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## ABSTRACT

This publication is a guide for institutions of higher education as they work with their federally supported State Postsecondary Review Entity (SPRE) to establish 15 standards for review. SPREs are established by state governments at the direction of the federal 1992 Reauthorization of the Higher Education Act. They conduct and coordinate review of institutions of higher education referred to them by the United States Secretary of Education. They use criteria established in the 1992 Higher Education Act. SPREs are required to consult with institutions in their state before adopting review standards. Hence the necessity for higher education institutions to understand and prepare for the standards treated in this publication. An opening section of this guide describes the 1992 Reauthorization of the Higher Education Act, the publication's legal limitations, and general advice on developing standards and working with local SPREs. The bulk of the publication describes the statutory standards one by one, and for each offers the review standard, examples of documentation, and explanations of terms, comments and considerations. Also included are a listing of designated state postsecondary review entities, institutional integrity review project college and university participants and drafters, staff participants, and the text of Section 494 of the Higher Education Act Amendments, 1992. (JB)

ED 369 351

# CONSULTING WITH YOUR SPRE

ESTABLISHING  
REVIEW  
STANDARDS

*an interassociational project  
sponsored by*

American Association of State  
Colleges and Universities

American Association  
of Community Colleges

National Association of Independent  
Colleges and Universities

National Association of State Universities  
and Land-Grant Colleges

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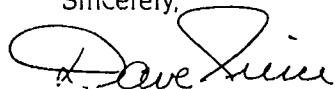
This publication was developed to help prepare college and university representatives to work with their State Postsecondary Review Entity (SPRE) to develop and review standards required under the Higher Education Act Amendments of 1992. The SPREs are charged by federal law to develop standards to use in assessing postsecondary institutions that the Secretary of Education has designated for review. SPREs are paid by the federal government to conduct these reviews.

Before adopting review standards, each SPRE is required to consult with the institutions in its state. The Secretary of Education must approve these standards before any SPRE is permitted to conduct reviews. Ultimately, SPREs have the authority to terminate eligibility in federal financial aid programs for institutions that do not meet review standards.

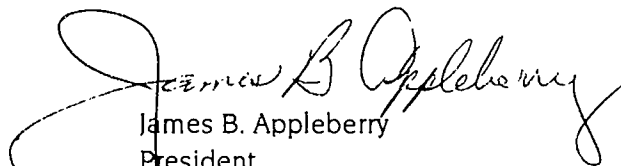
It is critical that you participate actively in this process. You can influence the creation of reasonable standards that protect institutional autonomy and discourage the SPRE from demanding information from institutions not targeted for review. The examples of standards and rationale included in the document may also help you define the issues that need to be examined.

We hope that this document will assist you as you contribute to the development of review standards in your state.

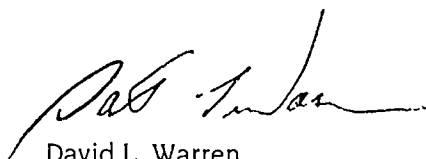
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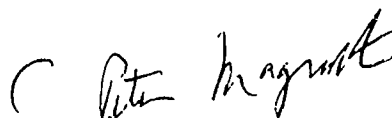
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## **INSTITUTIONAL INTEGRITY REVIEW PROJECT BACKGROUND AND PROCESS SUMMARY**

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During the 1992 Reauthorization of the Higher Education Act (HEA), Congress made in excess of 100 changes to address fraud and abuse. They made it clear that they were not satisfied with the scope, content, quality and frequency of postsecondary educational reviews of institutions receiving the benefits from Title IV federal financial aid programs. Rather than ask for increased resources and expanded capabilities for the U.S. Department of Education to facilitate such reviews, Congress extended its oversight to states and accrediting bodies by empowering them with new authority to review institutions.

Under the 1992 Amendments to the Higher Education Act of 1965 (HEA), Congress created and authorized a State Postsecondary Review Entity (SPRE) to be established in each state. The primary purpose of the SPRE is to conduct and coordinate reviews of institutions of higher education referred to it by the U.S. Secretary of Education using criteria set in Section 494C(b) of the HEA. The HEA authorizes the governors of states and territories to designate a SPRE and seek approval from the U.S. Secretary of Education for it to operate and conduct reviews of institutions. The state entity is charged with implementing federal law. Governors in every state and territory have designated a SPRE and the U.S. Department of Education is in the process of negotiating and approving Program Agreements with the states and territories to create these entities.

The SPREs are charged with two significant tasks: (1) to create review standards for postsecondary institutions which participate in the federal financial aid programs and (2) to select an agency to conduct the reviews of institutions which are referred to the SPRE by the Secretary. The SPREs are required to consult with the institutions in their state before adopting review standards.

When Congress decided to establish 50-plus administrative entities to conduct the same federal policy function, the door was opened for institutions of higher education to be the recipient of 50 different standards of review and treatment. Although the Secretary can issue regulations concerning the form of the state review standards, he is prohibited from prescribing review standards for the SPREs. The statute also makes it clear that the SPREs may adopt different review standards for proprietary schools, two-year colleges and four-year colleges but only after mandatory consultation with institutions in their state.

The Washington higher education community did not wait for the SPREs to begin state by state efforts to develop 50 different sets of integrity standards. It was determined that a consistent approach could help higher education and would also expedite the federal policy goal of reviewing problem institutions in the financial aid programs. The Institutional Integrity Review Project was created. The American

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Association of State Colleges and Universities (AASCU), the American Association of Community Colleges (AACC), the National Association of Independent Colleges and Universities (NAICU) and the National Association of State Universities and Land-Grant Colleges (NASULGC) joined to develop review standards.

The Washington-based higher education associations invited campus-experienced administrators to develop standards in each of the areas prescribed by the HEA. The work plan deliberately overlapped standards development by different sectors of the higher education community to elicit diverse points of view about how the standards should emerge.

Drafters submitted standards, explanations and comments to AASCU and AACC coordinated communication among the associations. In addition the drafters developed advice to the SPREs about establishing priorities for review and advice concerning the process for reviews. A national conference was held in Bethesda, Maryland, in early November to: (1) compare and refine the various drafts; (2) create lists of documentation a SPRE reviewer should expect to find when conducting a review; and (3) incorporate concerns about equivalent standards from state to state as part of the rationale for the various standards. The Review and Comment Draft which emerged from the national conference was circulated to members of the participating associations. Comments covering the entire range of subject matter were received by mid-December and redrafting to reflect that input was completed by association staff by the end of January.

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## PROJECT LIMITATIONS AND CAVEATS

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- The associations that sponsored the development of these review standards are advocates of their respective member institutions but do not represent them legally.
- Every effort has been made to be responsive to the requirements the U.S. Department of Education will detail on the development of review standards by the State Postsecondary Review Entities. We think we have covered the bases but this consultation document was developed before the department published its proposed regulations (we were privy to drafts of those regulations but last minute changes may have altered some requirements).

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## GENERAL ADVICE ON THE DEVELOPMENT OF REVIEW STANDARDS

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The overall goal of working with the State Postsecondary Review Entities is to have an effect on important national policy: the elimination of waste, fraud and abuse in the Title IV federal financial aid programs. The art of developing review standards centers around crafting language that supports this goal without fostering unauthorized intrusion into postsecondary institutions whose financial aid program participation integrity has not been called into question.

A number of the statutory standards call for the reporting of information. Two in particular, #7 and #14, may require institutions that have been referred for review to make available data which calls for information from outside the postsecondary institution. It is in your interest to oppose any attempt by your SPRE to **require** data collection and reporting by institutions which have not been referred for review, so that the SPRE can establish a database for comparisons and norming. It is outside their authority—based on the federal statute—to require anything of an institution not triggered for review. [In general the SPRE has jurisdiction over institutions which have been referred for review by the U.S. Secretary of Education. The SPRE also may choose to review institutions which have a “pattern” of student complaints about the management or conduct of federal financial aid programs or about misleading or inappropriate advertising of the institution’s programs.] The SPRE may **request** such information from postsecondary institutions in its state but you should encourage the SPRE to seek access to U.S. Department of Education data which can resolve the vast majority of data needs they will have in order to carry out their review function. You may want to consider urging your SPRE to advocate modification of any federal statutes to acquire that access if that becomes a roadblock to acquiring such detailed information.

Not all postsecondary institutions are subject to freedom of information or sunshine laws. Unless otherwise specified by law, the information an institution must provide to the SPRE should not be available to other parties.

Throughout this consultation document are Examples of Documentation which a SPRE might use upon review of an institution. To the greatest extent possible you should argue for the designation of documents which are already produced in the ordinary conduct of business. This will keep down the growing tide of special reports and studies that already plague higher education. In addition you should seek to have the SPRE develop a documentation record retention schedule for review purposes. It is always helpful to know when documents can appropriately be thrown away.

