

## **FEDERAL COMPLIANCE PROGRAM 2009-2010**

### **Introduction**

The Commission is committed to continuing to hold federal recognition as an approved regional accrediting agency. Because of that recognition, the Commission's affiliated institutions qualify for a variety of federal financial aid programs. However, the terms of that recognition require that Commission evaluation teams check a number of items specified in federal regulations as they conduct on-site evaluation visits for the Commission. The number of items has been increased by recent changes in statutory and regulatory languages.

The Higher Learning Commission Board of Trustees adopted additional policies on February 24, 2009 to comply with the Higher Education Opportunity Act of 2008; specifically, these policies include the Transfer of Credit and the Verification of Student Identity policies (see below). The Commission anticipates that these policies will need further modification as the Department completes Negotiated Rulemaking regarding the requirements in the Act. The Board may, therefore, need to review additional proposed policy changes related to U.S. Department of Education recognition before the 2010-2011 academic year. This guide provides an outline and explanation of the current federal compliance obligations for institutions and peer reviewers.

### **Expectations for Institutions and Peer Reviewers**

Federal Compliance for both PEAQ and AQIP institutions follows a three-step review process: 1) review of the compliance material provided by the institution prior to the visit; 2) verification of the compliance material during the visit; and 3) documentation of these reviews in the team report. The Commission requires that an institution address these topics in either a Federal Compliance section of the PEAQ Self-Study for a Comprehensive Visit or the AQIP Federal Compliance Report for a Quality Checkup Visit. Institutions in the PEAQ program should supplement the narrative in the Self-Study with supporting documents in the Resource Room. Institutions in the AQIP Program should have supporting documents available on campus to show the team upon request. For institutions in the PEAQ and AQIP programs, the Commission requires peer reviewers to review the institution's evidence of compliance with these regulations and to document this review in the appropriate section of the team report.

### **CREDITS, PROGRAM LENGTH AND TUITION**

**Applicable Commission Policies:** 3.10, CREDITS, PROGRAM LENGTH AND TUITION; 3.2(d)1, CHANGES IN MISSION OR INSTITUTIONAL CHARACTERISTICS

**What is the expectation of this requirement?** This policy requires that an institution be able to demonstrate that it has credit hour assignments, typically in quarter or semester credit or other appropriate unit, for each class it offers and overall credit hour requirements for each degree program and that its credit hour allocations and requirements are within the range of good practice currently in higher education in the United States. The Commission's Substantive Change policy requires that an institution seek permission in advance for any significant changes in credit hour requirements for degree programs or any change from clock to credit hours. In addition, the policy anticipates that an institution set its tuition consistently across its programs, avoiding program specific charges unless such charges are justified. An institution must be able to justify any program specific tuition it charges based on the costs and expenses for offering that particular degree as well as on the length of the program and its objectives.

**How should teams determine that an institution has met this requirement?** Teams should review the institution's discussion of this material in its Self-Study or AQIP Federal Compliance Report, the institution's catalog, any specialized accreditation requirements having to do with credits, and other relevant information. This

requirement is met if the institution has satisfied the team that the credit hour allocations and degree program requirements as well as any program-specific tuition requirements are reasonably within the range of good practice in higher education and contribute to an academic environment in which students receive a rigorous and thorough education and to a business model that supports student learning.

## **STUDENT COMPLAINTS**

### **Applicable Commission Policies: 13.3, INSTITUTIONAL RECORDS OF STUDENT COMPLAINTS**

**What is the expectation of this requirement?** This policy requires that an institution explain its process for addressing student complaints as well as summarize the number, type and resolution of complaints it has received in the three years prior to the comprehensive evaluation or the Quality Checkup Visit. Note that every institution is free to determine its own process for addressing students complaints, including whether or not it has a specific students complaints policy; however, whatever approach the institution adopts with regard to student complaints it must be clear that the institution has a mechanism to receive, address and systematically process such complaints in a timely manner. It must also be clear that the institution has some mechanism of its own choosing to track and aggregate student complaint information and provides such aggregate data to the team.

