



APPROVAL OF CONTRACTUAL AND CONSORTIAL ARRANGEMENTS

The Higher Learning Commission (HLC) is adopting new policies regarding Contractual and Consortial Arrangements that will go into effect in June 2010. The policies outline when an institution needs to notify the Commission about contractual and consortial relationships and when it needs to seek approval of these arrangements. This document provides guidance on when to seek approval for these relationships and what materials are needed.

Introduction

Any HLC-affiliated institution that initiates a contractual or consortial relationship has the responsibility to notify the Commission about the relationship through the Annual Institutional Data Update and to seek approval for that relationship if the percentage of involvement by third parties in one or more educational programs of the institution rises to certain levels as defined in the Commission's policy. While this policy will not take effect until June 2010, the Commission is beginning to collect this information and prepare for implementation.

Definitions

Contractual Relationship: A contractual relationship is one in which the HLC-accredited institution develops an agreement with a third party, i.e., the contractual partner, and for that contractual partner to provide some portion of an educational program offered by the HLC-accredited institution.

Agreement: The agreement may be a written contract or letter of agreement or other document or it may be an oral agreement between the parties.

Contractual Partner: The contractual partner could be a corporation, an unaccredited institution or an institution that is accredited by an accreditor that is not recognized by the U.S. Department of Education. The third party may have a relationship with the HLC-accredited institution because they share a corporate parent or common investors.

Note: if the third party is an institution accredited by an agency recognized by the U.S. Department of Education, see consortial arrangements.

The educational program: The contractual relationship may affect one or more certificate or degree programs.

Nature of involvement by Contractual Party: The third party provides some portion of the educational program, which may include developing syllabi or courseware, selecting academic resources, developing instructional design, or delivering instruction face-to-face or through a platform provided by the third party, as well as other services such as recruitment or advising.

Note: Institutions should not include contracts that are solely for auxiliary services such as library materials, marketing, leads, etc.

Consortial Relationship: A consortial relationship is one in which the HLC-accredited institution develops an agreement with an institution or group of institutions, i.e., the Consortial Partner(s), through which the partner(s) agree to provide some portion of one or more educational programs offered by the HLC-accredited institution.

Agreement: Same as under Contractual Agreement.

Consortial Partner: The consortial partner(s) must be institutions accredited by agencies recognized by the U.S. Department of Education. Foreign institutions are typically not accredited by an accrediting agency recognized by the U.S. Department of Education even though such institutions often have relationships with other institutions that are accredited by such agencies.

The educational program: The program may be one or more Title IV-Eligible certificate or degree programs.

Nature of involvement by Consortial Partner: The Consortial Partner provides some portion of the educational program, which may include developing syllabi or courseware, providing academic resources, developing instructional design, or delivering instruction face-to-face or through a platform provided by the Partner.

Note: Institutions should not count in these categories articulation agreements through which the institution agrees to admit students and accept transfer credits previously earned or completed by those students with the other party to the articulation agreement, 2+2, clinical or internship relationships unless the other party provides instruction. In addition, institutions should not include in these categories contracts that are solely for a delivery platform and do not include courseware, academic content, etc.

Determining the Percentage of Involvement by the Contractual or Consortial Partner

Institutions will need to make a good faith estimate of the percentage of involvement by the contractual or consortial partner in each academic program in which the contractual or consortial partner has a role. There is no exact formula for identifying the percentage of involvement, but institutions should consider the totality of the involvement by the contractual or consortial partner in the program. In particular, institutions should consider the role of the partner in developing course objectives, curriculum, and syllabi as well as in course design and delivery. Institutions also should consider the role of the partner in providing services to students, recruitment, marketing, and receiving tuition payments. Having the institution’s faculty and administration review and approve these arrangements or the content developed by the third party does not alter the percentage of the involvement of the contractual partner in the educational program or remove the need to notify the Commission about the relationship or seek approval as outlined in the following section.

Institutional Responsibility for Reporting and Seeking Approval of Contractual and Consortial Relationships

Institutions have a responsibility to ensure that the Commission is properly informed about and has approved contractual and consortial relationships at the following thresholds of involvement by the contractual or consortial partner.

Contractual Relationships

Percentage of Involvement by Contractual Partner in One or More Educational Programs	Responsibility of the Accredited Institution to the Commission
0-25%	Notification
25-50%	Notification and Approval

By Commission policy an institution may not contract out more than 50 percent of one or more educational programs to a contractual partner.

Consortial Relationships

Percentage of Involvement by Consortial Partner in One or More Educational Programs	Responsibility of the Accredited Institution to the Commission
0-50%	Notification*
50-100%	Notification and Approval

* Notification of the 0-50 percent involvement by a Consortial Partner in one or more educational programs is not required with the 2010 AIDU but will be required in 2011.

Notifying the Commission

Institutions should complete the appropriate portions of the Annual Institutional Data Update to notify the Commission about the relationships. Institutions that have relationships that require the approval of the Commission must complete the appropriate sections of the Annual Update and notify their staff liaison.

Relevant Policy

Full text available on the Commission Web site.

Current Policy

3.2 INSTITUTIONAL CHANGES REQUIRING COMMISSION APPROVAL (Adopted November 1999, revised February 2002, revised June 2008, revised June 2009)

An institution shall receive Commission approval prior to initiating certain institutional changes as defined in this policy. To gain approval, an institution will file a formal request with its staff liaison for approval by the Institutional Actions Committee of the institutional change.

3.2(d)1 CHANGES IN MISSION OR INSTITUTIONAL CHARACTERISTICS (Adopted November 1999, revised February 2007, revised June 2008, revised June 2009)

Commission approval shall be required when:

2. An institution contracts with non-accredited entities to provide 50% or more of a credit-bearing program;

Proposed Policies (effective June 2010)

3.2 COMMISSION KNOWLEDGE AND APPROVAL OF CHANGE AT AN INSTITUTION

An institution shall have the obligation to report institutional changes to the Commission as identified in this policy and related policies and to seek and receive Commission approval where appropriate prior to implementing specific changes.

3.2(a) INSTITUTIONAL NOTIFICATION AND REPORTING OBLIGATION

An institution shall notify the Commission of certain institutional changes as identified in this policy through the Commission's Change Reporting Report (CRR). Such changes shall be reported to the Commission prior to their initiation, and Commission staff shall notify the institution whether prior notification is sufficient or whether such changes must be formally approved by the Commission as described in Commission policy 3.2(b) (SUBSTANTIVE CHANGES REQUIRING PRIOR COMMISSION APPROVAL) prior to initiation. Changes requiring notification include the following:

9. Initiation of a contractual or other arrangement with an institution, consortium, corporation or other entity wherein one or more of the institution's educational programs is provided by this entity.

3.2(b) SUBSTANTIVE CHANGES REQUIRING PRIOR COMMISSION APPROVAL

An institution shall receive Commission approval prior to initiating any of the following changes:

10. The initiation of a contractual or other arrangement wherein 25-50% (not to exceed 50%) of one or more of the institution's educational programs is provided by any of the following parties: an unaccredited institution; an institution that is not accredited by an accreditor recognized by the U.S. Department of Education; a corporation or other entity.

11. The initiation of a consortial or other arrangement wherein more than 50% of one or more academic program (s) is provided by a consortium or institution(s) accredited by an accreditor recognized by the U.S. Department of Education.

Questions

Contact your Commission staff liaison or the Commission's Office of Legal and Governmental Affairs.