



**THE SECRETARY OF EDUCATION**  
WASHINGTON, D.C. 20202

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In the matter of

**COMMISSION ON COLLEGIATE  
NURSING EDUCATION,**

Respondent.

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**Docket No. 17-56-O**

Accrediting Agency  
Recognition Proceeding

**DECISION OF THE SECRETARY**

The Commission on Collegiate Nursing Education (CCNE) has appealed a September 20, 2017, letter (Decision Letter) issued by the Senior Department Official (SDO) regarding its application for renewal of recognition by the U.S. Department of Education (Department). In the Decision Letter, SDO Holly Ham found CCNE out of compliance with several recognition criteria and required CCNE to take certain actions within 120 days to become compliant. CCNE has appealed the Decision Letter, requesting that I reverse the SDO's decision and find CCNE compliant with all recognition criteria.

In making a final decision for the Department, I will review the record and arguments of the parties *de novo*. After a careful review, I find that CCNE is compliant with the Department's recognition criteria. Therefore, I will reverse the SDO's decision and renew CCNE's recognition as described below.

I. Background

CCNE is a nationally recognized programmatic accrediting agency.<sup>1</sup> CCNE first obtained recognition from the Department in 2000 and was most recently re-recognized in 2014.<sup>2</sup> In 2009, CCNE sought approval from the OPE Chief of Accrediting Agency Evaluation, Carol Griffiths, for a policy change. The proposed new policy would allow CCNE to date accreditation decisions with a date prior to the CCNE Board's<sup>3</sup> actual decision.<sup>4</sup> According to CCNE, it formulated this policy after receiving comments from the field that CCNE should conform its practice to those of other accreditors and to protect the first class of students enrolled

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<sup>1</sup> Comments on Behalf of the Staff of the Office of Postsecondary Education (OPE), July 1, 2017 (Staff Comments), p. 2.

<sup>2</sup> *Id.*

<sup>3</sup> The decision-making body for CCNE is its Board of Commissioners. For the sake of simplicity, "board" will be hereafter used generically to refer to the decision-making body of an accrediting agency.

<sup>4</sup> *Id.*, p. 4.

in programs seeking CCNE accreditation.<sup>5</sup> Ms. Griffiths apparently approved of this policy in an email exchange.<sup>6</sup>

Since 2009, CCNE has operated under this policy.<sup>7</sup> Decisions by CCNE's Board to grant accreditation take effect on the date CCNE's evaluators most recently conducted a site visit with a program.<sup>8</sup> CCNE operated under this policy while being recognized by the Department in 2012 and 2014. Until the instant proceeding, the Department has not questioned CCNE's application of this policy in its prior recognition decisions.<sup>9</sup>

In March 2016, Staff Director Herman Bounds, Jr. advised CCNE in a conference call that CCNE's policy concerning accreditation decisions with retroactive application is incongruent with the recognition criteria. Mr. Bounds memorialized this position in two letters to CCNE and advised CCNE it should revise its policies prior to seeking renewal of recognition in January 2017.<sup>10</sup> CCNE responded that it did not believe its policy was contrary to the recognition criteria and, in fact, many accreditors had similar policies.<sup>11</sup> In a letter dated June 6, 2017, Mr. Bounds informed all recognized accrediting agencies of his office's position that retroactive accreditation does not comply with the recognition criteria.

CCNE disagreed with the Department and did not revise its policy. OPE accreditation staff subsequently provided its recommendation to NACIQI that CCNE was out of compliance with the recognition criteria. NACIQI considered CCNE's case during its yearly meeting on June 21, 2017, where it received presentations by CCNE, Department staff and representatives from accredited programs.

In no uncertain terms, representatives from nursing programs expressed their institutions' support for CCNE's practice of making accreditation decisions effective as of the date of a site visit. They stated that eliminating this practice would "significantly impact[]"<sup>12</sup> nursing students and would "put students at risk"<sup>13</sup> who need credentials from accredited programs to pursue careers in their chosen fields. One program representative opined that the Department's policy would be "incredibly problematic" for first generation students and students from disadvantaged backgrounds.<sup>14</sup> Another representative stated that even at a premiere institution like Johns Hopkins University, the expectation that a new program will receive accreditation for the first class of students "is essential."<sup>15</sup>

In considering CCNE's case, one NACIQI member noted that making accreditation decisions with retroactive effect was "a long-standing practice that lots of agencies have engaged

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<sup>5</sup> Transcript of the National Advisory Committee on Institutional Quality and Integrity (NACIQI), June 21, 2017 (NACIQI Transcript), p. 201.