The Explanations, Comments and Considerations statements reflect the many comments which were received to earlier drafts of this consultation document. The



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cautions and ancillary issues reflect real operating concerns and seek to protect the legitimate diversity that is found in higher education. As you consult with your SPRE you should draw on your own administrative experience to supplement these statements. There is nothing more powerful than **local** examples, problems and/or confirmation of the experience reflected in the rationale statements.

These standards were developed to prepare our member institutions to consult with their respective SPREs. As a result no attempt was made to consider or accommodate proprietary or trade school postsecondary institutions. It is our opinion that the SPREs would be well advised to separately consider and develop review standards for those institutions due to substantial differences between them and the institutions which are members of the sponsoring associations.

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## **STATUTORY STANDARD 1**

The availability to students and prospective students of catalogs, admission requirements, course outlines, schedules of tuition and fees, policies regarding course cancellations, and the rules and regulations of the institution relating to students and the accuracy of such catalogs and course outlines in reflecting the courses and programs offered by the institution.

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### **Review Standard**

The institution shall have available a variety of information relating to students including its admission requirements, rules and regulations, policies, tuition and fees schedules, the refund policy for tuition and fees, requirements for admission into and for the completion of programs offered by the institution, and course descriptions. This information shall be accurate as of the time it was published, and shall be readily accessible to students and prospective students. upon request, and shall be periodically updated at reasonable intervals.

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### **Examples of Documentation**

Below are examples of supporting documentation which an institution might use to demonstrate compliance with the standard in this section:

- Institutional catalog
- Institutional and programmatic academic policies such as admissions and completion requirements
- A description of each academic program and a statement regarding the minimum and maximum period of time which a student has to complete the program
- List of institutional publications where such policies and programs are described
- Student conduct handbook

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## Explanations, Comments and Considerations

*The institution shall have available a variety of information.* This standard does not specify whether the information is printed, whether it should appear in any particular publication or whether it should be available electronically. The method and form of making the communication should be discretionary and is likely to be quite diverse. What is important is that information which affects students should be communicated and should be accurate and timely.

*Admission requirements.* The communication(s) should include the minimum requirements for participation in the institutions' programs for entrants at all levels (e.g. first time students, transfer students, students seeking readmission, etc.).

*Rules, regulations, policies.* The academic and behavioral rules, regulations and policies of the institution as they apply to the enrolled students to maintain student status should be communicated. Also information about the rights and privileges granted the students by the institution should be available upon request.

*Tuition and fees and the refund policy for any tuition and fees.* All tuition, fees and other charges to students should be published (whether in print, electronic or other accessible form). The tuition and fees should be detailed to indicate charges to full and/or part-time students and should identify specific areas for which separate fees are required.

*Course descriptions.* The institution should make available upon request to any current or prospective student a capsule statement that describes the course content and any prerequisites or corequisites.

*Accurate as of the time it was published.* Information can and does change. Reasonable efforts should be made to ensure correctness but there should also be a recognition by the SPRE that circumstances, rules and policies change and publications may not reflect up-to-the-minute information.

*Updated at reasonable intervals.* It should normally be sufficient to update class offerings, tuition and fees and various student charges each term or semester. Less frequent updating of materials such as catalogs and student conduct handbooks may be appropriate. It might be reasonable to establish a mechanism for updating and communicating interim changes and to establish a routine republication of information that reflects the frequency of when substantive changes normally occur.

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## **STATUTORY STANDARD 2**

Assurance that the institution has a method to assess a student's ability to successfully complete the course of study for which he or she has applied.

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### **Review Standard**

The institution shall have an established method to evaluate a prospective student's potential to be able to complete the course of study for which the student has applied. The method shall be described in writing and routinely applied to evaluate student applicants.

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### **Examples of Documentation**

Below are examples of supporting documentation which an institution might use to demonstrate compliance with the standard in this section:

- A written applicant assessment/evaluation method
- Written evidence that the method is routinely used to evaluate applicants (e.g. admission acceptance, rejection or appeal documents)
- Students' transcripts, academic advisement files
- Students' assessment results from standardized evaluation instruments

### **Explanations, Comments and Considerations**

*An established method to evaluate.* The institution should set up a way of appraising students appropriate for the course of study for which the student has applied. Such a system may be simple or complex depending on the nature of the postsecondary institution or the course of study to which a student has applied. For courses of study which lead to a degree (i.e. associate, baccalaureate, master's, doctoral, etc.) an appraisal which includes a review of such things as: prior academic preparation, prior success in an academic program, standardized test scores, the relevant life experience of the applicant, or the judgment of academic advisors who have counseled the applicant, would be valid indicators of an established methodology. Such a system should be expected to have procedures for considering and appraising special case students who ought to be judged in a manner different from the majority of applicants.

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*A student's potential.* All that can reasonably be done is to have a standard way to make a judgment as to whether a particular student has, or is capable of acquiring, the wherewithal to complete a course of study. Making such a judgment should in no way be considered an expectation or determination that a student will actually complete a course of study.

*The course of study.* This is a broad term intended to reflect the ultimate educational goal of the program for which the student has applied. In a trade or technical school it might be as simple as acquiring a proficiency such as operation of a word processor or as complex as acquiring proficiency in aviation mechanics. In a degree-granting institution it would ordinarily be graduation with an associate, baccalaureate or other degree. It is important to focus on the ultimate goal of the course of study to which a student has applied because very often there will be multiple options within a course of study (i.e. specializations, majors, etc.) which are indeterminate, with respect to a particular student, at the time of application.

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## **STATUTORY STANDARD 3**

Assurance that the institution maintains and enforces standards relating to academic progress and maintains adequate student and other records.

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### **Review Standard**

The institution shall maintain records for each student that detail admission, status, course work completed and formal educational attainments. In addition, the institution shall have a written policy that meets the requirements of Section 484(c) of the Higher Education Act of 1965 regarding satisfactory progress. Such a policy shall specify the actions the institution may take if satisfactory academic progress is not achieved.

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### **Examples of Documentation**

Below are examples of supporting documentation which an institution might use to demonstrate compliance with the standard in this section:

- Student transcripts
- Admission office documents
- A written satisfactory academic progress policy
- Records showing satisfactory progress reviews were conducted
- Communications to students who were not achieving satisfactory progress
- Evidence of the application of policy sanctions to non-achievers

### **Explanations, Comments and Considerations**

This standard is limited to maintaining normal student records and requiring an institution to review academic achievement of those students who are participating in a federal financial aid program. Depending on the size and administrative capacity of the postsecondary institution, manual or automated reviews of academic performance should be considered appropriate. Where

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there is an automated review process, a SPRE may want to see the actual computer code which is used to process the reviews and any resulting reports. For smaller schools, an after academic term or an annual review of student academic files with an established set of review criteria may be appropriate.

*Formal educational attainments* refers to certificates and degrees awarded by the institution upon the completion of a course of study.

*Status* refers to whether a student is on probation or in clear academic standing as well as the student's progress toward completion of the program of study (e.g. freshman, sophomore, junior, senior, etc.).

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## **STATUTORY STANDARD 4**

Compliance by the institution with relevant safety and health standards, such as fire, building and sanitation codes.

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### **Review Standard**

An institution shall maintain or ensure the maintenance of current approvals of safety, health, fire, building and sanitation as required by relevant federal, state and local ordinances or laws.

For public institutions, where the institution is not subject to local or state codes concerning safety or health, the institution shall have a program in place which ensures that building and life safety codes are observed and administratively enforced by qualified personnel.

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### **Examples of Documentation**

Below are examples of supporting documentation which an institution might use to demonstrate compliance with the standard in this section:

- Listing building and life safety codes and standards applicable to the institution (This will usually be a listing of local, state and federal codes and standards.)
- Listing owned and leased facilities used by the institution
- Building, fire and sanitation code inspection reports for all owned and leased facilities
- A written procedure for handling reports of code violations
- Reports on the status and response plans for unresolved violations



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## Explanations, Comments and Considerations

For the vast majority of postsecondary institutions, compliance with local, state and federal safety and health standards will be the norm. Evidence that buildings and grounds have been inspected will be in the form of inspectors' reports from a variety of government agencies. Some public institutions are constitutionally established and not subject to local codes. In these instances the institution should have health and safety programs in place which ensure compliance with nationally recognized standards such as: American National Standards Institute (ANSI); Building Officials & Code Administrators, International (BOCA); Council of American Building Officials (CABO); International Conference of Building Officials (ICBO); and/or the National Fire Protection Association (NFPA).

*Enforced by qualified personnel.* Appropriately trained and qualified personnel who are familiar with building and life safety codes should be capable of inspecting all institution facilities and identifying violations requiring correction.

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## **STATUTORY STANDARD 5**

The financial and administrative capacity of the institution as appropriate to a specified scale of operations and the maintenance of adequate financial and other information necessary to determine the financial and administrative capacity of the institution.

