



## DECISION-MAKING OPTIONS RELATED TO THE ASSUMED PRACTICES AND FEDERAL COMPLIANCE REQUIREMENTS

### Policy Change Approved on First Reading

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The Higher Learning Commission (HLC) Board of Trustees (“the Board”) approved this policy on first reading at its meeting on November 4–5, 2021.

#### Background

These proposed policy changes are meant to clearly describe the decision-making options available when an institution that is in compliance with the Criteria for Accreditation is found out of compliance with one or more Assumed Practices or Federal Compliance requirements.

Among other things, these changes would clarify the following existing practices:

1. An institution **can be** placed on Probation, subject to a Show-Cause Order or subject to an adverse action for being out of compliance with a single Assumed Practice or Federal Compliance Requirement, even if it is otherwise in compliance with the Criteria for Accreditation. Such a decision would depend on the gravity of the finding as measured by (a) in the case of Probation, the extent to which a substantial remediation period is necessary to address such non-compliance; or (b) in the case of a Show-Cause Order or adverse action, the extent to which the very existence of the finding suggests that the institution should not remain accredited.
2. An institution **is not required to be** placed on Probation, subject to a Show-Cause Order, or subject to an adverse action solely for being out of compliance with an Assumed Practice or Federal Compliance Requirement, if it is otherwise in compliance with the Criteria for Accreditation. In some instances, monitoring may instead be an appropriate decision-making option.

## Comments Invited

HLC invites comments on these changes before the Board takes final action at its meeting on February 24–25, 2022. Comments can be sent to [policycomments@hlcommission.org](mailto:policycomments@hlcommission.org). Comments are due by February 7, 2022.

## Proposed Changes

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**). Wording that was moved is shown with a double underline in its new location (moved to) and a double strikethrough in its previous location (~~moved from~~).

### Policy Title: Assumed Practices

Number: CRRT.B.10.020

Foundational to the Criteria and Core Components is a set of practices shared by institutions of higher education in the United States. Unlike the Criteria for Accreditation, these Assumed Practices are (1) generally matters to be determined as facts, rather than matters requiring professional judgment and (2) not expected to vary by institutional mission or context. Every institution ~~must~~ **is expected to** be in compliance with all Assumed Practices at all times.

Because institutions are assumed to be adhering to the Assumed Practices on an ongoing basis, peer review teams will not review their compliance with these requirements except as follows:

1. When an institution is seeking HLC accreditation, and has not yet been granted initial accreditation by the Board of Trustees, the institution must provide evidence of its compliance with all the Assumed Practices as part of any reports to gain and maintain candidacy, and to gain initial accreditation.
- ~~2. When an accredited institution's compliance with one or more Criteria for Accreditation raises questions concerning its compliance with related Assumed Practices, the institution must be prepared to provide evidence that it is in compliance with such related Assumed Practices.~~
3. 2. When the Board of Trustees has placed an institution on the sanction of Probation and has cited the institution for being out of compliance with one or more Assumed Practices, the institution must provide evidence of its compliance with the cited Assumed Practices as part of its report to have Probation removed.

- 4 3. When the Board of Trustees has placed an institution under a Show-Cause Order the institution must provide evidence of its compliance with all the Assumed Practices as part of its report to have the Show-Cause order removed.
- 2 4. When an accredited institution's compliance with one or more Criteria for Accreditation raises questions concerning its compliance with related Assumed Practices, the institution must be prepared to provide evidence that it is in compliance with such related Assumed Practices.
5. When otherwise required by HLC as circumstances warrant.

~~In every case, peer reviewers and any applicable decision-making body will determine whether the institution meets or does not meet the Assumed Practices under review and institutions will thus be determined to be in compliance or out of compliance with HLC requirements accordingly. An institution determined not to be in compliance with any Assumed Practice, even if in compliance with all other HLC requirements, may be subject to monitoring, Probation, a Show-Cause Order, or an adverse action, as defined by HLC policy based on the gravity of the finding as measured by (a) in the case of Probation, the extent to which a substantial remediation period is necessary to address such non-compliance or; (b) in the case of a Show-Cause Order or adverse action, the extent to which the very existence of the finding suggests that the institution should not remain accredited.~~

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## Policy Title: Federal Compliance Requirements

Number: FDCR.A.10.010

An institution accredited by HLC or seeking accreditation or candidate status shall demonstrate that it ~~meets~~ **is in compliance with** each of HLC's ~~federal e~~ **Federal e** ~~Compliance r~~ **Compliance r** Requirements. This expectation shall apply to an institution regardless of whether the institution is participating in the Title IV program. However, an institution that does not participate in the Title IV program shall be exempted from that ~~federal e~~ **Federal e** ~~Compliance r~~ **Compliance r** Requirement related to demonstrating that the institution is meeting its Title IV program responsibilities.

