



SPECIAL MONITORING

Policy Change Approved on First Reading

The Higher Learning Commission (HLC) Board of Trustees (“the Board”) approved this policy on first reading at its meeting on June 23, 2022.

Background

The proposed policy changes would provide HLC’s president more flexibility in designing protocols that capitalize on a variety of existing mechanisms to enable HLC to gather information, evaluate evidence and make appropriate decisions that serve the best interest of students and the public. Additional changes would clarify triggering circumstances, explain Advisory Visits and detail the impact of designations on certain types of substantive change activity.

Comments Invited

HLC invites comments on this change before the Board takes final action at its meeting on November 3–4, 2022. Comments can be sent to policycomments@hlcommission.org. Comments are due by September 19, 2022.

Proposed Change

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: Special Monitoring

Number: INST.F.20.010

~~HLC reserves the right to call for special monitoring when the integrity of the institution and its educational programs might be in jeopardy. The President may conduct such monitoring by calling for The President imposes special monitoring in consultation with staff and may receive information from a variety of~~

sources, including HLC's routine monitoring process, indicating that special monitoring may be appropriate. All special monitoring protocols are tailored as appropriate under the circumstances and may include, but not be limited to, one or more of the following:

1. a special monitoring report; or
2. an advisory team visit;;
3. ~~by imposing a~~ an institutional designation. ~~or by calling for other activities intended to gather further information about situations at institutions that give rise to concerns about the integrity of the institution or its educational programs. The President of HLC shall determine whether the institutional liaison or other HLC staff member will accompany the Advisory Team Visit.~~

Presidential Recommendation

~~HLC's President shall have the authority to take a recommendation to the appropriate HLC decision-making body to require regular routine monitoring, a sanction, the issuance of a Show-Cause Order, or denial or withdrawal of accreditation status for an institution, subject to HLC policy and procedures related to those actions.~~

~~The analysis of a A special monitoring report or advisory visit team report, including any specified deficiencies identified by the team at the institution, will not be reviewed through HLC's regular review processes; it may be is used by the President to provide information, to support the development of a recommendation by the President makes directly to an appropriate HLC's decision-making processes body for a possible sanction or monitoring, or for any other purpose action supported by the policies and practices of HLC.~~

~~Any action proposed by the President intends to recommend to a decision-making body will be shared with the institution for response at least two weeks 14 days prior to the intended date of deliberation and decision.~~

Circumstances Giving Rise to Special Monitoring

~~Among the situations that might may result in such special monitoring are include, but are not limited to:~~

1. institutional declaration of bankruptcy, financial exigency, or intent to close;
2. highly publicized and divisive controversies among the governing board, the administration, and/or the faculty or the student body;
3. significant unanticipated reduction in program offering, faculty, and/or enrollment;
4. public sanctions applied by governmental agencies or by other accrediting or licensing bodies;

5. serious legal, financial, or ethical investigations, including those involving adjudication in courts, whether the underlying information raises serious concerns about the institution's compliance with one or more HLC requirements;
6. financial audit reports, Security Exchange Commission filings, or other information that raise serious concerns about financial viability or financial management practices; or
7. evidence of serious misrepresentation to students and the public.

Presidential Recommendation

~~HLC's President shall have the authority to take a recommendation to the appropriate HLC decision-making body to require regular monitoring, a sanction, the issuance of a Show-Cause Order, or withdrawal of accreditation for an institution, subject to HLC policy and procedures related to those actions.~~

Advisory Visits

An advisory visit is an on-site evaluation conducted on relatively short notice by a team of peer reviewers of appropriate size and expertise to gather further information about situations that give rise to concerns about the institution's compliance with HLC requirements. An advisory visit team only makes determinations related to the institution's compliance with HLC requirements without articulating any recommendation for action. Such determinations assist the President in developing an appropriate recommendation for action by an HLC decision-making body.

An advisory visit can be of any reasonable duration calculated to maximize the team's ability to conduct fact-finding activities, including interacting with appropriate constituencies of the institution, including students, faculty, administration and the institution's board. While the timing of an advisory visit is in the sole discretion of HLC's President, the institution is required to promptly notify HLC of any circumstances that will limit the team's ability to conduct an effective visit. When required by HLC, the institution provides documentary evidence of its compliance with the applicable HLC requirement in advance of the advisory visit. HLC may also make other information in the institution's record available to the team in advance of such evaluations.

