Issue #1

Proposed Regulatory Language
Team III – Accreditation

Origin: HEOA

Issue: Definitions of distance education and correspondence education

Statutory cites: HEOA section 103(a)(1)
Amends HEA section 103(7)
See page 10 of statutory language handout

Regulatory cites: 34 CFR § 602.3

Summary of issue: The HEOA provides a new definition of distance education. The definition in the accreditation regulations needs to be updated to correspond to the HEOA definition. In addition, in several places the HEOA uses the term "distance education" in conjunction with the term "correspondence", which indicates that there is a distinction between the two modes of educational delivery. The accreditation regulations do not include a definition of correspondence. However, there is a definition in 34 CFR section 600.2 of the regulations that can be incorporated into the accreditation regulations.

The proposed regulatory definition of "distance education" replicates the statutory definition. The proposed regulatory definition of "correspondence" is the first paragraph of the definition of "correspondence course" from the Program Eligibility regulations. The second and third paragraphs of the definition are not germane to accreditation.

Proposed regulatory language:

§ 602.3 What definitions apply to this part?

The following definitions apply to this part:

* * *

Correspondence education **means a "home study" course provided by an institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the institution. When students complete a**

portion of the instructional materials, the students take the examinations that relate to that portion of the materials and return the examinations to the institution for grading.

Distance education **means education that uses one or more of the technologies listed in paragraphs (1) through (4) to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and the instructor, either synchronously or asynchronously. The technologies include—**

(1) The internet;

(2) One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;

(3) Audio conferencing; or

(4) Video cassettes, DVDs, and CD-ROMs, if the cassettes, DVDs, or CD-ROMs are used in a course in conjunction with any of the technologies listed in paragraphs (1) through (3).

Issue #2

Proposed Regulatory Language
Team III – Accreditation

Origin:	HEOA
Issue:	Accreditation team members
Statutory cites:	HEOA section 495(2)(A) Amends HEA section 496(c)(1) See page 5 of statutory language handout
Regulatory cite:	34 CFR § 602.15
Summary of issue:	The HEOA amends the list of required operating procedures by specifying that team members must be well-trained and knowledgeable about their responsibilities regarding distance education. Unlike in other accreditation provisions of the HEOA, this provision does not separately address distance education and correspondence education. The proposed regulatory language includes a reference to correspondence education since the training and knowledge required to evaluate correspondence education may be different from that required to evaluate distance education.

Proposed regulatory language:

§ 602.15 Administrative and fiscal responsibilities.

The agency must have the administrative and fiscal capability to carry out its accreditation activities in light of its requested scope of recognition. The agency meets this requirement if the agency demonstrates that--

(a) The agency has--

(1) Adequate administrative staff and financial resources to carry out its accrediting responsibilities;

(2) Competent and knowledgeable individuals, qualified by education and experience in their own right and trained by the agency **on their responsibilities, including those regarding distance and correspondence education, and on the agency's** standards, policies, and procedures, to conduct its on-site evaluations, establish its policies, and make its accrediting and preaccrediting decisions;

Issue #3

Proposed Regulatory Language
Team III – Accreditation

Origin: HEOA

Issue: Student achievement standard

Statutory cites: HEOA section 495(1)(B)
Amends HEA section 496(a)(5)(A)
See page 3 of statutory language handout

Regulatory cites: 34 CFR § 602.16(a)(1)(i)

Summary of issue: The HEOA adds language to the standard related to student achievement that allows an agency to have different standards for different institutions and programs, as established by the institution. While the Secretary is prohibited from establishing any criteria that specifies, defines, or prescribes the standards that accrediting agencies use to assess any institution's success with respect to student achievement, the Secretary is obliged to amend the regulations to reflect the new language in the HEOA. The proposed regulatory language is the same as the statutory language.

Proposed regulatory language:

§ 602.16 Accreditation and preaccreditation standards

(a) The agency must demonstrate that it has standards for accreditation and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if--

(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:

(i) Success with respect to student achievement in relation to the institution's mission, **which may include different standards for different institutions or programs, as established by the institution**, including, as appropriate, consideration of course completion, State licensing examinations, and job placement rates.

Issue #4

Proposed Regulatory Language
Team III - Accreditation

Origin: HEOA

Issue: Operating procedures – Transfer of credit

Statutory cites: HEOA section 495(2)(C)
Amends HEA section 496(c)
See page 6 of statutory language handout

Regulatory cites: 34 CFR § 602.24

Summary of issue: The HEOA requires accrediting agencies to confirm, as part of their review for accreditation or re-accreditation, that the institution has transfer of credit policies –

(1) that are publicly disclosed; and
(2) that include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.

