

# U.S. Department of Education Staff Report to the Senior Department Official on Recognition Compliance Issues

## Recommendation Page

### 1. **Agency:** WASC Senior College and University Commission

( 1952 / 2018 )

(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)

### 2. **Action Item:** Petition for Continued Recognition

### 3. **Current Scope of Recognition:**

The accreditation and preaccreditation ("Candidate for Accreditation") of senior colleges and universities in California, Hawaii, the United States territories of Guam and American Samoa, the Republic of Palau, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands and the Republic of the Marshall Islands, including distance education programs offered at those institutions.

### 4. **Requested Scope of Recognition:**

The accreditation and preaccreditation ("Candidate for Accreditation") of institutions of higher education that offer the baccalaureate degree or above, including distance education programs offered at those institutions.

Geographic area of accrediting activities: The United States.

### 5. **Date of Advisory Committee Meeting:** 02/15/2023

### 6. **Staff Recommendation:**

Continue the agency's recognition as a nationally recognized accrediting agency at this time, and require the agency to come into compliance within 12 months with the criteria listed below, and submit a compliance report due 30 days thereafter that demonstrates the agency's compliance.

The agency has also been found substantially compliant with criteria listed below, and Department staff recommends a monitoring report (see the final analysis for a detailed explanation of the monitoring report requirements).

### 7. **Issues or Problems:**

Remaining issues, if any, are summarized below and discussed in detail under the Staff Analysis section.

[602.15(a)(2)] --

The agency does not meet this section of the Criteria. The agency must provide a policy for training site visit evaluators and provide evidence of its implementation of its policy in this area.

[602.15(b)] --

The agency does not meet this section of the Criteria. The agency must develop and institute a policy for keeping records of its invitations to institutions to respond to the site visit report, and the institutions' responses as part of their record-keeping policy for institutional reviews. This issue is also discussed under 602.17(d), where the issue is noted.

[602.16(a)(1)(iv)] --

The agency does not meet this section of the Criteria. The agency must provide its final revised standards demonstrating its requirements in this area.

[602.16(a)(1)(vii)] --

The agency is not in compliance in this area. The agency must provide additional documentation of its review and evaluation of admissions and recruiting practices at UAGC to demonstrate the application of its recruiting standards and requirements.

[602.17(d)] --

The agency is substantially compliant with this section of the Criteria. The agency must submit a monitoring report for the next 10 accreditation activities (initial or renewals) demonstrating that it consistently provides the institution an opportunity to respond to the site visit report.

[602.17(h)] --

The agency does not meet this section of the Criteria. The agency must document its implementation of its revised forms to reflect its review related to this section of the Criteria.

[602.22(a)(2)(i-ii)] --

The agency does not meet this section of the Criteria. The agency must provide substantive change policies that meet the requirements of section 602.22(a)(2)(i) of this section and demonstrate implementation of those policies.

[602.22(f)(1)] --

The agency does not meet this section of the Criteria. The agency must provide policy and demonstrate implementation of the policy to demonstrate compliance with this criterion. The policy must conform to 602.22(f)(1)(ii-iii).

[602.23(c)] --

The agency does not meet this section of the Criteria. The agency must revise its policy to ensure that it meets the requirements of this section and that it ensures that all complaints are handled in a timely, fair, and equitable manner. The agency's policy must include that it will review all complaints against accredited institutions that are related to the agency's standards and procedures, as per 602.23(c)(1), and that all such complaint reviews will adhere to the processes described in 602.23(c)(1-3). The agency's documentation of its implementation of its policy must include sample complaints that include documentation of the agency meeting all elements of this section of the Criteria. The agency must demonstrate adherence to its own policies regarding complaints, including the agency's timelines for doing so.

[602.25(a-e)] --

The agency does not meet this section of the Criteria. The agency must document its implementation of this section of the Criteria, to include regularly retaining its invitations to schools to respond to the site visit report. Additionally, the agency must keep records of institutional responses to the deficiencies identified by the agency, as per part (d) of this section of the Criteria.

[602.25(f)] --

The agency does not meet this section of the Criteria. The agency must provide a policy that allows an institution described in this section of the Criteria to appeal any adverse action, regardless of the institution's grounds for doing so.

[602.28 (b)] --

The agency is not in compliance with this section of the Criteria. The agency must demonstrate the application of its policy or, if the circumstances described here do not occur during the recommended compliance report period, the agency must be able to attest that the situation did not occur during that time.

[602.28 (c)] --

The agency is not in compliance with this section of the Criteria. The agency must demonstrate implementation of the policy changes it has described in this section. The agency must provide to the Secretary the reasons for the agency's action in exception to 602.28(b) in the case of Thomas Jefferson School of Law, as per the requirements of this criterion. The agency must demonstrate the regular application of its policy or, if the circumstances described here do not occur during the recommended compliance report period, the agency must be able to attest that the situation did not occur during that time.

[602.28 (d)] --

The agency does not meet this section of the Criteria. The agency has documented policies meeting the requirements of this section of the criteria, but did not meet the requirements of this section of the Criteria during the review period in relation to Thomas Jefferson School of Law. The agency must demonstrate the application of its policy or, if the circumstances described here do not occur during the recommended compliance report period, the agency must be able to attest that the situation did not occur during that time.

## Executive Summary

### PART I: GENERAL INFORMATION ABOUT THE AGENCY

The WASC Senior College and University Commission (WSCUC) has traditionally been recognized as the regional accrediting body for the accreditation and preaccreditation of senior colleges and universities in California, Hawaii, the United States territories of Guam and American Samoa, the Republic of Palau, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands. In 2021, the agency voted to expand its geographic scope to include the entire United States and its territories. While the agency also accredits institutions internationally, the Department of Education only recognizes its accreditation of schools within the United States and its territories. WASCUC currently accredits approximately 235 institutions. Accreditation by the agency enables those institutions to establish eligibility to participate in the Title IV student

financial aid programs. The agency is a Title IV gatekeeper and meets the definition of separate and independent as required in the Secretary's Criteria for Recognition.

### **Recognition History**

The U.S. Commissioner of Education listed the Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities on the initial list of recognized accrediting agencies in 1952. After establishing a successor in 1962, the Secretary has periodically continued to recognize this agency. The agency is now referred to as the WASC Senior College and University Commission (WSCUC). The NACIQI considered the agency's last full petition for renewal of recognition at its Winter 2018 meeting. At that time, the Secretary renewed the agency's grant of recognition for an additional five years. The agency's current submission represents its next regularly scheduled review for continued recognition. The agency received three third-party comments, which are discussed in the analysis in the relevant sections and in the section on third-party comments. The Department received two complaints about the agency during this review period.

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## **PART II: SUMMARY OF FINDINGS**

### **602.15 Basic Eligibility, Organizational and Administrative Requirements**

#### **Description of 602.15(a)(2)**

(2) Competent and knowledgeable individuals, qualified by education or experience in their own right and trained by the agency on their responsibilities, as appropriate for their roles, regarding the agency's standards, policies, and procedures, to conduct its on-site evaluations, apply or establish its policies, and make its accrediting and preaccrediting decisions, including, if applicable to the agency's scope, their responsibilities regarding distance education and correspondence courses;

#### **Analyst Remarks to Narrative:**

The agency described and documented its process for selection of its roster of 20-40 commissioners and the training of those commissioners. The agency's commission is determined by composition requirements, which include requirements related to the presence of public members and to include representation of diverse features of both the accredited institutions and the individuals serving on the commission (By-laws, p. 2-3). A majority of the commission are representatives from institutions accredited by the commission. The presidents of accredited institutions vote on new commissioners.

