.
- Proposed additions to existing regulatory language are indicated by **bold typeface**.
- Subsequent changes to proposed revisions presented at the March 26-28, 2007 session are indicated by **highlighted text**.

Language proposed by the Department of Education during the March 26-28, 2007 session	Draft regulatory language as of April 26, 2007	Summary of Change
<p><u>§602.15 Administrative and fiscal responsibilities.</u></p> <p style="text-align: center;">* * * * *</p> <p style="padding-left: 40px;">(b) The agency maintains complete and accurate records of--</p> <p style="padding-left: 40px;">(1) Its last two full accreditation or preaccreditation reviews of each institution or program, including on-site evaluation team reports, the institution's or program's responses to on-site reports, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, substantive change reviews, and a copy of the institution's or program's most recent self-study; and</p> <p style="padding-left: 40px;">(2) All decisions made throughout an institution's or program's affiliation with the agency regarding the accreditation and preaccreditation of any the institution or program and substantive changes, including all correspondence that is significantly related to those decisions.</p> <p><u>§602.30 How does an agency apply for recognition?</u></p> <p style="text-align: center;">* * * * *</p> <p style="padding-left: 40px;">(c) The Secretary does not make available to the public any confidential agency</p>	<p><u>§602.15 Administrative and fiscal responsibilities.</u></p> <p style="text-align: center;">* * * * *</p> <p style="padding-left: 40px;">(b) The agency maintains complete and accurate records of--</p> <p style="padding-left: 40px;">(1) Its last two full accreditation or preaccreditation reviews of each institution or program, including on-site evaluation team reports, the institution's or program's responses to on-site reports, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, substantive change reviews, and a copy of the institution's or program's most recent self-study; and</p> <p style="padding-left: 40px;">(2) All decisions made throughout an institution's or program's affiliation with the agency regarding the accreditation and preaccreditation of any the institution or program and substantive changes, including all correspondence that is significantly related to those decisions.</p> <p><u>§602.30 How does an agency apply for recognition?</u></p> <p style="text-align: center;">* * * * *</p> <p style="padding-left: 40px;">(c) The Secretary does not make available to the public any confidential agency</p>	<ul style="list-style-type: none"> • Clarifies that the Secretary's ability to honor agency requests to withhold agency materials from public disclosure is subject to the Freedom of Information Act, 5 U.S.C. §552; the Trade Secrets Act, 18 U.S.C. §1905; the Privacy Act, 5 U.S.C. §552a, and other applicable law.

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<p>materials a Department employee reviews during the evaluation of either the agency's application for recognition or the agency's compliance with the criteria for recognition.</p>	<p>materials a Department employee reviews during the evaluation of either the agency's application for recognition or the agency's compliance with the criteria for recognition.</p> <p>(c) The Secretary's ability to honor agency requests to withhold agency materials reviewed under this Part from public disclosure is subject to the Freedom of Information Act, 5 U.S.C. §552; the Trade Secrets Act, 18 U.S.C. §1905; the Privacy Act, 5 U.S.C. §552a, and other applicable law.</p>	
<p><u>§602.27 Other information an agency must provide the Department.</u></p> <p>The agency must submit to the Department--</p> <p>* * *</p> <p><u>(f) If the Secretary requests, information that may bear upon an accredited or preaccredited institution's compliance with its Title IV, HEA program responsibilities, including the eligibility of the institution or program to participate in Title IV, HEA programs. The Secretary may ask for this information to assist the Department in resolving problems with the institution's participation in the Title IV, HEA programs.</u></p>	<p><u>§602.27 Other information an agency must provide the Department.</u></p> <p>The agency must submit to the Department--</p> <p>* * *</p> <p><u>(f) If the Secretary requests, information that may bear upon an accredited or preaccredited institution's compliance with its Title IV, HEA program responsibilities, including the eligibility of the institution or program to participate in Title IV, HEA programs. The Secretary may ask for this information to assist the Department in resolving problems with the institution's participation in the Title IV, HEA programs.</u></p>	

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Issue #15: Providing information to the public

Regulatory Cite: §602.16(a)(1)(vii), §602.23(a)

Tentative Agreement:

Legend:

- Proposed deletions to existing regulatory language are indicated by ~~strikeouts~~.
- Proposed additions to existing regulatory language are indicated by **bold typeface**.
- Subsequent changes to proposed revisions presented at the March 26-28, 2007 session are indicated by **highlighted text**.

Language proposed by the Department of Education during the March 26-28, 2007 session	Draft regulatory language as of April 26, 2007	Summary of Change
<p><u>§602.16 Accreditation and preaccreditation standards.</u></p> <p>(a) The agency must demonstrate that it has standards for accreditation, and, if offered, 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 --</p> <p>(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:</p> <p>* * *</p> <p>(vii) Recruiting and admissions practices, including those related to transfer of credit and acceptance of credentials, academic calendars, catalogs, publications, grading and advertising.</p> <p>* * *</p> <p>(A) The agency must ensure that decisions about transfer of credit and acceptance of credentials are not made solely on the source of accreditation of a sending institution or program, as long as the accreditation in question is from a recognized accrediting agency and within that agency's scope, and must also ensure that the</p>	<p><u>§602.16 Accreditation and preaccreditation standards.</u></p> <p>(a) The agency must demonstrate that it has standards for accreditation, and, if offered, 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 --</p> <p>(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:</p> <p>* * *</p> <p>(vii) Recruiting and admissions practices, including those related to transfer of credit and acceptance of credentials, academic calendars, catalogs, publications, grading and advertising.</p> <p>* * *</p> <p>(A) The agency must ensure that decisions about transfer of credit and acceptance of credentials are not made solely on the source of accreditation of a sending institution or program, as long as the accreditation in question is from a recognized accrediting agency and within that agency's scope, and must also ensure that the</p>	<ul style="list-style-type: none"> • Clarifies that agencies require programs or institutions to publish information related to the program's or institution's effectiveness in fulfilling program objectives or institutional mission.

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<p>institutions or programs it accredits provide a complete description to prospective students of their policies concerning transfer of credit and acceptance of credentials.</p> <p>(B) The agency must require each program and institution it accredits to publish information related to the program's or institution's effectiveness in fulfilling program objectives and institutional mission, especially indicators of the program's or institution's performance regarding student outcomes.</p>	<p>institutions or programs it accredits provide a complete description to prospective students of their policies concerning transfer of credit and acceptance of credentials.</p> <p>(B) The agency must require each program and or institution it accredits to publish information related to the program's or institution's effectiveness in fulfilling program objectives and or institutional mission, especially indicators of the program's or institution's performance regarding student outcomes achievement, including data specified in §602.16(a)(1)(i)(B).</p>	
<p><u>§602.23 Operating procedures all agencies must have.</u></p> <p>(a) The agency must maintain and make available to the public, upon request, written materials describing--</p> <p>* * *</p> <p>(3) The standards and procedures it uses to determine whether to grant, reaffirm, reinstate, restrict, deny, revoke, terminate, or take any other action related to each type of accreditation and preaccreditation that the agency grants. The information must explicitly describe the agency's expectation of performance in relation to each standard.</p>	<p><u>§602.23 Operating procedures all agencies must have.</u></p> <p>(a) The agency must maintain and make available to the public, upon request, written materials describing--</p> <p>* * *</p> <p>(3) The standards and procedures it uses to determine whether to grant, reaffirm, reinstate, restrict, deny, revoke, terminate, or take any other action related to each type of accreditation and preaccreditation that the agency grants. The information must explicitly describe the agency's expectations of performance in relation to each standard.</p>	