Commenters at the public hearings on HEOA noted that the language in the HEOA is clear, and there is no need to modify it. The Department concurs, with minor changes to conform the statutory changes to the regulatory construct. "Initial" has been added before "accreditation". "Preaccreditation" needs to be included along with accreditation, and the regulations use the phrase "renewal of accreditation" rather than "re-accreditation."

Proposed regulatory language: Add a new subsection (d) as follows:

(d) The accrediting agency must confirm, as part of its review for initial accreditation or preaccreditation, or renewal of accreditation, that the institution has transfer of credit policies that—

(1) Are publicly disclosed; and

(2) Include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution.

Issue #5 - REVISED

Proposed Regulatory Language
Team III - Accreditation

Origin: HEOA

Issue: Operating procedures – Teach-out plan approval

Statutory cites: HEOA section 495(2)(C)
Amends HEA section 496(c) by adding a new paragraph (3)
See page 5 of statutory language handout

HEOA section 493(f)
Amends HEA section 487 by adding a new paragraph (f)
See page 15 of statutory language handout

HEOA section 496
Amends HEA section 498 by adding a new paragraph (k)
See page 15 of statutory language handout

Regulatory cites: 34 CFR § 602.24(c)(4) and (6)

Summary of issue: Current regulations in § 602.24 specify that if an agency's accreditation enables an institution to obtain eligibility to participate in the title IV programs, the agency must require the institution to submit any teach-out agreement the institution enters into with another institution for agency approval. The regulations in § 602.3 define "teach-out agreement" as "a written agreement between institutions that provides for the equitable treatment of students if one of those institutions stops offering an educational program before all students enrolled in that program have completed the program."

The HEA amendments stipulate that the Secretary may not recognize an accrediting agency for purposes of title IV eligibility unless the agency requires an institution to submit a teach-out plan to the accrediting agency for approval if any of following events occurs:

(1) The Department notifies the accrediting agency that it has taken an emergency action or taken action to limit, suspend, or terminate the participation of the institution in any title IV program;
(2) The accrediting agency acts to withdraw, terminate or suspend the accreditation of the institution; or
(3) The institution notifies the accrediting agency that the

institution intends to cease operations.

Section 487– Program Participation Agreements – as amended by the HEOA provides that whenever the Secretary initiates an action to limit, suspend, or terminate an institution's participation in any Title IV program or initiates an emergency action against an institution, the institution must prepare a teach-out plan for submission to its accrediting agency. The teach-out plan must be prepared in accordance with section 496(c)(4) of the HEA and any applicable Title IV regulations or accrediting agency standards. A "teach-out plan" is defined as "a written plan that provides for equitable treatment of students if an institution ceases to operate before all students have completed their program of study, and may include, if required by the institution's accrediting agency or association, an agreement between institutions for such a teach-out plan."

Section 498 – Eligibility and Certification Procedures – as amended by the HEOA, provides that a location of a closed institution is eligible as an additional location of another institution for the purpose of conducting a teach-out if the teach-out is approved by the institution's accrediting agency. The institution that conducts the teach-out under this provision is permitted to establish a permanent additional location at the closed institution without having to satisfy the requirements for additional locations in sections 102(b)(1)(E) and 103(c)(1)(C) of the HEA—i.e., that a proprietary institution or a postsecondary vocational institution must have been in existence for two years to be eligible—and without assuming the liabilities of the closed location.

Should the definition of teach-out plan be added to the accreditation regulations? Should the definition of teach-out agreement be amended? What processes should be followed by accrediting agencies in reviewing teach-out plans and agreements? What is the role of the accrediting agency in approving the additional location? What are the implications of these statutory changes in situations where different accrediting agencies accredit the two institutions that have a teach-out agreement?

Note: Team V will be developing regulations related to institutional requirements for teach-outs and eligibility and certification procedures in the treatment of teach-outs. These will be shared with Team III for review and comment.

Issue # 6

Issue Paper
Team III - Accreditation

Origin:	ED
Issue:	Definition of Recognition
Statutory Cite:	HEA section 496 (o) See page 9 of statutory language handout
Regulatory Cite:	None
Summary of Issue:	The Higher Education Act provides authority to the Secretary to promulgate regulations for the recognition of accrediting agencies. These regulations do not now have a definition of "recognition" and have left some confusion to what it means to be recognized by the Secretary. Without a definition, the conditional nature of recognition may not be well understood by agencies and the institutions and programs they accredit.