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### **Review Standard**

Institutions shall keep financial records which would allow the SPRE to understand the financial operations of the institution. The financial systems shall make it possible to present fairly the financial position and results of financial operations of the institution using fund and account groups in conformity with Generally Accepted Accounting Principles (GAAP). Where an institution's financial statements are at variance with GAAP standards, the institution shall, upon request, provide a written explanation for the variance. The systems should provide information to determine and demonstrate compliance with legal and contractual provisions. A budget should be adopted and the accounting system should provide a basis for budgetary control.

A decision-making and administrative apparatus shall exist for organizing and allocating financial resources. An administrative organization should exist to implement and administer policies and procedures. The institution shall be able to demonstrate compliance with applicable regulations and standards upon request by the SPRE.

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### **Examples of Documentation**

Below are examples of supporting documentation which an institution might use to demonstrate compliance with the standard in this section:

- Organizational charts or tables, including the names of office holders.

- A description of the institution's administrative structure and delineation of responsibilities.
- Governance documents, charter, bylaws and minutes concerning administrative oversight.
- Copies of audits and management letters for the three most recent review periods.
- An administrative policy manual or its equivalent.
- Budgets, audit reports and internal financial records.

### **Explanations, Comments and Considerations**

The application of this standard will necessarily be judgmental, based on experience in reviewing the type of institution under review. This standard requires different expectations for different kinds of institutions. Clearly a university with undergraduate and graduate programs which conducts major research projects and operates a medical care facility should be treated differently than a school of cosmetology.

To the greatest extent possible a SPRE should recognize and rely upon systems and standards which are generally recognized as acceptable. Generally accepted accounting principles, state reporting requirements and established audit practices should be recognized and accepted as fulfilling the requirements of this statutory standard. Publicly funded institutions, which are already subject to all of the requirements listed in this statutory standard, should not have additional reporting requirements added to satisfy this review standard.

Legal and contractual requirements will be quite diverse for publicly owned and controlled institutions as compared to for-profit and not-for-profit postsecondary institutions. Even requirements for adopting and administering a budget and conducting audits will vary depending on whether annual, biennial or some other funding period exists for the institution. In addition, privately held for-profit postsecondary institutions have considerable flexibility in defining their fiscal year within the scope of generally accepted accounting principles.

## **STATUTORY STANDARD 6**

For institutions financially at risk, the adequacy of provisions to provide for the instruction of students and to provide for the retention and accessibility of academic and financial aid records of students in the event the institution closes.

### **Review Standard**

For institutions that the U.S. Secretary of Education has determined do not meet the financial responsibility standards (set forth at Section 498(C) of the Higher Education Act of 1965), the institution shall provide for the retention and accessibility of academic and financial aid records. Such plans shall be provided to the SPRE upon request. Where the institution's auditor determines that the institution is at risk of precipitous closure, the institution should make efforts to identify opportunities for students to transfer to alternative programs of instruction.

Financial responsibility is defined as follows:

#### **General Standards** (to be met by all institutions)

- a. An institution will be considered financially responsible only if it:
- is able to provide the services described in its official publications and;
  - is able to provide the administrative resources necessary to comply with the requirements of Section 498(C) of the Higher Education Act of 1965; and
  - is able to meet all of its financial obligations, including but not limited to refunds that it is required to make; repayments to the Secretary of Education for liabilities and debts incurred in any program administered by the Secretary; and debt service payments.

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- maintains sufficient cash reserves to ensure repayment of any required funds to students.
- b. To be considered financially responsible, an institution must not have, as part of its audited financial statements:
- a statement by the auditor expressing substantial doubt about the institution's ability to continue operating as a going concern; or
  - a disclaimed or adverse opinion by the auditor.
- c. To be considered financially responsible, an institution must comply with the applicable specific sector standards which follow:

#### **Standards for Nonprofit Institutions**

- a. If it meets the general standards set forth above, a nonprofit institution will be considered financially responsible if it meets one or more of the following standards:
- a ratio of total available assets (total of unrestricted current funds, unrestricted quasi-endowment funds at market value, and unexpended plant funds) to unrestricted current liabilities of not less than 1.25:1; or
  - a ratio of total available assets plus cash available from an irrevocable line of credit (contracted with a recognized financial institution) to unrestricted current liabilities of not less than 1.25:1; or
  - a current bond rating by a nationally recognized statistical rating organization that is at least investment grade [Bbb for Standard & Poors, Baa for Moody's]; or

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- a ratio of unrestricted current assets to unrestricted current liabilities of at least 1:1 and the institution has not had operating losses for the past two years which, if continued, would result in a current ratio of less than 1:1.
- b. At the discretion of the Secretary of Education, the effect of extraordinary gains or losses resulting from unusual and infrequent events, and the cumulative effect of change in accounting principle, estimate or reporting entity may be taken into account in determining whether an institution meets the standards in (a) to the extent that such a change results in more accurate representation of the institution's financial position in accordance with generally accepted accounting principles. Unrealized gains or losses on investments which have been reported as changes in unrestricted net assets may be excluded.

#### **Standards for Public Institutions**

- a. A public institution will be considered financially responsible if it
- has its liabilities backed by the full faith and credit of the state, or by an equivalent government entity, or
  - has greater than 50 percent of its current fund revenue provided by public funds; or
  - has a statement from the state auditor general (chief state auditor) that the institution has sufficient resources to ensure against precipitous closure of the institutions, including ability to meet all of its financial obligations including refunds of institutional charges and repayments to the Secretary of Education; or

- meets the requirements for nonprofit institutions set forth above.

**Exceptions applicable to all types of institutions**

- a. The SPRE shall determine an institution to be financially responsible despite its failure to meet the above requirements, if the institution:
- submits to the Secretary of Education a letter of credit or other standard form of publicly-guaranteed security payable to the Secretary equal to not less than one-half of the Title IV, HEA program funds received by the institution during the last complete award year for which figures are available; or
  - submits to the Secretary of Education a report, with the support of audited financial statements, that establishes to the satisfaction of the Secretary that the institution has sufficient resources to ensure against precipitous closure of the institution, including the ability to meet all of its financial obligations including refunds of institutional charges and repayments to the Secretary; or
- b. The Secretary shall waive the current ratio requirement under the standards for nonprofit institutions above if the institution demonstrates to the satisfaction of the Secretary that:
- there is no reasonable doubt as to its continued solvency and ability to deliver quality educational services;
  - it is current in its payment of all current liabilities, including student refunds, repayments to the Secretary, payroll, and payment of trade creditors and withholding taxes; and

- 
- it has substantial equity in school-occupied facilities, the acquisition of which was the direct cause of its failure to meet the current operating ratio requirement.

## **Examples of Documentation**

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Below are examples of supporting documentation that an institution might use to demonstrate compliance with the standard in this section:

- A written plan
- An agreement to transfer custody of records

## **Explanations, Comments and Considerations**

In all likelihood, this will be a very difficult standard to achieve. Schools which are at financial risk are less than likely to have the administrative or financial capacity to develop or fund such a plan. They may also have considerable difficulty establishing arrangements to receive, maintain and provide access to student records—an administrative burden for which the receiving entity will likely never be compensated. The above standard, if implemented, would be minimally adequate to protect student interests. Its achievement by an institution at financial risk is problematic.

The varying definitions of financial responsibility reflect differences in generally accepted accounting and financial reporting standards applicable to institutions in different sectors of the postsecondary education community.

*Opportunities for students to transfer to alternative programs.* The institution should identify and communicate to students information about educational programs at other institutions which cover similar material and/or provide similar preparation to achieve the educational goals of the program of study for which the student applied and was admitted



## STATUTORY STANDARD 7

If the stated objectives of the courses or programs of the institution are to prepare students for employment, the relationship of the tuition and fees to the remuneration that can be reasonably expected by students who complete the course or program and the relationship of the courses or programs (including the appropriateness of the length of such courses) to providing the student with quality training and useful employment in recognized occupations in the state.

**Special Note:** Staff analysis of statutory standard 7 notes that the statutory language does not authorize a SPRE to render a judgment about the reasonableness of the relationship between tuition and fees and the remuneration that can reasonably be expected. Any SPRE review standard requiring such judgment or establishing a required relationship would exceed the statutory authority granted. Also, while the SPRE may define relevant data for the reporting of costs and remuneration and may require an institution referred for review to produce such data, the SPRE is not statutorily authorized to require postsecondary institutions that have not been referred for review to collect or report data concerning these measures. A SPRE may submit surveys to institutions and request relevant data for purposes of establishing norms if response is voluntary. Staff also notes that it may be administratively prudent to routinely collect such data in preparation for the possibility of being referred for review.

## Review Standard

If a postsecondary educational institution declares that the primary objective of a course or program is preparation for employment, then that institution shall identify the occupation(s) for which that specific course or program, that a student successfully completes, will prepare the student. Such an institution shall be required to report the costs of tuition and fees for the course or program and the remuneration that a student who successfully completes the course or program and is hired in the identified occupation(s) might reasonably expect to earn. In addition such an institution shall identify the relationship of various course or program requirements to helping the student acquire useful employment in the state.

