

**Response to the Off-Site Committee's Preliminary Findings of
Core Requirement 2.2**

CR 2.2 The institution has a governing board of at least five members that is the legal body with specific authority over the institution. The board is an active policy-making body for the institution and is ultimately responsible for ensuring that the financial resources of the institution are adequate to provide a sound educational program. The board is not controlled by a minority of board members or by organizations or interests separate from it. Neither the presiding officer of the board nor the majority of other voting members of the board have contractual, employment, personal or familial financial interest in the institution.

X Non-Compliance

Applicable excerpts from the Off-Site Committee's report: *"----there is no documentation supporting the statement that 'neither the [presiding officer] nor any of the members of the board have contractual, employment, personal or familial financial interest in the institution--'. There is no way to know whether board members have interests in the financial or other affairs of the college. The list of board members does not indicate their professional affiliations. The Bylaws of the board contain no "conflict of interest" statement. The On-Site Review Committee should confirm that no board member has a contractual, personal or familial financial interest in the institution."*

Cape Fear Community College (CFCC) has a governing board made up of thirteen members. A complete list of the CFCC Board of Trustees is presented herein as supporting documentation in **Exhibit 2.2-A**. This same list was provided as documentation in the Compliance Certification. Contrary to the Off-Site Review Committee's report, this list does indicate professional affiliations by listing the occupations of the board members as well as identifying the office/agency by which each member received appointment/election. Chapter 115D-12 of the North Carolina General Statutes, presented as documentation in the Compliance Certification and presented herein as **Exhibit 2.2-B**, provides the mechanism for the appointment of Trustees as follows:

- Four trustees appointed by the Governor of North Carolina
- Four trustees elected by the New Hanover County Commissioners
- Four trustees elected by the New Hanover County Board of Education
- President of the CFCC Student Government Association who serves as an ex-officio, non-voting member

The Cape Fear Community College Board of Trustees' Operations Manual clearly states that it is a basic guide for the conduct of business coming before the Trustees for action (**Exhibit 2.2-C, page 1**). The Manual includes the latest revision of the Board By-Laws; Chapter 115D, the Community College Act; and certain policies and procedures directly related to the operation of the College.

The Off-Site Committee's report states, "The Bylaws of the board contain no 'conflict of interest' statement." The Commission's "Principles" however, do not prescribe that conflict of interest policies must be contained specifically in the bylaws of the approving board. A link to the following conflict of interest statement contained in the Board's Operations Manual was provided to the Off-Site Committee in the Compliance Certification, which is an excerpt from Chapter 115D, the Community College Act, found in North Carolina's General Statutes:

"115D-26. Conflict of Interest.

All local trustees and employees of community colleges covered under this Chapter must adhere to the conflict of interest provisions found in G.S. 14-234."

In accordance with the above, all CFCC Trustees are referred to North Carolina General Statute (NCGS), Chapter 14-234, which is binding and supersedes local policies. A link to NCGS 14-234 was presented to the Off-Site Committee and is provided herein as **Exhibit 2.2-D** or may be accessed on the North Carolina General Assembly Website at http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-234.html. An excerpt of pertinent information from this state statute is provided below:

"§ 14 234. Public officers or employees benefiting from public contracts exceptions.

(a) (1) No public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or as otherwise allowed by law.

(2) A public officer or employee who will derive a direct benefit from a contract with the public agency he or she serves, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract.

(3) No public officer or employee may solicit or receive any gift, reward, or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency he or she serves."

In addition to the above legislation, CFCC Board of Trustees are subject to the obligations and restrictions of the new State Government Ethics Act passed by the North Carolina General Assembly in August 2006. The new ethics act establishes the State Ethics Commission; establishes ethical standards for certain state public office holders, public employees, and appointees to nonadvisory state boards and commissions; requires public disclosure of economic interests by certain persons in the executive, legislative, and judicial branches; and amends lobbying laws.

The new State Government Ethics Commission established by the new ethics act is North Carolina's first independent bipartisan commission to oversee ethical standards for all three branches of state government. The commission will receive and evaluate financial disclosure forms, investigate complaints, provide advisory opinions and make recommendations of sanctions to appropriate authorities. A summary of the obligations/restrictions and public officials/employees covered by the new State Government Ethics Act is presented herein as **Exhibit 2.2-D2**.

Upon appointment/election to the CFCC Board of Trustees, each trustee is presented with the CFCC Board of Trustees Operations Manual and is asked to take an oath of office, promising to perform his/her duties according to the laws, policies, and procedures that govern them. To document that CFCC Board of Trustee members take this oath of office, samples of meeting minutes are provided (**Exhibit 2.2-E, page 1**, and **Exhibit 2.2-F, page 1**).

Prior to taking an oath of office, gubernatorial appointees to the Board must file a Statement of Economic Interest that is evaluated by the North Carolina Board of Ethics. Conflict of interest determinations made by the Governor's Office for all gubernatorial appointees reveal no such conflicts of interest. For example, Allen Cobb, Jr. was up for reappointment by the Governor for 2006-2010, has filed the Statement, and the Board of Ethics has determined there is no conflict of interest in his reappointment to the Board as documented in **Exhibit 2.2-G**.

Monthly statements of disbursements by the College are reviewed and approved by both the President and the Vice President of Business Services and would reveal conflicts of interest where payments are made to either trustees or their immediate family members. There have never been any indications that any prohibited financial relationship exists and there have never been such payments for anything other than nominal sums for reimbursement of travel expenses related to their official duties as trustees. These travel reimbursements are provided for by the North Carolina General Assembly in Chapter 115-D, the Community College Act, as excerpted and presented below and receipts of such expenses are presented to the college to document justification for reimbursement.

115D-17. Compensation of trustees.

Trustees shall receive no compensation for their services but shall receive reimbursement, according to regulations adopted by the State Board of Community Colleges, for cost of travel, meals, and lodging while performing their official duties. The reimbursement of the trustees from State funds shall not exceed the amounts permitted in G.S. 138-5. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1.)