Issue # 7

Issue Paper
Team III – Accreditation

Origin:	ED
Issue:	Demonstration of compliance within 12 months and recognition when not fully compliant
Statutory Cite(s):	HEA Sections 496(l)(1)(B) See page 8 of statutory language handout
Regulatory Cites(s):	34 CFR § 602.32(b), § 602.35(b) and § 602.40
Summary of Issue:	The 1998 HEA amendments instituted a timeframe of 12 months for agencies to come into compliance unless the Secretary grants an extension for "good cause."

Under the current regulations, the National Advisory Committee on Institutional Quality and Integrity (NACIQI) may recommend deferral of a decision on recognition if it concludes that 1) immediate loss of recognition is unwarranted, and 2) the agency will achieve compliance with the criteria before the expiration of the deferral period (i.e. 12 months).

However, in practice, deferral recommendations have been exercised on a limited basis. To address the range of noncompliance issues when the Staff and/or the Committee has concluded an agency can achieve compliance within the 12-month timeframe, the Secretary has granted a period of recognition (up to 5 years) and required submission of an "interim report" for the agency to demonstrate compliance within 12 months. This raises questions as to the status of agencies that, in effect, meet the criteria for "deferral" above, but have not been issued a "deferral" recommendation. How can the regulatory language be amended to reflect a more "value-neutral" recommendation that meets the criteria under "deferral"?

Issue #8

Issue Paper
Team III – Accreditation

Origin: HEOA and ED

Issue: Recognition Procedures – Subparts C & D

Statutory Cite(s): HEOA Sections 106, 495(1)(A), 495(5)
HEA Sections 496(d), 496(l), and 496(m), 496(o)
See pages 6, 7 and 8 of statutory language handout

Regulatory Cites(s): 34 CFR 602, Subparts C & D

Summary of Issue:

Two Sets of Procedures for Recognition

Under Subparts C & D of the current regulations, two sets of procedures for recognition are outlined: Subpart C defines the review procedures for an agency's application for initial or continued recognition; Subpart D defines procedures for limitation, suspension, and termination (hereafter "L, S, & T" actions) of recognition. The existence of two independent sets of procedures has proven to be unwieldy and confusing. How can these sections be combined to ensure efficient, effective, expeditious, and fair proceedings, and to ease operational burdens? How should the current time-consuming construct by which the Secretary makes recognition decisions, whether the agency appeals or not, and by which an appeal is from a recommendation only, be changed?

NACIQI's Authority – Section 106 of the HEOA

Furthermore, the new provisions under Section 106 of the HEOA authorize the Chairperson of the National Advisory Committee on Institutional Quality and Integrity (NACIQI) to establish the agenda for Committee meetings (upon approval of the Secretary's designated federal official per the Federal Advisory Committee Act). This change, and the Committee's role in a decision to put an agency not otherwise scheduled for review on the agenda, should be made explicit in this section. The regulations also need revision to clarify the process for bringing recognized agencies about whom third parties have complained, or about whom the Department or the Committee has concerns, before the Committee at any meeting.

How can Subparts C & D be reworked, in view of: 1) the responsibility of the staff to put its concerns about an agency's compliance before the Committee in a timely manner, and to avoid undue delay between recognition reviews; 2) the responsibility of recognized agencies to maintain and to demonstrate complete compliance throughout the period of recognition; and 3) the responsibility of the advisory committee to exercise its best judgment regarding continued recognition any time an agency is brought before it?

<u>Procedures for Evaluating an Agency's Application of Standards for Distance and Correspondence Education – Section 495(1)(A) of the HEOA</u>

Section 495(1)(A) of the HEOA also appears to contemplate separate consideration by the Secretary of agency accrediting standards and processes as applied to traditional, distance, and correspondence instruction. Should this be reflected in the Department's procedural regulations?

<u>Procedures for NACIQI Reviews – Section 495(5) of the HEOA</u>

Section 495(5) of the HEOA requires a process for bringing an agency that has incorporated distance or correspondence education in its scope of recognition (through written notice to the Secretary), before NACIQI if the enrollment of an accredited institution or program that offers distance or correspondence increases by 50 percent or more within a fiscal year. This provision will need to be incorporated into the recognition procedures.