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## **Examples of Documentation**

If a postsecondary educational institution does not declare employment preparation as the primary objective of its courses or programs, or if it cannot ascertain with reasonable certainty what the occupational outcome of successful completion of a course of study will be, it shall not be required to provide or produce such information.

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Below are examples of supporting documentation that an institution might use to demonstrate compliance with the standard in this section:

- Institution research data related to program enrollment completion rates
- Professional organization information concerning preparation standards and occupational outcomes
- State labor and industry wage statistics
- Organizational standards for certification and licensure

## **Explanations, Comments and Considerations**

The clear, underlying purpose of this statutory standard is to inform a potential consumer of educational services about the costs and benefits of paying for those services. That is feasible and reasonable where the probable career choices which become available as a result of the delivery of educational services are reasonably ascertainable BEFORE the student commences her or his studies AND where starting wages approximate the level of "career" income-stream likely to be earned. Congress made the application of this statutory standard conditional on what an institution declared the objectives of its educational programs to be. In so doing it recognized real differences between programs designed primarily for employment preparation and those designed to achieve broader objectives.

Before discussing educational programs which are or are not described as preparing a student for employment, consider that many postsecondary students, including many community college students enrolled in occupational studies courses, are not seeking a degree or a certificate. Moreover, they may

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legitimately take such courses without being admitted into a formal program of study. It should be remembered that many community colleges have open door admission policies at an institutional level. There is nothing an institution, with open door admitees who have not declared a program goal, can reasonably do to anticipate educational costs or report likely remuneration since there is no "program", and outcomes would be transient and unpredictable.

Educational programs which lead to granting a degree (i.e. associate, baccalaureate, master's and doctoral degrees) do not have a reasonable means of finding out likely employment outcomes BEFORE a student commences study. The reason for this uncertainty is due to the nature of degree programs. Undergraduate programs in American colleges and universities strive to prepare a person to be a contributing member of society by designing programs to help achieve the development of literacies, acquisition of a sense of cultural tradition, encouragement of moral and intellectual virtues, and easement of the personal transition from dependency to autonomy.<sup>1</sup> The inclusion of degree course requirements in areas such as literature, philosophy, history, appreciation of the arts, geography or foreign languages, indicates objectives beyond employment preparation. As a result, for students pursuing a degree program, there is the introduction of significant costs not directly related to employment preparation. Another complication is that this kind of education prepares a person for entrance into a wide variety of careers, and experience has shown that degree program graduates migrate into a highly diverse set of occupations which may or may not seem related to their program of study.

Because of these realities, postsecondary institutions which offer programs leading to a degree would be faced with two primary choices IF they are designated by a SPRE as "preparation for employment" programs. They could select a few probable occupational outcomes and publish that information along with cost of education information. The practical result of this course of action would be to provide information of little or no relevance to the majority of prospective students or to mislead many of those prospective students about occupational outcomes. The other choice for such institutions would be to identify and track the whole range of occupational outcomes experienced by its graduates and set about creating a bureaucracy to monitor and record starting salaries for what would ordinarily be a major portion of a state's economy. As a result it would not serve the underlying statutory purpose to provide relevant sample data, nor would it serve the statutory purpose to flood students with so much information that they would be no better informed about the likely occupational remuneration result of their program of study.

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<sup>1</sup>This listing is drawn from *Undergraduate Education* by Rudolph H. Weingartner, New York: American Council on Education and MacMillan Publishing Company, 1992.

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Professional programs share a similar problem with respect to the statutory purpose. Persons who train as teachers, ministers, doctors, lawyers and engineers are quite mobile economically and many do not engage directly in the traditional practice of their profession. As the American economy continues to diversify and internationalize, this trend will develop and expand and professional skills will increasingly be drawn to accommodate the diversification. So predicting the employment outcome of such training is problematic. In addition, one of the common occurrences in a professional's career remuneration pattern is to have relatively low starting wages in comparison to average lifetime earnings in the profession. This is particularly true of doctors, lawyers and engineers. On the other end of experience is the substantially lower professional incomes of ministers, teachers and social workers, who contribute to society, but who have never been economically recognized and rewarded in any fashion approaching the doctors, lawyers or engineers. This real life disparity introduces very large analytical difficulties in trying to construct a reporting mechanism which will reasonably reflect the benefits available to a student pursuing professional training. In the absence of such an analytical tool to resolve those disparities, a requirement for professional schools to publish the detailed education cost-wage remuneration information would not serve the statutory purpose of accurately informing a student-consumer of his or her cost benefit analysis.

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## **STATUTORY STANDARD 8**

- a. Availability to students of relevant information by institutions of higher education, including information related to market and job availability for students in occupational, professional and vocational programs.
  - b. Availability to students of relevant information by institutions of higher education including information regarding the relationship of courses to specific standards necessary for state licensure in specific occupations.
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## **Review Standard**

- a. Each institution of higher education shall, upon request, provide students who are enrolled in occupational, professional and vocational programs at that institution, information pertaining to the availability of employment opportunities in career fields related to the student's program of study.
  - b. Each institution of higher education shall have available information that specifies courses necessary to meet the requirements for state licensure in specific occupations that are related to the student's occupational, professional or vocational program of study.
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## **Examples of Documentation**

Below are examples of supporting documentation that an institution might use to demonstrate compliance with the standard in this section:

- Career opportunity flyers, brochures or written descriptions
- Recent reports of hiring activity in related professions or trades
- Lists of courses which prepare a student for licensure requirements

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## Explanations, Comments and Considerations

Each institution of higher education that has been referred for review by the SPRE should be able to demonstrate that it provides students, enrolled in occupational, professional and vocational programs, information pertaining to the availability of employment opportunities in career fields related to their instructional program. Like Standard 7, this standard is a congressional attempt to provide valuable consumer information for students. While it requires information as to whether there is an existing market for students who complete occupational, professional or vocational programs of study and what the recent job availability in that market has been, it does not require institutions to predict job availability.

Each institution of higher education that has been referred for review by the SPRE should be able to demonstrate that it provides students information that specifies courses necessary to meet the requirements for state licensure in specific occupations. Institutions should compile updated information on requirements for state licensure in specific occupations related to courses or programs. SPREs should recognize that while the statute requires course identification, in many cases it is not a specific course or courses that are the key to preparation, rather it is a broad program. In addition, some programs don't require specific courses. In programs of study with multiple options the specification of courses will be burdensome and less than precise.

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## STATUTORY STANDARD 9

The appropriateness of the number of credit or clock hours required for the completion of programs or of the length of 600-hour courses.

**Special Note:** While the SPRE may define relevant data for the reporting of program length and may require an institution referred for review to produce such data, the SPRE is not statutorily authorized to require postsecondary institutions which have not been referred for review to collect or report data concerning these measures. A SPRE may submit surveys to institutions and request relevant data for purposes of establishing norms if response is voluntary. Staff also notes that it may be administratively prudent to routinely collect such data in preparation for the possibility of being referred for review.

## Review Standard

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Each academic program to which students can apply federal financial aid dollars shall be of sufficient length as defined by state agency and licensure standards.

In the absence of such agency or licensure standards, for institutions authorized to award degrees, the number of credit or clock hours required for the completion of academic programs shall be deemed appropriate if they reflect common practice by degree-granting institutions. Each eligible program offered by a for-profit institution not authorized to award college degrees in its state should be reviewed by at least one objective expert in the discipline or occupational area in which the program is offered.

## **Examples of Documentation**

Below is an example of supporting documentation that an institution might use to demonstrate compliance with the standard in this section:

- Institutional course approval documents, or other documents, that address the length of the course

## **Explanations, Comments and Considerations**

For credit-bearing programs, this part of the standard follows generally accepted good practice in colleges and universities nationally regarding the number of credits required to earn academic credentials.

*Common practice by degree-granting institutions.* There is not a fixed number which generally describes the number of credit hours to be included in a degree-granting program. For instance, while many associate degree programs require about 60 semester hours for completion, many programs, particularly those which help a student prepare for licensure, have requirements beyond 60 semester hours for the associate's degree. This is often necessary because of the general education requirements which accompany the award of a degree and the range of skills and special knowledge that licensure preparation demands. At the baccalaureate level this is also true of teacher education, engineering and architecture programs. These and other programs will normally vary from the common 120-130 semester credit hour programs in fields such as history, English and others. The SPRE should also be aware that quarter credit hours will generate higher program completion numbers. Finally, the SPRE should be aware that a credit hour is not the same as a clock hour. A credit hour of lecture presentation and a credit hour of laboratory work will normally involve different amounts of actual student time to earn the credit.

For-profit institutions often have not had to meet the generally more rigorous state quality and integrity standards required of institutions that award degrees and have generally been a larger part of the default problem in federal financial aid programs.



## **STATUTORY STANDARD 10**

Assessing the actions of any owner, shareholder or person exercising control over the educational institution which may adversely affect eligibility for programs under this title.

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### **Review Standard**

The institution shall have in place written policies and procedures applicable to senior administrative and executive personnel, members of governing boards and shareholders (if applicable) which address conflict of interest and provide protection against self-dealing by persons exercising control over the institution. Where applicable statutory codes exist, compliance with the statutory code shall be deemed acceptable.