Financial audits are conducted by the State Auditor's Office annually and there have never been any indications that such prohibited relationships exist. The 2005 audit was provided to the Off-Site Committee. Furthermore, the Office of the State Auditor has a hotline whereby conflict of interest complaints, as well as other types of misconduct may be reported. CFCC has not been the subject of any investigation by state auditors for any actual or perceived instances of conflicts of interest.

It is the collective opinion of the Leadership, Compliance, and Editing Teams, composed of more than 25 faculty and staff members from all divisions of the college, that no such prohibited relationships exist. These teams, along with many other college personnel,

worked together to craft, document and edit the Compliance Certification, which maintained that “Neither the presiding officer nor any of the members of the Board of Trustees have contractual, employment, personal or familial financial interest in the institution...” Furthermore, the Leadership Team's compliance report was shared with all college personnel-at-large, and no CFCC employees have questioned the results of the determinations of the Leadership Team. This kind of collective opinion regarding the accuracy of the Compliance Certification would be the equivalent of survey results, which were previously deemed acceptable under the Commission on College's *Criteria for Accreditation*.

It appears that the Off-Site Committee's finding in this instance was due to their having overlooked documentation previously provided in the Compliance Certification. As stated in the Compliance Certification, the CFCC Board of Trustees is not controlled by a minority of the Board members or by organizations or interests separate from it. Neither the presiding officer nor any of the members of the Board of Trustees have contractual, employment, personal or familial financial interest in the institution pursuant to the North Carolina General Statutes Chapter 115-26 and North Carolina General Statutes Chapter 14-234.

**Response to the Off-Site Committee’s Preliminary Findings of
Core Requirement 2.11**

CR 2.11 The institution has a sound financial base and demonstrated financial stability, and adequate physical resources to support the mission of the institution and the scope of its programs and services.

The member institution provides the following financial statements: (a) an institutional audit (or Standard Review Report issued in accordance with Statements on Standards for Accounting and Review Services issued by the AICPA for those institutions audited as part of a system wide or statewide audit) and written institutional management letter for the most recent fiscal year prepared by an independent certified public accountant and/or an appropriate governmental auditing agency employing the appropriate audit (or Standard Review Report) guide; (b) a statement of financial position of unrestricted net assets, exclusive of plant assets and plant-related debt, which represents the change in unrestricted net assets attributable to operations for the most recent year; and, (c) an annual budget that is preceded by sound planning, is subject to sound fiscal procedures, and is approved by the governing board.

Audit requirements for applicant institutions may be found in the Commission policy entitled “Accreditation Procedures for Applicant Institutions. **(Resources)**

X Non-Compliance

Applicable excerpts from the Off-Site Committee's report:

[a] *“---the institution's existing facilities may not adequately sustain the college's anticipated growth trend. In 2004, the institution had 23.6% fewer square feet per FTE than the average community college in North Carolina---The On-Site Review Committee should confirm that physical resources are adequate to support the institution's mission and scope;*

[b] *“----the institution did not present a 'statement of financial position of unrestricted net assets, exclusive of plant assets and plant-related debt' as mandated by the Commission. The On-Site Review Committee should examine this statement of unrestricted net assets.”*

Cape Fear Community College (CFCC) is committed to the effective and responsible management of its fiscal resources to maintain financial stability. Additionally, the college plans for and actively seeks physical resources sufficient to support its mission and scope of service.

[a] It appears that the Off-Site Committee's concern is based on some future point when existing facilities may indeed not be adequate to “--sustain the college's anticipated growth trend--.” CFCC concedes that the college has considerably less square footage per student than the average North Carolina community college and ranks among the most crowded of North Carolina's community colleges. Nevertheless, the existing facilities, though crowded, are at least minimally adequate to serve the existing enrollment.

When the Compliance Certification was submitted in March of 2006, the most recent figures available from the Higher Education Facilities Commission (HEFC) were for 2004. According to the calculations used for the 2004 HEFC report, Cape Fear Community College had 68 square feet of instructional space per FTE, which is 23.6% fewer square feet per FTE than the average community college in North Carolina. However, since that time Cape Fear Community College has added the Applied Technologies Building to its inventory, which includes 76,682 of assignable square feet. With this addition of assignable square footage, the HEFC report documents that CFCC's square footage per FTE has increased by 11.76%, from 68 square feet to 76 square feet. The 2005 HEFC report is presented in the Focused Report as **Exhibit 2.11-A**.

CFCC will continue to actively seek resources for the purpose of increasing physical facilities. In an effort to increase funding from external sources the college has recently added a grant-writer position to its staff. In addition, during a recent strategic planning session with about 65 faculty and staff members present, the college identified the need for additional physical resources as its primary planning priority for the coming year. The college is in the process of identifying other methods by which it might acquire funding for the needed additional physical resources.

[b] The North Carolina State Auditor's Office was performing the 2005 annual financial audit at the very time CFCC's compliance report was due, thus making it impossible to use that audit report to subsequently prepare a 2005 statement of financial position of unrestricted net assets in time for review by the Off-Site Committee. The 2005 statement of financial position of unrestricted net assets, exclusive of plant assets and plant-related debt is presented herein as **Exhibit 2.11-B**.

**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.2.2**

- CS 3.2.2** The legal authority and operating control of the institution are clearly defined for the following areas within the institution's governance structure:
- 3.2.2.3** institutional policy, including policies concerning related and affiliated corporate entities and all auxiliary services.

X Non-Compliance

Applicable excerpts from the Off-Site Committee's report: *"A general clause in state law authorizes the Board of Trustees to adopt and enforce rules, regulations, and bylaws for the government and operation of the institution. The institution's bylaws contain a similar provision. The institution asserts that it offers auxiliary services under the two cited authorities; however, the North Carolina State Board of Community Colleges has reserved to itself the following power regarding the operation of a bookstore: the North Carolina State Board of Community Colleges may adopt rules governing the expenditure of funds derived from bookstore sales by community colleges. There is no specific reference in Board of Trustees bylaws to the operation of auxiliary services, such as a bookstore, cafeteria, or child development center. The On-Site Review Committee should confirm the operating control for auxiliary services."*

The Off-Site Committee's report refers to legislation that empowers the North Carolina State Board of Community Colleges to "adopt rules governing the expenditure of funds derived from bookstore sales by community colleges." and goes on to cite "There is no specific reference in Board of Trustees bylaws to the operation of auxiliary services, such as a bookstore, cafeteria, ...".