<sup>6</sup> Staff Comments, p. 4.

<sup>7</sup> *Id.*, p. 2.

<sup>8</sup> *Id.*, pp. 2–3.

<sup>9</sup> *Id.*, pp. 4–5.

<sup>10</sup> *Id.*, p. 5 (citing letters dated Jul. 14, 2016 and Nov. 17, 2016).

<sup>11</sup> *Id.*

<sup>12</sup> NACIQI Transcript, p. 214.

<sup>13</sup> *Id.*, pp. 215–216.

<sup>14</sup> *Id.*, p. 216.

<sup>15</sup> *Id.*, p. 219.

in” and questioned whether it was appropriate for the Department to repudiate that practice with a “Dear Colleague” letter.<sup>16</sup> Another member expressed his opinion that forbidding accreditation decisions with retroactive effect would be “potentially devastating . . . to students across the county.”<sup>17</sup> Yet another noted that despite the Department’s good intentions, the proscription of such decisions would have “severe . . . consequences, not just in nursing but to so many others.”<sup>18</sup> In its formal recommendation to the SDO, NACIQI stated that it did not support the Department’s prohibition on the accreditor’s Board setting the effective date of its decisions, found CCNE in compliance with the recognition criteria and recommended a five-year grant of continued recognition.

The SDO considered NACIQI’s recommendation, the input of CCNE and the Department’s staff. In the Decision Letter, the SDO held with the Department’s staff, finding a “current and clear policy” against retroactive accreditation decisions in Herman Bounds’ letter.<sup>19</sup> She also found the definition of accreditation at 34 C.F.R. § 602.3 to require accreditation status to apply only prospectively.<sup>20</sup> Finally, she found CCNE out of compliance with recognition criteria at §§ 602.15(a)(2), 602.20(a) and (b), and 602.23(a).<sup>21</sup> CCNE appealed the Decision Letter leading to the case before me.

Since this appeal came before me, a new memorandum was issued by the Principal Deputy Under Secretary, Delegated to Perform the Duties of Under Secretary and Assistant Secretary for the Office of Postsecondary Education (PDUS). The memorandum adopted NACIQI’s recommendation as to the policy of the Department to “permit the retroactive application of a date of accreditation, following an affirmative accreditation decision.”<sup>22</sup> In light of this memo, I allowed the parties an opportunity to further brief the case. The parties agreed that, if I agree with the new memorandum, I should vacate the SDO’s decision with regard to CCNE’s policy.

I will now turn to my analysis of the recognition criteria in the context of CCNE’s case.

## II. Analysis

CCNE’s case turns almost exclusively on the issue of whether accrediting agency boards can set effective dates for their decisions.<sup>23</sup> I agree with CCNE’s position, NACIQI’s recommendation and the recently established Departmental policy in the July 25, 2018 memorandum. As CCNE argues, its evaluation of a live program allows a more thorough and

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<sup>16</sup> *Id.*, p. 158.

<sup>17</sup> *Id.*, p. 243.

<sup>18</sup> *Id.*, p. 247.

<sup>19</sup> Decision Letter, p. 2.

<sup>20</sup> *Id.*

<sup>21</sup> The language in these criteria is mostly incident to the issue of setting an effective date for an accreditation decision and will be discussed more thoroughly later.

<sup>22</sup> Memo dated July 25, 2018.

<sup>23</sup> The Staff recommendation to NACIQI would also require CCNE to submit documentation within 10 days of its compliance with § 602.20(b). NACIQI adopted this recommendation, and the SDO incorporated it into her decision. By letter dated September 26, 2018, the PDUS acknowledged that CCNE has demonstrated its compliance with § 602.20(b). Therefore, there is no need to address that portion of NACIQI’s recommendation concerning § 602.20(b).

concrete analysis than merely evaluating a new program as planned. Furthermore, the flexibility of accrediting a compliant program after its first year protects the first graduates of the program who might otherwise receive a credential that does not qualify them for important career opportunities.

Based on the above analysis, I reverse the decision of the SDO and adopt NACIQI's recommendation.

**ORDER**

ACCORDINGLY, the decision of the SDO is HEREBY REVERSED. I adopt the recommendation of NACIQI, finding CCNE compliant with the recognition criteria, renewing its recognition for a period of five years and approving its requested Expansion of Scope to Accredited Certificates.

So ordered this 1<sup>st</sup> day of October 2018.

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Washington, D.C.

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