**How should teams determine that an institution has met this requirement?** Teams should review the institution's policies and procedures regarding student complaints as well as whatever documentation it provides in regard to the history of specific student complaints to determine whether the institution has a reasonable process for reviewing and resolving complaints in a timely manner, whether the evidence indicates it is following its policies and procedures in this regard, and whether it is able to study the pattern of complaints to determine whether improvements in its programs or processes might be appropriate. This requirement also links to the institution's fulfillment of Criterion One regarding mission and integrity.

## **TRANSFER POLICIES *New for 2009-10!***

### **Applicable Commission Policies: 3.11, TRANSFER OF CREDIT**

**What is the expectation of this requirement?** The policy requires that an institution demonstrate that it discloses its transfer policies to students and to the public and that its policies contain information about the criteria it uses to make transfer decisions.

**How should teams determine that an institution has met this requirement?** Teams should review an institution's transfer policies, particularly its placement of those policies in its catalog or on its website and the ease of access to that information by current and prospective students in particular. It should determine whether the policies clearly explain the criteria the institution uses in making transfer decisions.

## **VERIFICATION OF STUDENT IDENTITY *New for 2009-10!***

### **Applicable Commission Policies: 3.12, VERIFICATION OF THE IDENTITY OF STUDENTS IN DISTANCE OR CORRESPONDENCE EDUCATION**

**What is the expectation of this requirement?** The policy requires that institutions verify the identity of students who participate in courses or programs provided to the student through distance or correspondence education. *Note that the definitions of distance and correspondence education for the purpose of verifying student identity are the federal definitions and are quoted in the Commission's policy for ease of reference.*

**How should teams determine that an institution has met this requirement?** Teams should determine whether the institution has a systematic approach to verifying that the student who originally enrolled in the course is the same student submitting assignments, taking exams and receiving a final grade. Initially institutions may use systems with logins and passwords or proctored exams to verify the student's identity; however, the institution should be thinking in the future about more sophisticated approaches that are nevertheless cost effective and minimally invasive of student's privacy in anticipation of further regulations.

## **TITLE IV PROGRAM and RELATED RESPONSIBILITIES**

### **Applicable Commission Policies: 1.6, INSTITUTIONAL COMPLIANCE WITH THE HIGHER EDUCATION REAUTHORIZATION ACT; 3.2(d)1, CHANGES IN INSTITUTIONAL MISSION OR CHARACTERISTICS**

**What is the expectation of this requirement?** The Title IV Program and Related Responsibilities policy expects that institutions will provide information about these components to the Commission and that the team will review that information. The sections below provide more detail on each of the required component of the Title IV related information to be reviewed. It is important that the institution involve its Financial Aid Director or office and Chief Financial Officer or Controller in preparing this information for the team.

**This requirement has several components institutions and team must address:**

**1. General Program Responsibilities.** This policy anticipates that an institution is fulfilling its Title IV program responsibilities. It must provide information to the Commission about the status of its Title IV financial aid program, particularly findings from recent Title IV program reviews, inspection or audit by the Office of the Inspector General, and other reviews by the Department related to the institution's responsibilities in regard to maintaining its Title IV program. The institution should be certain to disclose any limitation, suspension or termination actions undertaken by the U.S. Department of Education ("the Department"), and the reasons for such actions, as well as any fines, letters of credit or heightened monitoring arising from the Department's review and the repercussions of such requirements for the institution's overall financial health. *If the Department has raised issues regarding the institution's fulfillment of its responsibilities in this area*, then the self-study should evaluate the institution's response and actions, including any corrective actions undertaken by the institution.