Cape Fear Community College (CFCC) contends that this empowering state law is typical of legislation for the governance of accredited public community college systems in other states. Numerous other State Board rules restrict the use of faculty salary funding, equipment funding, literacy funding, etc., and it is not unusual that local institutions must operate within various rules established by enabling legislation and statewide governing bodies empowered to make additional rules by the same enabling legislation.

Additionally, the Commission on Colleges' requirement (CS 3.2.2.3) does not prescribe that Board Bylaws must include mention of auxiliary services. Instead, the Commission's standard specifies only that the legal authority and operating control for the policies are to be clearly defined within the institution's governance structure.

The legal authority and operating control for all policies, including policies for auxiliary services, at Cape Fear Community College are clearly established by enabling legislation of the North Carolina General Assembly (NCGS) in Chapter 115-D, the Community College Act, that empowers both State and local boards to establish rules and regulations for establishment and operation of local colleges.

Pertinent sections from that legislation have been excerpted from the North Carolina General Assembly website and provided below:

“115D-5. Administration of institutions by State Board of Community Colleges; personnel exempt from State Personnel Act; extension courses; tuition waiver; in-plant training; contracting, etc., for establishment and operation of extension units of the community college system; use of existing public school facilities.

(a) The State Board of Community Colleges may adopt and execute such policies, regulations and standards concerning the establishment, administration, and operation of institutions as the State Board may deem necessary to insure the quality of educational programs, to promote the systematic meeting of educational needs of the State, and to provide for the equitable distribution of State and federal funds to the several institutions.

115D-14. Board of trustees a body corporate; corporate name and powers; title to property.

The board of trustees of each institution shall be a body corporate with powers to enable it to acquire, hold, and transfer real and personal property, to enter into contracts, to institute and defend legal actions and suits, and to exercise such other rights and privileges as may be necessary for the management and administration of the institution in accordance with the provisions and purposes of this Chapter...

115D•20. Powers and duties of trustees.

The trustees of each institution shall constitute the local administrative board of such institution, with such powers and duties as are provided in this Chapter and as are delegated to it by the State Board of Community Colleges. The powers and duties of trustees shall include the following: ...

(7) To perform such other acts and do such other things as may be necessary or proper for the exercise of the foregoing specific powers, including the adoption and enforcement of all reasonable rules, regulations, and bylaws for the government and operation of the institution under this Chapter and...”

In NCGS 115D-54 (**Exhibit 3.2.2.3-A**) there is a specific reference to auxiliary enterprises and how the funds related to auxiliary enterprises are to be accounted for and categorized as Institutional Funds, and that the “approving authority for the institutional fund budget request shall be the board of trustees of the institution.”... The complete Community College Act, 115D, can be accessed on the website of the North Carolina Legislature at http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_115D.html

The operating control for all programs and services, including auxiliary services, is further defined in the CFCC Board of Trustees’ By-Laws, Article III, which delegates to the President the following:

“D) The President shall be in charge of and be responsible to the Board of Trustees for the maintenance and operation of the College: and shall have power to organize and supervise.

J) The President shall be responsible for preparation of annual local and State budgets to be submitted to the Board for approval...”

For further clarification on the powers and duties of the Board, the CFCC Board of Trustees’ Bylaws include the following statement in Article III:

“R) None of these rules shall be construed to limit the authority of the Board of Trustees as vested in it by Chapter 115D, General Statutes of North Carolina.”

The President of CFCC is employed by and reports directly to the CFCC Board of Trustees. The job description of the President, which is approved by the Board of Trustees and presented herein as **Exhibit 3.2.2.3-B1**, clearly states the President has a duty to “assign responsibility for administrative implementation of board policies and state regulations and procedures pertaining to all college programs, services, and activities.” Furthermore, the President’s job description empowers the President to “Interpret and apply Federal, State, and local policies, procedures, laws and regulations, including regional accreditation requirements” and to “Develop, plan and implement, with Board participation, college goals and objectives as well as policies and procedures necessary to provide college services; recommend new or modified programs and systems, and administrative and personnel policies and procedures.”

CFCC demonstrates administrative control of the operation of all auxiliary enterprises in the institution’s organizational chart (**Exhibit 3.2.2.3-B2**) and job descriptions (**Exhibit 3.2.2.3-B3**) and demonstrates financial control of the operation of auxiliary enterprises as exercised through standard institutional procedures specified by the CFCC Business Office in accordance with state rules and regulations.

The ultimate evaluation of such controls utilized for operating auxiliary services at CFCC is the fact that the Board of Trustees receives the annual Budget Resolution (see **Exhibit 3.2.2.3-C, page 4, Finance Committee**), and the annual financial audit conducted by the Office of the State Auditor (**Exhibit 3.2.2.3-D, page 4, Finance Committee**). The inclusion of auxiliary services in the annual financial audits conducted by the Office of the State Auditor provides further evidence of the inclusion of auxiliary services in the enabling legislation that established local boards of trustees in North Carolina.

Any significant changes in the provision of auxiliary services at CFCC are brought to the attention of the Board of Trustees. A recent example was during 2005-06 in a continuing effort to contain costs for students. The financial status and use of bookstore proceeds were examined, resulting in a decision to reduce markup on the wholesale cost from 18% to 15% effective Spring 2006. The Board was apprised of this change in a memorandum (**Exhibit 3.2.2.3-E, page 4**) from the College’s president.

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**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.2.2**

CS 3.2.2 The legal authority and operating control of the institution are clearly defined for the following areas within the institution's governance structure:

3.2.2.4 related foundations (athletic, research, etc.) and other corporate entities whose primary purpose is to support the institution and/or its programs.