The agency provided biographical information for some of its commissioners in 602.15(a)(2) Exhibit 3 Commission Chair Vice Chair and Committee Chairs. The agency noted that the complete list of commissioners, including their biographical information, is kept up to date on the agency's public website. The current commissioners' qualifications meet the agency's requirements for these positions and demonstrate appropriate expertise on the Commission to meet the agency's needs. The agency described its training process for commissioners, which includes training modules as well as observation of a commission meeting prior to being seated on the commission. The agency provided sample commissioner training materials in 602.15(a)(2) Exhibit 4 New Commissioner Orientation 2020.

The agency's volunteers serve to conduct institutional reviews, including site visits. The agency described its process for recruiting and training site visitors. The agency provided sample training materials in Exhibit 22 602.15(a)(2) Exhibit 11 Accreditation Basics Course Content and Exhibit 21 602.15(a)(2) Exhibit 10 Reaffirmation Evaluator Guide. However, the agency did not describe its process for tracking site visitor training to ensure that all site team members receive training prior to participating in a review. While the agency provided sample site visit team rosters which includes training, training was not documented for all of the site visitors assigned to those site teams. (Exhibit 28 602.15(a)(3) Exhibit 4 Team Resumes California State University Long Beach Accreditation Visit, Exhibit 28 602.15(a)(3) Exhibit 4 Team Resumes California State University Long Beach Accreditation Visit, Exhibit 29 602.15(a)(3) Exhibit 5 Team Resumes UC San Francisco Accreditation Visit, and Exhibit 30 602.15(a)(3) Exhibit 6 Team Resumes William Jessup Special Visit). Additionally, the agency did not document its policies or practices for training appeals panels members.

The agency must provide documentation of an appeals panel conducted during the review period, to include documentation of the qualifications of the members of the appeals panel and the training provided by the agency. The agency must provide a roster of all Commission members to include their role in filling the agency's composition requirements for the Commission. The agency must provide a roster of the Appeals Committee, including the roles filled by each member of the committee. The agency must provide a roster of all individuals who in the past year participated on site visit teams with an indication of the specific focus of each member on that team. The agency must describe and document its process for tracking site visitor training to ensure that all site team members receive training prior to participating in a review.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided an attestation that the agency did not conduct an appeals panel during the review period (Exhibit ID 55782).

The agency also therefore was not able to document the qualifications of appeals panel members or training of appeals panel members, since none was convened. The agency did provide a roster of all commission members (Exhibit ID 55792) which identifies which commissioners are public members and which are at-large. The agency provided lists of the staff and site visitors assigned to site visit teams from Fall 2021 (Exhibit ID 55789) and Spring, 2022 (Exhibit ID 55790), including the focus/role of each member of the team.

The agency's policy requires new evaluators to attend training but not experienced evaluators. The agency stated that it considers that training is on-going during site visits, as staff are present to provide "just-in-time" additional training during site visits. However, this raises concern for Department staff. Relying on staff to provide training concurrently with a site visit requires site visitors to absorb new information and correctly apply new information, policies or procedures in the middle of a complex and time sensitive process. It also requires the staff member(s) to evaluate which information is needed and when, and to find time to provide that information during the process. Additionally, staff are not present at all parts of the site visit, where the site visit team splits up to interview or review different areas of an institution. The agency's policies do not address how experienced evaluators are kept up to date on changes to the agency's standards, policies, or procedures, or changes to the Federal regulations related to accreditation which might prompt changes to the agency's practices.

The agency also did not provide evidence that it regularly tracks site visitor training. The agency has provided some documentation of which members have undergone training. The agency provided several sample reports generated by Zoom for meetings that occurred in August as evidence of site visitors attending training. These reports include lists of attendees to Zoom meetings during August of 2022, including their entrance and exit times to the meetings (Exhibits 55785, 55786, 55787, 55788). The agency also provided documentation (Exhibit ID 55791) of an invitation to 95 evaluators in the Summer of 2022 to participate in an on-line evaluation, which 9 chose to do, according to the Quonder report. This documentation did not evidence regular tracking of which site visitors have attended training nor when. The attendance information provided only covers a short period in 2022, and the agency did not document how it saves the information recorded by Zoom or Quonder to its records for individual site visitors. In many instances, the sample site visitor records reviewed by Department staff did not include any information about whether or when the site visitors received training.

The agency does not meet this section of the Criteria. The agency must provide a policy for training site visit evaluators and provide evidence of its implementation of its policy in this area.

## Description of 602.15(b)

(b) The agency maintains complete and accurate records of—

(1) Its last full accreditation or preaccreditation review of each institution or program, including on-site evaluation team reports, the institution's or program's responses to onsite reports, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, and a copy of the institution's or program's most recent self-study; and

(2) All decision letters issued by the agency regarding the accreditation and preaccreditation of any institution or program and any substantive changes.

### Analyst Remarks to Narrative:

The agency documented a robust records retention policy (Exhibit 180 602.15(b) Exhibit 1 Records Retention Policy), which requires the agency to maintain all of the types of records cited in this criterion. The agency's policy identifies the staff members responsible for record retention and the roles other relevant parties play in record retention. The agency maintains some of its records on its public website, including site visitor reports and commission decision letters for each institution. The agency provided Department staff with access to additional site visit reports, on-site evaluation team reports and sample reports of special reviews conducted by the agency.

However, the agency hasn't provided documentation of institutional responses to onsite reports or periodic review reports created as part of its regular review of institutions. The agency must provide sample institutional responses, to include Woodbury University, and periodic review reports (such as annual reports or other monitoring reports) to document its implementation of these policies.

### Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided sample institutional responses to site reviews (Exhibit IDs 55810-55813), and multiple sample monitoring reports created in response to monitoring reviews of institutions (Exhibit IDs 55814-55815). The agency has documented some of its practices that implement this part of its policies.

However, under section 602.17(d), the agency stated in its narrative that it does not retain institutional responses to the site visit report after a Commission decision has been made on a site visit. Both the agency's invitation to the institution to respond to

the site visit report and the institution's response must be kept by the agency as part of its record of that site visit. The response must be included with the material considered by the Commission when making a decision on that institution, and the materials used by the Commission must be kept according to the agency's record-keeping policy.

The agency does not meet this section of the Criteria. The agency must develop and institute a policy for keeping records of its invitations to institutions to respond to the site visit report, and the institutions' responses as part of their record-keeping policy for institutional reviews. This issue is also discussed under 602.17(d), where the issue is noted.

### **602.16 Required Standards & Their Application**

#### **Description of 602.16(a)(1)(iv)**

(iv) Facilities, equipment, and supplies.

#### **Analyst Remarks to Narrative:**

The agency's narrative notes that facilities, equipment, and supplies would be assessed under Standard 3: Developing and Applying Resources and Organizational Structures to Ensure Quality and Sustainability (Handbook of Accreditation (602.16(a)(1)(i) Exhibit 1 2013 Handbook of Accreditation Revised). However, the narrative does not identify any specific Criteria for Review that address this area. Under Standard 3 is a section titled "Fiscal, Physical, and Information Resources, which contains a Criteria for Review for fiscal resources (3.4) and information resources (3.5). C.F.R. 3.5 requires review of the institution's provision of access to information and technology resources. However, the agency's standards do not appear to include requirements related to facilities, equipment, and supplies other than its requirement related to information and technology resources.

