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Friday
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Part IV

**Department of
Education**

**34 CFR Parts 602 and 603
Secretary's Procedures and Criteria for
Recognition of Accrediting Agencies;
Final Regulations**

DEPARTMENT OF EDUCATION**34 CFR Parts 602 and 603****Secretary's Procedures and Criteria for Recognition of Accrediting Agencies****AGENCY:** Department of Education.**ACTION:** Final regulations.

SUMMARY: The Secretary amends the regulations concerning the criteria and procedures for the Secretary's recognition of accrediting agencies for post-secondary purposes. These changes clarify current regulations, place greater emphasis upon assessment of educational effectiveness by accrediting bodies, highlight the responsibilities of accrediting agencies for encouraging the truthfulness of institutional claims, and encourage accrediting agencies and associations to take into account each other's accrediting actions. These changes enhance the Secretary's ability to judge those agencies that are reliable authorities as to the quality of education or training offered. Through elimination or simplification of current regulations, the changes also reduce the burden on accrediting agencies that apply for recognition.

EFFECTIVE DATE: These regulations take effect 45 days after publication in the *Federal Register* or later if Congress takes certain adjournments, with the exception of § 602.3. Section 602.3 will become effective after the information collection requirements contained in that section have been submitted by the Department of Education and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James D. Houser. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: H. Reed Saunders, Office of Postsecondary Education, US Department of Education, (Room 3012, ROB-3) 400 Maryland Avenue, SW., Washington, DC 20202, telephone number (202) 732-4922.

SUPPLEMENTARY INFORMATION: These regulations revise procedures and criteria for the Secretary's recognition of accrediting agencies. Recognition is based on the Secretary's determination that accrediting agencies are reliable

authorities concerning the quality of education or training offered by the postsecondary educational institutions or programs within the agencies' respective scopes of operation.

Accreditation of postsecondary institutions or postsecondary programs of institutions by agencies recognized by the Secretary—or one of the statutory substitutes for it—is a status that is a prerequisite for eligibility for many types of Federal financial assistance for those institutions or programs and for the students enrolled in those institutions or programs.

An accrediting agency that desires to be recognized by the Secretary submits a petition addressing the criteria and procedures in these regulations. If the Secretary recognizes an accrediting agency, the recognized agency will need to petition periodically for continued recognition.

To help ensure that Federal money devoted to postsecondary education is spent wisely, the Secretary is using the Secretary's legal authority for recognition of accrediting agencies to improve the quality of postsecondary education. Although educational quality is primarily the responsibility of the institutions themselves, and secondarily of private regulatory bodies established by the institutions as well as of local and State governments, the Secretary has a stewardship responsibility to ensure that Federal monies are used at institutions or in programs that meet certain standards with regard to quality. As a principal means of accomplishing this objective, Congress has given the Secretary the statutory responsibility for publishing periodically a list of nationally recognized accrediting agencies that the Secretary determines to be reliable authorities as to the quality of education offered.

As one of his first initiatives upon taking office, the Secretary requested the National Advisory Committee on Accreditation and Institutional Eligibility (NACAIE) to undertake a comprehensive review of the criteria used by the Secretary to recognize accrediting agencies. The NACAIE prepared recommendations which were submitted to the Secretary at its December 1986 meeting.

The NACAIE recommendations included a number of modifications in the existing criteria, but the NACAIE concluded that the "triad" of institutional eligibility—the phrase used to describe the partnership of the Federal Government, State governments, and accrediting agencies—is working reasonably well and remains the most effective and workable system available for the

evaluation of postsecondary educational institutions and practices. The intention of the recommendations developed by the NACAIE was to preserve the voluntary, self-regulatory character of accreditation, while providing those working within the system with the encouragement and the support to meet the challenge of improving the quality of postsecondary education, as measured through the assessment of educational effectiveness. The Secretary agreed with this basic strategy and charged the Assistant Secretary for Postsecondary Education with revising the current regulations based upon the NACAIE recommendations.

On September 8, 1987, the Secretary published a notice of proposed rulemaking (NPRM) for Part 602 in the *Federal Register* (52 FR 33908).

Summary of Major Proposed Changes

The NPRM included a discussion of the major issues addressed by the proposed regulations. The following is a brief summary of the proposed major changes contained in the NPRM to the existing criteria and procedures:

1. The regulations would place greater emphasis upon the consistent assessment of documentable student achievement as a principal element in the accreditation process.
2. An accrediting body would be required to refuse to accept for accreditation or preaccreditation, for a twelve month period, an institution or program that was affected by an adverse action of another accrediting body. If two agencies had granted status to the same institution, and one of them withdrew that status, the other agency would be required to review promptly the status it had granted to the institution.
3. Accrediting agencies would be required to adopt and act upon guidelines for examining an institution's or program's representations of its programs, practices, and student achievements.
4. Accrediting agencies would be required to agree in writing to notify the Secretary within 30 days of each of their decisions to deny or withdraw accreditation or preaccreditation of an institution or program or to place an institution or program on public probation.
5. A new criterion would be added concerning the obligations of agencies that accredit institutions that admit students on the basis of their "ability to benefit" instead of a high school graduation diploma or G.E.D. certificate.
6. The scopes of recognition of the agencies listed by the Secretary would

be restricted solely to the postsecondary level of education.