X Non-Compliance

Applicable excerpts from the Off-Site Committee's report: *"The institution has provided extensive documentation concerning the relationship between the college and the Foundation. The institution, through the president and the chief financial officer, has access to adequate information about the Foundation and its activities. For example, all Foundation checks must be approved by the college president and the chief financial officer.*

"While there is documentation concerning the existence of the Sea Devil Club, operated as a subsidiary of the Foundation, there is no formal document establishing the club or setting its policies and procedures. The Foundation documents themselves do not reference the existence of the Sea Devil Club or any other associated subsidiary of the Foundation. The On-Site Review [Committee] should confirm the legal authority and operating control for the Sea Devil Club."

Cape Fear Community College (CFCC) erred in its use of the word "subsidiary" in the Compliance Certification in relation to the Sea Devil Club, which communicated unintended connotations to the Off-Site Committee. The Sea Devil Club is not a formal organization; it does not meet, has no officers, and conducts no business of its own. The name was devised as a simple means of recognizing donors and designating contributions in support of student athletics. No student activities groups function as "subsidiaries" of the CFCC Foundation, Inc.

The Sea Devils Club pamphlet used to apply and pay for membership to the Sea Devils Club erroneously states that the Club is a "subsidiary of the CFCC Foundation Inc." This statement will be amended the next time the pamphlets are printed.

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**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.2.3**

CS 3.2.3 The board has a policy addressing conflict of interest for its members.

X Non-Compliance

Applicable excerpts from the Off-Site Committee's report: *"The Board of Trustees is bound by conflict of interest provisions outlined in North Carolina law. There is also language in the state's Administrative Code regarding purchasing and contracts, and such language would be applicable to Board of Trustees members. However, there was no specific provision in Board of Trustees bylaws regarding inappropriate influence or conflicts of interest.*

"The college cited a conflict of interest provision in the Board of Trustee's Operations Manual. However, no link to the document was provided, and no Table of Contents for the manual was provided. The On-Site Committee should confirm that the Board of Trustees has a policy addressing conflict of interest."

The Commission on Colleges deliberately refrains from "prescribing" exact methodologies by which institutions come into compliance with various accreditation requirements. The Off-Site Committee's apparent expectation that the conflict of interest provision must be printed in its entirety and specifically in Board Bylaws for the college to be in compliance with CR 3.2.3 clearly falls within the Commission's prohibition on prescriptiveness by peer review committees.

Cape Fear Community College has a policy on conflict of interest that is state law, is binding, supersedes local policy, and is clearly referenced in the Board of Trustees' Operations Manual. The first page of the Operations Manual (**Exhibit 3.2.3-A**) states:

"This Operations Manual of the Cape Fear Community College Board of Trustees is a basic guide for the conduct of business coming before the Trustees for action. The manual includes the latest revision of the Board Bylaws; Chapter 115D, the Community College Act; and certain policies and procedures directly related to the operation of the College. It is to be used in tandem with the CFCC FACULTY/STAFF HANDBOOK for a more complete statement of College policies, procedures, rules, and regulations."

A link to the following conflict of interest statement contained in the Board's Operations Manual was provided to the Off-Site Committee in the Compliance Certification, which is an excerpt from Chapter 115D, the Community College Act:

"115D-26. Conflict of Interest.
All local trustees and employees of community colleges covered under

this Chapter must adhere to the conflict of interest provisions found in G.S. 14-234.”

In accordance with the above, all CFCC Trustees are referred to North Carolina General Statute (NCGS), Chapter 14-234, which is binding and supersedes local policies. A link to NCGS 14-234 was presented to the Off-Site Committee and is provided herein as **Exhibit 3.2.3-B** or may be accessed on the North Carolina General Assembly Website at http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-234.html. An excerpt from this state statute pertinent to conflict of interest is provided below:

“§ 14 234. Public officers or employees benefiting from public contracts exceptions.

(a) (1) No public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or as otherwise allowed by law.

(2) A public officer or employee who will derive a direct benefit from a contract with the public agency he or she serves, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract.

(3) No public officer or employee may solicit or receive any gift, reward, or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency he or she serves.”

Cape Fear Community College’s (CFCC) Compliance Certification provided a link to the applicable conflict of interest provisions in state law, contrary to the Off-Site Committee’s report. In addition to providing the link, an excerpt of the law pertinent to the issue of conflict of interest was presented in the narrative. Please refer to CFCC’s response to Core Requirement 2.2 in this document for additional discussion of this requirement.

**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.2.4**

CS 3.2.4 The governing board is free from undue influence from political, religious, or other external bodies, and protects the institution from such influence.

X Non-Compliance

Applicable excerpts from the Off-Site Committee's Report: *"--- there is no evidence to support the institution's assertion that the board and the institution are protected from undue influence from any political, religious, or other external body. The Board of Trustees bylaws do not address undue influence and conflict of interest of individual board members and do not address protection of the institution from intrusion by external bodies or entities. The institution submitted no documents or reports indicating resolution of any such matters. The On-Site Review Committee should confirm that the board to [sic] protects the institution from the influence of external bodies or entities."*

Cape Fear Community College's initial claim of compliance with this requirement was based on the integrity and opinion of the Leadership, Compliance, and Editing Teams (composed of more than 25 members from faculty and administration), which indicated that they were collectively unaware of any such prohibited undue external influences. In addition, it is believed that such a collective opinion is shared by the institution-at-large, since the Compliance Certification continues to be made available to all the college's employees and the Board of Trustees, and not one employee or Trustee has questioned the accuracy of the report on this matter. This form of collective opinion regarding the accuracy of the Compliance Certification would appear to be the equivalent to survey results that formerly demonstrated compliance with this same requirement under the Commission on Colleges' *Criteria for Accreditation*.

Furthermore, CFCC explained in the Compliance Certification the method by which Trustees are elected/appointed, along with the term limits, in order to establish that controls are in place to help safeguard against undue influences. CFCC referenced state law and provided proof that its Trustees take an oath of office in accordance with the rules and regulations that govern them.