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### **Examples of Documentation**

Below are examples of supporting documentation that an institution might use to demonstrate compliance with the standard in this section:

- Employee handbook
- Institution policies and procedures manual
- Governing board policies and procedures manual

### **Explanations, Comments and Considerations**

*The institution shall have in place written policies and procedures.* The institution's conflict of interest policy should be written and available. The policy should be applicable to senior administrative and executive personnel, members of governing boards and shareholders (if applicable) to extend proscriptions regarding self-dealing and arbitrary or capricious decision making to those in a position to exercise control over the institution.

*Conflict of interest.* The policies should prevent the intrusion of irrelevant external considerations on institutional operation and decision making. They should

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ensure that administration of the institution is not unduly influenced by personal, financial or other inappropriate considerations of those in a position to control the institution.

*Self dealing.* The policies should also provide protection against the diversion of institutional resources to private use by those in a position to control or allocate the institution's resources.

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## **STATUTORY STANDARD 11**

### **Review Standard**

The adequacy of procedures for investigation and resolution of student complaints.

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Institutions shall have written procedures for receiving, investigating and resolving both academic and nonacademic student complaints.

When institutions maintain separate complaint procedures to satisfy statutory or regulatory requirements (e.g. civil rights, Title IX, sexual harrassment, etc.), compliance with the statute or regulation shall be deemed adequate by the SPRE for that type of complaint.

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### **Examples of Documentation**

Below are examples of supporting documentation that an institution might use to demonstrate compliance with the standard in this section:

- Student handbook
- Letters of complaint and/or appeal
- Written determinations of student complaints

### **Explanations, Comments and Considerations**

This review standard should not necessarily result in the development of yet another complaint process. Many institutions will already have perfectly adequate and workable complaint processes in place. The model standard should not set unrealistic expectations for a campus. The development of procedures is based on such factors as institutional mission, public or private governance, size and history. Some procedures are more complex than others. From an educational standpoint, and for the opportunity to successfully resolve complaints, the importance lies in a system that provides for the "student's voice" to be heard. Students should understand there is a legitimate avenue to air their concerns and that they may get a favorable or an adverse decision.

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Private and public institutions are not equally affected by due process requirements. As a result the particulars of any procedure will likely vary and may still be appropriate. The extent of formality, record keeping and appeal processes will be affected by such differences.

*Academic and non-academic student complaints.* Many postsecondary institutions have complaint procedures for academic matters (e.g. grade appeals) and another for other non-academic matters (e.g. racial or sexual harassment, assault, etc.). This should continue to be appropriate. There is no need for a unitary complaint process unless the postsecondary institutions choose to handle matters in that fashion.

*Receiving, investigating and resolving.* Receipt may mean verbally or in writing, investigating may mean hearing the other side of the story and/or a more formal review and verification of facts, and resolution may mean doing or not doing anything about the complaint in accordance with institutional rules, regulations and policies.

## STATUTORY STANDARD 12

The appropriateness of advertising and promotion and student recruitment practices.

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### Review Standard

The advertising, promotion and student recruitment practices done by or performed on behalf of a postsecondary institution will be considered appropriate if it provides students with factual information that does not mislead and that does not exaggerate with respect to costs, benefits, conditions or outcomes.

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### Examples of Documentation

Below are examples of supporting documentation that an institution might use to demonstrate compliance with the standard in this section:

- Viewbooks, flyers and brochures
- Brochures, forms and flyers from the financial aid office
- Course catalogs

### Explanations, Comments and Considerations

This standard should be aimed at usual kinds of consumer protection. The proposed review standard is essentially trying to ensure that information is accurate and fairly presented.

*Does not mislead and that does not exaggerate.* The underlying congressional purpose in establishing this standard is simple: Give students a fair and reasonable picture of what an education will cost, what it will be like to participate in that education, and what the student can get as a result of participating in a program of study. Misleading can mean an omission or commission which influences a person to make an error in judgment about what is being communicated. Exaggeration means increasing, enlarging or overemphasizing to an extreme or abnormal degree. While it is to be expected that institutions will want to present themselves in a favorable light to prospective students, misleading or exaggerated communications go beyond what is appropriate.

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*Costs, benefits, conditions or outcomes.* Not every communication by a postsecondary institution should be scrutinized or subjected to this standard. Costs, benefits, conditions of attendance and outcomes that can reasonably be anticipated by a student who successfully completes a program of study are likely to be considered substantive information for making a decision to participate in an educational program. Other matters are less likely to be given significant weight. Statements about the prowess of athletic teams, the beauty of the campus, the desirability of the climate, and similar matters are less likely to be heavily weighed when deciding to attend an institution and are commonly considered matters of opinion "in the eye of the beholder" and have a marginal relationship to the statutory purpose of ensuring institutional integrity with respect to federal financial aid programs.

## **STATUTORY STANDARD 13**

### **Review Standard**

### **Examples of Documentation**

That the institution has a fair and equitable refund policy to protect students.

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Institutions which comply with Section 484B of the Higher Education Act of 1965, and the relevant implementing regulations with regard to students who receive Title IV financial aid, shall be considered to have implemented a fair and equitable refund policy.

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Below are examples of supporting documentation that an institution might use to demonstrate compliance with the standard in this section:

- Written refund policy
- Records of refunds made
- Financial aid audit reviews

### **Explanations, Comments and Considerations**

Congress made a considerable effort to consider the problems of refund policies and has outlined the requirements and permissible alternatives for such policies. Implementing regulations will detail and define what is permissible. Since there is a federal statute and the U.S. Secretary of Education has authority to detail implementing regulations, no other standard should be adopted since it would be repetitive. In addition, the SPRE, which is statutorily capable of only state action (see section 494A(a) of the Higher Education Act of 1965), cannot create a different standard since it is preempted by this federal statute.

## STATUTORY STANDARD 14

The success of the programs at the institution, including—(a) the rates of the institution's students' program completion and graduation, taking into account the length of the program at the institution and the selectivity of the institution's admissions policies; (b) the withdrawal rates of institution's students; (c) with respect to vocational and professional programs, the rates of placement of the institution's graduates in occupations related to their course of study; (d) where appropriate, the rate at which the institution's graduates pass licensure examinations; and (e) the variety of student completion goals, including transfer to another institution of higher education, full-time employment in the field of study, and military service.

**Special Note:** Staff analysis of Statutory Standard 14 notes that while the SPRE may establish successful outcomes measures and may require an institution referred for review to produce relevant data, the SPRE is not statutorily authorized to require postsecondary institutions that have not been referred for review to collect or report data concerning these measures. A SPRE may submit surveys to institutions and request relevant data for purposes of establishing outcome norms if response is voluntary. Staff also notes that it may be administratively prudent for the institution to routinely collect such institutional data in preparation for the possibility of being referred for review.

### Explanations, Comments and Considerations

The participating associations have chosen not to recommend a review standard to measure the success of programs. Our experience with the Student Right-to-Know legislation has led us to believe that cautious development of appropriate methodologies and definitions is preferable to a hastily developed standard. The Student Right-to-Know legislation only called for reporting—not making judgments about—success and provides only some guidance in this area. In addition, we take note of the National Center for Education Statistics' (NCES) report, *Postsecondary Student Outcomes: A Feasibility Study*, published in February 1992. That report concluded:

*The graduation completion rates and possibly the student assessment data currently collected by institutions and states may be sufficiently valid, consistent and unbiased to be useful to institutions or states for self-assessment or oversight purposes. However, it was not possible, within the scope of this report, to evaluate the data from this perspective. Training-related employment data, licensure pass rates, transfers to another institution, or any data that are collected through surveys of completers (or leavers) are not useful for any purpose, given the problems and costs of obtaining consistent and demonstrably unbiased data through surveys of completers.*



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Therefore, while it might be possible to adequately collect and report the information in 14 (a) and (b), the outlook for doing the same for (c), (d) and (e) is less than promising.

We strongly urge the SPRE that for the purposes of documenting achievement of standard 14(a) and (b), a postsecondary institution shall be deemed to have satisfactorily met those record-keeping requirements if it is in compliance with the federal Student Right-to-Know Act. The Student-Right-to-Know Act will provide for uniform calculation of graduation rate data.

Congress chose to require development of a standard of "success" for reviews but did not -perhaps wisely- attempt to define success. This statutory standard requires the SPRE to tackle that knotty problem. Accrediting agencies have traditionally measured the success of an institution by accrediting agency standards voluntarily agreed to by the institutions and by the institution's own definition of mission. The SPRE will not have that luxury. It will be imposing a definition of success and enforcing it through sanctions which may include declaring an institution ineligible for further participation in the federal financial aid programs. That difference brings the constitutional requirements of substantive due process into play as the SPRE establishes its standards of success. A measure of judgment and discretion in the *application* of a standard of success is permissible and to be expected. The *establishment* of that standard must be founded squarely on public interest and a rational basis. This is where the devil is in the details. Having a rational basis for establishing success standards minimally requires information about what outcomes currently are. As noted above we have problems here.