**2. Financial Responsibility Requirements.** This policy anticipates that an institution is fulfilling its Title IV responsibilities related to financial management. It must provide information about the Department's review of the institution's composite ratios and financial audits, particularly the A-133 portion of that audit. *If the Department has raised issues regarding the institution's fulfillment of its responsibilities in this area*, then the self-study should evaluate the institution's response and actions, including any corrective actions undertaken by the institution. Note that the Commission also annually analyzes the institution's financial ratios to determine whether there is any potential concern with the institution's financial health. If the Department has identified concerns with an institution's financial ratios, teams should cross-check whether the Commission has also raised any concerns. This requirement also links to an institution's fulfillment of Criterion Two regarding planning and resources.

**3. Student Loan Default Rates.** This policy anticipates that an institution is working to avoid excessive default rates. It must make available to the Commission its current default rate as well as the previous two years of default rates as calculated by the U.S. Department of Education ("The Department") or by the institution using the Department's instructions as well as correspondence with the Department related to its review of the institution's default rate. *If the institution's default rates are higher than for similar institutions and/or have triggered a Department of Education review*, then the self-study should evaluate the institution's responses and actions, including any corrective action plans filed with the Department.

**4. Campus Crime Information and Related Disclosure of Consumer Information.** This policy anticipates that an institution is meeting the legal responsibilities in these areas arising out of its participation in Title IV and related programs. It must provide to the Commission information, including some selected samples, regarding disclosures institutions must make to students and the public. In addition, institutions should discuss any findings the Department may have made in regard to such consumer disclosures. If the Department or other appropriate legal body has made no negative findings, teams should anticipate that institutions are meeting their legal requirements in this area.

**5. Satisfactory Academic Progress and Attendance Policies.** This policy anticipates that the institution is meeting program integrity requirements including a requirement that it have a Satisfactory Academic Progress policy. It must document to the Commission that it has a Satisfactory Academic Progress policy, readily available to students, that satisfies state requirements (if any) or federal requirements. The institution must also document an attendance

policy; such policy may defer to department or course specific requirements where appropriate. In most cases teams should be able to simply verify that such policies exist, typically in course catalogs or student handbooks, and are available to students

**6. Contractual Relationships.** This policy anticipates that an institution disclose its contracts with third-party entities not accredited by a federally recognized accrediting agency whereby such third-party entities provide 25-50% of the academic content of any degree program. Note that the Commission's Substantive Change policy requires that the Commission approve in advance any contractual relationship for 50% or more of a program; beginning July 1, 2010 the Commission must approve in advance any contractual relationship for 25 to no more than 50% of the academic content of any degree program.

**How should teams determine that an institution has met this requirement?** Teams do not determine compliance with federal law or regulations; however, they will study the material related to Title IV compliance to determine whether the Department has raised any issues related to this compliance and whether these issues in any way relate to the institution's ability to continue to satisfy the Criteria for Accreditation. *If the fiscal stability of the institution is in jeopardy or if issues with audits or policies highlight significant lapses in integrity or appropriate administration or oversight*, the team must determine how the institution's relationship with the Commission should be affected. Should the team discover that the institution has significantly failed to meet its Title IV responsibilities or is engaged in fraud and abuse, the Commission has an affirmative responsibility to provide this information to the Department of Education, so the team must contact Commission staff as soon as possible.

### **INSTITUTIONAL DISCLOSURES and ADVERTISING AND RECRUITMENT MATERIALS**

**Applicable Commission Policies: 12.2, AN AFFILIATED ORGANIZATION'S OBLIGATIONS FOR PUBLIC DISCLOSURE; 12.6, AN ORGANIZATION'S ADVERTISING AND RECRUITING MATERIALS**

**What is the expectation of this requirement?** The policy requires that an institution demonstrate it is providing accurate, timely and appropriately detailed information to current and prospective students and the public about its accreditation status with the Commission and other agencies as well as its programs, locations and policies.