Institutional Designations

Purpose and Other Details Related to Institutional Designations. The purpose of these designations shall be to inform the public that the institution is dealing with a significant financial condition(s) or being investigated by a governmental agency. Designations are assigned as soon as possible after HLC has confirmed that a factual basis for the designation exists. HLC does not undertake any independent

evaluation of the institution in advance of such assignment. Because ~~such situations have the potential to affect the institution's operations, and the public should be aware of this information in making a decision to attend or continue to attend the institution under the designation. Any designation issued by the HLC President shall be ~~public~~ published in a Public Disclosure Notice on the institution's Statement of Accreditation Status on HLC's website.~~

Typically, the designation period will not extend more than two years. During ~~this~~ the designation period HLC ~~shall~~ may require that the institution submit regular one or more reports about its financial or legal the underlying situation or undergo other regular or special monitoring, including advisory visits, as determined by the HLC President. An institution that has one of the above designations is not precluded from also being placed by HLC on a sanction subject to HLC policy and procedures related to such action if appropriate. During the monitoring or evaluation process, the institution may request removal of the designation, although final determination of the appropriateness of removing the designation shall remain with the HLC President or the Board if the case is otherwise subject to the Board's review.

Financial Distress. HLC's President, after consultation with the Board of Trustees, shall have the authority to determine that an institution undergoing a significant challenge to its fiscal capacity should ~~receive~~ be assigned this designation. Conditions that may contribute to a designation of *in financial distress* include, but are not limited to: significant diminished financial contribution from a state; significant escalation in institutional indebtedness; placement by the U.S. Department of Education on Heightened Cash Monitoring II (HCM2) for significant reasons related to finances or financial management of the institution or any parent or superordinate entity; formal declaration by the institution of financial exigency or emergency; going concern warning by the institution's auditors; or other similar financial situation. Typically, this designation will be accompanied by a finding by the HLC President that Core Component 5.B or 2.A is met with concerns.

Governmental Investigation. HLC's President, after consultation with the Board of Trustees, shall have the authority to determine that an institution undergoing investigations by one or more governmental agency, law enforcement body, or court should ~~receive~~ be assigned this designation. Conditions that may contribute to a designation of *under governmental investigation* include, but are not limited to: investigation by one or more state attorneys general, the Federal Trade Commission, the U.S. Department of Justice or other federal agency; a notice of intended limitation, suspension or termination action by the U.S. Department of Education; or other significant investigations, litigation or enforcement action by or joined by a governmental

authority related to its institutional or academic operations or activities. ~~Typically, this designation will be accompanied by a finding that Core Component 2.A is met with concerns.~~

~~Purpose and Other Details Related to Institutional Designations.~~ ~~The purpose of these designations shall be to inform the public that the institution is dealing with a significant financial condition(s) or being investigated by a governmental agency. Such situations have the potential to affect the institution's operations, and the public should be aware of this information in making a decision to attend or continue to attend the institution under the designation. Any designation issued by the HLC President shall be public.~~

~~Typically, the designation will not extend more than two years. During this period HLC shall require that the institution submit regular reports about its financial or legal situation or undergo other regular or special monitoring, including Advisory Visits, as determined by the HLC President. An institution that has one of the above designations is not precluded from also being placed by HLC on a sanction if appropriate. During the monitoring or evaluation process, the institution may request removal of the designation, although final determination of the appropriateness of removing the designation shall remain with the HLC President or the Board if the case is otherwise subject to the Board's review.~~

~~Substantive Change While an Institution Has a Designation.~~ ~~An institution in financial distress or under governmental investigation shall not be considered for a substantive change unless it can demonstrate that there is a compelling reason for the change and that the institution has sufficient resources to support the change.~~ Any substantive change application from an institution with a current designation, ~~other than an application for approval of a Provisional Plan~~, will be subject to strict scrutiny and may be deferred ~~by staff or by the Institutional Actions Council~~ for consideration by HLC until after ~~it has removed the designation has been removed~~, or the application may be denied. Institutions that have a designation are not restricted from making changes to their existing programs, but must comply with any notification or approval requirements under HLC policy.

~~Process for Imposing or Removing a Designation.~~ HLC's President will notify the institution of the intent to designate the institution in one of the above categories and will allow the institution a minimum of ~~two weeks~~ 14 days to respond before acting with regard to the proposed designation. (Note that the institution may request up to an additional ~~two weeks~~ 14 days to respond if it ~~has~~ articulates good cause for such an extension.) The President will take into account the institution's response in making the decision whether to assign the designation. ~~All designations are public.~~ The President or the Board will also determine when to remove a designation from an institution. The President will re-evaluate the designation ~~at the end of the two-year timeframe, and during the two-year timeframe designation period as new or additional information of~~

significance becomes available to HLC, **and at the end of the designation period**, to determine whether the designation shall be removed. The President or the Board will remove the designation when in the President's or Board's sole judgment the designation is no longer required because the institution has resolved the issues that led to the designation. Any decision of the President or the Board related to imposing or removing a designation is final.

Policy History

Last Revised: February 2022

First Adopted: November 1999

Revision History: February 2001, February 2007, June 2012, November 2012, August 2016, June 2020,

February 2022

Notes: Former policy number 3.6(b), 3.6(c). In February 2021, references to the Higher Learning Commission as “the Commission” were replaced with the term “HLC.”

Related Policies: COMM.B.10.010 Staff Role and Responsibility