



TEACH OUT

Policy Change Adopted on Second Reading

The Higher Learning Commission (HLC) Board of Trustees (“the Board”) adopted this policy on second reading at its meeting on June 25–26, 2020.

Background

The adopted policy changes conform HLC policy to changes to federal regulations related to teach out that went into effect on July 1, 2020. The changes also strengthen protections available to students in the event of institutional closures. Specifically, the revisions feature a longer list of circumstances that trigger Teach-Out requirements and more explicit requirements for both Provisional Plans and Teach-Out Agreements. Finally, the changes clarify the characteristics that make an institution suitable or unsuitable to serve as a teach-out receiving institution.

HLC circulated these policy changes to the membership and other interested parties after the Board’s February 2020 meeting. HLC received comments on behalf of several higher education and consumer protection groups reinforcing, among other things, their shared concern for the protection of students’ interests in the event of institutional closures, and in particular, emphasizing the critical role of Teach-Out Agreements, without which institutions are under no contractual obligation to assist students identified in a closing institution’s Provisional Plan. Many of the authors’ recommendations in this regard are already being addressed with current revisions to policy and related procedures; therefore, no adjustments to language of this policy were made on that basis. However, staff made several other observations based on past experience that are reflected in new language (shown in bold italics).

Key changes include the following:

- In the context of an abrupt closure without a Provisional Plan, other institutions that have a common corporate parent with the closing institution are not always in the best position to render assistance. As

a result, language to the effect that HLC may seek out such institutions in current policy has been removed.

- The potential for consequences, in the form of a sanction for noncompliance with HLC requirements, has been added should an HLC member institution that is not closing entirely fail, without adequate justification, to provide a Provisional Plan for approval when one is required.
- Clarification has also been made with respect to the extent of staff authority to approve various aspects of a teach-out arrangement under limited circumstances.

Implementation

This policy is effective immediately.

Adopted Policy

Wording that was deleted or revised is shown as strikethrough (~~old wording~~); new language, whether through addition or revision, is shown in bold (**new wording**). Changes between first and second reading, other than minor editing, are indicated in bold italics (*new wording*). These revisions have been made on HLC's website at hlcommission.org/policies.

Policy Title: Commission Approval of Institutional Teach-Out Arrangements

Number: FDCR.B.10.010

Commission approval of **various aspects of an institution's teach-out arrangements** shall be required when an institution must teach-out one or more students.

Institutional Situations Requiring Submission of Provisional Plans **for Approval**

~~The~~ **An** institution shall be required to submit a written Provisional ~~teach-out~~ Plan in any of the following circumstances:

- ~~(a)~~ 1. the U.S. Department of Education notifies the Commission of an emergency action, or a limitation, suspension or termination or similar action against the institution;
2. **The U.S. Department of Education notifies the Commission of a determination by a non-profit or proprietary institution's independent auditor expressing doubt regarding the institution's ability to operate as a going concern or indicating an adverse opinion or a finding of material weakness related to such institution's financial stability;**

3. The U.S. Department of Education notifies the Commission that the institution is participating in Title IV, HEA programs under a provisional program participation agreement and is required to have a teach-out plan as a condition of participation;
4. The U.S. Department of Education notifies the Commission that it has placed the institution on the reimbursement payment method or heightened cash monitoring payment method under federal regulations;
- ~~(b)~~ 5. the Commission grants candidacy to an institution or places an institution on Probation or issues a Show-Cause order or acts to withdraw, terminate or suspend the status of an institution;
- ~~(e)~~ 6. the institution notifies the Commission that it intends to cease or suspend operations entirely or permanently close an ~~site~~ **additional location** where it offers at least 100% of either a Certificate or degree program before all students have completed their program of study, **including if the additional location is being moved and is considered by the U.S. Department of Education to be a closed institution**;
- ~~(d)~~ 7. a state licensing or authorizing agency notifies the Commission that an institution's license or legal authorization to provide an educational program in that state has been or will be revoked;
- ~~(e)~~ 8. Commission staff determines in its sole discretion that closure or suspension of one or more academic programs at an institution raises concerns about the well-being of students in these programs; or
- ~~(f)~~ 9. Commission staff determines that the institution is at risk for a sudden closure or suspension of its operations because it is in financial distress, under governmental investigation, undergoing Change of Control, Structure or Organization, or facing other significant challenges.