The agency provided documentation of its review of Woodbury University (see: 602.17, including 602.17 Exhibit 1 Woodbury Univ - Self Study fall 2017). This documentation indicated limited review of facility, equipment, or supplies by either the institution or the site visit review team.

The agency must describe and document policies that reflect its requirements related to its review of facilities, equipment, and supplies, and provide sample documentation of its review in this area. The Department asked the agency to provide documentation from its review of Woodbury University with this petition. The agency must attach the full set of review documentation for Woodbury University to this section of the Criteria. This must include any self-studies, the site visit reports, and commission decision letters from this recognition period.



Analyst Remarks to Response:

In response to the draft staff analysis, the agency has attached the documentation of its review of Woodbury University to this section of the Criteria.

The agency refers to Exhibit ID 55833, p.18. Standard 3 requires that the institution have “investments in human, physical, fiscal, technological, and information resources . . . .”

The agency provided documentation from its proposed revised Standards from June 2022 (Exhibit ID 55834), which on page 5. includes a new proposed Criteria for Review (C.F.R.) related to this section of the criteria. The proposed C.F.R. reads: “The institution provides physical, technology, information and other resources sufficient in scope, quality, currency, and kind to support the work of its faculty, staff, and students.” Additionally, the agency has provided documentation of several sample reviews where facilities were discussed.

The agency has demonstrated that it is in the process of changing its standards to include a C.F.R. related to this section of the Criteria. The agency has also demonstrated several sample cases where site team evaluators have addressed an institution's facilities as part of their review, despite the fact that the agency's standards did not include any Criteria For Review that specifically require this.

The agency does not meet this section of the Criteria. The agency must provide its final revised standards demonstrating its requirements in this area.

**Description of 602.16(a)(1)(vii)**

(vii) Recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising.

Analyst Remarks to Narrative:

In order to demonstrate its review in these areas, the agency provided its template Compliance with WSCUC Standards and Federal Requirements Worksheet (602.16(a)(1)(vii) Exhibit 1 Compliance with WSCUC Standards and Federal Requirements Worksheet). This document describes the evidence needed to demonstrate compliance in several areas, and includes comments from site visitors related to the school's compliance in these areas. The agency provided a sample filled-in Federal Requirements worksheet for Cal Tech (602.16(a)(1)(vii) Exhibit 2 Cal Tech Federal Requirements). This worksheet reflects review by the site visit team of the published program information relating to tuition and fees, graduation, program catalogs, and employment rates.

The agency's review of Woodbury University reflected a review by the site team under this criterion, with the site visit report discussing the public posting of tuition and fees, publications about employment after graduation, and an affirmation by the site visitors that incentives are not used to enroll students or generate inquiries. The site visitors noted in their initial report that the 4-year graduation guarantee found on the school's website was not supported by the school's graduation data, and recommended that this be addressed (Exhibit 2 Woodbury Univ - Team Report AV Spring 2018 p.13-14 and 22-23.) The self-study documented an interview with the Associate Vice President of Admissions and review of the contents of a private email box created solely for relevant parties to report concerns about this school to the agency. However, the issue with misleading graduation information on the website was not mentioned in the Commission's decision letter to the school (602.17 Exhibit 3 Woodbury Univ - Action Letter July 2018).

A recent judgment was made against the parent company of the University of Arizona Global Campus (formerly Ashford University)(Analyst Upload 1). This judgment stemmed from a lawsuit filed by the State of California in 2017 and found issues with recruiting and admissions practices and advertising related to the school, in addition to other areas. While the school has since undergone a change in ownership, it maintains a relationship with Zovio. One third-party commenter stated that Zovio continues to offer recruiting, admissions, and advertising for the school. Two third-party comments discussed Ashford University's accreditation by WSCUC, citing concerns about the lawsuits brought against Zovio and the performance of the school.

The agency must provide its review documents from this review period for the University of Arizona Global Campus, both under this name and under its prior name of Ashford University. The agency must address its review of this school in relation to recruiting, admissions, and marketing. The documents must include any self-studies, any reports generated as part of a regular or special review of the school, Commission decision letters, and annual reports and mid-cycle review documentation. The documentation should include any other communications relevant to the agency's accreditation of the school, such as the notifications from the school of pending legal actions and its documentation of its review of the school's change of ownership. The agency may wish to address the third-party comments in its response to the draft staff analysis.

The Department asked the agency to provide documentation from its review of Woodbury University with this petition. The agency must attach the full set of review documentation for Woodbury University to this section of the Criteria. This must include any self-studies, the site visit reports, and commission decision letters from this recognition period.

Analyst Remarks to Response:

The agency has attached the documentation of its review of Woodbury University to this section of the Criteria. The agency has documented its regular review related to this section of the Criteria with the documentation provided for UAGC/Ashford, Woodbury, and multiple additional schools reviewed in this petition or as part of the file review.

The agency provided documentation of its review of Ashford University, including the change of ownership and rebranding of Ashford as University of Arizona Global Campus (UAGC). The agency noted that Zovio, the organization that had previously owned Ashford and was subject to a judgment by the state of California regarding its recruiting and admissions practices, no longer has a relationship with UAGC.

Although the sale by Zovio had originally required the University of Arizona Global Campus to use Zovio as an Online Program Management (OPM) servicer, including using Zovio to recruit and admit students, that agreement is no longer in effect and Zovio is no longer affiliated with UAGC. However, approximately 75% of Zovio's employees transitioned to UAGC and continue to work with the school.

The agency quoted from a 2019 site visit report under Exhibit ID 56155 where site visitors stated that current practices and procedures related to recruiting seemed to indicate “integrity” on the part of the school. The agency cited improvements in the school's retention rates as evidence that the school will improve its graduation rates.

The school's website currently lists a 9% graduation rate for 2 and 4 year programs within 150% of the degree's scheduled completion time. The agency noted that the school is under a “Formal Notice of Concern” related to its outcomes.

The agency stated that the judgment by the Superior Court of the State of California against Zovio was related to incidents prior to 2017, the year the action was filed by the state. The agency cited UAGC's hiring of new staff to oversee recruiting practices and the school's implementation of a “Secret Shopper” program to identify problems with recruitment as evidence the school is improving its recruitment and admissions practices. However, the agency did not document a review of the results of the school's secret shopper program. Notably, the school had used a secret shopper program from 2013-2014 in which all calls were deemed to contain false information, according to the 2022 judgment. The school discontinued the use of the secret shopper program at that time. The agency's narrative also stated that it had not received “any complaints during the review period about marketing and recruiting practices that evidenced a failure of the institution to follow its published procedures and policies.”

It is not clear from this statement whether the agency did receive complaints about the institution's recruiting and marketing practices.

The agency has demonstrated that it considers and reviews recruitment and admissions practices as part of its process. However, it is concerning to the Department that UAGC continued to have serious issues with its recruitment and admissions practices at least through the agency's current review period, yet the agency did not identify these problems at the school. The agency's policies require it to “go into further depth” if there are indications that a school has problems in this area. The documentation provided doesn't demonstrate whether the agency increased scrutiny of the school in this area in response to the school's history of concerns related to recruitment and admissions. The agency quoted the school's self-reported practices for maintaining integrity in this area, such as its secret shopper campaign and hiring of new staff, but it isn't clear from the documentation provided how the agency verified the school's statements about its current recruiting and admissions practices.

