

agency's deficiencies do not warrant immediate loss of recognition and if it concludes that the agency will demonstrate or achieve compliance with the criteria for recognition and effective performance with respect to those criteria before the expiration of the deferral period.

(ii) In its deferral recommendation, the Advisory Committee states the bases for its conclusions, specifies any criteria for recognition the agency fails to meet, and identifies any areas in which the agency fails to perform effectively with respect to the criteria.

(iii) The Advisory Committee also recommends a deferral period, which may not exceed 12 months, either as a single deferral period or in combination with any expiring deferral period in which similar deficiencies in compliance or performance were cited by the Secretary.

(c) At the conclusion of its meeting, the Advisory Committee forwards its recommendations to the Secretary through the senior Department official.

(d) For any Advisory Committee recommendation not appealed under § 602.33, the senior Department official includes with the Advisory Committee materials forwarded to the Secretary a memorandum containing the senior Department official's recommendations regarding the actions proposed by the Advisory Committee.

(Authority: 20 U.S.C. 1099b and 1145)

§ 602.33 How may an agency appeal a recommendation of the Advisory Committee?

(a) Either the agency or the senior Department official may appeal the Advisory Committee's recommendation. If a party wishes to appeal, that party must—

(1) Notify the Secretary and the other party in writing of its intent to appeal the recommendation no later than 10 days after the Advisory Committee meeting;

(2) Submit its appeal in writing to the Secretary no later than 30 days after the Advisory Committee meeting; and

(3) Provide the other party with a copy of the appeal at the same time it submits the appeal to the Secretary.

(b) The non-appealing party may file a written response to the appeal. If that party wishes to do so, it must—

(1) Submit its response to the Secretary no later than 30 days after receiving its copy of the appeal; and

(2) Provide the appealing party with a copy of its response at the same time it submits its response to the Secretary.

(c) Neither the agency nor the senior Department official may include any new evidence in its submission; i.e., evidence it did not previously submit to the Advisory Committee.

(Authority: 20 U.S.C. 1099b and 1145)

REVIEW AND DECISION BY THE
SECRETARY

§ 602.34 What does the Secretary consider when making a recognition decision?

The Secretary makes the decision regarding recognition of an agency based on the entire record of the agency's application, including the following:

(a) The Advisory Committee's recommendation.

(b) The senior Department official's recommendation, if any.

(c) The agency's application and supporting documentation.

(d) The Department staff analysis of the agency.

(e) All written third-party comments forwarded by Department staff to the Advisory Committee for consideration at the meeting.

(f) Any agency response to the Department staff analysis and third-party comments.

(g) Any addendum to the Department staff analysis.

(h) All oral presentations at the Advisory Committee meeting.

(i) Any materials submitted by the parties, within the established timeframes, in an appeal taken in accordance with § 602.33.

(Authority: 20 U.S.C. 1099b)

§ 602.35 What information does the Secretary's recognition decision include?

(a) The Secretary notifies the agency in writing of the Secretary's decision regarding the agency's application for recognition.