Without limitation, an institution is required to immediately contact the Commission through its HLC staff liaison if it anticipates any of the above occurrences or any other circumstance that will jeopardize currently enrolled students' ability to complete their programs of study as originally anticipated.

Commission Requirements for Provisional Plans

The institution shall submit the Provisional Plan to the Commission **for approval**; the plan must meet the following minimum requirements:

1. The Provisional Plan provides for equitable treatment of students by ensuring that they are able to complete the educational program in which they were enrolled immediately prior to the situation

requiring submission of ~~Teach-Out Agreement~~ a **Provisional Plan** within a reasonable period of time;
and

2. The Provisional Plan provides for prompt notification of additional ~~charges~~ costs to students, if any;
3. **The Provisional Plan contains:**
 - a. A complete list of currently enrolled students (redacting personally identifiable information) in each affected program at the institution, and the program requirements each student has completed;
 - b. A complete list of the academic programs offered by the institution, and the names of other institutions that offer similar programs that could potentially enter into a Teach-Out Agreement with the institution;
 - c. A communication plan that provides all potentially eligible students with information about how to obtain a closed school discharge and, if applicable, information on state refund policies;
 - d. A record retention plan to be provided to all enrolled students that delineates the final disposition of teach out records (e.g., student transcripts, billing, financial aid records);
 - e. Information on the number and types of credits any teach-out receiving institution is willing to accept prior to the student's enrollment; and
 - f. A clear statement to students of the tuition and fees of the educational program and the number of types of credits that will be accepted by each teach-out receiving institution.

Institutions preparing Provisional Plans are required to ensure that they comply with HLC's Teach-Out Requirements prior to submitting them for approval.

Note: If a closing institution plans to teach-out its own students, the period for teach-out shall typically not exceed 12–18 months, particularly in cases where there are other institutions in the area that offer similar programs available to students of the closing institution, unless the closing institution can assure the Commission that the closing institution continues to meet ~~robustly~~ all of the Criteria for Accreditation during the extended teach-out period.

Commission Requirements for Teach-Out Agreement

The Commission may require that ~~an~~ the institution in the situations identified in ~~Teach-Out Requirements~~ **required to submit a Provisional Plan under this policy** submit a **one or more** Teach-Out Agreements for the Commission's review and approval in conjunction with ~~its such teach-out~~ **Provisional Plan** if the institution must rely on the assistance of ~~another accredited~~ **one or more** institutions (each a **teach-out receiving institution**) to complete the Provisional Plan. A **teach-out receiving institution** must be accredited by an agency recognized by the U.S. Department of Education and, where appropriate, eligible for Title IV financial aid. The **teach-out receiving institution** must also: be approved by an appropriate state higher education and accrediting agency to offer the programs offered by the institution closing or suspending operations; have the necessary experience, resources and support services to provide an educational program that is of acceptable quality and reasonably similar in content, structure and scheduling to that provided by the institution closing or ceasing operations; demonstrate that it can provide students access to such programs and services without requiring them to move or travel substantial distances and; be stable, carrying out its mission and meeting all obligations to its existing students.

~~The A~~ **Teach-Out Agreement** must meet the following minimum requirements:

- ~~1. The Teach-Out Agreement is with another institution that is accredited by or holding candidacy with an agency recognized by the U.S. Department of Education and, where appropriate, that it is an eligible institution for Title IV financial aid;~~
- 1. The Teach-Out Agreement contains an affirmation that it is consistent with all applicable state and federal regulations;**
- ~~3. The teach-out institution is approved by an appropriate state higher education and accrediting agency to offer the programs offered by the institution closing or suspending operations; has the necessary experience, resources, and support services to provide an educational program that is of acceptable quality and reasonably similar in content, structure and scheduling to that provided by the institution closing or ceasing operations; demonstrates that it can provide students access to such programs and services without requiring them to move or travel substantial distances; and is stable, carrying out its mission and meeting all obligations to existing students; and~~
- 2. The Teach-Out Agreement is fair and equitable to students and provides students with reasonable opportunities to complete their education without additional charges and includes a notification provision to ensure that students have complete information about the tuition and fees of the **teach-out receiving institution** ~~conducting the teach-out.~~**