The agency is not in compliance in this area. The agency must provide additional documentation of its review and evaluation of admissions and recruiting practices at UAGC to demonstrate the application of its recruiting standards and requirements.

#### **602.17 Required Standards & Their Application**

##### **Description of 602.17(d)**

(d) Allows the institution or program the opportunity to respond in writing to the report of the on-site review;

##### **Analyst Remarks to Narrative:**

The agency's narrative quoted from its standard language used in Commission decision letters, which states that if the institution wishes to post a response to the site visit report and publish it on the institution's own website, the agency will then link the institution's response to the agency's posting of the site visit report. This does not address the requirements of this section of the Criteria.

However, the agency's Team Report Directions (Exhibit 113 602.17(f) Exhibit 2 Accreditation Visit (AV) Team Report Directions and Template) includes the requirement that the site visit report be sent to the CEO following the site visit, and that the CEO be offered the opportunity to suggest corrections, make redactions of PII, or submit a response to the site visit report, which will be provided to the Commission with the review materials. This policy does meet the requirements of this section of the Criteria. However, the agency does not document implementation of this policy.

The agency must document how it requests a response from the CEO of an institution on its site visit report following an accreditation visit, and document the CEO's response. The agency must submit its documentation in this area for Woodbury

University, and may submit additional samples as well.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency has attached the documentation of its review of Woodbury University to this section of the Criteria. The agency stated that it deletes emails related to a site visit following a commission action, and so does not have those communications for Woodbury. The agency presented multiple recent sample communications from schools in response to their site visit report.

However, the response by an institution to the site visit report must be kept by the agency as part of its record of that site visit. The response must be included with the material considered by the Commission when making a decision on that institution, and the materials used by the Commission must be kept according to the agency's record-keeping policy. The agency must develop and institute a policy for keeping records of their invitations to institutions to respond to the site visit report, and the institution's response as per their record-keeping policy for institutional reviews.

Because this is an issue related to record-keeping, the agency must respond in that section of the Criteria (602.15(b)) to this concern.

The agency is substantially compliant with this section of the Criteria. The agency must submit a monitoring report for the next 10 accreditation activities (initial or renewals) demonstrating that it consistently provides the institution an opportunity to respond to the site visit report.

**Description of 602.17(h)**

(h) Makes clear in writing that institutions must use processes that protect student privacy and notify students of any projected additional student charges associated with the verification of student identity at the time of registration or enrollment.

Analyst Remarks to Narrative:

The agency provided its Distance Education Review guide (Exhibit 116 602.17(g) Exhibit 1 Distance Education Review Guide), which includes the agency's policy requiring that institutions have processes in place to protect student privacy and notify students of any additional charges associated with the verification of student identity (p.2). The agency also provided its template Distance Education review form, which is appended to the review of institutions with distance education (Exhibit 49 602.16(a)(1)(ii) Exhibit 9 Distance Education Review Team Report Appendix Form). The agency documented its use of this form in the review of a distance education program in 602.16(d)(Exhibit 92 602.16(b) Exhibit 2 CSULB Team Report TPR Fall 2020).

However, the template distance education review team report appendix form and the sample distance education review provided do not reflect a review of the school's privacy policy and additional charges associated with distance education, nor of the school's published information in this area. Additionally, this section of the Criteria requires the agency to make these requirements clear in writing; however, it isn't clear whether the agency's Distance Education Review guide is intended for and made available to schools with distance education, or whether this information is only distributed to reviewers.

The agency must document where it publishes the information required by this section of the Criteria for review by all stakeholders. The agency must document its review of distance education program(s) to demonstrate the application of its policy and its compliance with this criterion.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided its Distance Education Review-Team Report Appendix (Exhibit ID 56258). This includes the template form to be used by site visitors which requires reviewers to assess the school on the areas identified in this section of the Criteria.

Additionally, the agency provided Exhibit ID 56259, its "Manual for Programs, Instructional Locations, and Substantive Change," which includes instructions on page 13 for schools to verify student identities, ensure privacy of student information, and disclose any fees to students associated with these processes. However, the agency did not provide any sample reviews using these updated site reviewer forms or reflecting review by the agency in these areas.

The agency does not meet this section of the Criteria. The agency must document its implementation of its revised forms to reflect its review related to this section of the Criteria.

**602.22 Required Operating Policies & Procedures**

**Description of 602.22(a)(2)(i-ii)**

(2)

- (i) For substantive changes under only paragraph (a)(1)(ii)(C), (E), (F), (H), or (J) of this section, the agency's decision-making body may designate agency senior staff to approve or disapprove the request in a timely, fair, and equitable manner; and

(ii) In the case of a request under paragraph (a)(1)(ii)(J) of this section, the agency must make a final decision within 90 days of receipt of a materially complete request, unless the agency or its staff determine significant circumstances related to the substantive change require a review by the agency's decision-making body to occur within 180 days.

Analyst Remarks to Narrative:

The agency provided its Exhibit 181 602.22 Exhibit 1 Substantive Change Policy and its Exhibit 182 602.22 Exhibit 2 Substantive Change Manual to document the agency's policies and procedures for reviewing substantive changes. However, the agency's Policy and Manual seem to conflict with each other regarding which substantive changes may be reviewed by agency staff. The agency's policy only describes one situation in which agency staff may review substantive changes. The agency's Substantive Change Policy (Exhibit 181 602.22 Exhibit 1 Substantive Change Policy, p.2) states that the agency designates senior staff to approve or disapprove substantive changes that are considered routine changes, specifically an institution's request to offer an academic program in a discipline closely related to the institution's existing offering, or a new program that does not require substantial new courses to implement. However, the agency's Substantive Change Manual (Exhibit 182 602.22 Exhibit 2 Substantive Change Manual) also allows agency staff to review new locations or programs under several circumstances described on page 8. The agency's Substantive Change Manual appears to conflict with its Substantive Change Policy in this case, since the Policy document does not describe permission for agency staff to conduct reviews for requests to add new locations or branch campuses, but the Manual does. The Secretary's Criteria for review of additional locations is found in 602.22(a)(1)(I), and is not included in this section as a type of substantive change that may be reviewed by agency staff. This issue will be discussed further under 602.22(b).

Additionally, the agency did not describe where in its policies or procedures it includes requirements related to the timeline of the agency's substantive change decisions for changes of the type described in (a)(1)(ii)(J).

The agency must describe and document how its policies and procedures related to substantive change meet the requirements of this section of the Criteria. The agency must identify where in its policies and procedures it includes a timeline for substantive change decisions for changes of the type described in (a)(1)(ii)(J). The agency must submit a sample substantive change review of this type to demonstrate implementation of its timelines or attest that the agency has not received a substantive change request of this type during the review period.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided a sample review of a substantive change request where a school added an online MBA program in collaboration with 2U, inc., which is an online program manager. The documentation of this request and approval is found in Exhibit IDs 56246 and 56247.

The agency also provided its Manual for Programs, Instructional Locations, and Substantive Change (Exhibit ID 56245). On page 17, this manual describes a timeline for requests of the type described in (2)(ii) of this section of the Criteria that meets the requirements of this section. The agency has provided documentation of its application of its policies under 602.22(a)(2)(ii) above.

However, the agency's manual, Exhibit ID 26245 does not show compliance with section 602.22(a)(2)(i) above, which permits agency staff to conduct reviews for a selected subset of substantial changes. According to 602.22(a)(2)(i) "For substantive changes under only paragraph (a)(1)(ii)(C), (E), (F), (H), or (J) of this section, the agency's decision-making body may designate agency senior staff to approve or disapprove the request in a timely, fair, and equitable manner." This section does not permit the agency's decision-making body to delegate to staff the review of substantial changes of the types described in 602.22(a)(1)(A,B,D,G,I, or K); however, the agency's policies permit staff to review some of these types of substantial changes.

