



**TO:** The Honorable the Members of the Board of Regents

**FROM:** John L. D'Agati *John L. D'Agati*

**SUBJECT:** Proposed Amendment of Subpart 4-1 of the Rules of the Board of Regents Relating to Institutional Accreditation for Title IV Purposes

**DATE:** May 14, 2012

**AUTHORIZATION(S):** *Richard A. Trentacosta* *John B. TS G.*

#### SUMMARY

##### Issue for Decision (Consent Agenda)

Should the Board of Regents amend Subpart 4-1 of the Rules of the Board of Regents relating to voluntary institutional accreditation for Title IV purposes?

##### Reason(s) for Consideration

Review of policy.

##### Proposed Handling

The proposed amendment is before the full Board for permanent adoption at its May 2012 meeting. A Notice of Proposed Rule Making was published in the State Register on March 21, 2012. Supporting materials are available upon request from the Secretary to the Board of Regents.

##### Background Information

In June 2001, the Board of Regents adopted Part 4 of the Rules of the Board of Regents, Voluntary Institutional Accreditation for Title IV Purposes (now Subpart 4-1). This action was part of a process of complying with U.S. Department of Education requirements (34 CFR Part 602) for continued recognition of the Board of Regents as an institutional accrediting agency. At its January 2012 meeting, the Board of Regents voted to continue its accreditation function and requested a technical budget amendment to allow a fee to be deposited into a special revenue account and expended for accreditation activities.

Federal regulations require each accrediting agency to have “a systematic program of review that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and relevant to the educational or training needs of students.” (34 CFR 602.21[a]).

In compliance with that Federal requirement, the Department periodically reviews Regents institutional accreditation standards and procedures. The proposed amendment addresses changes in Federal regulations that took effect July 1, 2010. The proposed amendment largely adopts language that appears in those regulations (e.g., definition of "distance education"). The following table provides a summary of the proposed changes.

<b><i>Summary of Proposed Changes to Regents Rules</i></b>	<b><i>Federal Reference</i></b> (34 CFR Part 602)
The amendment establishes definitions for “correspondence education”, “distance education” and “teach-out plan.”	602.3
The program of study accreditation standard is revised to require processes to verify that students who register for distance education and correspondence education programs or courses are the same as those who complete and are credited with the programs or courses. The new provisions also require processes to protect student privacy and to notify students of any projected additional student charges associated with the verification of student identity at the time of registration or enrollment.	602.17(g)
Existing provisions for teach-out agreements are amended to incorporate teach-out plans and to define the events under which institutions must submit such plans to the agency for approval.	602.24(c)
The consumer information accreditation standard is expanded to specify that institutions must publish the process and criteria for accepting transfer of credit from other institutions.	602.24(e)
Amendment to provisions addressing procedures for considering an institution’s appeal of an adverse accreditation action adds detail to allow for the consideration of new financial information and an option for the appeals subcommittee to remand the adverse action to the Board of Regents.	602.25(f)
The amendment further specifies types of actions that constitute a substantive change at an institution.	602.22

The proposed changes will help ensure technical alignment with Federal requirements for institutional accrediting agencies. In accordance with federal requirements, the Department will continue to review its accreditation standards and process.

These regulations were published in the State Register on March 21, 2012 for a 45-day public comment period. To date, we have received no written comments on the proposed amendment.

#### Recommendation

VOTED: That Subpart 4-1 of the Rules of the Board of Regents be amended, as submitted, effective June 13, 2012.

#### Timetable

If adopted at the May Regents meeting, the proposed amendment will become effective on June 13, 2012.

## AMENDMENT TO THE RULES OF THE BOARD OF REGENTS

Pursuant to sections 207, 210, 214, 215 and 305 of the Education Law.

Subpart 4-1 of the Rules of the Board of Regents is amended, effective June 13, 2012, as follows:

### SUBPART 4-1

#### VOLUNTARY INSTITUTIONAL ACCREDITATION FOR TITLE IV PURPOSES

4-1.1 . . .