Issue # 9

Issue Paper
Team III - Accreditation

Origin: Higher Education Reconciliation Act (HERA)

Issue: Direct Assessment Program Definition

Statutory Cite: HEA section 481 (b)(4)
See page 14 of statutory language handout

Regulatory Cite: None

Summary of Issue: The HERA added a new eligible program under Title IV of the HEA – an instructional program that uses direct assessment of a student's learning, or recognizes the direct assessment of student learning by others, in lieu of measuring student learning in credit or clock hours. The law requires that the direct assessment be "consistent with the accreditation of the institution or program utilizing the results of the assessment." The institution must provide to the Secretary a factual basis for its claim that the program or portion of the program is equivalent to a specific number of credit or clock hours. For programs being determined eligible for Title IV participation for the first time, or being modified, the Secretary must determine eligibility before the program can be considered eligible.

Section 668.10 of current regulations describes both direct assessment programs and what institutions must provide to have such programs determined eligible. Section 668.10 also includes a requirement that an accrediting agency review and approve the program for inclusion in the institution's grant of accreditation and to evaluate the institution's claim of the direct assessment program's equivalence in terms of credits or clock hours.

There is currently no definition in 34 CFR Part 602 for direct assessment programs and no references to direct assessment programs in accrediting agency recognition regulations. How should the accrediting agencies' responsibilities with respect to the evaluation of direct assessment programs be addressed in regulations governing the recognition of accrediting agencies?

Issue #10

Issue Paper
Team III – Accreditation

Origin: HEOA

Issue: Distance education and correspondence education

Statutory cites: HEOA sections 495(1)(A) and (5)
Amends HEA section 496(a)(4)(B) and (q)
See pages 2-3 and 9 of statutory language handout

Regulatory cites: 34 CFR § 602.16, § 602.17, § 602.18, § 602.19, § 602.22, § 602.23 and § 602.27(d)

Summary of issue: The HEOA requires an accrediting agency that has or wants to include distance education or correspondence education in its scope to demonstrate that its standards effectively address the quality of an institution's distance or correspondence education program. An agency need not have separate standards, policies or procedures for the evaluation of distance and correspondence education. In addition, a recognized agency may change its scope of recognition to include distance and correspondence education by notifying the Secretary of the change in writing; it does not, for this purpose, need to obtain the approval of the Secretary. The section of the regulations on accreditation and preaccreditation standards needs to be amended to reflect distance and correspondence education where appropriate

In maintaining recognition for accreditation of distance or correspondence education, or providing notification to the Secretary that it intends to expand its scope to include distance or correspondence education, what should the agency do to demonstrate that its standards effectively address the quality of an institution's distance or correspondence program?

Accrediting agencies must require institutions that offer distance education or correspondence education to have processes in place to establish that the student who registers for a distance education or correspondence course or program is the same student who participates in and completes the program and receives the academic credit. The conference report language on this provision makes clear that institutions should not use or rely on technologies that interfere with student privacy. However, the expectation is that institutions have security mechanisms in place, such as

identification numbers, or other pass code information, that are used each time student participates in class time or coursework online. While the conference report speaks just to distance education, it may be appropriate to address student authentication in a correspondence course. The conference report notes that as new identification technologies are developed, and become more sophisticated and less expensive, the conferees anticipate that agencies and institutions will consider their use in the future.

An accrediting agency that has expanded its scope to include distance or correspondence education by notifying the Secretary, is to be reviewed at the next available NACIQI meeting if the enrollment at an institution it accredits, that offers distance or correspondence education, experiences enrollment growth of 50 percent or more during the institution's fiscal year. The regulations need to reflect these changes. (Note: see the issue paper on operating procedures – growth monitoring.)

Issue #11

Issue Paper
Team III - Accreditation

Origin: HEOA and ED

Issue: Monitoring of Institutions and Programs throughout Period

Statutory Cite: HEOA section 495(2)(C)
Amends HEA sections 496(c)(1), (c)(2), (q)
See pages 5 and 9 of statutory language handout

Regulatory Cite: 34 CFR § 602.19

Summary of Issue: Current monitoring regulations are general in nature, requiring an agency to reevaluate, at regularly established intervals, the institutions or programs it has accredited or preaccredited and to monitor the institutions and programs throughout the accreditation period to ensure they remain in compliance with the agency's standards.