Pages 6-7 of the agency's manual describes those types of substantive changes which are allowed under staff review and those which require review by the Commission.

The agency's requirements in this area do not conform to the requirements of this section of the Criteria. For instance, the agency requires the first new branch campus of an institution to be reviewed by the Commission, but allows staff to review requests to add additional branch campuses. Additionally, the agency allows staff to review requests for additional locations. These types of substantive change are described in 602.22(a)(1)(I) and must be reviewed by the decision-making body, not agency staff, to be in compliance with this section, except as described in 602.22(c). The agency's manual does not define who will review substantive changes related to the acquisition of any other institution or program or location of another institution, as described in 602.22(a)(1)(G).

The agency does not meet this section of the Criteria. The agency must provide substantive change policies that meet the requirements of section 602.22(a)(2)(i) of this section and demonstrate implementation of those policies.

**Description of 602.22(f)(1)**



(f) Except as provided in paragraph (c) of this section, 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 that is not a branch campus where at least 50 percent of an educational program is offered must include—

(1) A visit, within six months, to each additional location the institution establishes, if the institution—

(i) Has a total of three or fewer additional locations;

(ii) Has not demonstrated, to the agency's satisfaction, that the additional location is meeting all of the agency's standards that apply to that additional location; or

(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;

Analyst Remarks to Narrative:

The agency's Substantive Change Manual (Exhibit 182 602.22 Exhibit 2 Substantive Change Manual, p.13) states that "A site visit may be required within six months after the establishment of new off-campus locations that require substantive change approval. Typically, the first three off-campus sites established by an institution must be visited." Pages 35-37 describes Substantive Change Site Visits. Page 36 states that some substantive changes may require post-implementation site visits including: off-campus sites (within six month of establishment) if the institution has three or fewer additional locations, has not demonstrated a proven record of effective educational oversight of additional locations, or has been placed on sanction. Pages 38-39 list Federal requirements related to substantive change and repeats some of the requirements described above.

While the agency's Substantive Change Manual addresses some of the requirements of this section, it states that these site visits "may" occur on pages 13 and 36, which implies that the agency's policy does not always require the described site visits. Additionally, the agency's policy does not specifically state that a site visit within six months is required in cases where the institution has not demonstrated, to the agency's satisfaction, that the additional location is meeting all of the agency's standards that apply to that additional location. The agency's policy only addresses whether the institution has "a proven record of effective educational oversight," a policy that is not identical to the requirement in this section of the Criteria.

The agency also discusses Federal requirements in this area on pages 38-39. However, these are not presented as the agency's policy and do not match the requirements of

this section. Additionally, the agency did not provide sample documentation of a visit to an additional location as required in this section.

The agency must document policies and procedures that meet the requirements of this section of the Criteria. These must include procedures for the approval of additional locations that require a site visit within six months to additional locations as described in this section. The agency must provide sample documentation of a site visit conducted according to the requirements of this section of the Criteria.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided revised policy under Exhibit ID 56208, which includes on pages 18-19 the requirement that schools with three or fewer additional locations receive a site visit within 6 months of adding an additional location. On page 34, the agency's policy additionally states that a site visit will occur if the school has not demonstrated "a proven record of effective educational oversight." While this policy touches on the requirements of 602.22(f)(1)(ii), it is not sufficient to meet the requirements of this section of the Criteria, which requires that the additional location must be visited if it has not demonstrated to the agency's satisfaction that it is meeting all of the agency's standards that apply to the additional location, as per 602.22(f)(1)(ii). Additionally, the agency's policy on page 18 states that "if an institution's accreditation status has changed (i.e. placed on sanction), a Committee review and an additional fee *may* be required." Again, on page 34, the agency's policy includes that if a school has been placed on sanction, they "*may*" be required to have a site visit following the addition of a new location. The agency's use of the qualified word "may" to describe its requirements here do not meet the requirements of this section, which requires the agency to conduct site visits to additional locations in these circumstances.

The agency does not meet this section of the Criteria. The agency must provide policy and demonstrate implementation of the policy to demonstrate compliance with this criterion. The policy must conform to 602.22(f)(1)(ii-iii).

**602.23 Required Operating Policies & Procedures**

**Description of 602.23(c)**

(c) The accrediting agency must--

(1) Review in a timely, fair, and equitable manner any complaint it receives against an accredited institution or program that is related to the agency's standards or

procedures. The agency may not complete its review and make a decision regarding a complaint unless, in accordance with published procedures, it ensures that the institution or program has sufficient opportunity to provide a response to the complaint;

(2) Take follow-up action, as necessary, including enforcement action, if necessary, based on the results of its review; and

(3) Review in a timely, fair, and equitable manner, and apply unbiased judgment to, any complaints against itself and take follow-up action, as appropriate, based on the results of its review.

Analyst Remarks to Narrative:

The agency provided URL links to its webpage concerning complaints. However, the Department does not accept webpage links for review. Documentation must be submitted into the permanent record of the petition in the e-recognition system. Webpages may be converted to .pdfs and uploaded. The agency provided a sample complaint reviewed by the agency under section 602.16(a)(1)(ix). However, the sample complaint provided was from a prior recognition period.

The agency must provide its relevant policies and procedures documents and describe the page numbers and content that meet the requirements of this section of the Criteria. The Department received a complaint related to the timeliness of the agency's complaint process. The agency must describe and document its policies for ensuring that complaints are handled in a timely fashion. The agency must provide sample complete documentation of a complaint received by the agency during this recognition period, including the agency's actions taken in response to the complaint.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided its complaints policy, found in Exhibit ID 55999. This document describes the agency's policies and procedures.

It includes a timeline of acknowledging receipt of a complaint within 10 days and review of the complaint by the agency's staff within 45 days of receipt. The agency states that complaints must be related to its Standards of Accreditation or policies, and that complaints that meet this requirement will be shared with the subject institution and enter into a formal review process. The agency states on page 3 that it only reviews complaints related to events that occurred within one year of the filing of the complaint, unless the issue is one that is persisting from prior years.

If the agency's staff have determined that “there is sufficient substance to warrant

further review (p.5)," Commission staff will forward the complaint to the institution and request a response within 45 days, and will "normally" make a final decision on the complaint within 45 days of receipt of the institution's response.

The agency provided documentation related to a complaint received during the review period, including the initial form received from the student on January 5th, 2022 (Exhibit ID 56563), a response from the institution on March 21, 2022 (Exhibit ID 56564), and a letter to the complainant with a decision on the complaint March 14, 2022 (Exhibit ID 56565).

The agency also acknowledged that the Department has received a complaint about the timeliness of the response of a complaint received by the agency. The agency acknowledged that it did not meet its own timelines in regards to one complaint by that complainant. The complaint response is attached here.

While the agency has provided documentation related to the January 5th, 2022 complaint, the documentation is incomplete, as it does not include the agency's letter to the school requesting an official response. While the agency included a response from the school, that response arrived after the agency had provided its official response to the complainant and only seemed to address one point of the complaint. Documentation was not provided showing that the school received and was asked to respond to the entirety of the initial complaint.