7. In an effort to reduce burden on agencies, several criteria largely relating to accreditation procedures would be eliminated, and the maximum period of recognition would be changed from four to five years.

Changes Resulting From Public Comment

As result of the comments received on the NPRM and as discussed in detail in the Analysis of Comments and Changes section which follows, the Secretary has made the following significant changes in the final regulations.

1. The requirement that accrediting agencies impose a twelve-month moratorium on granting accreditation status to an institution or program receiving an adverse action by another recognized agency has been eliminated. Instead, agencies are called on to take such adverse actions into account when considering whether to grant the status of accreditation or pre-accreditation.

2. The criterion relating to the use of guidelines to ensure honesty of institutional representations is changed to eliminate the necessity for the adoption and implementation of those guidelines. Agencies are given greater flexibility in defining and assessing appropriate institutional disclosure in their respective fields of operation.

3. Section 602.17 has been retitled "Focus on educational effectiveness," and the wording of the section has been revised to address commenters' concerns about the limits of the Secretary's authority.

4. The requirement concerning reporting agency actions to the Secretary has been modified to eliminate the necessity for reporting denials of initial accreditation status and actions that are subject to appeal.

5. The requirement for certain accrediting agencies to develop criteria covering preadmission counseling and testing for students admitted based on "ability-to-benefit" has been deleted, and the area of "ability-to-benefit" is instead addressed in the contexts of educational effectiveness (Section 602.17) and agency practices (Section 602.13).

6. Several current requirements for accrediting agencies, omitted from the NPRM, were restored: publication of the agency's next regularly scheduled review of an institution or program; publication of procedures for review of complaints against accredited institutions or programs; public representation on accrediting bodies; and advance public notice of proposed or revised accreditation standards along

with the opportunity for public comment upon them prior to their adoption.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 212 parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject, with appropriate sections of the final regulations referenced in parentheses. Other substantive issues are discussed under the section or subsection of the regulations to which they pertain. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Focus on Educational Effectiveness (§ 602.17)

Comments: The criterion requiring accrediting agencies to place a substantial emphasis upon assessment of student achievement in the accreditation process drew the greatest number of comments. Most of the commenters indicated that they could not accept the criterion as written, although a number of commenters specifically stated that the basic principles are supportable. Some felt that the existing regulations adequately covered the intent of the proposed new criterion. They stated their perception that the proposal differed markedly from the 1986 recommendations adopted by the National Advisory Committee on Accreditation and Institutional Eligibility (NACAIE) regarding assessment of educational outcomes in accreditation, and some commenters asked that the criterion be revised to relate more closely to those recommendations. Some commenters stated that the proposed criterion has the effect of placing departmental requirements directly upon educational institutions, which they felt the Secretary is explicitly prohibited by law from doing. They felt that the Secretary, in adopting this criterion, was directly specifying educational standards, which they again viewed as prohibited by law.

Many commenters objected to the criterion's possible implication that assessment of student achievement is the only educational evaluation technique that can be used to establish the reliability of an accrediting agency concerning assessment of educational quality. They indicated that the language of the criterion was too inflexible to take into account the fact that the science of educational

assessment is still in the developmental stages within the higher education community. They also stated that such assessment is not applicable to the entire range of postsecondary institutions or educational goals but is more suited to programs directed at immediate employment of graduates. One commenter stated that the use of a single approach to educational evaluation would "grossly distort" the wide range of available, effective assessment procedures. Several commenters indicated their fears that the criterion would "homogenize" education and prevent future evolution of valid educational assessment techniques by accrediting agencies.

Some commenters described the difficulty that this criterion, or parts of it, would create for their particular kinds of programs and students, especially with regard to the reporting of employment. Several commenters felt the language of the criterion was unclear. They had specific questions regarding the application of it to their own particular situations, whether as an institution or accrediting agency.

Some commenters suggested the broadening of the concept from focusing upon assessment of student achievement to focusing upon educational effectiveness. Many commenters objected to the assumption they perceived in the proposed regulations that accrediting agencies currently are not involved in assessment of educational achievement. Some commenters felt that enforcement of the criterion would place unnecessary burdens on institutions.

Two commenters suggested that the educational mission of the institution be considered in the assessment of outcomes, to allow for institutional differences.

A number of commenters objected to the reference to testing as the only example given of means of assessing student achievement. They did not want preeminence given to any one method of assessment when many approaches are available.

Discussion: The Secretary reaffirms the importance of considering assessment of educational effectiveness in the accreditation process. One of the principal purposes in reissuing regulations in this area is to emphasize this importance. To fulfill this objective, the Secretary desires to clarify the currently used criterion regarding educational outcomes as was recommended by the National Advisory Council on Accreditation and Institutional Eligibility in December of 1986. In doing so, the Secretary is also