In light of our data concerns we recommend that the SPREs not develop methodologies or any threshold standards in the absence of considerable involvement of the research community. Careful consideration must also be given regarding the reporting of outcomes and definitions of success. To fail to do so would inevitably lead to the establishment of arbitrary standards.

Review standards for 14 must be seen as provisional and developmental. The state of the art of measurement, data collection and research does not permit the permanent establishment of absolute and specific standards of "success" for the criteria listed in the statute. If the SPRE regulations mandate the imposition of minimum standards for student outcome measures, institutions must be allowed the possibility of seeking a variance. They must be allowed the opportunity to demonstrate that the minimum threshold should not apply to their particular circumstances.

The NCES *Feasibility Study* also noted that:

*To establish a national set of postsecondary student outcome statistics, representatives of broad segments of the postsecondary education community advocate establishing*

*definitional consistency and standardized data collection procedures and methodologies at a national level that could be implemented at the institutional and/or state level. In addition to the need for establishing useful and reliable methodologies, much of the empirical work that must be done cannot be conducted state by state. Few states have sufficient numbers and diversity of institutions to provide the necessary empirical base.*

The *Feasibility Study* further noted that effort would be required to develop each of the outcome statistics and would involve a "considerable degree of cooperation" among institutions, state agencies and federal agencies. This cooperative process needs to be initiated.

An approach that might be proposed would attempt to identify peer institutions to compare their respective student outcomes. It would be difficult to overstate the problems associated with peer selection in a research context but pragmatic solutions have been arrived at by many institutions of higher education which have allowed specific purpose surveys to be conducted and meaningful results to be reported. Before this option could be used, it would be necessary to have the results of the research proposed in the *NCES Feasibility Study*.

An approach that is based on inter-institutional comparisons would not be easily done. The first critical step would be to identify the mission and circumstances of an institution and the students it serves to make a determination of what kinds of information would be required to find "comparable" institutions. The particular combination for a particular institution, especially those with special programs to serve high-risk populations, may well yield few, if any, true "peers."

It is not possible, in advance, to establish a comprehensive and final list of specific indicators or characteristics.

The key in selecting such criteria is to identify those institutional characteristics which have significant impact on student outcomes. Preliminary consideration of institutional characteristics suggest that the following items matter considerably—but this is preliminary and only partial.

1. *Student characteristics including but not limited to students' academic preparation for the program.* This will begin to address admissions selectivity and should take into account grade-point averages in high school and postsecondary institutions, if any; course taking patterns in high school and postsecondary institutions; and scores on college aptitude and achievement tests (e.g., SAT, ACT, ACT-E)).
2. *Length of various program choices* is an important variable and should consider the number of required courses to complete the program as well as the number of required credit or clock hours.

3. *Students' determination of speed to complete a program* recognizes that student choice makes a real difference in the timing and achievement of student completion outcomes. It should consider the actual number of courses and credit hours taken in a student's term of entry; student stop-out patterns; and actual completion times which have been experienced by the institution. Not including such considerations in the peering criteria would seriously undermine the relevancy and fairness of any comparison.
4. *Institutional mission, including articulated institutional program objectives* have a considerable impact on student outcomes. This item relates strongly to the program purpose discussion contained in the comment section following Standard 7 which we advise you to consider in this context. This peering criterion should take into account degree conferral objectives; program certification and completion declarations; as well as transfer, occupational placement, licensure and employment goals as stated by the institution.
5. *Financial resources*, from government and private sources, which have a direct impact on student access and time to completion vary considerably in the postsecondary community and influence student outcomes. This criterion should, for example, consider the availability and use of supplementary institution-supported financial aid.
6. *Institutional climate* is another variable that will affect the legitimacy of success comparisons and judgments. This criterion should consider whether the student body is predominantly commuter or residential as well as the importance of institution in students' lives (i.e. are the students also working, raising families, in prison, etc.?).

There are some U.S. Department of Education data already available which touch upon these concerns and can assist in the identification of peer institutions. Experience has shown, however, that a peer process that depends solely on existing data is unlikely to yield a legitimate pool of peer institutions. The institution under review should have a substantial role in helping to identify peer institutions to make it likely that comparable institutions that recruit, select and serve students who are similarly situated to students at the institution under review are identified.

It should be noted that one of the problems with peer comparisons is that over time they tend to push institutions toward trying to perform at the average of their peers—just to be on the safe side. While there may be some benefits to this tendency it will also contribute to undermining some of the diversity of the postsecondary community which has served the nation and its economy well.

The outcomes for students at an institution are the result of the complex interaction among student characteristics at time of entry, student behaviors

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while enrolled, mission and program of the institution, and the array of features that relate to its particular circumstances and "character."

Alexander W. Astin, director of the Higher Education Research Institute at UCLA, has conducted an empirical analysis of data that provides a formula for calculating "expected" graduation rates based on student-entering characteristics.

In a *Chronicle of Higher Education* opinion article professor Astin wrote:

*The recent research done at the institute (at UCLA) suggests that a simple retention 'rate' tells us a lot more about who an institution admits than about how effective its retention practices are . . . Formulas derived from multiple regression analyses . . . show that high-school grades and SAT scores carry the most weight in predicting who will complete college, but that other characteristics of entering students, such as race and sex, also carry some weight. For each of our 129 institutions, we used these formulas to compute an 'expected' retention rate based upon the high-school grades, admissions-test scores, sex and race of each entering student. By comparing this expected rate with the actual rate, we get a much better indication of how 'effective' an institution actually is in retaining and graduating students.*

Dr. Astin's research could be replicated, preferably with a national sample, to verify the details of the formula resulting from his previous research. Few states have the diversity and the appropriate number of institutions and student populations necessary to provide the required data for such an analysis. Individual student information has to be processed in the multiple regression calculations. Institutional presidents/chancellors/leaders would be justifiably reticent to release such data because of state and federal privacy concerns. Only a research organization which already samples individual student data on a national basis, such as the National Center for Education Statistics (NCES), should be used for such a study. If a SPRE chooses to attempt this difficult and complex task, it is essential that the SPRE consult with the higher education community and its institutional researchers.

In summary, it will be very difficult for the SPRE to develop a legally defensible rational basis for establishing standards for success with the current information available to them. Much work needs to be done simply to develop reliable reporting in the areas Congress has mandated.

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**STATUTORY  
STANDARD 15**

When an institution meets one or more criteria as outlined in the review criteria in Section 494C, the state shall contract with the appropriate approved accrediting agency or another peer review system to review the institution's programs or to provide information regarding the assessment of the following: The quality and content of the institution's courses or programs of instruction, training or study in relation to achieving the stated objectives for which the courses or programs are offered, including the adequacy of space, equipment, instructional materials, staff and student support services (including student orientation, counseling and advisement) for providing education and training that meets such stated objectives.

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**Review  
Standard**

The participating associations are developing a proposed standard and advice which will be forwarded in the near future under separate cover. This forthcoming document will reflect issues raised by the recently proposed regulations issued by the Secretary of Education.

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## **ESTABLISHING PRIORITIES FOR REVIEW**

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Recognizing the limited resources available to states to conduct reviews, the state shall develop, after consultation with institutions of higher education, priorities for scheduling referred institutions for reviews. Those priorities should focus the state's first attention on reviewing those categories of institutions which constitute the highest dollar amount of loan defaults, especially a cohort default rate greater than 25 percent and EITHER more than two-thirds of students receiving Title IV aid or two-thirds or more of education and general expenditures from Title IV funds.

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## **GENERAL PROCEDURES FOR REVIEWS**

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The state shall develop its own procedures to avoid conflict of interest in the review process. The state shall also assure that the review process includes procedures that comply with due process requirements, including:

- adequate specification of the deficiencies, if any, of the institution determined by the review;
- notice of an opportunity for a hearing;
- the right to appeal any adverse recommendation or action to a group not involved in the original decision; and
- the right of representation by counsel in any appeal.
- reasonable limits on visits, in scope, length, nature and frequency to avoid undue disruption to the educational process or to the normal functioning of the institution.
- the right to counsel during the SPRE review, and
- the right to be reviewed by SPRE agents who have familiarity with the kind of institution under review. (For instance, persons with only public sector institutions or large, research institutions would be unacceptable for reviewing small, liberal arts institutions or trade schools.)

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Visits shall be limited in scope to: the quality and content of the institution's courses or programs of instruction, training or study in relation to achieving the stated objectives for which the courses or programs are offered, including the adequacy of space, equipment, instructional materials, staff and student support services (including student orientation, counseling and advisement).

Before the review is presented to the state, the institution will receive a copy of the review and have an opportunity to correct factual errors. Prior to any action by the state, the institution has a reasonable opportunity to submit a formal response.

The State Postsecondary Review Entity shall forward the review report and the institution's response to the Secretary.