The Higher Education Opportunity Act (HEOA) inserted new provisions into the HEA requiring agencies to monitor the growth of programs at accredited institutions that are experiencing significant enrollment growth, and to be accountable in the recognition process if the enrollment of accredited institutions that offer distance or correspondence education increases by 50 percent or more within any one institutional fiscal year. The Criteria for Recognition need to implement these provisions.

The combination of relatively long periods between comprehensive reviews, the passage of the new HEOA provisions, the call for additional accountability, and an ever-changing higher education environment underscores the importance of regular monitoring of institutions and programs by accrediting agencies. The lack of specificity in current regulations creates confusion and a wide variety of approaches undertaken by agencies. In addition, accrediting agencies have noted that the expectation that the monitoring will ensure compliance with all the agency's standards is unreasonable.

Issue #12

Issue Paper
Team III - Accreditation

Origin: HEOA

Issue: Operating procedures – Growth Monitoring

Statutory cites: HEOA section 495(2)(C)
Amends HEA section 496(c) by adding a new paragraph (2)
See page 5 of statutory language handout

Regulatory cites: 34 CFR § 602.19

Summary of issue: The HEOA amendments add a new monitoring requirement. Agencies must monitor the growth of programs at institutions that are experiencing significant enrollment growth.

This new requirement raises a number of questions. How should enrollment growth be calculated? What is significant enrollment growth? What does it mean to monitor the growth of programs? What methods should agencies employ to ensure adequate monitoring of institutional enrollment growth? Monitoring growth of programs would appear to be within the purview of specialized accreditors, as well as institutional accreditors. Does this mean specialized accreditors will also need to obtain information on institutional enrollment growth?

Significant enrollment growth might be considered a substantive change that would require reporting fewer than section 602.22, given that it might adversely affect the capacity of the institution to continue to meet agency standards. If it isn't considered a substantive change, what sort of reporting or information gathering requirement should there be?

A related issue is the new statutory requirement (HEOA section 495(5)), which amends HEA section 496 by adding a new subsection (q)) that NACIQI review at its next available meeting any accrediting agency that has expanded its scope to include distance education if the agency has accredited an institution that offers distance education or correspondence education and the institution's enrollment has grown by 50 percent or more within one institutional fiscal year. In order to comply with this requirement, agencies that expand their scope to include distance education or correspondence education will need to monitor the

enrollment growth at institutions that offer distance or correspondence education. Again, how should enrollment growth be measured, and how should agencies and the Department obtain the information necessary?

Issue #13

Issue Paper
Team III - Accreditation

Origin: ED

Issue: Substantive Change

Statutory Cite: HEA section 496(a)(1), (a)(4), (c)(1), (c)(2), (c)(4), (c)(5), 498(i)

See pages 1,2,5,6, and 14-15 of statutory language handout

Regulatory Cite: 34 CFR § 602.22

Summary of Issue:

Section 496 (a)(1) and (a)(4) of the HEA require recognized accrediting agencies to demonstrate their ability to operate as accrediting agencies and to consistently enforce standards that ensure courses and programs, including those offered by distance or correspondence, are of sufficient quality to achieve their stated objectives. Agencies are also required to perform on-site inspections and review of institutions as well as certain oversight activities with respect to various institutional changes, including changes of ownership.

Current regulations provide a list of changes an agency must include in its definition of a substantive change and specify procedures an agency must have for the approval of an additional location. The regulations require that the policies of the agency ensure that any substantive change to the educational mission, or program or programs of an institution, after the agency has accredited or preaccredited the institution, does not adversely affect the capacity of the institution to continue to meet the agency's standards.

The Department believes that, due to the pace with which change is occurring in higher education, with distance education programs, new locations being added for institutions, new curriculum and ownership changes, it is important to review the substantive change regulations to ensure that they are appropriate for the current higher education environment. In addition, the Department wants to ensure that agencies are interpreting the determination of a substantive change consistently.

Issue #14

Issue Paper
Team III - Accreditation

Origin: ED

Issue: Record Keeping and Confidentiality

Statutory Cite: HEA sections 496(a)(1), (a)(7), (a)(8), (c)(7), (c)(8), (c)(9), (n) , (o)
See pages 1,4,6,8 and 9 of statutory language handout

Regulatory Cite: 34 CFR § 602.15 (b), § 602.27(f), and § 602.30 (c)

Summary of Issue: Over time, the Department has encountered difficulty in obtaining information from accrediting agencies relevant to Title IV eligibility and compliance. In some instances, the difficulty arose when an agency did not retain the requested information. In other cases, agencies have been reluctant to provide the requested information to the Department due to confidentiality concerns, in spite of Title IV provisions requiring each participating institution to acknowledge the authority of the Secretary and accrediting agencies to share with each other information pertinent to institutional eligibility.