While the agency has documented a robust set of policies related to complaints, and has provided to the Department multiple sets of complaints for review, some of these sets of complaint documents were missing key components and/or failed to meet the agency's own timelines. Additionally, the agency's policy that it will forward a complaint to a member institution if "there is sufficient substance to warrant further review" (p.5, Exhibit ID 55999) is concerning because 602.23(c)(1) requires that all complaints against a member institution that are related to an agency's standards and procedures must be reviewed using the requirements of this section of the Criteria.

Previously in the same document (p.1), the agency states that "Complaints must draw into question a member institution's adherence to one or more of the Standards of Accreditation or policies *with adequate supporting materials*" (*Emphasis added*).

Each of these statements about how the agency determines which complaints will be reviewed includes limits that do not match the requirements of this section of the Criteria.

Additionally, the agency limits its review of student complaints to complaints about events that occurred within the prior 1-year period. The language in this section of the Criteria states that a recognized agency must review "any complaint it receives against an accredited institution or program that is related to the agency's standards or procedures." The agency's policy of not reviewing complaints that relate to events

more than 1 year old does not meet this requirement.

The agency does not meet this section of the Criteria. The agency must revise its policy to ensure that it meets the requirements of this section and that it ensures that all complaints are handled in a timely, fair, and equitable manner. The agency's policy must include that it will review all complaints against accredited institutions that are related to the agency's standards and procedures, as per 602.23(c)(1), and that all such complaint reviews will adhere to the processes described in 602.23(c)(1-3). The agency's documentation of its implementation of its policy must include sample complaints that include documentation of the agency meeting all elements of this section of the Criteria. The agency must demonstrate adherence to its own policies regarding complaints, including the agency's timelines for doing so.

### **602.25 Required Operating Policies & Procedures**

#### **Description of 602.25(a-e)**

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:

- (a) Provides adequate written specification of its requirements, including clear standards, for an institution or program to be accredited or preaccredited.
- (b) Uses procedures that afford an institution or program a reasonable period of time to comply with the agency's requests for information and documents.
- (c) Provides written specification of any deficiencies identified at the institution or program examined.
- (d) Provides sufficient opportunity for a written response by an institution or program regarding any deficiencies identified by the agency, to be considered by the agency within a time frame determined by the agency, and before any adverse action is taken.
- (e) Notifies the institution or program in writing of any adverse accrediting action or an action to place the institution or program on probation or show cause. The notice describes the basis for the action.

#### **Analyst Remarks to Narrative:**

The agency has provided extensive documentation that it provides adequate written specification of its requirements published on its public-facing website. These requirements include its standards for accreditation (Exhibit 164 602.25 Exhibit 1 2013 Handbook of Accreditation Revised).

The agency's adherence to its timelines has been well-documented through provision of sample review documentation. The agency's procedures provide reasonable time and opportunity for institutions to come into compliance with the agency's standards. The agency's use of a candidacy status allows institutions, after their initial review, to be awarded initial accreditation or candidacy accreditation for up to five years depending on how well the institution meets the agency's standards for accreditation. Institutions may be awarded initial accreditation as soon as they fully meet the agency's standards of accreditation, but have a five year timeline to work toward that goal once candidacy has been awarded.

The agency has provided extensive written documentation of how it identifies deficiencies at institutions identified as part of its review or monitoring of accredited schools. The agency provides to the institution and publishes site visit reports and commission decision letters which each clearly identify areas of deficiency for institutions.

The agency's Handbook of Accreditation (Exhibit 164 602.25 Exhibit 1 2013 Handbook of Accreditation Revised) states the agency's policy that an institution will be provided an opportunity to respond in writing to draft team reports in order to correct errors of fact and respond in writing to final team reports on issues of substance (p. 5). This same page documents the agency's policy to request a written response from an institution if the Commission finds that an institution may be in violation of Commission standards or policies.

However, the agency must document its procedure for providing an opportunity for an institution to respond to a site visit report, an adverse action by the agency, or a finding by the Commission that it may be in violation of the Commission's standards or policies, including the agency's review of Woodbury University as one sample case.

The agency provided multiple samples of adverse actions or show cause notices made by the agency, each of which documents the Commission's basis for its action.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency affirmed that it provides an opportunity for the institution to respond to both the site visit report and the final commission decision letter. The agency provided a template letter to institutions to accompany the site visit report, as well as multiple sample commission action letters, which show the agency informing schools that if they wish to respond to the commission's action, the commission will host a link to the school's response with its commission action letter. The agency did provide sample documentation of its

invitation to a school to respond to a site visit report (Exhibit ID 56067 from May 2022), but did not provide this documentation for Woodbury University, nor did it provide sample responses from schools in response to either the site visit report or to the other scenarios described in this section of the Criteria. The agency has stated earlier in this petition that it does not retain responses by the institution to site visit reports, and that it deletes those responses, as well as the emails inviting the responses, following the commission's decision. This makes the agency non-compliant with 602.15(b)(1), and the issue is discussed there.

The agency does not meet this section of the Criteria. The agency must document its implementation of this section of the Criteria, to include regularly retaining its invitations to schools to respond to the site visit report. Additionally, the agency must keep records of institutional responses to the deficiencies identified by the agency, as per part (d) of this section of the Criteria.

**Description of 602.25(f)**

(f) Provides an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final.

(1) The appeal must take place at a hearing before an appeals panel that--

(i) May not include current members of the agency's decision-making body that took the initial adverse action;

(ii) Is subject to a conflict of interest policy;

(iii) Does not serve only an advisory or procedural role, and has and uses the authority to make the following decisions: To affirm, amend, or remand adverse actions of the original decision-making body; and

(iv) Affirms, amends, or remands the adverse action. A decision to affirm or amend the adverse action is implemented by the appeals panel or by the original decision-making body, at the agency's option; however, in the event of a decision by the appeals panel to remand the adverse action to the original decision-making body for further consideration, the appeals panel must explain the basis for a decision that differs from that of the original decision-making body and the original decision-making body in a remand must act in a manner consistent with the appeals panel's decisions or instructions.

(2) The agency must recognize the right of the institution or program to employ counsel to represent the institution or program during its appeal, including to make any

presentation that the agency permits the institution or program to make on its own during the appeal.

Analyst Remarks to Narrative:

The agency's 602.25(f) Exhibit 1 Institutional Appeals Policy includes the provisions of most of the requirements of this section of the Criteria. The Appeals Policy includes provisions for conflict of interest and includes among those the rule that appeals panel members cannot have served on the WSCUC Commission, panel, or other deliberative body that reviewed the appellant institution or voted on its accreditation status (p. 4-5). The Appeals Policy includes a provision to allow the institution to have legal counsel present, who may be permitted to present on behalf of the institution (p.6).

However, the agency's appeals policy does not seem to allow institutions to bring any adverse action before an appeals panel. The agency limits the grounds of an appeal of an adverse action to two items: "WSCUC's failure to follow its established procedures was a significant factor leading to the Commission's appealable adverse action, or The Commission's appealable adverse action was arbitrary and capricious (p.1)."

Additionally, the description of the institution's written notice to appeal states that written notice must, "in the discretion of the President, conform to the requirements of this paragraph (p.1)." In the same paragraph, the agency's policy later states that the letter of intent must serve as grounds for appeal "sufficient for the President to determine that the allegations are more than mere speculation. Simple recitation of the grounds for appeal will not constitute an adequate basis for appeal (p.2)." Based on this language, it appears that the agency has reserved the right to deny an institution's request to appeal an adverse action if the President of the agency does not find the grounds for that appeal to be adequate to warrant an appearance before an appeals panel. This does not conform to the requirements of this policy, which states that an institution may appeal any adverse action.