3. The Teach-Out Agreement must include a live link to a downloadable copy of the applicable Provisional Plan and a commitment from a teach-out receiving institution to be familiar with the requirements of the Provisional Plan;
4. The Teach-Out Agreement must contemplate (a) a firm commitment to a specific list of students who are currently enrolled in one or more programs at the institution requiring the teach-out receiving institution's assistance and (b) the program requirements such students have completed;
5. The Teach-Out Agreement must include a plan to provide all potentially eligible students with information about how to obtain a closed school discharge and, if applicable, information on state refund policies;
6. The Teach-Out Agreement must include information on the number and types of credits the teach-out receiving institution is willing to accept prior to each student's enrollment;
7. The Teach-Out Agreement must make a clear statement to students of the tuition and fees of the educational program and the number and types of credits that will be accepted by the teach-out receiving institution.

Approval of Teach-Out ~~Partner~~ **Receiving** Institutions ~~Affiliated With~~ **Accredited by** the Commission
 Any institution ~~affiliated~~ **accredited and in good standing** with the Commission that enters into a Teach-Out Agreement with, or on behalf of, another institution ~~that is closing or otherwise ceasing or suspending operations or is at risk of doing so~~, regardless of whether ~~that the latter~~ institution has presented a ~~teach-out~~ **Provisional Plan** to the Commission or is accredited by the Commission, shall notify the Commission of its intended participation in the teach-out and ~~submit the Teach-Out Agreement to the Commission~~ prior to its implementation so that the Commission may determine whether the ~~affiliated~~ **accredited** institution has the capacity to undertake its responsibilities under the teach-out, is not on sanction with the Commission, and has **already** in place ~~previously~~ the necessary approvals from the Commission and other entities to offer the necessary programs. **For the avoidance of doubt, only the institution required to submit a Provisional Plan for approval under this policy is responsible for submitting any applicable Teach-Out Agreement.**

Commission staff shall ~~act to review and may, and if appropriate, act to approve~~ **the additional** teach-out ~~partner~~ receiving ~~institution's institutions'~~ participation in ~~the~~ **a teach-out arrangement, or the participation of an HLC member in a teach-out arrangement required by a non-HLC institution.** An institution affected by circumstances that would require it to submit a Provisional Plan under this policy or that is under investigation, or being prosecuted for an issue related to academic quality, misrepresentation, fraud, or other severe matters by a law enforcement agency is not eligible to serve as a teach-out receiving institution.

HLC also reserves the right to disqualify any potential teach-out receiving institution based on other risk factors it identifies.

Commission Approvals Related to Teach-Out

Where the Commission is approving a teach-out plan for an academic program or where the Commission is approving an institution's participation as a teach-out ~~partner~~ **receiving institution**, staff may act to **review and** provide approval; all other necessary approvals related to teach-out shall be provided by a decision-making body of the Commission recognized by the U.S. Department of Education. If the Commission approves a Provisional Plan **or Teach-Out Agreement** that includes a program accredited by a specialized or professional accreditor, the Commission shall notify that accreditor.

Institutional Closure Without Approved Provisional Plan or Teach-Out Agreement; **Failure to Comply With Teach-Out Policy**

*In the event of an institutional closure without an approved Provisional Plan, ~~the~~ the Commission shall work with the U.S. Department of Education, ~~and~~ the appropriate state agency, if any, **and any applicable programmatic accreditor**, in the event any HLC-affiliated institution ~~the Commission accredits or has awarded candidacy for accreditation status closes without a~~ **Provisional Plan** approved by the Commission, *to the extent feasible*, to assist students in finding reasonable opportunities to complete their education without additional charges. ~~The Commission may call upon another institution affiliated with~~ **accredited by HLC that has a common owner with the institution closing or suspending operations or is in the same system of institutions to provide assistance in developing a Provisional Plan that meets the requirements of this policy.***

An institution that does not close entirely, but that fails to comply with HLC Teach-out policy when otherwise required, may be subject to sanction for noncompliance with HLC requirements.

Policy Number Key

Section FDCR: Policies Required by Federal Regulation

Chapter B: Teach Out

Part 10: General

Last Revised: June 2020

First Adopted: June 2008

Revision History: revised February 2009, February 2010, November 2010, August 2016, June 2017, June 2020

Notes: Policies combined November 2012: 3.9, 3.9(a), 3.9(b), 3.9(c), 3.9(d).

Related Policies: