

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 (1952/2007)

(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:** Compliance Report

3. **Current Scope of Recognition:** The accreditation and preaccreditation ("Candidate for Accreditation") of degree-granting institutions of higher education in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, and Wyoming, including the tribal institutions and the accreditation of programs offered via distance education 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. This recognition also extends to the Review Committee of the Accreditation Review Council jointly with the Board of Trustees of the Commission for decisions on cases for continued accreditation or candidacy and for initial candidacy or initial accreditation when there is a consensus decision by the Review Committee.

4. **Requested Scope of Recognition:** Same as above

5. **Date of Advisory Committee Meeting:** December, 2010

6. **Staff Recommendation:** Accept the report and require the agency to submit a compliance report on one issue identified in the new regulatory requirements in one year.

7. **Issues or Problems:**

The agency must provide evidence of its review and approval of institutions under the Notification process. [§602.22(a)(2)(viii)]

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Higher Learning Commission (HLC or the agency) is a regional institutional accreditor that accredits (or preaccredits) over 1,000 degree granting institutions in 19 states, tribal institutions and including those programs offered via distance education within these institutions.

Most of the institutions accredited by HLC use the Secretary's recognition of the agency to establish eligibility to participate in the Title IV, HEA student financial assistance programs. Therefore, the agency must meet the separate and independent requirements.

The current recognition of HLC extends to the Institutional Action Council jointly with the Board of Trustees for decision on cases for continued accreditation or reaffirmation, and continued candidacy. The Secretary's recognition also include the Review Committee of the Accreditation Review Council, jointly with the Board of Trustees for decisions on cases for continued accreditation or candidacy and for initial candidacy or initial accreditation when there is a consensus decision by the Review Committee.

Recognition History

HLC received initial recognition in 1952 and has received periodic renewal of recognition since that time. The last full review of the agency was conducted in December 2007, at which time the Committee recommended and the Secretary concurred that the agency's recognition be renewed for five-years and that it submit an interim report by December 19, 2008 addressing the six issues identified in the staff analysis, as follows:

- The need to demonstrate that it consistently requires institutions to obtain prior approval of substantive changes listed in the criteria for recognition before it is included in the institution's grant of accreditation.
- The need to revise its substantive change policies to include increases in and/or changes from clock hours to credit hours and to remove the limiting factors of "degree programs" and "100+ students" from its definition of additional location. The agency needs to demonstrate adoption and implementation of the proposed revisions to its policies.
- The need to demonstrate that it has procedures in place by which it requires, reviews, and approves teach-out agreements that comply with the requirements of this section.
- The need to revise its policy and not notify institutions when it notifies the Department of possible fraud and abuse.
- The need to revise its policy to include pending and final actions by State agencies and a notification to the Secretary within the 30-day timeframe, as required by this criterion.
- The need to revise its policy and practices to reflect that it will initiate a prompt review of its accredited and preaccredited institutions when it learns that another recognized accreditor has taken an adverse action against a program in the institution or the institution.

The agency submitted its report, as required, but because of the passage of HEOA, the agency's report was on hold until the NACIQI was reconstituted. Due to the lapse in time, the agency was allowed to submit updated information for review as part of this interim report.

In the interim, in 2009, Department staff conducted a special review of the agency following issuance of an Alert Memorandum by the Office of the Inspector General. Department staff sent the agency a report on the results of its review, which required the agency to develop a corrective action plan. One element of

that plan was a requirement that the agency review and modify, as appropriate, substantive change policies, developing clear written procedures with internal controls consistent with stated procedures to assess exceptional circumstances, and demonstrate implementation of the specific procedures to deal with changes in ownership resulting in a change in control. This information was to be considered in the current review by Department staff.

The agency's interim report and its response to the special review, as applicable, is the subject of this analysis.

PART II: SUMMARY OF FINDINGS

§602.22 Substantive change.

(a) If the agency accredits institutions, it must maintain adequate substantive change policies that ensure that any substantive change to the educational mission, program, or programs of an institution after the agency has accredited or preaccredited the institution does not adversely affect the capacity of the institution to continue to meet the agency's standards.

The agency meets this requirement if--

- (1) The agency requires the institution to obtain the agency's approval of the substantive change before the agency includes the change in the scope of accreditation or preaccreditation it previously granted to the institution; and**

Previous Issue or Problem: During the agency's last recognition review (2007), Department staff identified that the agency's policies regarding prior approval of additional locations did not comply with the criteria. Although the agency stated approval is required prior to including the substantive change in the scope of accreditation, Department staff found that, by observed practice and through discussions with agency staff, HLC did not require prior approval for the establishment of additional locations in all instances as required by the criteria for recognition in effect at that time.

The agency had developed a customized approach to requiring a type of prior approval that co-mingled sites and types of program offerings. These inconsistent policies and practices allowed institutions and students to participate in Title IV aid programs at locations the agency did not know about for up to a year after the institution established the additional location. The practice, known as "blanket approval", would be granted at the institution's request, if it demonstrated (previously) that it had a system in place capable of ensuring the quality of the education. The "blanket approval" process did not meet the substantive change requirements because it failed to require institutions to obtain prior approval each time it established an additional location as required by the regulations in effect at that time.