Additionally, the agency currently allows an appeals panel to affirm, amend or reverse appealable adverse actions of the Commission, or to remand the action to the Commission for further deliberation and action (p. 7). These permissions do not conform to the requirements of this section of the Criteria, which require that an appeals panel can affirm, amend, or remand adverse actions, but does not allow for the appeals panel to reverse them.

Finally, the agency did not provide sample documentation of the process of an institutional appeal that took place during the review period.

The agency must describe and document how its policies meet all requirements of this section of the Criteria, and must provide sample documentation of the process of an appeal that was requested during the review period, or attest that the institution did not



request an appeal during the review period.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency submitted its revised Institutional Appeals Policy (Exhibit ID 56069). The agency attests that it did not review an appeal during the review period. The agency's revised policy meets the requirements in this section of the Criteria that an appeals panel be able to affirm, amend, or remand the decision of the Commission.

However, the agency's policy continues to limit the basis for an institution's appeal by stating that a school must use one of two grounds for an appeal set by the agency, specifically that either: 1) WSCUC's failure to follow its established procedures was a significant factor leading to the Commission's appealable adverse action, or 2) that the Commission's appealable adverse action was arbitrary and capricious. However, the regulations in this section do not allow the agency to limit the basis for an appeal of an adverse action. This criterion specifically stipulates "provides an opportunity upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final." The agency must allow institutions to appeal any adverse action, in accordance with this criterion.

The agency does not meet this section of the Criteria. The agency must provide a policy that allows an institution described in this section of the Criteria to appeal any adverse action, regardless of the institution's grounds for doing so.

**602.28 Required Operating Policies & Procedures**

**Description of 602.28 (b)**

(b) Except as provided in paragraph (c) of this section, the agency may not grant initial or renewed accreditation or preaccreditation to an institution, or a program offered by an institution, if the agency knows, or has reasonable cause to know, that the institution is the subject of--

- (1) A pending or final action brought by a State agency to suspend, revoke, withdraw, or terminate the institution's legal authority to provide postsecondary education in the State;
- (2) A decision by a recognized agency to deny accreditation or preaccreditation;
- (3) A pending or final action brought by a recognized accrediting agency to suspend,

revoke, withdraw, or terminate the institution's accreditation or preaccreditation; or

(4) Probation or an equivalent status imposed by a recognized agency.

Analyst Remarks to Narrative:

The agency referred to (Exhibit 174 602.28 Exhibit 1 How to Become Accredited Manual) to document its requirements in this area. As part of eligibility Criterion 4 (p. 24), a school is required to affirm that it will disclose any information to the Commission required for the Commission to carry out its accrediting responsibilities. The manual states that "Such information includes actions taken by governmental bodies and other accrediting agencies, including investigations, reports, and legal actions taken by or against the institution." Institutions are required to provide a list of all other accreditations or approvals and provide copies of the most recent actions taken by other accrediting agencies or approval bodies, including concerns raised by them. Institutions are required to provide information about any investigations conducted by a governmental entity into the institution, as well as to report any pending legal actions by or against the institution.

While the agency's policies require institutions to inform the agency of actions relevant to this section of the Criteria, it has not identified where in its own policies it is prohibited from granting initial or renewed accreditation to institutions described in this section. The agency must identify where in its policies it is prohibited from granting initial or renewed accreditation to institutions described in this section.

It appears that during this review period, the Thomas Jefferson School of Law was put on probation by the American Bar Association (ABA) on 11/03/2017, and lost that accreditation in May of 2019. The school was in a Candidacy (preaccreditation) status with WSCUC from July 8, 2016 to July 12, 2021, at which time it was granted initial accreditation.

The agency must describe and document the agency's course of action in regards to meeting the requirements of this criterion in relation to its accreditation of Thomas Jefferson School of Law.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency discussed and documented its sequence of actions related to the accreditation of Thomas Jefferson School of Law.

Under Exhibit ID 56276, the agency provided a policy relevant to this section of the Criteria, titled "Sharing Information with Other Agencies and Regard for their

Decisions Policy." This policy includes the statement that the agency will not, in general, grant eligibility, candidacy, initial or renewed accreditation to an institution if it knows, or has reasonable cause to know, of the types of actions described in this part of the Criteria. The policy then notes that if the agency makes an exception to these requirements, it will notify the Secretary within 30 days of the reasons that the action of the other body does not preclude WSCUC's action.

The agency has policy that meets the requirements of 602.28(b) and (c). In addition to providing policy that meets the requirement of this section of the Criteria, the agency documented and discussed its review of the school in question. However, the agency did not meet the requirements of this section of the Criteria in its actions in accrediting Thomas Jefferson School of Law. The agency did not provide a written explanation to the Secretary explaining why the actions of the other agency did not preclude its accreditation of the school in question. If the agency would have provided the same information and explanation it provided in this section to the Secretary as required, it would have demonstrated compliance with this section and 602.28(c). However, it did not do so.

The agency is not in compliance with this section of the Criteria. The agency must demonstrate the application of its policy or, if the circumstances described here do not occur during the recommended compliance report period, the agency must be able to attest that the situation did not occur during that time.

#### **Description of 602.28 (c)**

(c) The agency may grant accreditation or preaccreditation to an institution or program described in paragraph (b) of this section only if it provides to the Secretary, within 30 days of its action, a thorough and reasonable explanation, consistent with its standards, why the action of the other body does not preclude the agency's grant of accreditation or preaccreditation.

#### **Analyst Remarks to Narrative:**

The agency stated that it has not encountered the situation described in this section of the Criteria during the review period. However, during this review period, the Thomas Jefferson School of Law lost American Bar Association (ABA) accreditation on 05/16/2019, after being on probation with the ABA since 2017. The school was in a Candidacy status with WSCUC from July 8, 2016 to July 12, 2021, at which time it was granted initial accreditation.

The agency must describe and document the agency's course of action in regards to meeting the requirements of this criterion in relation to its accreditation of Thomas Jefferson School of Law.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided policy that meets the requirements of this section of the Criteria under Exhibit ID 56280, where the agency notes that if it makes an exception to the requirements in 602.28(b), it will provide the Secretary with a thorough explanation within 30 days. The agency notes that it did not do so in this case, but provided a plan to ensure this step is taken in future. The agency described increased monitoring of an internal tracking system, which should alert agency staff to the actions of other accrediting agencies. The agency also discussed plans to conduct a training about this topic with its senior staff in October, 2022 and in July, 2023, and thereafter to annually review this section of the regulations during training. The agency also described adding specific instructions related to this topic to its training manual for new vice presidents to the agency. The agency plans to include information about these requirements in the training for future peer review teams.

The agency noted that it submitted its petition prior to the June 2021 decision regarding Thomas Jefferson School of Law, and so could not have addressed the situation with this school in the initial petition. The agency also documented and described thorough and regular review of the school during its candidacy period, including while the school was losing its ABA accreditation. The agency discussed how the agency's requirements differ in some respects from the ABA's, and how the school has realigned itself prior to its accreditation to ameliorate some of the concerns noted by the ABA.

The agency has demonstrated policy matching this section of the Criteria and described a robust plan for future implementation of this policy. However, the agency has not demonstrated implementation of this policy, nor did the agency provide to the Secretary its explanation for its overriding decision for Thomas Jefferson School of Law.