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## LISTING OF DESIGNATED STATE POSTSECONDARY REVIEW ENTITIES

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### Alabama

Alabama Commission on Higher  
Education  
Dr. William Blow  
Deputy Executive Director  
3465 Norman Bridge Road  
Montgomery, Alabama 36105-2310  
Telephone: 205/281-1921  
Fax: 205/281-6711

### Alaska

Alaska Commission on Postsecondary  
Education  
Ms. Sherry Jaeger  
707 A Street, Suite 202  
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Fax: 907/272-6097

### Arkansas

Arkansas Department of Higher  
Education  
Ms. Mary Beth Sudduth  
114 East Capitol Street  
Little Rock, Arkansas 72201  
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### Arizona

Arizona Commission for Postsecondary  
Education  
Dr. Edward Johnson  
2020 North Central Ave., Suite 275  
Phoenix, Arizona 85004-4503  
Telephone: 602/229-2590  
Fax: 602/229-2599

### California

California Postsecondary Education  
Commission  
Mr. Karl Engelbach  
1303 J Street, Suite 500  
Sacramento, California 95814-3985  
Telephone: 916/322-7331  
Fax: 916/327-4417

### Colorado

Colorado Commission on Higher  
Education  
Dr. Robert G. Moore  
Acting Executive Director  
1300 Broadway, 2nd Floor  
Denver, Colorado 80203  
Telephone: 303/866-2723  
Fax: 303/860-9750

### Connecticut

Connecticut Department of Higher  
Education  
Dr. Joseph Zikmund  
61 Woodland Street  
Hartford, Connecticut 06105  
Telephone: 203/566-4645  
Fax: 203/566-7865

### Delaware

Delaware Higher Education  
Commission  
Dr. John F. Corrozi  
Executive Director  
820 N. French Street  
Wilmington, Delaware 19801  
Telephone: 302/577-3240  
Fax: 302/577-3862

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# APPENDIX

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Sec 494

## Higher Education Act of 1965

### Part H-Program Integrity Triad Subpart 1-State Postsecondary Review Program (\*\*\* reflects 1993 technical amendments \*\*\*)

#### Sec. 494. State Postsecondary Review Program.

(a) PURPOSE—It is the purpose of this section to authorize the Secretary to enter into agreements that—

(1) designate one State postsecondary review entity in each State to be responsible for the conduct or coordination of the review under section 494C(d) of institutions of higher education, reported to the State by the Secretary pursuant to section 494C(a), for the purposes of determining eligibility under this title; and (2) provide Federal funds to each State postsecondary review entity for performing the functions required by such agreements with the Secretary.

(b) PROGRAM AUTHORITY—The Secretary shall, in accordance with the provisions of this subpart, enter into agreements with each of the States to carry out the purposes of this subpart. If any State declines to enter into an agreement with the Secretary for the purposes of this subpart, the provisions of this subpart which refer to the State, with respect to such State, shall refer to the Secretary, who may make appropriate arrangements with agencies or organizations of demonstrated competence in reviewing institutions of higher education.

(c) FAILURE TO COMPLY WITH AGREEMENT—If a State fails to enter into an agreement under this section or fails to meet the requirements of its agreement with the Secretary under this subpart—

(1) the Secretary—

(A) may not designate as eligible for participation in any program under this title any new institution (including new branch campuses) or any institution that has changed ownership, pursuant to section 481 and subpart 3 of this part, and

(B) may grant only provisional certification for all institutions in the State pursuant to subpart 3 of this part; and

(2) the State shall be ineligible to receive funds under section 494B of this subpart, subpart 4 of part A of this title, and chapter 2 of subpart 2 of part A of this title  
(20 U S C. 1099a) Enacted July 23, 1992, P.L. 102-325, sec. 499, 106 Stat. 634.

#### SEC. 494A. State Postsecondary Review Entity Agreements.

(a) STATE ORGANIZATION STRUCTURES—(1) Each agreement under this subpart shall describe a State organizational structure responsible for carrying out the review under section 494C(d) of institutions reported to the State by the Secretary pursuant to section 494C(a). Each such entity's action in reviewing such institutions shall, for purposes of this subpart, be considered to be the action of the State.

(2) For the purposes of this subpart, the designation of a State postsecondary review entity for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the federal government (3) Except as provided in paragraph (6), nothing in this subpart shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, a specific state organizational structure

(4) Except as provided in paragraph (6), nothing in this subpart shall be construed—

(A) as a limitation on the authority of any State to adopt a State organization structure for postsecondary education agencies, or programs, or institutions of higher education as appropriate to the needs, traditions and circumstances of that State;

(B) as a limitation on the authority of a State entering into an agreement pursuant to this subpart to modify the state organizational structure at any time subsequent to entering into such agreement.

(C) as a limitation on the authority of any State to enter into an agreement for purposes of this subpart as a member of a consortium of States.

(D) as an authorization for the Secretary to withhold funds from any State or postsecondary institution on the basis of compliance with a State's constitution or laws;

(E) as an authorization for any State postsecondary review entity to exercise planning, policy, coordinating, supervisory, budgeting or administrative powers over any postsecondary institution; or

(F) as a limitation on the use of State audits for the purpose of compliance with applicable standards under section 494C(d).

(5) Nothing in this subpart shall be construed to limit the authority or activities of any State loan insurance program established under section 428(b) of this title or of any relevant State licensing authority which grants approval for institutions of higher education to operate within a State or their authority to contact the Secretary directly.

(6) Notwithstanding the provisions of paragraphs (2), (3) and (4) of this subsection, the Secretary may require each State to designate an entity responsible for the conduct or coordination of the review of institutions under this title.

(b) CONTENTS OF AGREEMENTS—Agreements between each State and the Secretary shall contain the following elements:

(1) A designation of a single State postsecondary review entity which represents all entities of that State which are responsible for:

(A) granting State authorization to each institution of higher education in that State for the purposes of this title, and

(B) ensuring that each institution of higher education in that State remains in compliance with the standards developed pursuant to section 494C

(2) Assurances that the State will review institutions of higher education for the purpose of determining eligibility under this title on a schedule to coincide with the dates set by the Secretary to certify or recertify such institutions of higher education as provided in section 481 and subpart 3 of this part.

(3) Assurances that the appropriate State postsecondary review entity will perform the functions authorized by this subpart and will keep such records and provide such information to the Secretary as may be requested for financial and compliance audits and program evaluation, consistent with the responsibilities of the Secretary

(4) A description of the relationship between the State postsecondary review entity designated for the purposes of this subpart and (A) the agency or agencies designated for the purposes of chapter 36 of title 38 of the United States Code, (B) the loan insurance program established under section 428(b) of this title for that State, and (C) the grant agency established under section 415C of this title.

(5) A plan for performing the functions described in section 494C of this subpart.

(c) FEDERAL RESPONSIBILITY—Notwithstanding any other provision of law, no state shall be required to enter into an agreement with the Secretary under this subpart for performing the review functions required by such agreement unless the Congress appropriates funds for this subpart

(20 U.S.C. 1099a-1) Enacted JULY 23, 1992. P.L. 102-325, Sec. 499, 106 Stat. 635. SEC. 494B. FEDERAL REIMBURSEMENT OF STATE POSTSECONDARY REVIEW COSTS.

(a) PAYMENTS—Subject to subsection (b), the Secretary shall reimburse the States for the costs of performing the functions required by agreements with the Secretary authorized under this subpart. Such costs shall include expenses for providing initial and continuing training to State personnel and other personnel in the State, including personnel at institutions of higher education subject to review, to serve the purposes of this subpart. Reimbursement shall be provided for necessary activities which supplement, but do not supplant, existing licensing or review functions conducted by the state. The Secretary shall also reimburse such entities for work performed by their subcontractors and consultants where such work has a direct relationship to the requirements of agreements with the Secretary under this subpart.

(b) AUTHORIZATION OF APPROPRIATIONS—For the purpose of enabling the Secretary to make payments to States which have made agreements with the Secretary under this subpart, there is authorized to be appropriated \$75,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years

(20 U.S.C. 1099a-2) Enacted July 23, 1992. P.L. 102-325, sec. 499, 106 Stat. 637.

#### **Sec. 494C. Functions of State Review Entities.**

(a) INITIAL REVIEW—The Secretary shall review all eligible institutions of higher education in a State to determine if any such institution meets any of the criteria in subsection (b). If any

such institution meets one or more of such criteria, the Secretary shall inform the State in which such institution is located that the institution has met such criteria, and the State shall review the institution pursuant to the standards in subsection (d). The Secretary may determine that a State need not review an institution if such institution meets the criterion in subsection (b)(10) only, such institution was previously reviewed by the State under subsection (d), and the State determined in such previous review that the institution did not violate any of the standards in subsection (d).