In addition, while current regulations (§602.30(c)) state that the Secretary does not make available to the public any confidential agency materials a Department employee reviews during the evaluation of the agency's application for recognition or the agency's compliance with the criteria for recognition, the Department cannot by regulation limit its obligation to adhere to the disclosure requirements in the Freedom of Information Act (FOIA.). FOIA does provide several exemptions from disclosure, the most relevant one being information concerning trade secrets and commercial or financial information that is privileged or confidential. In this case, the Department wants to replace or revise § 602.30(c) so as to ensure the sharing of necessary information from agencies while at the same time complying with the disclosure requirements of FOIA.

The Department also wants to work to develop a rule that ensures the retention of necessary data and information while not imposing unnecessary burdens on agencies.

Issue #15

Issue Paper
Team III - Accreditation

Origin:	HEOA
Issue:	Due process and appeals
Statutory cites:	HEOA section 495(1)(C) Amends HEA 496(a) See pages 3-4 of statutory language handout
Regulatory cites:	34 CFR § 602.18, § 602.23(a) and § 602.25

Summary of issue: The HEOA modifies the due process requirements to specify that each accrediting agency establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings, that (1) adequately specify in writing the requirements for accreditation as well as all deficiencies identified at the institution or program being evaluated; (2) provide sufficient opportunity for written response from the institution or program, within a specified timeframe, before final action is taken in evaluation and withdrawal proceedings; (3) provide, on written request, the right to appeal any action deemed adverse under the statute, before it becomes final, at a hearing before an appeals panel that has different members than the original decision-making body and that is subject to a conflict of interest policy; (4) provide for the right to participation by counsel for the institution or program during the hearing on appeal; and (5) in accordance with written procedures, and prior to an adverse action based solely upon failure to meet a standard or criterion pertaining to finances becoming final, provide the institution or program with an opportunity for agency review, not separately appealable, of any significant financial information submitted by the institution that was previously unavailable to the institution or program and that bears materially on the financial deficiencies identified by the agency.

To what extent do the due process regulations need to be expanded to incorporate the more expansive requirement for clear standards and notice of deficiencies?

In addition, the HEOA uses the phrase "adverse action" several times in amending the recognition provisions of the Higher Education Act. What definition of this term is both workable and

consistent with the statute? The HEOA also provides that an appeals panel may not include any members of the decision-making body that "made the adverse decision". Is there a need to draw a distinction between an "adverse decision" and an "adverse action"?

The statute also requires that appeals panel members be subject to a conflict of interest policy. Are there requirements which such a policy should include? Likewise, the amendments provide for a "hearing" before the appeals panel. What procedures should agencies follow in providing this hearing?

How does the new provision allowing an institution or program to introduce new information on finances fit into the appeal timeline? Can an institution or program that was cited for not meeting several standards, but successfully appeals all but the financial issue, avail itself of this new provision?

The statute speaks to "significant financial information that was unavailable to the institution or program prior to the determination of the adverse action, and that bears materially on the financial deficiencies identified by the agency or association." Do the regulations need to define "significant financial information" or specify parameters for bearing "materially on the financial deficiencies"?

Issue #16

Issue Paper
Team III – Accreditation

Origin:	HEOA
Issue:	Operating procedures – Summary of agency actions
Statutory cites:	HEOA section 495(2)(D) Amends HEA section 496(c)(7) See page 6 of statutory language handout
Regulatory cites:	34 CFR § 602.26

Summary of issue: The HEOA made changes to the actions and information agencies must disclose.

The HEOA requires that an agency make available to the public and the State licensing or authorizing agency, and submit to the Secretary, a summary of agency or association actions, including--

(1) the award of accreditation or reaccreditation of an institution;

(2) final denial, withdrawal, suspension, or termination of accreditation of an institution, and any findings made in connection with the action taken, together with the official comments of the affected institution; and

(3) any other adverse action taken with respect to an institution or placement on probation of an institution.

It appears that current section 602.26(a) adequately covers paragraph (1) above, but that changes need to be made to 602.26(b) to reflect the requirement to disclose "any findings made in connection with the action taken, together with the official comments of the affected institution" and "any other adverse action…or placement on probation", new requirements that are included in (2) and (3) above.