






TO: The Honorable the Members of the Board of Regents

FROM: John L. D'Agati 

SUBJECT: Proposed Amendments to Section 4-1.3 of the Rules of the Board of Regents Relating to Voluntary Institutional Accreditation for Title IV Purposes

DATE: September 6, 2018

AUTHORIZATION(S):  

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents adopt the proposed amendments to §4-1.3 of the Rules of the Board of Regents relating to Voluntary Institutional Accreditation for Title IV Purposes?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

The proposed amendments are submitted to the full Board for adoption at its September 2018 Board of Regents meeting. (Attachment A is a copy of the proposed amendments.)

Procedural History

A Notice of Proposed Rule Making was published in the State Register on May 23, 2018. Supporting materials are available upon request from the Secretary to the Board of Regents. Following the 60-day public comment period required under the State Administrative Procedure Act, the Department received comments on the proposed amendments. (Attachment B is the Assessment of Public Comment.)

Background Information

On February 8, 2018, the Department appeared before the National Advisory Committee on Institutional Quality and Integrity (NACIQI) concerning the petition of the Board of Regents and Commissioner of Education for renewal of recognition by the U.S. Secretary of Education as an institutional accrediting agency. NACIQI is charged with making a recommendation to the Secretary of Education concerning applications for recognition as institutional accrediting agencies. At the February 8, 2018 NACIQI meeting, the Committee accepted the following motion concerning the Board of Regents and Commissioner of Education's recognition:

NACIQI recommends to continue the agency's current recognition and require the agency to come into compliance within 12 months, and submit a compliance report 30 days after the 12 month period that demonstrates the agency's compliance.

NACIQI identified one area of noncompliance in the Rules of the Board of Regents regarding the language in §4-1.3(b) concerning duration of accreditation. NACIQI felt that the language concerning extensions of the term of accreditation as determined by the Commissioner should be amended to be explicit about the use of administrative extensions, and to ensure that enforcement timelines are not exceeded.

The proposed amendment would make clear that the extensions provided for in this section of the Rules of the Board of Regents are specifically administrative in nature, and are granted for reasons such as the scheduling of site visits, meetings of the Board of Regents or the Regents Advisory Council, etc., and that these administrative extensions do not extend the corrective action period granted to an institution to come into compliance with the standards for accreditation.

Upon enactment of the proposed amendment, the Department will prepare the required compliance report for submission to NACIQI.

In the Regents 2017-2018 State Budget Priorities, the Board proposed the enactment of an appropriation that would allow the Department to charge fees for institutional accreditation and spend the funds raised by those fees on expenses incurred in conducting the accreditation function, including the addition of dedicated accreditation staff.

The approved FY 2019 State Budget included the necessary spending authority language for the Department. An account will be established for the funds raised by fees charged to institutions applying for accreditation and those institutions accredited by the Regents and Commissioner of Education.

The proposed amendment establishes a fee structure for institutional accreditation by the Board of Regents and Commissioner of Education. The proposed fee structure is based upon the number of institutions currently accredited by the Board of Regents and Commissioner. As the number of accredited institutions changes, the Department will review the fee schedule to ensure that it is sufficient to meet the expenses related to

accreditation and make recommendations to the Regents for any necessary revisions to the fee schedule.

Related Regents Items

[May 2018](http://www.regents.nysed.gov/common/regents/files/518hed1.pdf) <http://www.regents.nysed.gov/common/regents/files/518hed1.pdf>

Recommendation

Department staff recommends that the Board of Regents take the following action:

VOTED: That §4-1.3 of the Rules of the Board of Regents be amended, as submitted, effective October 3, 2018.

Timetable for Implementation

If adopted at the September 2018 meeting, the proposed amendment will become effective on October 3, 2018.

Attachment A

AMENDMENT TO THE RULES OF THE BOARD OF REGENTS

Pursuant to sections 207, 210, 212, 214, 215 and 305 of the Education Law.

1. Subdivision (b) of Section 4-1.3 of the Rules of the Board of Regents, shall be amended, as follows:

(b) Duration of accreditation. Accreditation shall be for a term of 10 years unless otherwise limited to a lesser period for good cause as determined by the commissioner and the Board of Regents, based upon a review conducted pursuant to this Subpart.