The agency is not in compliance with this section of the Criteria. The agency must demonstrate implementation of the policy changes it has described in this section. The agency must provide to the Secretary the reasons for the agency's action in exception to 602.28(b) in the case of Thomas Jefferson School of Law, as per the requirements of this criterion. The agency must demonstrate the regular application of its policy or, if the circumstances described here do not occur during the recommended compliance report period, the agency must be able to attest that the situation did not occur during that time.

**Description of 602.28 (d)**

(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 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 adverse action or place the institution or program on probation or show cause.

Analyst Remarks to Narrative:

The agency references its policy in 602.26 Exhibit 1 Notice to U.S. Department of Education of Required Information Policy, however this policy does not address the requirements of this criterion. The agency must identify where in its policies and procedures the agency requires itself to review its own accreditation of an institution or program that it accredits when that institution or program is the subject of an adverse action by another recognized accrediting agency or has been placed on probation or an equivalent status by another recognized agency. The agency must provide documentation of the agency's actions in regard to Thomas Jefferson School of Law in relation to this criterion.

Analyst Remarks to Response:

In response to the draft staff analysis, the agency provided narrative and documentation of its accreditation of Thomas Jefferson School of Law, which was in a preaccreditation status from 2016-2021, at which time it was granted initial accreditation by the agency. In 2017, the ABA put the school on probation, and in December of 2019, following an appeals process, a final action to withdraw accreditation from the school became effective.

The agency documented its continued regular review of the agency before, during, and after the ABA's actions. The agency has provided discussion of and documentation of the differences between its own accreditation requirements and the ABA's, demonstrating that the school was determined by the agency to meet WSCUC's standards, despite the ABA's actions and despite the fact that the school did not meet the ABA's standards. Additionally, the agency has discussed ways in which the school has improved and narrowed its focus in order to be more efficient in serving its current set of students.

The agency's Exhibit ID 56282 includes its response to 3rd party comments, which includes a discussion of its accreditation of non-ABA accredited law schools. The agency documented its reviews of the school since 2016 in Exhibit IDs 56283-56296. Beginning in 2016, the agency conducted a set of 5 "seeking accreditation" visits. From 2016 until 2021, the school was in a "candidacy" (pre-accreditation) status with

WSCUC, and in 2021 it was granted initial accreditation. WSCUC's second "Seeking Accreditation" site visit report was written just after the ABA recommended putting the school on probation, something discussed in that report (Exhibit ID 56290).

Exhibit 56288 summarizes the recommendations WSCUC made following this seeking accreditation visit. Exhibit ID 56287 consists of the Commission Action Letter resulting from this visit, which discusses the ABA's planned renewal of accreditation visit in 2018. WSCUC's third seeking accreditation visit occurred in 2020, following the ABA's final termination of accreditation at this school in December of 2019. The site visit report for this visit is found in Exhibit ID 56293, and it discusses changes to the school's focus and requirements following the loss of ABA accreditation. The agency mentions in its Commission Action Letter following this visit (Exhibit ID 56291) that the school is no longer ABA approved and is now approved by the California State Bar.

The 4th seeking accreditation site visit report from 2021 (Exhibit 56296) again discussed the school's struggles with maintaining its ABA accreditation from 2017 up until the final removal of ABA accreditation in December of 2019, and a document describing WSCUC's action to grant initial accreditation in June of 2021 (Exhibit ID 56295) describes selected recommendations the WSCUC made to the agency at that time. Exhibit ID 56294 includes the WSCUC's Commission Action Letter to the school granting initial accreditation on July 12, 2021.

The agency's documentation includes assessments of ABA standards that the school did not meet and how those compared to WSCUC standards (Exhibit ID 56299/56300), though these comparison documents seem to have been created recently (as they use data through 2022) rather than contemporaneously.

The agency documented regular site visits and reviews since the school was first put on probation by the ABA, which addressed the school's struggles with ABA standards and discussed how the school's focus requirements would change once it transitioned to being approved by the California State Bar rather than the ABA. It is clear that the agency was aware of and considered the ABA's concerns regarding the school during its regular review of the school. However, the agency does not appear to have conducted a review of the school's accreditation specifically in response to the ABA's action to withdraw accreditation from the school. While the agency has provided a recent analysis of WSCUC's accreditation of the school in relation to the ABA's action, the agency has not documented that it undertook such a review contemporaneously in response to the ABA's action.

In order to demonstrate its policy related to this section of the Criteria, the agency provided a Sharing Information policy under exhibit ID 56297. This policy states that if the agency is notified by another recognized accrediting agency that a school has been put on probation or been the subject of a negative action, that WSCUC will

review the other agency's action to determine if the other agency's action “reflects a lack of compliance with WSCUC Standards of Accreditation or policies.” If so, then “the Commission will determine if the institution's status with the Commission needs to be reviewed or if any follow-up action is needed.”

The agency does not meet this section of the Criteria. The agency has documented policies meeting the requirements of this section of the criteria, but did not meet the requirements of this section of the Criteria during the review period in relation to Thomas Jefferson School of Law. The agency must demonstrate the application of its policy or, if the circumstances described here do not occur during the recommended compliance report period, the agency must be able to attest that the situation did not occur during that time.

### **PART III: THIRD PARTY COMMENTS**

#### **Staff Analysis of 3rd Party Written Comments**

The Department of Education received two third-party comments about WSCUC. The first third-party party comment addressed WSCUC's accreditation of several non-ABA law schools concerning student achievement at those schools. The commenter, Barmak Nassirian of Veterans Education Success, expressed concern that law schools accredited by WSCUC but not the ABA consistently demonstrated low bar passing rates. The commentator stated that WSCUC accredited two law schools after they lost their accreditation with the ABA, partly due to student achievement. The commentator also expressed concern that the agency accredits law schools that are not accredited by the ABA. However, the Department's statute does not limit the accreditation of law schools to any one agency, and other agencies may accredit law schools so long as they can do so while adhering to the Department's statute. Department staff reviewed the two law schools cited by the commentator as having been accredited by WSCUC after losing ABA accreditation. Department staff noted that one of the law schools, the University of La Verne's College of Law, is a law school embedded within a larger institution, which received its renewal of accreditation from WSCUC in 2020 and has been continuously accredited by WSCUC since 1955. While the Secretary's Criteria requires an agency to conduct a review of its accreditation of a school that has lost institutional accreditation from another recognized accreditor, an institutional accreditor is not required to do so in response to the loss of a type of programmatic accreditation at an institution it accredits. Thomas Jefferson School of Law is a single-purpose law school that lost its ABA accreditation in 2019, while it was in a "Seeking Accreditation" status with WSCUC. The school was granted initial accreditation by WSCUC in 2021. Department staff asked the agency to submit its documentation of its review of Thomas Jefferson School of Law in response to the draft staff analysis. This commenter also commented on the school's accreditation of Ashford University and that school's on-going involvement with Zovio. Department staff are conducting a review of the agency's accreditation of Ashford University. The second commenter commented on the school's student outcomes, identifying several schools accredited by WSCUC which the commentator stated graduates earned less than high school graduates. This commenter also discussed the school's accreditation of Ashford University.

#### **Agency Response to 3rd Party Written Comments**

he agency submits its response in "Narrative Response to 3rd Party Comment 3rd" with accompany exhibits.

#### **Staff Analysis of Agency Reponse to 3rd Party Written Comments**

In response to the third party comments, the agency provided a narrative response and several attachments. Any issues relevant to the Criteria are discussed by the staff within the petition.