

**Revised Regulatory Language Following Caucus on "Separate and Independent" and "Conflict of Interest Issues"**  
**May 19, 2026**

**§ 602.14 Purpose and organization.**

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(b) For purposes of this section, "separate and independent" means that—

(1) The members of the agency's decision-making body, who decide the accreditation or preaccreditation status of institutions or programs, establish the agency's accreditation policies, or both, are not elected or selected by the board or chief executive officer of any related, associated, ~~or~~ affiliated trade association, ~~or~~ professional organization, ~~or membership organization~~ and are not staff of the related, associated, ~~or~~ affiliated trade association, ~~or~~ professional organization, ~~or membership organization~~;

**Commented [A1]:** "Membership organization" is covered by new definition of "related, associated, or affiliated trade association" in 602.3

(2) At least one member of the agency's decision-making body is a representative of the public, and at least one-seventh of the body consists of representatives of the public;

(3) The agency has established and implemented ~~guidelines~~ **mandatory conflict of interest controls** for each member of the decision-making body **in accordance with § 602.15(e); including guidelines policies to on avoiding conflicts of interest in making decisions, including by ensuring that members of the standards and policy-making body, which may be different than the decision-making body, do not vote on, supervise, or otherwise participate in the setting of standards or policies (including student achievement standards) that directly or indirectly impact or affect any institution or program that such a member is an officer, director, or employee;**

**Commented [A2]:** Included in 602.15(e)(2) below

(4) The agency's dues are paid and held separately from any dues paid to any related, associated, or affiliated trade association, or professional organization, standard setting organization, State certification organization, or membership organization; and

~~(5) The agency's dues are determined without review by any related, associated, or affiliated trade association, professional organization, standard setting organization, State certification organization, or membership organization;~~

Commented [A3]: Included in 602.15(e)(3) below

~~(6) (5) The agency develops and determines its own budget, without with no review by or consultation with any other entity or organization, including any related, associated or affiliated trade association, or professional organization, standard setting organization, State certification organization, or membership organization;~~

~~(7) The agency does not share resources, such as personnel, services, equipment, facilities, or information technology, and does not have office space in the same building with any related, associated, or affiliated trade association, professional organization, standard setting organization, State certification organization, or membership organization. The requirement in this paragraph for separate office space will take effect one year after the effective date of this section;~~

Commented [A4]: Included in 602.15(e)(4) below

~~(8) The agency has sufficient controls to ensure that any officers, directors, employees, or volunteers of the agency do not share or solicit feedback formally or informally regarding any of the agency's policies, standards, or decisions with respect to any institution or program from any related, associated, or affiliated trade association, professional organization, standard setting organization, State certification organization, or membership organization, except that this provision does not apply to any agency action to solicit public feedback on such policies, standards, or decisions so long as general members of the public are also able to provide feedback;~~

Commented [A5]: Included in 602.15(e)(5) below

~~(9) The agency affirmatively disclaims on its website that it is not connected to any related, associated, or affiliated trade association, professional organization, standard setting organization, State certification organization, or membership organization;~~

**Commented [A6]:** Included in 602.15(e)(6) below

~~(106) The agency trains staff annually regarding the requirement to be "separate and independent," including by training staff regarding the controls it has in place to ensure that it remains "separate and independent";~~

~~(11) The agency establishes a complaint process whereby employees, institutions, programs, or members of the public may submit complaints on a named or anonymous basis regarding purported violations of the "separate and independent" requirements.~~

~~(127) The chief executive of the agency submits a signed statement certifying to the Department staff that it has met the requirements to be "separate and independent" within each petition for recognition submitted to the Department on an annual basis, and includes in that statement information regarding any complaints received under paragraph (10) during the current recognition period in the past year that are material or that are over 90 days old and have been unresolved at the time of the submission.;~~

**Commented [A7]:** Reporting period aligns with current ED processing and reporting expectations.

~~(13) The agency, including any officers, directors, employees, or volunteers of the agency will not act, nor encourage any other entity to act, to restrict access to employment in a profession, occupation, or vocation, including by taking steps to increase credentialing standards, to increase the cost or level of required education or training, or to decrease the availability of education or training in a manner that may benefit any related, associated, or affiliated trade association, professional organization, standard setting organization, State certification organization, or membership~~

**Commented [A8]:** Included in 602.15(e)(7) below

organization, unless the agency demonstrates, based on clear and convincing evidence in the administrative record, that the restriction is necessary to protect the public and that the expected public benefits outweigh the costs to the public from reduced access to the profession, occupation, or vocation. In making this determination, the agency must demonstrate that no less restrictive alternative would adequately protect the public. The agency may not rely solely on requirements, recommendations, or standards adopted by any trade association, professional organization, licensing body, or other related entity as justification for such restrictions. The agency must document this analysis in the administrative record and make it available to the Secretary upon request.