4-1.2 Definitions. As used in this Subpart:

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(e) . . .

(f) . . .

(g) . . .

(h) . . .

(i) Correspondence education shall mean education provided through one or more courses by an institution under which the institution provides instructional materials, by mail or electronic transmission, including examinations on the materials, to students who are separated from the instructor. Interaction between the instructor and the student is limited, is not regular and substantive, and is primarily initiated by the student and is typically self-paced.

(j) Course means an organized series of instructional and learning activities dealing with a subject.

[(j)] (k) Curriculum or program or program of study means the formal educational requirements necessary to qualify for certificates or degrees.

[(k)] (l) Credit means a unit of academic award applicable towards a degree offered by the institution.

[(l)] (m) Degree means an academic award listed in section 3.50 of this Title.

[(m)] (n) Department means the Education Department of the State of New York.

[(n)] (o) Deputy commissioner means the Deputy Commissioner for Higher Education of the State of New York.

(p) Distance education means education that uses one or more of the following technologies to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and the instructor, either synchronously or asynchronously:

(1) the internet;

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

(3) audioconferencing; or

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

[(o)] (q) Higher Education Act or HEA or HEA means the Higher Education Act of 1965, as amended

[(p)] (r) Institution of higher education or institution means an institution authorized by the Regents to confer degrees.

[(q)](s) Probationary accreditation means accreditation for a set period of time, not to exceed two years, during which the institution shall come into compliance with standards for accreditation through corrective action.

[(r)](t) Principal center means the location of the principal administrative offices and instructional facilities of an institution of higher education.

[(s)](u) Secretary means the United States Secretary of Education.

[(t)] (v) Semester hour means a credit, point, or other unit granted for the satisfactory completion of a course which requires at least 15 hours (of 50 minutes each) of instruction and at least 30 hours of supplementary assignments, or the equivalent as approved by the commissioner.

[(u)](w) State means New York State.

[(v)](x) Teach-out agreement means a written agreement between or among institutions that are accredited or pre-accredited by a nationally recognized accrediting agency that provides for the equitable treatment of students if one of those institutions stops offering an educational program before all students enrolled in that program have completed the program.

(y) Teach-out plan shall mean a written plan that provides for the equitable treatment of students if an institution or an institutional location that provides one hundred percent of at least one program ceases to operate prior to all students completing their program of study. A teach-out plan may include a teach-out agreement between institutions.

4-1.3 . . .

4-1.4 Standards of quality for institutional accreditation.

(a) , , ,

(b) . . .

(c) Programs of study.

(1) Integrity of credit.

(i) . . .

(ii) . . .

(iii) The institution, in offering coursework through distance education or correspondence education, must have processes in place to verify that the student who registers in a distance education or correspondence education course or program is the same student who participates in and completes the course and receives the academic credit for the course, using methods that may include but are not limited to a secure login and pass code; proctored examinations; and other technologies and practices that are effective in verifying student identity. Institutions must also 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.

(iv) Learning objectives for each course shall be of a level and rigor that warrant acceptance in transfer by other institutions of higher education.

[(iv)] (v) the institution shall assure that credit is granted only to students who have achieved the stated objectives of each credit-bearing learning activity.

(2) . . .

(3) . . .

(4) . . .

(d) . . .

(e) . . .

(f) . . .

(g) . . .

(h) . . . .

(i) Consumer information.

(1) The following information shall be included in all catalogs of the institution:

(i) . . .

(ii) . . .

(iii) . . .

(iv) The instructional programs of the institution shall be described accurately.

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(e) . . .

(f) . . .

(g) Transfer of credit. The process and criteria for accepting transfer of credit

from other institutions shall be published.

[(g)] (h) . . .

[(h)] (i) . . .

[(i)] (j) . . .

[(j)] (k) . . .

(v) . . .

(2) . . .

(3) . . .

(4) . . .

(j) . . .

(k) . . .



(l) Teach-out plans and agreements.