CS 3.2.4 does not prescribe that the Board of Trustees' Bylaws must contain a policy on undue influence. The Off-Site Committees report nevertheless seems to base its decision on the fact that CFCC's Board of Trustees' Bylaws do not address the issue of undue influence, but in the original Compliance Certification the following excerpt from the CFCC Board of Trustees' Operations Manual was provided:

"This Operations Manual of the Cape Fear Community College Board of Trustees is a basic guide for the conduct of business coming before the Trustees for action. The manual includes the latest revision of the Board Bylaws; Chapter 115D, the Community College Act; and certain policies and

procedures directly related to the operation of the College. It is to be used in tandem with the CFCC FACULTY/STAFF HANDBOOK for a more complete statement of College policies, procedures, rules, and regulations.”

Additional excerpts below are from CFCC’s Compliance Certification...

North Carolina General Statutes, Chapter 115D-14 ([NCGS 115D-14](#)) empowers the Board of Trustees for North Carolina community colleges to “...institute and defend legal actions and suits, and to exercise such other rights and privileges as may be necessary for the management and administration of the institution in accordance with the provisions and purposes of this Chapter.”

The North Carolina Association of Community College Trustees’ (NCACCT) Code of Ethics provides that Trustees are not to be influenced by personal bias, political, or other outside influence. CFCC board members are educated on the Code of Ethics when they attend the mandatory orientation session sponsored by the NCACCT. Additionally, they are given a copy of the CFCC Board of Trustees’ Operations Manual and all CFCC Board of Trustee members are sworn into office thereby swearing to execute their duties of office according to the governing rules and regulations.

The NCGS 115D-14 and Board Minutes cited above are presented herein as Exhibits **3.2.4-A** and **3.2.4-B**, respectively.

The Off-Site Committee noted that CFCC *"submitted no documents or reports indicating resolution of any such matters"* because no college personnel are aware of any such instances of undue influence. It therefore follows that no such documents exist about instances that have not occurred. CFCC’s Board has never reported nor have they given any indication that they have been subjected to undue influence by political, religious, or other external bodies.

**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.2.5**

CS 3.2.5 Members of the governing board can be dismissed only for cause and by due process.

X Non-Compliance

Applicable excerpts from the Off-Site Committee's Report: *"State law specifies that board members can only be dismissed for cause and with due process.--However, the Board of Trustees bylaws set forth no conditions or procedures under which a Board of Trustees member may be removed. Regardless of the assertion by the college that the Board of Trustees adheres to state law, there is no Board of Trustees policy concerning dismissal of its members. The On-Site Review Committee should confirm that members of the Board of Trustees can be dismissed only for cause and by due process."*

Cape Fear Community College's Compliance Certification cited state law, § **115D-19 Removal of trustees**, in its entirety as the governing authority for the removal of trustees. The statute is provided herein as **Exhibit 3.2.5-A**. The North Carolina General Statutes, Chapter 115D, are incorporated into the Board's Operations Manual (see **Exhibit 3.2.5-B**). This state law, which stipulates that trustees are to be removed from office for cause and by due process, is binding for all community colleges in North Carolina and supersedes any local policies.

The Off-Site Committee's report suggests that to be in compliance CFCC's Board of Trustees should have a separate local policy to the same effect as the above General Statute. The Commission on Colleges, however, does not prescribe this duplicitous requirement in Comprehensive Standard 3.2.5. Cape Fear Community College does not believe it necessary to repeat the provision in its Bylaws when state law is already in place, binding, and incorporated into the CFCC Board of Trustees' Operations Manual.

Cape Fear Community College has not had cause, nor has the Board taken any action to remove any trustee from office in the past ten years, possibly longer.

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**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.2.8**

CS 3.2.8 The institution has qualified administrative and academic officers with the experience, competence, and capacity to lead the institution.

X Non-Compliance

Applicable excerpts from the Off-Site Committee's Report: *"The institution's job descriptions for the administrative and academic officers document the required qualifications for such positions. The institution supplied a listing of administrative and academic officers of the institution, along with their degrees. However, such information did not document that the individuals who hold the positions possess appropriate requirements or experience, nor were evaluations provided to substantiate job performance. Thus, there is no way to determine if the administrative and academic officers of the institution are experienced, competent, and have the capacity to lead the institution. The On-Site Review Committee should confirm that the institution has qualified administrative and academic officers."*

Contrary to the Off-Site Committee's report, Cape Fear Community College did provide a link in its Compliance Certification to three completed employee evaluations for the Off-Site Committee's perusal (passwords were provided for electronic access to these evaluations). Evaluations of the Executive Vice President, the Vice President of Student Development, and the Vice President of Institutional Services were submitted to document that evaluations are conducted periodically and that officers of the college perform competently in the various divisions.

The Commission's handbook directs institutions to provide only a sample of actual performance evaluations. The same evaluations are provided herein as **Exhibit 3.2.8-A**, however, identifying information has been masked for presentation in the Focused Report for confidentiality purposes. The sampling of evaluations has been expanded to augment what was presented in the original compliance report.

To further document the qualifications, competence and capacity of the college's leadership a list of all administrative and academic officers was provided in the Compliance Certification along with the attained degree(s) and a link to the complete job description of each (**Exhibit 3.2.8-A1**). To augment that documentation CFCC presents **Exhibit 3.2.8-B**, which details both the academic and experiential background of administrative and academic officers including the President, Vice-Presidents, Deans, and the Executive Director of the CFCC Foundation, Inc.

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**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.2.10**

CS 3.2.10 The institution evaluates the effectiveness of its administrators, including the chief executive officer, on a periodic basis.

X Non-Compliance

Applicable excerpts from the Off-Site Committee's Report: *"State law and Board of Trustees bylaws require the annual evaluation of the president--Board of Trustees minutes reflect that the evaluation occurred--".*

"The institution's policy and procedures manual documents the existence of administrative policies for the evaluation of all college employees, including administrators. A sample evaluation form was included, along with a sample job description of the executive vice president. However, no actual evaluations of any administrator were provided as documentation of the use of the evaluations. The On-Site Review Committee should confirm the evaluation of administrators."