[The term of accreditation may be extended by the commissioner on one or more occasions for a period not to exceed 12 months on each occasion for good cause as determined by the commissioner, including but not limited to inability to conduct site visits because of unforeseen events and the department's plan to coordinate a site visit with a site visit by another accrediting agency.] One or more administrative extensions of the term of accreditation may be granted for a period not to exceed 12 months on each occasion for good cause as determined by the Commissioner, for reasons including but not limited to, an inability to conduct site visits because of unforeseen events and/or the scheduling of a meeting of the Regents Advisory Council on Institutional Accreditation and/or the Board of Regents, provided however that an administrative extension granted by the Commissioner pursuant to this subdivision shall not extend the corrective action period granted to an institution pursuant to section 4-1.3(d)(ii) of this Subpart.

2. A new paragraph (i) shall be added to Section 4-1.3 of the Rules of the Board of Regents, as follows:

(i) Fees.

(1) Applications for initial accreditation pursuant to section 4-1.5 of this Subpart shall include a non-refundable payment of \$3,000 to the Department for expenses related to the review of the self-study submitted pursuant to section 4-1.5(a)(3) of this Subpart.

(2) Institutions seeking initial accreditation pursuant to this Subpart, for which the Department has determined that the self-study is sufficient in depth and breadth to form a reasonable basis for a site review to be conducted pursuant to section 4-1.5(a)(4) of this Subpart shall remit to the Department a fee of \$10,000 for expenses related to the site visit and subsequent procedures related to initial accreditation pursuant to this Subpart.

(3) Institutions accredited by the Commissioner and the Board of Regents pursuant to this Subpart shall remit a non-refundable annual fee of \$35,000 in a timeframe and manner prescribed by the Department for expenses related to accreditation. Failure to remit the annual fee in accordance with the schedule set by the Department shall result in an adverse accreditation action against the institution.

(4) The filing of an appeal of a determination of an adverse accreditation action pursuant to section 4-1.5(a)(11) of this Subpart shall include a payment of \$10,000 for expenses related to processing such appeal.

(5) The Department shall periodically review, and if necessary revise, this fee schedule to ensure that it is sufficient to meet the expenses related to accreditation.

ASSESSMENT OF PUBLIC COMMENT

Since publication of the Notice of Proposed Rule Making in the State Register on May 23, 2018, the State Education Department (SED) received two comments on the proposed amendment. Below is an assessment of the public comments received.

1. COMMENT:

While expressing their general support for the Department's proposal to establish fees to be charged to accredited institutions, both commenters expressed concern about the amount of the proposed fees and indicated that the proposed fees may deter institutions from remaining accredited by the Regents. One commenter suggested basing fees on a sliding scale, using factors such as enrollment, number of degree programs and campuses, and complexity of types and levels of degrees, to determine the fees for each institution.

DEPARTMENT RESPONSE:

The proposed fee structure is based upon the projected expenses for the accreditation work conducted by the Department. Absent a State budget appropriation that would provide the Department with the necessary resources, the Department must ensure that the fees charged for accreditation each year will provide sufficient resources to cover the Department's expenses. The Department does not believe that a sliding scale for fees will provide a stable base of resources to cover expenses.

2. COMMENT:

One commenter expressed concern that because the proposed fee structure may deter institutions from seeking accreditation by the Regents, less revenue than projected may be generated, resulting in the possibility of the need to increase the fees for the institutions that continue to seek Regents accreditation, and may ultimately result in the unsustainability of the accreditation function.

DEPARTMENT RESPONSE:

Absent an alternative and stable source of revenue to support the accreditation work, the Department must establish a fee structure to provide the necessary resources. Should the revenue generated by the proposed fee structure prove to be insufficient to cover the expenses of the work, and before any increase in fees would be proposed or enacted, the Department and the Regents would reexamine the continuation of the accreditation function.

3. COMMENT:

One commenter suggested that, while accredited institutions should bear a portion of the cost of accreditation, because the accredited institutions make a contribution to New York State by “enriching the academic and scientific landscape in New York,” make “real and tangible contributions to the State’s economy,” and are a “public good,” the taxpayers of New York should make an equal contribution to the costs for accreditation via a State budget appropriation. The commenter suggests that the accredited institutions and the Department work together to secure an appropriation of State funds to offset the proposed fees.

DEPARTMENT RESPONSE:

The Department has, as the commenter indicated, expressed its willingness to continue efforts to secure a State budget appropriation to support some portion of the resources necessary to cover the expenses associated with the Department's accreditation work. Should such an appropriation be provided, the Department would propose a revised fee structure that would reduce the level of fees charged to accredited institutions.