

# U.S. Department of Education Staff Report to the Senior Department Official on Recognition Compliance Issues

## Recommendation Page

1. **Agency:** North Central Association Of Colleges and Schools, The Higher Learning Commission

( 1952 / 2020 )

(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)

2. **Action Item:** Petition for Continued Recognition

3. **Current Scope of Recognition:**

The accreditation and preaccreditation ("Candidate for Accreditation") of degree-granting institutions, including tribal institutions, and the accreditation of programs offered via distance education and correspondence courses within these institutions. This recognition extends to the Institutional Actions Council jointly with the Board of Trustees of the Commission for decisions on cases for continued accreditation or reaffirmation, and continued candidacy, and to the Appeals Body jointly with the Board of Trustees of the Commission for decisions related to initial candidacy or accreditation or reaffirmation of accreditation.

Geographic area of accrediting activities: The United States.

4. **Requested Scope of Recognition:**

The accreditation and preaccreditation ("Candidate for Accreditation") of degree-granting institutions, including tribal institutions, and the accreditation of programs offered via distance education, correspondence courses, and direct assessment within these institutions. This recognition extends to the Institutional Actions Council jointly with the Board of Trustees of the Commission for decisions on cases for continued accreditation or reaffirmation, and continued candidacy, and to the Appeals Body jointly with the Board of Trustees of the Commission for decisions related to initial candidacy or accreditation or reaffirmation of accreditation.

Geographic area of accrediting activities: The United States.

5. **Date of Advisory Committee Meeting:** 02/28/2023

6. **Staff Recommendation:**

Renew the agency's recognition for five years. The agency has been found substantially compliant with the criteria listed below, and Department staff recommends a monitoring report (see the final analysis for a detailed explanation of the monitoring report requirements).

7. **Issues or Problems:**

Remaining issues, if any, are summarized below and discussed in detail under the Staff Analysis section.

[602.15(a)(2)] --

The agency is in substantial compliance with this criterion. HLC must provide documentation that training on the review of correspondence courses and direct assessment has been provided to all decision-making body members (Board, IAC and Appeals Panel members) and site visitors (Peer Corps).

## Executive Summary

### PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Higher Learning Commission (HLC or the agency) is an institutional accrediting agency that accredits (or preaccredits) just under 1,000 degree-granting institutions in the United States, including tribal institutions, and those programs offered via distance education, correspondence courses, and direct assessment within these institutions.

The Secretary's recognition of the agency enables its accredited institutions to seek eligibility to participate in student financial aid programs administered by the U. S. Department of Education under Title IV of the Higher Education Act of 1965, as amended. Consequently, the agency must meet the separate and independent requirements established in the regulations.

The current recognition of HLC extends to the Institutional Action Council (IAC) jointly with the Board of Trustees for decision on cases for continued accreditation or reaffirmation, and continued candidacy. The Secretary's recognition also extends to the Appeals Panel jointly with the Board of Trustees of the Commission for decisions related to initial candidacy or accreditation or reaffirmation of accreditation.

### **Recognition History**

The Higher Learning Commission (HLC or the agency) received initial recognition in 1952 and has received periodic renewal of recognition since that time. HLC was last reviewed for recognition at the winter 2018 meeting of the National Advisory Committee on Institutional Quality and Integrity (NACIQI). Both Department staff and the NACIQI recommended to the senior Department official to renew the agency's recognition for five years. The senior Department official (SDO), Principal Deputy Undersecretary Diane Auer Jones, concurred with the recommendations.

Since the agency's last review for recognition, the Department initiated an inquiry under the procedures in 34 C.F.R. § 602.33 into the agency's review and approval of the change of ownership submitted by the Art Institute of Colorado and the Illinois Institute of Art (the Institutes). HLC was reviewed at the summer 2020 meeting of the NACIQI. Department staff recommended that HLC's scope of recognition be limited and that HLC submit a compliance report to include the details of HLC's efforts to mitigate the negative effects of HLC's decision to withdraw accreditation from the Institutes. NACIQI did not recommend a limitation. The SDO, Deputy Secretary Mitchell M. Zais, found HLC out of compliance with 34 C.F.R. §§ 602.18(b)(3) and 602.25(a) and required HLC to submit periodic monitoring reports over a 12-month period for decisions related to change of ownership or control or an appeal of an adverse action. HLC submitted the required monitoring reports. Department staff reviewed the monitoring reports for compliance and accepted them in March 2022.