(1) Institutions are required to submit for approval to the accrediting agency a teach-out plan upon the occurrence of any of the following events:

(i) the Board of Regents receives notification by the Secretary of Education that the Secretary has initiated an emergency action against an institution, or an action to limit, suspend, or terminate an institution participating in any Title IV program of the Higher Education Act, and that a teach-out plan is required;

(ii) the Board of Regents acts to withdraw, terminate, or suspend the accreditation of the institution;

(iii) the institution notifies the Board of Regents that it intends to cease operations or close a location that provides one hundred percent of at least one program; or

(iv) another state's licensing or authorizing agency notifies the Board of Regents that an institution's license or legal authorization to provide an educational program has been or will be revoked.

(2) As part of its teach-out plan, the institution must submit [Any] any teach-out agreement that an institution has entered into with another institution or institutions [shall be submitted to the department] for approval. To be approved, such agreement shall:

[(1)] (i) be between or among institutions that are accredited or pre-accredited by a nationally recognized accrediting agency;

[(2)] (ii) ensure that the teach-out institution(s) has the necessary experience, resources, and support services to provide an educational program that is of acceptable quality and reasonable similar in content, structure and scheduling to that provided by the closed institution;

(iii) ensure that the institution will remain stable, carry out its mission, and meet all obligations to existing students; and

[(3)] (iv) ensure that the teach-out institution(s) can provide student access to the program and services without requiring them to move or travel substantial distances.

(m) . . .

4-1.5 Procedures for accreditation.

(a) . . .

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) . . .

(6) . . .

(7) . . .

(8) . . .

(9) Appeal of advisory council recommendation.

(i) . . .

(ii) . . .

(iii) . . .

(iv) The commissioner shall review any appeal papers, written responses filed, the record before the advisory council, the record of its deliberations, and its findings and recommendations. The commissioner shall also consider any new financial information submitted by the institution as part of its appeal if the information was unavailable to the institution until after the decision subject to the appeal was made, the information is significant as determined by the commissioner, and bears materially on

the financial deficiencies identified by the agency and the only remaining deficiency cited by the agency is the institution's failure to meet any agency standard pertaining to finances. Upon such record, the commissioner may affirm, reverse, remand or modify the findings and recommendations of the advisory council. Such determination shall constitute a recommendation regarding accreditation action to the Board of Regents.

(10) . . .

(11) . . .

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(vi) The subcommittee shall review any appeal papers, written responses filed, and the entire record upon which the Regents determination was based, which may include but not be limited to: the record before the advisory council, the record for the advisory council's deliberations and its findings and recommendations, any appeal papers and written responses foiled for an appeal of the findings and recommendations of the advisory council, the commissioner's recommendation to the Board of Regents regarding accreditation action, and the Regents determination. The subcommittee shall also consider any new financial information submitted by the institution as part of its appeal if the information was unavailable to the institution until after the decision subject to the appeal was made, the information is significant as determined by the commissioner, and bears materially on the financial deficiencies identified by the agency and the only remaining deficiency cited by the agency is the institution's failure to meet any agency standard pertaining to finances. Upon such record, the

subcommittee may recommend to the Board of Regents that it affirm, reverse, remand or modify its determination of adverse accreditation action or granting probationary accreditation.

(vii) . . .

(viii) . . .

(b) . . .

(c) . . .

(d) Procedures for a change in scope of accreditation.

(1) For purposes of this subdivision, substantive change shall mean:

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(vi) a substantial increase in the number of clock hours or credit hours awarded for successful completion of a program; [or]

(vii) the establishment of an additional location or branch campus, as such terms are defined in section 4-1.2 of this subpart[.];

(viii) the entrance into a contractual agreement with an entity not certified to participate in Title IV, HEA programs, that offers more than 25% of one or more of the institution's program of study;

(ix) the establishment of an additional location at which the institution offers at least fifty percent of an educational program;

(x) the acquisition of any other institution or any program or location of another institution; or

(xi) the addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution that has ceased operating before all students have completed their program of study.

(2) . . .

(3) . . .

(4) . . .

(5) . . .

(6) . . .

(7) . . .

(8) . . .