An institution shall provide evidence of meeting these requirements in preparation for a comprehensive evaluation for Candidacy, Initial Accreditation and Reaffirmation of Accreditation and upon demand by HLC. ~~The comprehensive evaluation or other team will weigh the information and its relationship to the~~

~~Criteria for Accreditation, and/or the requirements of the Candidacy Program. If a team determines that an institution has failed to meet these requirements or if the team determines that issues in meeting these requirements raise concerns about the institution's ability to meet the Criteria for Accreditation, Core Components or Assumed Practices, it may recommend further monitoring, sanction, the issuance of a Show-Cause Order, or withdrawal of accreditation or candidacy.~~ An institution determined not to be in compliance with any Federal Compliance Requirement, even if in compliance with all other HLC requirements, may be subject to monitoring, Probation, a Show-Cause Order, or an adverse action, as defined by HLC policy based on the gravity of the finding as measured by (a) in the case of Probation, the extent to which a substantial remediation period is necessary to address such non-compliance or; (b) in the case of a Show-Cause Order or adverse action, the extent to which the very existence of the finding suggests that the institution should not remain accredited.

HLC reserves the right to call for special monitoring related to an institution's status with regard to these requirements and any implications for its compliance with ~~the Criteria for Accreditation, Core Components, Assumed Practices~~ or other HLC requirements, as appropriate, when findings by the U.S. Department of Education or by another recognized accreditor indicate there may be significant noncompliance with the Higher Education Act, as amended, or that the integrity of the institution and its educational programs might be in jeopardy.

## Policy Title: Notice

Number: INST.E.10.010

Notice is a public sanction that attaches to an institution's accreditation status. The sanction of Notice is imposed based on an overall judgment that the institution is at risk of being out of compliance with ~~HLC requirements related to the Criteria for Accreditation, Assumed Practices, or Federal Compliance Requirements.~~ It will be supported by ~~findings~~ **at least one finding** that an institution meets with concerns one or more Criteria for Accreditation ~~or that an institution requires monitoring related to one or more Federal Compliance Requirements.~~ The determination is not based on any minimum number of such findings. An action to impose Notice is a final action not subject to appeal.

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If, at the end of the Notice period, the Board finds that the deficiencies leading to the Notice action have not been ameliorated, the Board may continue accreditation, withdraw accreditation or take other action as

provided for in these policies. The Board may also extend Notice if the institution ~~complies with all the Criteria for Accreditation and Federal Compliance Requirements and~~ is making progress but has not completely ameliorated the conditions that led to the Notice. This extension will be available for an additional year if the institution was initially placed on Notice for one year or for an additional six months if the institution was initially placed on Notice for two years. At the time that it extends the Notice period, the Board will specify the process by which the institution will be required to provide evidence so that it is no longer at risk of being out of compliance with HLC requirements (i.e.—by providing a report or hosting a visit). The Board will act on any extension of Notice at the next regularly scheduled Board meeting after the extension of the Notice period has concluded. At that time the Board has the same options for action it had at the end of the initial Notice period, except that no further extension of Notice shall be available.

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#### Policy Title: Probation

Number: INST.E.20.010

Probation is a public sanction that attaches to an institution's accreditation status. This status indicates that an accredited institution is no longer in compliance with one or more ~~of HLC's~~ **Criteria for Accreditation, and/or is not in compliance with other HLC requirements, which may include the Assumed Practices or the Federal Compliance Requirements, such that Probation is warranted** ~~or is out of conformity with the Assumed Practices.~~ The institution remains accredited while it is on Probation. An action to impose Probation is a final action not subject to appeal.

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An institution that receives Probation for less than two (2) years is not entitled to the remainder of the two (2) years if, at the end of the probationary period, separate from the good cause extension, it has not been able to demonstrate compliance with the Criteria for Accreditation and ~~Federal Compliance Requirements~~ **any cited HLC requirements.**

The Board may at its sole discretion grant one extension of Probation at the end of the initial period of Probation if the institution is not able to demonstrate to the Board's satisfaction that it has ameliorated the areas of noncompliance that led to the sanction or is otherwise in compliance with HLC requirements, but is able to demonstrate all of the following to show that it is eligible for the extension:

1. clear evidence of substantial progress towards meeting the Criteria for Accreditation (~~or~~ **and** Federal Compliance Requirements or cited Assumed Practices as applicable), including evidence of substantial implementation of necessary improvements, in the majority of areas in which the institution has been previously found to be non-compliant;
2. verifiable plans to cure the remaining areas of non-compliance or any other areas of non-compliance identified in the action granting the extension by the end of the extension period;
3. sufficient capacity and resources in place to cure the identified areas of non-compliance during the extension; and
4. likelihood that the institution will be able to demonstrate compliance with ~~all~~ the Criteria for Accreditation and ~~the Core Components~~ **any cited HLC requirements** by the end of the extension.