The Department has received two complaints since the last review by NACIQI and has received over 65 third-party comments in conjunction with the review of this petition. The review of one complaint and the third-party comments are incorporated into this recognition review.

In conjunction with the agency's petition, Department staff reviewed the agency's supporting documentation, conducted a virtual file review in February-March 2022, virtually observed site visits in October 2021 and November 2021, and virtually attended an IAC meeting in January 2022, a Board meeting in February 2022, and an IAC hearing in March 2022.

During the petition review process, HLC changed its geographic area of accrediting activities and notified the Department of that change. The agency also stated that it would like to include direct assessment within its scope of recognition and provided information and documentation to support that request within this petition. Therefore, the Department has revised the agency's scope of recognition to the following: The accreditation and preaccreditation ("Candidate for Accreditation") of degree-granting institutions, including tribal institutions, and the accreditation of programs offered via distance education, correspondence courses, and direct assessment within these institutions. This recognition extends to the Institutional Actions Council jointly with the Board of Trustees of the Commission for decisions on cases for continued accreditation or reaffirmation, and continued candidacy, and to the Appeals Body jointly with the Board of Trustees of the Commission for decisions related to initial candidacy or accreditation or reaffirmation of accreditation. Geographic area of accrediting activities: The United States.

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## PART II: SUMMARY OF FINDINGS

### **602.15 Basic Eligibility, Organizational and Administrative Requirements**

#### **Description of 602.15(a)(2)**

(2) Competent and knowledgeable individuals, qualified by education or experience in their own right and trained by the agency on their responsibilities, as appropriate for their roles, regarding the agency's standards, policies, and procedures, to conduct its on-site evaluations, apply or establish its policies, and make its accrediting and preaccrediting decisions, including, if applicable to the agency's scope, their responsibilities regarding distance education and correspondence courses;

#### **Analyst Remarks to Narrative:**

### Qualifications of the Board of Trustees

As outlined in Article IV of the bylaws, the board of trustees is the policy-making

body and the main decision-making body of the agency (Exhibit A.4). The current size of the board is 19, but can be comprised of 16-21 members. The bylaws state that the board be comprised of representatives of the public and "broadly representative of institutions that are members of the Commission." HLC utilizes a nominating committee to submit candidates for election to the board (Exhibit B.2). The current roster of the board includes public, academic and administrative representatives (Exhibit C.2). The agency provided biographical information about its current board members to demonstrate that they are qualified to fulfill their roles (Exhibit C.2).

#### Qualifications of the Institutional Actions Committee (IAC) Members

Per agency policy, the IAC is another decision-making body within the agency and has no fewer than 40 members at any time (Exhibit A.1, INST.D.20.010). The IAC members are appointed by the board from the current site visitor roster and "shall be broadly representative of institutions accredited by HLC, with attention to institutional type, control, size, and geographical distribution". The agency's IAC policies require public representation on all sub-committees and panels, as well as both academic and administrator representation. The current roster of the IAC includes public, academic and administrative representation (Exhibit C.3). The agency also provided sample IAC member biographies to demonstrate that the agency obtains sufficient information to determine that individuals serving in this role meet the agency's required qualifications (Exhibit C.4). In addition, the agency provided example IAC panel rosters to demonstrate implementation of its policies and procedures (Exhibit C.15).

#### Qualifications of the Appeals Panel Members

Per the agency's bylaws, the appeals panel is a decision-making body (Exhibit A.4). The agency's policy on appeals includes the qualifications and responsibilities of the appeals panel members (Exhibit A.1, INST.E.90.010). The appeal panel members are appointed by the board from the current site visitor roster. The agency maintains a pool of 17 individuals to serve on an appeals panel, which consists of five members when convened (Exhibit C.5). The agency also provided appeal panel member biographies to demonstrate the qualifications of those included in the pool, to include representatives of the public (Exhibit C.6). The agency stated that it has not convened an appeal panel during the recognition period and therefore, cannot provide documentation of implementation.