**How should teams determine that an institution has met this requirement?** Teams should review an institution's disclosures about its accreditation status to determine whether they are in appropriate form and contain the Commission's website address. Wherever possible, an institution should make use of the Commission's Mark of Affiliation, which provides in graphic form all required disclosure information about accreditation. Teams should also review disclosures about other agencies to determine whether such items appear to be accurate. Finally, teams should review the institution's catalog, brochures and other recruiting materials, as well as material provided orally by recruiters or admission's counselors, including third-party firms retained or paid by the accredited entity, to determine whether such information is accurate and appropriate.

### **RELATIONSHIP WITH OTHER ACCREDITING AGENCIES AND WITH STATE REGULATORY BODIES**

**Applicable Commission Policies: 9.1 PROFESSIONAL OR SPECIALIZED ACCREDITATION; 9.2(a) REGARD FOR ACCREDITATION ACTIONS BY OTHER INSTITUTIONAL ACCREDITING AGENCIES; 9.3 REQUIREMENTS OF INSTITUTIONS HOLDING DUAL INSTITUTIONAL ACCREDITATION; 9.4 CONSIDERATION OF OTHER AGENCIES' DECISIONS; 10.2 RELATIONS WITH STATES, COORDINATING BOARDS, AND HIGHER BOARDS**

**What is the expectation of this requirement?** These policies requires that an institution appropriately disclose to the Commission its relationship with any other specialized, professional or institutional accreditor and with all governing or coordinating bodies in states in which the institution may have a presence. An institution must disclose this information in appropriate portions of the Annual Institutional Data Update (AIDU) as well as in its Self-Study or Quality Checkup Report.

**How should teams determine that an institution has met this requirement?** Teams should review the information, particularly any information that indicates the institution is under sanction or show-cause or has had its status with any agency suspended, revoked or terminated as well as the reasons for such actions. Teams should then determine whether this information provides any indication about the institution's capacity to meet the Commission's Criteria for Accreditation. Should the team recommend initial or continued status to an institution under sanction or adverse action (i.e. withdrawal, suspension, denial or termination) with another institutional accreditor or state entity, the team must outline in the report its reasons for making its recommendation despite its knowledge of these actions.

## **PUBLIC NOTIFICATION OF COMPREHENSIVE EVALUATION VISIT and THIRD PARTY COMMENT**

### **Applicable Commission Policies: 12.8, PUBLIC NOTIFICATION OF COMPREHENSIVE EVALUATION VISIT**

**What is the expectation of this requirement?** The Commission seeks public comments on institutions as part of its comprehensive evaluations and Quality Checkup Visits. To decide how best to solicit third party comments, the institution should first determine its constituencies. These groups should include students, parents, alumni, taxpayers, donors, community groups, local businesses, and so on. The institution should then decide what media they will use to solicit comments. Local newspapers, institutional websites, and alumni magazines are appropriate choices. The notice should reach all constituencies but should not unduly burden the institution. The notification should follow the prescribed format; a sample notification and detailed instructions are available on the Commission's website under Third Party Comment.

**How should teams determine that an institution has met this requirement?** Teams should review information about the public disclosure of the upcoming visit, including sample announcements, to determine whether the institution made an appropriate and timely effort to notify the public and seek comments. The team will also evaluate the comments to determine whether the team needs to follow-up on any issues through its interviews and review of documentation during the visit process.

### **Summary**

The Higher Learning Commission expects that affiliated institutions are in good standing with regard to the expectations of the Federal Compliance Program. Should information to the contrary become known—whether through an evaluation visit, the Annual Institutional Data Update, institutional reporting, or other means—the Commission will take any steps necessary to further assess the institution's noncompliance. However, the Commission does not itself determine compliance with federal law and regulations; such determinations are the province of the U.S. Department of Education or other appropriate body legally empowered to make such judgments.

The Commission's role is to assess whether any information it receives materially affects the Commission's assessment of the institution's ongoing capacity to meet the Commission's Criteria for Accreditation as well as Commission policies. The Commission may require monitoring, such as a progress report or a focused visit, in the event that it determines further review is necessary in relationship to the institution's ongoing capacity; significant noncompliance could result in a review of the institution's affiliation with the Commission.

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