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### Policy Title: Show-Cause (Procedural Order)

Number: INST.E.30.010

Upon recommendation by a peer review team, the Institutional Actions Council, the President, or at its discretion, the Board of Trustees may issue an order requiring an accredited institution to show cause, typically within one (1) year (the Show-Cause period), as to why its accreditation should not be removed. The basis for the issuance of a Show-Cause Order will be the Board's determination that there is probable cause that the institution does not meet ~~HLC requirements, which may include the one or more~~ **Criteria for Accreditation, and/or is not in compliance with other HLC requirements, which may include** the Federal Compliance Requirements, the Assumed Practices, the Eligibility Requirements or the Obligations of Membership. The Board of Trustees may consider shortening the Show-Cause period based on factors including but not limited to the following:

- a. the institution has spent a period of time immediately preceding the issuance of the Show-Cause Order on Probation;
- b. findings of noncompliance pose a serious risk of imminent harm or danger to students.

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## Policy Title: Denial or Withdrawal of Status

Number: INST.E.60.010

### Withdrawal of Accreditation

The Board of Trustees shall consider withdrawing the accreditation of an institution only when that institution has been determined to be out of compliance with one or more HLC requirements. The specific grounds for withdrawal of accreditation shall be that the institution does not meet one or more ~~of the~~ Criteria for Accreditation **and/or is not in compliance with other HLC requirements, which may include the Federal Compliance Requirements, or fails to demonstrate conformity with the Assumed Practices, the Eligibility Requirements or the Obligations of Membership** during the accreditation period.

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### Denial of Accreditation

The Board of Trustees shall consider denying accreditation to an institution only when that institution has been determined to be out of compliance with ~~HLC~~ the requirements **for granting initial accreditation, as detailed in HLC's policy on Candidacy and Initial Accreditation (INST.B.20.020) to become accredited.** ~~The specific grounds for denial of accreditation shall be that the institution does not meet one or more of the Eligibility Requirements, the Assumed Practices, or the Criteria for Accreditation, or the Federal Compliance Requirements, or that the institution fails to demonstrate conformity with the Obligations of Membership during the institution's~~ its candidacy period. This determination may be made by the Board after a comprehensive evaluation for initial accreditation.

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### Denial or Withdrawal of Candidacy Status

The Board of Trustees shall take actions denying or withdrawing the candidacy status of an institution that fails to meet the requirements ~~of~~ **for achieving and maintaining Candidacy, as detailed in HLC's policy on Candidacy and Initial Accreditation (INST.B.20.020).** ~~The specific grounds for denial or withdrawal of candidacy shall be that the institution does not meet one or more of the Eligibility Requirements, the Assumed Practices, or the Federal Compliance Requirements or that there is not sufficient evidence to support the judgment that all of the Criteria for Accreditation can reasonably be met within the period of candidacy, or the remainder of the institution's candidacy period if withdrawal of candidacy is being considered, or that the institution fails to demonstrate conformity with the Obligations of Membership during its candidacy period.~~

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## Policy Title: Routine Monitoring and Data Collection

Number: INST.F.10.010

**Monitoring on Pathways.** An institution on the Standard or Open Pathway may be required to file one or more interim reports. An institution on the Standard Pathway may be required to host one or more focused visits. Such monitoring shall be appropriate in circumstances where the team has concluded that HLC should review the institution's progress in addressing a serious issue at the institution, the resolution of which is relevant to the institution's future compliance with, or improvement regarding, the Criteria for Accreditation **or other HLC requirements**. HLC staff may seek external assistance from peer reviewers or individuals with appropriate expertise who do not participate as peer reviewers in the evaluation process related to monitoring but provide particularized advice and assistance where appropriate to HLC staff or evaluation team members.

**Other Monitoring.** An institution, regardless of its pathway, is always subject to monitoring in the form of interim reports or focused evaluations related to review by HLC of the following: financial and non-financial indicators; a change of control, structure or organization transaction; substantive change; complaints; **compliance with other HLC requirements, including the Federal Compliance Requirements and the conformity with Assumed Practices**; or other HLC investigation or review.

**Process for Requiring Monitoring.** An evaluation team or staff may recommend that an institution be required to file an interim report or host a focused on-site evaluation on one or more topics. The President may also act to require routine monitoring in a manner consistent with policy on Staff Authority COMM.B.10.020. Following review of routine monitoring conducted by peer reviewers or with external assistance from individuals with appropriate expertise employed by HLC, an appropriate decision-making body, or HLC staff where allowed by HLC policy, shall determine whether the monitoring is appropriate for the institution, and, if so, shall act to approve such monitoring.

~~For an institution that is being considered for initial accreditation, such monitoring shall be appropriate in conjunction with the grant of initial accreditation only when the monitoring is with regard to a discrete issue and does not call into the question the institution's compliance with the Criteria for Accreditation, in which case the institution will not be granted initial accreditation.~~

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