#### Qualifications of Site Visitors

The agency maintains a pool of over 1700 volunteers to serve as site visitors (peer corps) and provided the list of those individuals (Exhibit C.8). The agency's policy (PEER.A.10.010) sets specific qualifications for site visitors, which include education and/or experience as an administrator, academic or other subject areas and at least five years of work experience (Exhibit A.1). The selection, training, and evaluation process is also detailed in the overview document provided (Exhibit F.4). The agency provided 18 sample site visitor biographies to demonstrate that the individuals serving in this role meet the agency's required qualifications (Exhibit F.21). In addition, the agency

provided example site team rosters to demonstrate implementation of its policies and procedures (Exhibit C.15).

The agency provided information and documentation of its comprehensive and on-going training program for all these individuals, to include site visitor training (initial and on-going), new board and IAC member orientation, annual board and IAC member training, appeals panel training, and online training and resources (Exhibits F.4, F.5, F.11, F.13, and F.14). HLC stated that all agency representatives are trained on the application of standards regardless of modality, but the training program does not reference the review of correspondence courses or direct assessment programs, if applicable, for all agency representatives.

During the virtual file review, Department staff reviewed resumes/CVs for all board members and appeals panel members and a representative sample of IAC members and site visitors. Department staff also reviewed training for all entities for the prior two years, but it was not clear that training was provided on the agency's standards, policies, and procedures so that they may fulfill their responsibilities regarding the review of correspondence courses and direct assessment.

Analyst Remarks to Response:

In response to the draft staff analysis, HLC provided information and documentation of training to decision-making body members (Board, IAC and Appeals Panel members) and site visitors (Peer Corps) on the review of correspondence courses or direct assessment programs. However, the documentation did not demonstrate that all decision-making body members and site visitors had completed the additional training.

For site visitors, the agency provided documentation of additional training on methods of delivery (distance education, correspondence courses, and direct assessment) and assessment of those delivery methods (HLC Exhibits: Peer Reviewer Trainings on Modalities and 2022 Peer Corps Training Webinar Materials). HLC stated that the additional training is required to maintain an 'active' status as a site visitor, originally effective September 7, 2022, but now effective January 2, 2023 (HLC Exhibit: 2022 Peer Corps Training Webinar Materials, pages 9-10; ED Exhibit 36 - Sample Training Verification Form; ED Exhibit 39 - Sample Reminder to Peer Reviewers - Modality Training\_Redacted; and ED Exhibit 40 - HLC Supplemental Response to Beth Daggett - Nov 21 2022). The agency provided documentation that almost 90% of site visitors had already completed the training and that 75% of the remaining site visitors have been deemed inactive, as of November 3, 2022 (ED Exhibit 37 - Training Verification Forms Completed as of November 14 22 and ED Exhibit 38 - Peer Reviewers Made Inactive on Nov 3 2022). HLC stated that the additional training has

been added to the training program for new site visitors.

For IAC members, HLC provided documentation of additional training on methods of delivery (correspondence courses and direct assessment) conducted at its June 2022 annual meeting (HLC Exhibit: IAC Annual Meeting Training). The agency stated that all IAC members were required to complete the additional training described above for site visitors and that only two IAC members have not completed the training (ED Exhibit 43 - IAC Members Status of Modality Training and ED Exhibit 44 - HLC Supplemental Response to Department - December 7 2022). If the individuals do not complete the training by January 2, 2023, they will be deemed 'inactive' (HLC Exhibit: 2022 Peer Corps Training Webinar Materials, pages 9-10; ED Exhibit 36 - Sample Training Verification Form; ED Exhibit 39 - Sample Reminder to Peer Reviewers - Modality Training\_Redacted; and ED Exhibit 40 - HLC Supplemental Response to Beth Daggett - Nov 21 2022). The agency stated that the additional training will be added to the training program for new IAC members.

For Board members, HLC provided documentation of additional training on methods of delivery (competency-based education and direct assessment) conducted at its June 2022 meeting (HLC Exhibit: Board of Trustees Training on Modalities). HLC provided the meeting agenda to demonstrate implementation of the training (ED Exhibit 41 - Board Schedule Jun 2022.docx and ED Exhibit 40 - HLC Supplemental Response to Beth Daggett - Nov 21 2022). The training did not include correspondence courses, but Department staff reviewed documentation of training on correspondence courses during the virtual file review, as noted in the Section 602.16(d). The agency provided documentation of the availability of online training resources for Board members and stated that the additional training on methods of delivery will be added to the training program for new Board members (ED Exhibit 45 - Diligent Resource Center Webinars Screenshot).