(i) This provision does not apply to any agency action to solicit public feedback on such policies, standards, or decisions so long as general members of the public are also able to provide feedback.

(ii) Nothing in this paragraph shall be construed to limit, displace, or preempt State authority over higher education or professional licensure, whether exercised through statute, regulation, or other policy or administrative action, nor to prohibit accrediting agencies from complying with applicable State requirements; and

(14) Any officers, directors, or employees of an agency must not interlock by serving as a paid or unpaid officer, director, employee, or volunteer of both the agency and any related, associated, or affiliated trade association, professional organization, standard setting organization, State certification organization, membership organization, State licensing board, or similar body, unless required by State law.

**§ 602.15 Administrative and fiscal responsibilities.**

The agency must have the administrative and fiscal capability, including conflict of interest controls, to carry out its accreditation activities in light of its requested scope of recognition. The agency meets this requirement if the agency demonstrates that-

(a) The agency has-

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~~(56) Clear and effective controls, including guidelines, to prevent or resolve conflicts of interest, or the appearance of conflicts of interest, by the agency's-~~

Commented [A9]: Moved to 602.15(e)(1)

~~(i) Board members Officers and Directors;~~

~~(ii) Commissioners Employees (including temporary, part-time, and full-time employees);~~

~~(iii) Evaluation team members;~~

~~(iv) Consultants and Contractors;~~

~~(v) Administrative staff Volunteers; and~~

~~(vi) Other agency representatives.~~

(Note: For discussion purposes, only "new" changes from moved, previous text is highlighted here. All of paragraph (e) is new. )

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(e) The agency has clear and effective controls, including guidelines, to-

(1) ~~Has clear and effective controls, including guidelines, to prevent or resolve conflicts of interest, or the appearance of conflicts of interest, by the agency's-~~

Commented [A10]: Moved to stem of the section

(i) Officers and Directors;

(ii) Employees (including temporary, part-time, and full-time employees);

(iii) Evaluation team members;

(iv) Consultants and Contractors;

(v) Volunteers; and

(vi) Other agency representatives.

(2) Ensure that members of the standards and policy-making body, which may include members of the decision-making body, do not vote **as members of the decision-making body** on the setting of standards or policies ~~(including student achievement standards)~~ that ~~directly or indirectly impact or affect~~ any institution or program that such a member is an officer, director, or employee;

(3) Determines its dues without review by any related, associated, or affiliated trade association or professional organization, ~~standard setting organization, State certification organization, or membership organization;~~

(4) Does not share resources, such as personnel, services, equipment, facilities, or information technology, and does not have office space in the same building as any related, associated, ~~or~~ affiliated trade association, ~~or~~ professional organization, ~~standard setting organization, State certification organization, or membership organization.~~ The requirement in this paragraph for separate office space will take effect one year after the effective date of this section;

(5) Has sufficient controls to ensure that any officers, directors, employees, or volunteers of the agency do not share or solicit feedback regarding **any of** the agency's policies, standards, or decisions with respect to any institution or program from any related, associated, ~~or~~ affiliated trade association or professional organization, ~~standard setting organization, State certification organization, or membership organization,~~ except that this provision does not apply to any agency action to solicit public feedback **in a review of standards in accordance with § 602.21** on such policies, standards, or decisions so long as general members of the public are also able to provide feedback;

(6) Prominently discloses on its website all relationships with related, associated, ~~or~~ affiliated trade associations, ~~or~~ professional organizations, ~~standard setting organization, State certification organization, or membership organization;~~ and

(7) (i) Will not act to restrict access to employment in a profession, occupation, or vocation unless the agency provides clear and convincing evidence to the Secretary that:

(A) the restriction is necessary to protect the public;

(B) the expected public benefits outweigh the costs to the public from reduced access to the profession, occupation, or vocation; and

(C) no less restrictive alternative would adequately protect the public.

(ii) For the purposes of this subsection, restricting access to employment includes:

(A) taking steps to increase credentialing standards;

(B) increasing the cost or level of required education or training; or

(C) decreasing the availability of education or training in a manner that may benefit any related, associated, or affiliated trade association, professional organization.