The Secretary shall supply the state with a copy of the institutional audits, required pursuant to section 487(c) for the institutions which shall be reviewed by the State. In addition to those institutions identified by the Secretary, the State may, subject to approval by the Secretary, review additional institutions which meet one or more of the criteria provided in subsection (b), based on more recent data available to the State, or which the State has reason to believe are engaged in fraudulent practices. If the Secretary fails to approve or disapprove a State request to review additional institutions within 21 days, the State may proceed to review such additional institutions as if approved by the Secretary.

(b) REVIEW CRITERIA—The criteria for the initial review of institutions of higher education are as follows:

(1) A cohort default rate (as defined in section 435(m)) equal to or greater than 25 percent.

(2) A cohort default rate (as defined in such section) equal to or greater than 20 percent and either

(A) more than two-thirds of the institution's total undergraduates who are enrolled on at least a half-time basis receive assistance under this title (except subparts 4 and 6 of part A); or

(B) two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution from the programs established under this title (except subparts 4 and 6 of part A and section 428B).

(3) Two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution pursuant to subpart 1 of part A of this title.

(4) A limitation, suspension or termination action by the Secretary against the institution pursuant to section 487 during the preceding five years

(5) An audit finding during the two most recent audits of an institution of higher education's conduct of the programs established by this title that resulted in the repayment by the institution of amounts greater than 5 percent of the funds such institution received from the programs assisted under this title for any one year

(6) A citation of an institution by the Secretary for failure to submit audits required by this title in a timely fashion

(7) A year-to-year fluctuation of more than 25 percent in the amounts received by students enrolled at the institution from either federal Pell Grant, federal Stafford Loan or federal Supplemental Loans to Students programs, which are not accounted for by changes in these programs.

(8) Failure to meet financial responsibility standards pursuant to subpart 3 of this part

(9) A change of ownership of the institution that results in a change of control which includes (but is not limited to)

(A) the sale of the institution or the majority of its assets;

(B) the decision of one or more institutions into two or more institutions;

(C) the transfer of the controlling interest in stock of the institution or its parent corporation,

(D) the transfer of the controlling interest of stock of the institution to its parent corporation; or

(E) the transfer of the liabilities of the institution to its parent corporation

(10) Except with regard to any public institution that is affiliated with a state system of higher education, participation in any of the programs established pursuant to subparts 1 and 3 of part A, part B, part C, and part E of this title for less than five years

(11) A pattern of student complaints pursuant to subsection (j) related to the management or conduct of the programs established by this title or relating to misleading or inappropriate advertising and promotion of the institution's program, which in the judgment of the Secretary are sufficient to justify review of the institution.

(C) USE OF RECENT DATA—The criteria provided for in subsection (b) shall be measured on the basis of the most recent data available to the Secretary. Institutions may request verification of the data used by the Secretary.

(d) Review Standards—Institutions which meet 1 or more of the criteria in subsection (b) shall be reviewed by the appropriate State entity in accordance with published State standards that are consistent with the constitution and laws of the State, developed in consultation with the institutions in the State, and subject to disapproval by the Secretary. Such review shall determine the following:

(1) The availability to students and prospective students of catalogs, admissions requirements, course outlines, schedules of tuition and fees, policies regarding course cancellations, and the rules and regulations of the institution relating to students and the accuracy of such catalogs and course outlines in reflecting the courses and programs offered by the institution.

(2) Assurance that the institution has a method to assess a student's ability to successfully complete the course of study for which he or she has applied.

(3) Assurance that the institution maintains and enforces standards relating to academic progress and maintains adequate student and other records.

(4) Compliance by the institution with relevant safety and health standards, such as fire, building and sanitation codes.

(5) The financial and administrative capacity of the institution as appropriate to a specified scale of operations and the maintenance of adequate financial and other information necessary to determine the financial and administrative capacity of the institution.

(6) For institutions financially at risk, the adequacy of provisions to provide for the instruction of students and to provide for the retention and accessibility of academic and financial aid records of students in the event the institution closes.

(7) If the stated objectives of the courses or programs of the institution are to prepare students for employment, the relationship of the tuition and fees to the remuneration that can be reasonably expected by students who complete the course or program and the relationship of the courses or programs (including the appropriateness of the length of such courses) to providing the student with quality training and useful employment in recognized occupations in the State.

(8) Availability to students of relevant information by institutions of higher education, including

(A) information relating to market and job availability for students in occupational, professional and vocational programs; and

(B) information regarding the relationship of courses to specific standards necessary for State licensure in specific occupations.

(9) The appropriateness of the number of credit or clock hours required for the completion of programs or of the length of 600-hour courses.

(10) Assessing the actions of any owner, shareholder or person exercising control over the educational institution which may adversely affect eligibility for programs under this title.

(11) The adequacy of procedures for investigation and resolution of student complaints.

(12) The appropriateness of advertising and promotion and student recruitment practices.

(13) That the institution has a fair and equitable refund policy to protect students.

(14) The success of the program at the institution, including

(A) the rates of the institution's students' program completion and graduation, taking into account the length of the program at the institution and the selectivity of the institution's admissions policies,

(B) the withdrawal rates of the institution's students;

(C) with respect to vocational and professional programs, the rates of placement of the institution's graduates in occupations related to their course of study;

(D) where appropriate, the rate at which the institution's graduates pass licensure examinations; and

(E) the variety of student completion goals, including transfer to another institution of higher education, full time employment in the field of study and military service.

(15) With respect to an institution which meets one or more of the criteria in subsection (b), the State shall contract with the appropriate approved accrediting agency or association (described in subpart 2 of this part) or another peer review system with demonstrated competence in assessing programs (pursuant to the authority contained in subsection (f)) to carry out or renew or provide information regarding such agency's or association's assessment of the following: The quality and content of the institution's courses or programs of instruction,

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training or study in relation to achieving the stated objectives for which the courses or programs are offered, including the adequacy of the space, equipment, instructional materials, staff and student support services (including student orientation, counseling and advisement) for providing education and training that meets such stated objectives.

(e) **SUBSTITUTIONS PROHIBITED**—The appropriate State postsecondary review entity may not substitute either (1) accreditation by a private accrediting agency or body, or (2) compliance audits performed by a state guaranty agency established under section 428(b) of this title, for State review of compliance with the standards in subsection (d).

(f) **STATE CONTRACTS**—If the appropriate State postsecondary review entity contracts with a private agency or body or an accreditation body or peer review system for assistance in performing State postsecondary review entity functions, such contract shall be provided for in the agreement with the Secretary required by section 494A.

(g) **PROHIBITION ON UNRELATED REQUIREMENTS**—Notwithstanding any of the provisions of this subpart, the Secretary shall not require a State to establish standards that are unrelated to ensuring institutional or program integrity or that violate the provisions of a State's constitution or laws.

(h) **INSTITUTIONAL ELIGIBILITY**—A State postsecondary review entity may determine that an institution of higher education shall not be eligible to participate in programs under this title based on its own findings or the findings of a federal entity in accordance with the following procedures:

(1) **STATE FINDINGS**—If the appropriate State postsecondary review entity finds that an institution of higher education does not meet one or more of the standards in subsection (d) of this section, such State postsecondary review entity shall notify the Secretary of its findings and the actions that such entity is taking, or has taken, in response to such findings within a time period prescribed by the Secretary by regulation. If a State postsecondary review entity determines an institution of higher education shall not be eligible for participation in programs under this title, such State postsecondary review entity shall so notify the Secretary. Upon receipt of such notification of ineligibility, the Secretary shall immediately terminate the participation of such institutions in the programs authorized by this title.

(2) **SECRETARY'S FINDINGS**—If the Secretary or any other federal entity takes, or plans to take, any action against any institution of higher education (including any actions taken under section 487), the Secretary shall notify the appropriate State postsecondary review entity (or entities, in the case of multi-state institutions) of such action within a time period prescribed in the Secretary's regulations.

(3) **PROCEDURAL PROTECTIONS FOR DISAPPROVAL**—The Secretary shall, by regulation, prescribe minimum procedural standards for the disapproval of institutions of higher education by the appropriate State postsecondary review entity or entities for purposes of this title.

(i) **LIMIT ON STATE POSTSECONDARY REVIEW AGENCY FUNCTIONS**—The functions of State postsecondary review entity shall not include performing financial and compliance audits as may be required under section 428 or 487 of this Act.

(j) **CONSUMER COMPLAINTS**—A state, in consultation with the institutions of higher education in the state, shall establish and publicize the availability of procedures for receiving and responding to complaints from students, faculty and others about institutions of higher education and shall keep records of such complaints to determine their frequency and nature for specific institutions of higher education.

(k) **ENFORCEMENT MECHANISMS**—Nothing in this subpart shall restrict the authority of the States to establish mechanisms to enforce the standards established under subsection (d) or require the States to establish specific mechanisms recommended by the Secretary.

(20 U S C 1099a-3) Enacted July 23, 1992, PL 102-325, sec 499, 106 Stat 637.

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American Association of State  
Colleges and Universities

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National Association of Independent  
Colleges and Universities

**AACC**

American Association  
of Community Colleges



National Association of State Universities  
and Land-Grant Colleges

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