For Appeals Panel members, HLC stated that most of them are selected from the site visitor or IAC membership and that they received the same training as those members, as stated above. The agency also stated that additional training on methods of delivery will be added to the training program for new Appeals Panel members and refresher training would be provided at the time of an appeal. The agency reiterated that it has not convened an appeal panel during the recognition period and therefore, cannot provide documentation of implementation of the refresher training.

PART III: THIRD PARTY COMMENTS

### Staff Analysis of 3rd Party Written Comments

Over 65 written third-party comments were received regarding this agency, with an overwhelming majority in support of HLC. Most of the comments are from individuals at institutions accredited by HLC, with around half of those serving in a volunteer capacity with the agency. The roles of those commenters range from faculty, vice presidents, deans, and presidents. Beyond institutional representatives, one comment was on behalf of a State higher education agency, one from a 12-state compact, two from State college systems, one from a veteran's organization, one from a coalition of 16 organizations, one from a public policy think tank, and one from a NACIQI member. Most of the commenters did not tie their comments to specific sections of the Secretary's Criteria for Recognition.

The comments in support of HLC referenced the positive interactions as an institutional representative, HLC volunteer, or both. The comments included support for HLC's individualized review of institutions that takes into account the diversity of mission, student body, etc. and HLC's goal to promote continual institutional improvement. The commenters appreciated the professionalism, support and responsiveness of the agency's staff, as well as the training provided both institutions and agency volunteers. Many of the commenters remarked on the consistent high standards of HLC to ensure the quality of education provided by accredited institutions.

A few comments were overall supportive of HLC but also offered suggestions for improvement – particularly for renewal of accreditation site visits. One comment from an institutional representative advocated for greater weight to be placed on the collaborative and evidence-based self-study by the site team versus vocal individuals promoting self-interest causes while on-site. Another institutional commenter expressed concern with the training of site visitors and the voluminous and/or unnecessary information requests during site visits. One commenter, who serves as a site team chair, provided suggestions for improving the assessment of student outcomes and requested additional training for site team members on student outcomes assessment.

One comment from an institutional representative stated that HLC does not treat two-year institutions fairly, particularly in regard to the assessment of student learning outcomes. The commenter stated that two-year institutions spend an unreasonable amount of time and resources providing information and documentation to HLC and that the time and resources spent does not result in quality improvement of the institution. Instead, the commenter stated that specific outcomes should be sufficient to demonstrate program effectiveness. The commenter also advocated for the Department to assume the role of educational quality authority.

One comment on behalf of a statewide technical college system questioned why HLC has not implemented the flexibility provided in 34 C.F.R. § 602.16(g)(4) to provide separate faculty standards for instructors teaching courses within dual or concurrent enrollment programs or career and technical education courses. For recognition purposes, 34 C.F.R. § 602.16(g)(4) is optional for agencies to implement and HLC did not indicate that it has chosen to do so.

One comment included quoted student and whistleblower complaints about institutions accredited by HLC. It is unclear based on the comment if the complainants utilized the agency's complaint policy and procedures prior to submitting this comment to the Department. The Department does not typically commence an inquiry of an agency based on a complaint unless and until a complainant exhausts the agency's published complaint procedures. Nevertheless, the agency may respond to the complaints in its response to the draft staff analysis.

Three comments noted student achievement outcomes, legal actions, news stories, etc. related to individual institutions accredited by HLC. The Department's recognition review process assesses whether or not an accrediting agency meets the Secretary's Criteria for Recognition (Criteria). Department staff use information and documentation related to individual institutions including student achievement outcomes, legal actions and news articles to ensure that an accrediting agency acts in accordance with both its own policies and procedures and with the Criteria. However, the recognition review process is not intended to review individual institutions that are accredited by the agency. Where applicable, the related comments with the institutional examples are included in the specific regulatory section, to include 34 C.F.R. §§ 602.16(a)(1)(i), 602.16(a)(1)(vii), and 602.16(a)(1)(x).

