

Dr. Barbara Gellman-Danley
President
Higher Learning Commission
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Chicago, IL 60604

May 25, 2020

Dear Dr. Gellman-Danley and the Higher Learning Commission,

Thank you for the opportunity to provide comment on the Higher Learning Commission's (HLC) proposed standards and policy revisions. Accreditation serves a critical role in assuring the quality of institutions of higher education, both for students and taxpayers, and we appreciate your careful consideration of these comments regarding proposed policy changes to accreditor actions, teach-out plans, and the implementation of proposed changes.

HLC should establish appropriate timelines and disclosure for all actions

We support HLC's proposed change to shorten the time period in which the public must be notified that an institution was placed on notice, probation, or show cause from fourteen days to seven days. In addition to ensuring the agency is in compliance with new federal regulations, this maintains a high level of transparency with students and taxpayers.

However, we are concerned that HLC's policies would not necessarily result in students and other members of the public being made aware of financial monitoring of a college by the agency. HLC's policies state that a financial panel¹ may review an institution's financial indicators, require additional documentation, and recommend additional monitoring of an institution. Yet because HLC considers this process parallel to, but separate and apart from, other sanctions like notices, probation, or show cause, neither HLC nor institutions are obligated under other applicable policies to make the information public.

In the case of financial monitoring, HLC does not require schools to disclose the information publicly. As a result, numerous colleges have closed or made other significant changes that impact students, and students are caught off guard while the accreditor was aware of the problems over the course of years in many cases. In one instance, for example, HLC was aware that Holy Cross College in Notre Dame, Indiana, was deeply in the red. The agency notified Holy Cross in December 2016 that it would require interim reports on the school's finances and a focused visit by agency reviewers.² But when an administrator accidentally emailed students that the school was in such dire financial straits that he might "spend the better part of the coming school year closing down the college," it was the first students had heard of it. Around the same time, HLC reported to the Education Department that it had renewed the institution's accreditation with the school "in compliance with all of the agency's

accreditation standards,"³ and did not require that Holy Cross College publish the agency's concerns for prospective and enrolled students.⁴

In another example, right before classes were set to begin on August 5, 2017, Marygrove College announced it would eliminate its undergraduate program entirely at the end of the first semester. ⁵HLC had placed the school on monitoring the year prior but did not require the school to disclose this information, and so students were unaware. In a more recent example, Cincinnati Christian announced it would close. HLC had been monitoring the school's finances for years, but the problems had only recently been made public when it placed the institution on sanction.⁶ With unclear standards for identifying an institution as in financial distress (a designation that *does* require public disclosure), the agency may be inappropriately leaving students in the dark.

To ensure transparency for students and other members of the public, the commission should further amend its proposed policy on notice and financial monitoring⁷ to clarify that actions taken at the recommendation of financial panels, including interim or financial monitoring, are considered Notice and thus are subject to the disclosure requirements in that proposed policy. Students deserve to know if their institution is not compliant with all of its accreditor's standards, including its financial standards; the commission should ensure it lives up to that principle.

HLC should consider implementation of these policies with respect to institutions that have known compliance issues

We urge the commission to take care to ensure its policies adequately protect students enrolled at (or who may enroll at) high-risk institutions. In particular, we note that several of the agency's proposed policies (including those related to Institutional Change,⁸ Notice,⁹ Probation,¹⁰ and Show-Cause¹¹) note that substantive change reviews are subject to additional oversight for high-risk institutions. However, the policies apply only to institutions that are placed on a sanction by HLC on or after July 1, 2020. While new federal regulations require that HLC implement the rules by July 1, they do not specify that agencies should only use prospective sanctions to identify high-risk institutions. Effective by July 1, 2020, the commission should ensure that any institution placed on these sanctions in the *prior* three years--going back to July 1, 2017--are also subject to additional oversight. Students cannot wait three years to see those protections in the regulations applied; HLC should use its discretion to immediately identify and ensure oversight of institutions it has already sanctioned to date.

Relatedly, the commission should consider further clarifying its proposed policies for the Notification Program for Additional Locations¹² to ensure that HLC conducts appropriate oversight of its institutions. In particular, while HLC permits its staff to remove institutions from the Notification Program if their capacity to oversee additional locations is called into question, if the institution is placed on sanction or show-cause, or when it has had its accreditation withdrawn, it does not mandate the removal of institutions from the program. Similarly, the commission proposes to revise its policy surrounding institutions that undergo a change of control, structure, or organization to say that they may temporarily not be eligible for the Notification Program, rather than that they will not

be eligible. We urge the commission to clarify in both cases that it will not permit such high-risk institutions to access the Notification Program. If institutions are allowed to continue operating through the Notification Program despite a high-risk change in their status, the institution may be able to expand its footprint without maintaining quality, chancing students' educational futures.

HLC should ensure at-risk institutions protect students in the event of closure by strengthening policies for teach-out plans and agreements

While we support greater clarity and focus on the use of teach-out plans, HLC's proposed policies do not clarify what types of institutional behavior will warrant submission of a teach-out agreement. For students enrolled in a college at significant risk of closure, teach-out plans are not sufficient because they do not obligate any other institution to follow through on the plan in the event of closure and lack the detail needed to be placed into effect. While they may be helpful in beginning the work of finding a teach-out partner, until an agreement is secured that ensures equitable treatment of students, a teach-out plan is effectively meaningless.