As was stated in the Compliance Certification, all administrative personnel, including the President, are evaluated periodically. The Board of Trustees evaluates the performance of the President on an annual basis in accordance with the North Carolina Administrative Code, Title 23, Subchapter 2 C, section 0209 ([Evaluation of Presidents](#)). The evaluation of the President is forwarded to the North Carolina Community College System Office as required by law."

The Off-Site Committee apparently overlooked a password-protected link in CS 3.2.8 of the Compliance Certification to completed evaluations of the Executive Vice President, Vice President of Student Development and the Vice President for Institutional Services. CFCC is presenting **Exhibit 3.2.10-A** herein to include the above evaluations as well as an expanded sampling of administrative evaluations.

As was presented in 3.2.1 of the Compliance Certification, evidence that the Board of Trustees evaluates the president and reports the results to NCCCS can be found in the Board of Trustees minutes. An excerpt from the July 28, 2005 minutes shows that the Administrative and Personnel Committee presented the following: "President's Evaluation Results – Mr. Byrd, Chair of the Administrative and Personnel Committee, reported that the results of the evaluations were extremely favorable. This evaluation was reviewed with President McKeithan on July 25, 2005. A letter will be mailed to President Lancaster, NCCCS." (**Exhibit 3.2.10-B, page 6**)

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**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.2.13**

CS 3.2.13 Any institution-related foundation not controlled by the institution has a contractual or other formal agreement that (a) accurately describes the relationship between the institution and the foundation, and (b) describes any liability associated with that relationship. In all cases, the institution ensures that the relationship is consistent with its mission.

X Non-Compliance

Applicable excerpts from the Off-Site Committee's report: The institution asserts that C.S. 3.2.13 is not applicable "because the College controls the Cape Fear Community College Foundation." The Foundation bylaws indicate that The Cape Fear Community College Foundation, Inc., is a non-profit 501(c) (3) corporation whose "business and affairs (are) managed by its Board of Directors." Note 1 to the institution's FYE 2005 audited financial statements indicate that "related foundations and similar nonprofit corporations for which the College is not financially accountable...are not part of the accompanying financial statements; further, Note 14 indicates that the "Cape Fear Community College Foundation, Inc. is a separately incorporated nonprofit foundation" whose assets, liabilities, revenues, and expenditures were not included in totals presented for the college. The On-Site Review Committee should examine a contract or formal agreement that (a) accurately describes the relationship between the institution and the foundation, and (b) describes any liability associated with that relationship and confirm that the relationship between the Foundation and the College is consistent with the institution's mission.

Cape Fear Community College (CFCC) has only one foundation, the CFCC Foundation, Inc., an organization established by the CFCC Board of Trustees. Since the CFCC Foundation, Inc. was thoroughly discussed in **Comprehensive Standard 3.2.2.4**, CFCC's compliance report indicated that the college has no institution-related foundation that is **not controlled by the institution**. The Off-Site Committee's report nevertheless concluded, for the purposes of 3.2.13, that the CFCC Foundation, Inc. is an institution-related foundation not controlled by the institution, and that CFCC does not comply with this Comprehensive Standard.

CFCC finds that the Off-Site Committee's Preliminary Findings report is internally inconsistent in that the report previously stated "*The institution has provided extensive documentation concerning the relationship between the college and the Foundation*" (Off-Site Committee's Preliminary Findings, p. 12, CS 3.2.2.4).

It is CFCC's understanding that the Commission on Colleges intends applicability of CS 3.2.13 for foundations established by external entities that are not controlled by the colleges with which they might be affiliated. CFCC has no affiliations with such third-party foundations. Nevertheless, even if CS 3.2.13 also applies to the CFCC Foundation,

Inc., the Off-Site Committee's report confirms that "*the institution has provided extensive documentation concerning the relationship between the college and the foundation.*"

The CFCC Foundation Inc. operates under the legal authority and control of its Board of Directors, which includes the Chairman of the CFCC Board of Trustees and the College President as ex officio members (Foundation Bylaws as **Exhibit 3.2.13-A**). The Foundation manages all funds received and disbursed, and the College's President and Vice President of Business Services are responsible for approving expenditures and signing all checks issued by the Foundation, as is indicated in the Bylaws. Moreover, the college president's job description (**Exhibit 3.2.13-B**), as approved by the Board of Trustees, gives him ultimate control of all fund-raising activities, most of which occur through the CFCC Foundation, Inc. The Foundation personnel regularly report to the CFCC Board of Trustees on activities and fund balances as is documented in minutes of the Board. (**Exhibit 3.2.13-C, page 4, Other Reports**).

**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.2.14**

CS 3.2.14 The institution's policies are clear concerning ownership of materials, compensation, copyright issues, and the use of revenue derived from the creation and production of all intellectual property. This applies to students, faculty and staff.

X Non-Compliance

Applicable excerpts from the Off-Site Committee's report: *"Written policies in section 3.8 of the Cape Fear Community College Faculty and Staff Handbook provide clear guidelines concerning the ownership of materials, compensation, copyright issues, and the use of revenue derived from the creation and production of all intellectual property. This policy does not address students. The On-Site Review Committee should confirm that the institution has policies that apply to students."*

On July 12, 2006 the College Council of Cape Fear Community College, in response to the Off-Site Committee's Preliminary Findings report, recommended that the Patent and Copyright Policy be amended to specify its applicability to students (**Exhibit 3.2.14-A**). The recommendation was approved by the Board of Trustees in its July 20, 2006 meeting as recorded in the minutes (**Exhibit 3.2.14-B, page 4, Administrative and Personnel Committee**). The complete revised policy is provided herein as **Exhibit 3.2.14-C**.

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**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.4.3**

CS 3.4.3 The institution publishes admissions policies consistent with its mission.

X Non-Compliance

Applicable excerpts of the Off-Site Committee's report: *"---The College publishes in its Catalog and Student Handbook general admissions requirements that are consistent with its mission. General admissions policies are also available on the web-site.*

"The Catalog identifies at least eleven selective admissions programs which have additional admissions requirements specific to each program. Such selective admissions programs include Associate Degree Nursing, Dental Hygiene, and Radiology. Prospective students are directed in the Catalog to contact the College Counseling Center to obtain specific program requirements. A review of the Catalog and other admissions publications did not indicate that these specific program requirements are published anywhere. The On-Site Review Committee should confirm publication of admissions policies for the selective admissions programs."