Two comments are related to institutions and their compliance with the non-Title IV (90/10) revenue requirement. The 90/10 requirement is related to an institution's eligibility to participate in Title IV funding programs that are administered by the Department's Office of Federal Student Aid (FSA). While institutional agencies that provide a link to Title IV, HEA programs are required to have and apply standards that set forth clear expectations for an institution's compliance with Title IV program responsibilities, it is FSA that enforces compliance by institutions with its regulations, including the 90/10 requirement. Institutional agencies that provide a link to Title IV, HEA programs must submit to the Department information that gives the agency reason to believe that an institution it accredits is failing to meet its Title IV, HEA program responsibilities or is engaged in fraud or abuse, per 34 C.F.R. § 602.27(a)(5).

Two comments are related to the use of specific outcomes to determine success with respect to student achievement. Pursuant to 34 C.F.R. § 602.16(a)(1), an agency must have standards that are sufficiently rigorous to ensure that the agency

is a reliable authority regarding the quality of the educational training provided by the institutions and programs it accredits. An agency meets this requirement by setting forth clear expectations in its standards for the institutions or programs it accredits to demonstrate, among other things, success with respect to student achievement, which may or may not include specific outcomes. Department staff use a range of information and documentation, including student achievement outcomes, to ensure that an accrediting agency's standards are sufficiently rigorous. However, the Department is specifically limited by the Higher Education Act of 1965, as amended, at § 496(g), 20 U.S.C. § 1099b(g), from establishing "any criteria that specifies, defines, or prescribes the standards that accrediting agencies or associations shall use to assess any institution's success with respect to student achievement." Therefore, the Department is prohibited from requiring an agency to use any specific outcome metrics to assess an institution's/program's success with respect to student achievement. However, in its discussion of 34 C.F.R. § 602.16(a)(1)(i) above, Department staff raised questions related to the agency's outcomes review in the application of its standards with respect to student achievement and in light of the prominence of outcomes within its strategic plan.

One comment noted whistleblower allegations, law enforcement concerns, legal actions, etc. related to individual institutions accredited by the agency outside of the current recognition period. The scope of the Department staff's review focuses on the agency's compliance with the Secretary's Criteria for Recognition since the last recognition decision dated May 9, 2018, to include a review of the agency's monitoring and enforcement activities. Accordingly, the agency's response to the draft staff analysis should address any monitoring and/or enforcement activities that the agency has undertaken since the last recognition period with regard to any of the issues identified in the comments and should explain what steps it has taken (and is currently taking) to monitor and address the types of issues identified in the comments.

Two comments stated that the Department's solicitation of written third-party comments occurred without access to the agency's petition for recognition. One commenter went further and stated that if the agency was in compliance with the requirements of 34 C.F.R. § 602.31(f), then there should be no reason that the agency's petition could not be made available to the public. Since the information and documentation could not be provided, the commenter concluded that the agency must be out-of-compliance with 34 C.F.R. § 602.31(f). This conclusion does not take into account the Department's role in processing and decision-making on requests for public disclosure of agency materials, as described in 34 C.F.R. § 602.31(f)(1). In addition, the Department's solicitation of written third-party comments sought comment on the agency's compliance with the criteria in question pursuant to 34 C.F.R. §§ 602.32(c) and (l). The purpose of the call for written third-party comment is to allow anyone who has any knowledge of an agency undergoing a recognition review by the Department and the agency's compliance or non-compliance with Departmental regulations to provide that information and/or documentation so that Department staff can utilize it in the comprehensive analysis of the agency.

One comment is related to the Department's recognition process for the review of accrediting agencies. The Department is bound by the regulations at 34 C.F.R. § 602 for the review of agency recognition, which define the criteria and process. Department staff have forwarded the comment suggesting changes to the recognition review and process regulations for consideration in the future.

### **Staff Analysis of Agency Reponse to 3rd Party Written Comments**

In response to the draft staff analysis, the agency provided a narrative response to the third-party comments as HLC Exhibit: HLC Response to Third-Party Comments. That response specifically focused on the comments from HLC institutions; comments regarding the agency's review of student achievement; comments regarding the agency's review of legal or administrative actions; and comments related to areas outside the scope of the Secretary's Criteria for Recognition. HLC also provided specific information and documentation related to site visitor training, student achievement and monitoring within its responses in 34 C.F.R. §§ 602.15(a)(2), 602.16(a)(1)(i), and 602.19(b).