One of the challenges in recent closures is that accreditors have failed to secure or even ask for a formal teach-out agreement. For instance, HLC identified such significant concerns with its change of control reviews of Illinois Institute of Art and Art Institute of Colorado that it removed their status as accredited institutions and placed them in candidate status, effective in January 2018.¹³ Yet when the colleges notified HLC that they intended to close in August 2018, HLC reported that it was "currently... reviewing teach-out plans" submitted by the colleges.¹⁴ But it was not until the institutions, which reported enrolling more than 2,000 students in 2018,¹⁵ announced they would be closing permanently that HLC sought teach-out agreements.

In today's environment, securing high-quality agreements for students enrolled in any institution at risk of closure is imperative. HLC's policy revision should clarify the circumstances when it will require a teach-out agreement be in place. For example, institutions that are on probation or under show cause orders by HLC and institutions placed on heightened cash monitoring 2 by the Education Department should be required to submit teach-out agreements for approval. Pre-accredited institutions should also be required to keep an approved teach-out plan on file, and should be required to submit teach-out agreements if HLC identifies areas of concern with the institution's ability to receive full accreditation.

Moreover, HLC should take more specific steps to ensure that the receiving institutions for a teach-out are high-quality. Receiving institutions should be in good standing with the Department and with their institutional accreditors; and should be financially stable, as determined by the Department's financial responsibility regulations and any applicable state or accreditor requirements. Institutions that are denied accreditation, and thus that have at least two years of documented non-compliance, should not be permitted to complete their own teach-outs, and should instead be required to establish teach-out agreements with other qualifying institutions.

Conclusion

Particularly given the HLC president's role as the leader of the Council of Regional Accrediting Commissions (C-RAC), HLC has an opportunity to be a leader among accrediting agencies by creating strong policies and setting high expectations for institutions that do not meet the commission's standards. We hope you will take these recommendations into consideration as you finalize the proposed policies. Thank you for the opportunity to provide comment. We are available to answer questions or discuss these recommendations further.

Sincerely,

Center for American Progress
Consumer Action
Generation Progress
Higher Learning Advocates
New America Higher Education Program
Stephanie Hall, The Century Foundation
Student Veterans of America
Third Way
Veterans Education Success

Notes

¹ Policy Title: Financial Panels, Number INST.F.20.020, available on page 152:

http://download.hlcommission.org/policy/HLCPolicyBook_POL.pdf

² Letter from Barbara Gellman-Danley, HLC, to Brother John Paige, Holy Cross College, December 20, 2016, https://www.hlcommission.org/download/_ActionLetters/REVISED%20Holy%20Cross%20College%20Reaffirmation%20Action%20Letter%2012-20-16.pdf

³ Holy Cross College, Database of Accredited Postsecondary Institutions and Programs,

<https://ope.ed.gov/dapip/#/institution-profile/114813>

⁴ Antoinette Flores, "A Reply-All Email Error Reveals Problems in College Transparency," Center for American Progress, May 19, 2017, <https://www.americanprogress.org/issues/education-postsecondary/news/2017/05/19/432709/reply-email-error-reveals-problems-college-transparency/>

⁵ Rick Seltzer, "Eliminating Undergraduates," *Inside Higher Ed*, August 10, 2017, available at

<https://www.insidehighered.com/news/2017/08/10/marygrove-college-end-undergraduate-programs-after-fall-semester>

⁶ Eric Kelderman and Dan Bauman, "Cincinnati Christian U. Will Shut Its Doors," Chronicle of Higher Education, October 28, 2019, available at https://www.chronicle.com/article/Cincinnati-Christian-U-Will/247429?cid=wsinglestory_hp_7

⁷ Proposed Policy Title: Notice, available at

http://download.hlcommission.org/policy/updates/ProposedPolicy-Notice_2020-02_POL.pdf

⁸ Proposed Policy Title: Institutional Change, available at

http://download.hlcommission.org/policy/updates/ProposedPolicy-InstChange_2020-02_POL.pdf

⁹ Proposed Policy Title: Notice, available at

http://download.hlcommission.org/policy/updates/ProposedPolicy-Notice_2020-02_POL.pdf

¹⁰ Proposed Policy Title: Probation, available at

http://download.hlcommission.org/policy/updates/ProposedPolicy-Probation_2020-02_POL.pdf

¹¹ Proposed Policy Title: Show-Cause (Procedural Order), available at

http://download.hlcommission.org/policy/updates/ProposedPolicy-ShowCause_2020-02_POL.pdf

¹² Proposed Policy Title: Institutional Change, available at

http://download.hlcommission.org/policy/updates/ProposedPolicy-InstChange_2020-02_POL.pdf; and

Proposed Policy Title: Review of Institutional Change, available at

http://download.hlcommission.org/policy/updates/ProposedPolicy-ReviewInstChange_2020-02_POL.pdf

¹³ "Exhibit 4," Letter from Rep. Bobby Scott to the Honorable Betsy DeVos, October 22, 2019,

<https://edlabor.house.gov/imo/media/doc/Chairman%20Scott%20Threatens%20to%20Subpoena%20Secretary%20DeVos.pdf>

¹⁴ "Public Disclosure," Higher Learning Commission, Last Updated August 24, 2018,

https://www.hlcommission.org/download/_PublicDisclosureNotices/PDN%20Art%20Inst%20Update%20%208.2018.pdf. HLC notes that it was "reviewing teach-out plans submitted by both Institutes."

¹⁵ Data from the Integrated Postsecondary Education Data System (IPEDS), retrieved May 8, 2020