CFCC publishes admissions policies consistent with its mission in the *Catalog and Student Handbook* and on the website. The Catalog directs prospective students to contact the Counseling Office to obtain specific program requirements for selective admissions programs; Associate Degree Nursing, Dental Assisting, Dental Hygiene, Nursing Transition, Occupational Therapy Assistant, Pharmacy Technology, Phlebotomy, Practical Nursing, Radiography and Sonography.

Publications on selective admissions programs and their respective program requirements were not provided in the Compliance Certification, but are presented herein as **Exhibit 3.4.3-A**. The print copies of the publications for selective admissions are available for pickup in the Counseling Office and are mailed to individuals upon request. They are also published online on the college's website (**Exhibit 3.4.3-B**).

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**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.7.1**

CS 3.7.1 The institution employs competent faculty members qualified to accomplish the mission and goals of the institution. When determining acceptable qualifications of its faculty, an institution gives primary consideration to the highest earned degree in the discipline in accordance with the guidelines listed below. The institution also considers competence, effectiveness, and capacity, including, as appropriate, undergraduate and graduate degrees, related work experiences in the field, professional licensure and certifications, honors and awards, continuous documented excellence in teaching, or other demonstrated competencies and achievements that contribute to effective teaching and student learning outcomes. For all cases, the institution is responsible for justifying and documenting the qualifications of its faculty.

X Non-Compliance

Applicable excerpts from the Off-Site Committee's report: "...the Off-Site Review Committee found the qualifications of four faculty unacceptable. The On-Site Review Committee should review the qualifications of the four individuals listed on the Request for Justifying and Documenting Qualifications of Faculty.

The Off-Site Committee found the qualifications of Tiffany Gray, Thomas Green, Morris Elsen, and Beverly Moore to be unacceptable. Cape Fear Community College (CFCC) has reviewed the credentials of the faculty members in question and has taken measures to ensure compliance with CS 3.7.1.

Upon a careful review of Tiffany Gray's credentials, CFCC reassigned Ms.Gray to teach courses only in communications until further documentation was received by the college. Since that time, Ms. Gray has resigned from the college and will no longer be teaching at CFCC. Ms. Gray's transcripts are presented herein as **Exhibit 3.7.1-A**.

Upon further review of Mr. Thomas Green's credentials the college presents the following documentation to justify his qualifications to teach the assigned humanities courses: (1) Mr. Green's transcripts document that he holds a Master of Arts degree from the University of Arkansas (**Exhibit 3.7.1-B1**); (2) a letter from the University of Arkansas verifies that the courses on Mr. Green's transcript reflect a humanities emphasis (**Exhibit 3.7.1-B2**); (3) a list of graduate level courses excerpted from Mr. Green's transcript identify 18 hours in the field (**listed below**); and (4) the course descriptions of HUM 160- Introduction to Film and HUM 161-Advanced Film Studies, suggest that an instructor with Mr. Green's academic credentials would be sufficiently prepared to instruct others on the subject matter (**Exhibit 3.7.1-B3**).

- ◆ 18 hours in the humanities field excerpted from Mr. Green's transcript:
 - COM 569 TV Film Acting-3 credits
 - DRAM 6603 Acting II-3 credits
 - COM 4673 Film Production-3 credits
 - COM 4833 TV Writing-3 credits
 - COM 4683 Documentary Film-3 credits
 - COM 569 Seminar on Chaplin and Keaton-3 credits

CFCC reassigned Mr. Morris Elsen to teach courses that directly match his academic credentials, as was stated on the Faculty Roster (**Exhibit 3.7.1-C1**) in the Compliance Certification presented to the Off-Site Committee in March 2006. Mr. Elsen had been teaching MAT 121, but was reassigned to teach only non-transfer math courses. Mr. Elsen's transcripts are presented herein as **Exhibit 3.7.1-C2**.

Even though CFCC has no current plans to reemploy Ms. Beverly Moore, a part-time faculty member, the decision to employ Ms. Moore previously was justified based on the following: (1) BAF 111 is a non-transferable banking and finance course in teller operations; (2) Ms. Moore holds a baccalaureate degree, albeit it out-of-field in Early Childhood Education; (3) teller training she received during a documented 27 years-to-date career in banking, beginning as a teller and advancing through 13 years of branch manager responsibilities which included the training of all tellers; and (4) continuing service in banking as an assistant vice president at Cooperative Savings and Loan in Wilmington, North Carolina where she continues to provide teller training to bank employees. Documentation on file at CFCC, but not presented in the Compliance Certification includes: (1) transcripts of her undergraduate degree; (2) a letter from her employer verifying her experience in the banking profession and responsibilities for teller training; (3) a copy of her Teller Training Certificate (issued by the Institute of Financial Education), (4) a copy of the summary of excellent student evaluations in the one class she taught for CFCC in the Fall of 2005, (5) a copy of her department chair's evaluation showing good performance, (6) and a roster of grades for BAF 111 Fall 2005 (**Exhibit 3.7.1-D**).

**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.10.5**

CS 3.10.5 The institution maintains financial control over externally funded or sponsored research and programs.

X Non-Compliance

Applicable excerpts from the Off-Site Committee's report: "While the unqualified opinions elicited by the institution's recent audits may deductively evidence the institution's financial management of externally funded programs, the institution submitted no direct evidence of this...The On-Site Review Committee should confirm that the institution maintains financial control over externally funded or sponsored research and programs."

Cape Fear Community College, as stated in the Compliance Certification, is not a research institution and has no externally funded or sponsored research activities. All grants and donations, regardless of the funding source, received for CFCC programs are deposited into institutional funds and are managed in accord with the existing Cash Management Plan (presented as documentation in CFCC's Compliance Certification and presented here as **Exhibit 3.10.5-A**) routinely used to account for the use of all funds. The expenditure of all funds is subject to approval of the President and the Vice President of Business Services, and is externally audited by the Office of the State Auditor, as noted by the Off-Site Committee itself. The state audit reports are direct evidence of CFCC's financial control over such expenditures and annual state audits have not cited CFCC for any lapse in its financial control over such funds or programs since at least 1996, when CFCC's accreditation was last reaffirmed.

CFCC's policy on externally funding, 4.4 Externally Funded Grants and Contracts, states that external funding must be approved by the president, must be related to the stated purpose of the College, and shall be conducted and reported in a manner consistent with the operational guidelines required by the State of North Carolina. **Exhibit 3.10.5-B** is presented to further document that CFCC maintains administrative and financial control over all funds received from external sources.

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**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 3.10.7**

CS 3.10.7 The institution operates and maintains physical facilities, both on and off campus, that are adequate to serve the needs of the institution's educational programs, support services, and other mission-related activities.

X Non-Compliance

Applicable excerpts of the Off-Site Committee's report: *"---The assignable square footage attributable to the institution's curricular efforts is sparse relative to other North Carolina Community Colleges. The committee's concerns over the adequacy of operations has been detailed in 2.11. The On-Site Review Committee should confirm that the institution operates and maintains physical facilities, both on and off campus, that are adequate to serve the needs of the institution's educational programs, support services, and other mission-related activities.*

Cape Fear Community College (CFCC) is committed to the effective and responsible management of its fiscal resources to maintain financial stability. Additionally, the college plans for and actively seeks physical resources sufficient to support its mission and scope of service.

It appears that the Off-Site Committee's concern is based on some future point when existing facilities may indeed not be adequate to "*--sustain the college's anticipated growth trend--*." Cape Fear Community College concedes that the college has considerably less square footage per student than the average North Carolina community college and ranks among the most crowded of North Carolina's community colleges. Nevertheless, the existing facilities, though crowded, are at least minimally adequate to serve the existing enrollment.

When the Compliance Certification was submitted in March of 2006, the most recent figures available from the Higher Education Facilities Commission (HEFC) were for 2004. According to the calculations used for the 2004 HEFC report, Cape Fear Community College had 68 square feet of instructional space per FTE, which is 23.6% fewer square feet per FTE than the average community college in North Carolina. However, since that time Cape Fear Community College has added the Applied Technologies Building to its inventory, which includes 76,682 of assignable square feet. With this addition of assignable square footage, the HEFC report documents that CFCC's square footage per FTE has increased by 11.76%, from 68 square feet to 76 square feet. The 2005 HEFC report is presented in the Focused Report as **Exhibit 3.10.7-A**.

Cape Fear Community College will continue to actively seek resources for the purpose of increasing physical facilities. The college, in an effort to increase funding from external sources, has recently added a grant-writer position to its staff. In addition, during a recent

strategic planning session with about 65 faculty and staff members present, the college identified the need for additional physical resources as its primary planning priority for the coming year. The college is in the process of identifying other methods by which it might acquire funding for the needed additional physical resources to sustain the college's anticipated growth.

**Response to the Off-Site Committee's Preliminary Findings of
Federal Requirement 4.6**

FR 4.6 Recruitment materials and presentations accurately represent the institution's practices and policies.

X Non-Compliance

Applicable excerpts of the Off-Site Committee's report: *The institution has described a review process that insures that all publications are reviewed by appropriate administrators and staff to insure that such publications accurately describe institutional policies and practices. The institution has provided an adequate sample of recruiting publications such as the Catalog and Student Handbook, Fast Facts Brochure and class schedules that document that publications accurately describe institutional practices and policies. The institution has however failed to provide any information regarding recruiting presentations and the content or evaluation for accuracy of such presentations. The On-Site Review Committee should confirm that recruitment presentations accurately represent the institution's practices and policies.*

CFCC recruiting presentations consist of one-on-one dialogue between the prospective student and the appropriate staff member during college fairs. There are no formal "recruiting presentations" beyond the previously submitted materials. All program representatives attending college fairs or other recruiting activities coordinate their visits with the Director of Enrollment Management to obtain copies of official college publications for distribution at various events such as "College Nights" at area high schools, thereby assuring accuracy of disseminated information. Furthermore, CFCC participates in the CACRAO (Carolina's Association of Collegiate Registrars and Admissions Officers) educational opportunities recruiting programs, which regulates the guidelines for participation at college fairs.

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**Response to the Off-Site Committee's Preliminary Findings of
Comprehensive Standard 4.7**

FR 4.7 The institution publishes the name of its primary accreditor and its address and phone number. (The publication of this information is presented so that it is clear that inquiries to the Commission should relate only to the accreditation status of the institution, and not to general admission information.)

X Non-Compliance

Applicable excerpts from the Off-Site Committee's report: "The institution publishes the name of its primary accreditor and the primary accreditor's address and phone number----. The institution has not indicated, however, that inquiries to the Commission should relate only to the accreditation status of the institution... The On-Site Review Committee should confirm that the institution has added this statement.

The guidelines of the Commission on Colleges as presented in the *Resource Manual for the Principles of Accreditation: Foundations for Quality Enhancement (Exhibit 4.7-A)* indicate that Cape Fear Community College (CFCC) was in compliance with this Federal Requirement. The manual states that "The correct information is: Commission on Colleges, Southern Association of Colleges and Schools, 1866 Southern Lane, Decatur, Georgia 30033-4097, telephone 404-679-4500, Web site: www.sacscoc.org."

Nevertheless, since receiving the Off-Site Committee's report, CFCC has taken measures to give additional instruction as to the nature of inquiries that should be made to the Commission. The statement, "Inquiries to the Commission should relate only to the accreditation status of the institution, and not to general admission information." has been added to electronic documents containing references to accreditation by the Commission. Printed copies of the appropriate sections of electronic publications to document the change are presented herein as **Exhibit 4.7-B**.

In addition, CFCC is in the process of updating all print materials containing reference to accreditation by the Commission on Colleges to include the statement mentioned above. A memo from the Office of the President, directing the inclusion of this statement as of the next printing of catalogs and other printed materials in which any statement about accreditation appears, is presented herein as **Exhibit 4.7-C**.