Discussion: In response to the Department's finding, in September 2008, the agency implemented revised substantive change policies and accompanying procedures to require HLC's prior approval of an institution's establishment of additional locations before the agency includes any change in the scope of accreditation or preaccreditation it previously granted to the institution. Subsequently, and in response to the Department's revised regulations concerning substantive change, the agency again revised its policies and procedures regarding substantive changes. The Board adopted the revised policies and procedures June 2010.

The agency has submitted substantial documentation of the chronology of its work on its substantive change process between 2008-2010 resulting in a comprehensive program of substantive change review and approval. The agency's policies and procedures meet the requirements of the criteria. By its documentation of its notification and training sessions for those involved in the process, the agency has demonstrated its implementation of the program; however, the agency has not provided the crucial evidence that its review procedures are an effective mechanism for assessing the quality/viability of the institution to continue to meet the agency's standards.

Staff Determination: The agency does not meet the requirements of this section. It must provide documentation representative of the substantive change review processes to evidence its review is an effective mechanism for assessing the institution's viability to continue to meet agency standards.

Analyst Remarks to Response:

In its response, the agency provided evidence of the implementation of its substantive change policy in the form of examples from three institutions requesting a substantive change. Each example followed the defined system for approving substantive changes and included the documentation associated with each step of the review.

Staff Determination: The agency meets the requirements of this section.

(2) The agency's definition of substantive change includes at least the following types of change:

(i) Any change in the established mission or objectives of the institution.

(ii) Any change in the legal status, form of control, or ownership of the institution.

(iii) The addition of courses or programs that represent a significant departure from the existing offerings of educational programs, or method of delivery, from those that were offered when the agency last evaluated the institution.

(iv) The addition of programs of study at a degree or credential level different from that which is included in the institution's current accreditation or preaccreditation.

(v) A change from clock hours to credit hours.

(vi) A substantial increase in the number of clock or credit hours awarded for successful completion of a program.

(vii) If the agency's accreditation of an institution enables the institution to seek eligibility to participate in title IV, HEA programs, the entering into a contract under which an institution or organization not certified to participate in the title IV, HEA programs offers more than 25 percent of one or more of the accredited institution's educational programs.

Previous Issue or Problem: During the agency's last recognition review (2007), Department staff identified that the agency did not include all of the types of substantive change required by the criteria in its substantive change processes. None of HLC's policies addressed institutional changes from clock hours to credit hours, or substantial increases in the number of clock or credit hours needed for successful completion of a program, as required by this section of the Secretary's Criteria for Recognition.

Discussion: In 2008, the agency expanded its substantive change policy and accompanying procedures to include changes from clock hours to credit hours, and a substantial increase in the number of clock or credit hours awarded for successful completion of a program.

Since then, the Department expanded the regulatory requirements in this section, to include, as types of changes that agencies must review and approve, both increases and decreases in clock/credit hours and contracts entered into by institutions it accredits. In June 2010, the Board of Trustees revised and adopted policies to reflect this federal regulatory change and other policy changes, specifically with regards to the addition of courses or programs, any program at degree or credential level different from that which is already approved, and contracts entered into by institutions it accredits. The policy revisions also incorporated new procedural approaches to these substantive changes.

In addition, in 2009, Department staff conducted a special review of the agency following issuance of an Alert Memorandum by the Office of the Inspector General. Department staff sent the agency a report on the results of its review, which required the agency to develop a corrective action plan. One element of that plan was a requirement that the agency review and modify as appropriate substantive change policies, developing clear written procedures with internal controls consistent with stated procedures to assess exceptional circumstances, and demonstrate implementation of the specific procedures to deal with changes in ownership resulting in a change in control. This information was to be considered in the current review by Department staff.

The agency revised its policy on change of ownership, structure or control in 2008. In October 2009, the Board evaluated the initial implementation of the policy and called for some additional revisions. The revised policy was approved on first reading in December 2009 and was adopted on second reading in February 2010. The policy includes a list of specific transactions that must be reviewed and approved by the Commission. Further, it makes clear that it may apply to other transactions that are not specified if it is clear that control at the institution will shift as a direct result of the transaction. The policy identifies five factors that the Commission will use to determine whether the proposed change of control should be

approved. These factors include (1) the extension of the mission, educational programs, student body, and faculty that were in place when the Commission last conducted an on-site evaluation of the institution; (2) the on-going continuation and maintenance of the institution historically affiliated with the Commission with regard to its mission, objectives, outreach, scope, structure, and related factors; (3) substantial likelihood that the institution, including the revised governance and management structure of the institution, will continue to meet the Commission's Eligibility Requirements and Criteria for Accreditation; (4) sufficiency of financial support for the transaction; and (5) previous experience in higher education and accreditation, qualifications, and resources of the new owners, Board members or other individuals who play a key role in the institution or related entities subsequent to the transaction.

The agency has developed detailed procedures for submission and review of applications for changes in ownership. The procedures are clear and provide sufficient guidance to institutions on the agency's expectations and decision-making process. The agency reports that the Commission conducts training of staff and peer reviewers involved in the review process at the outset of each review to ensure consistency in the review process. However, the agency did not provide any documentation of the training. The agency provided a list of changes of control actions for the period October 2009 through June 2010 indicating that 2 of the 10 proposed changes were denied. However, the agency did not provide documentation demonstrating application of its policy and procedures in the review of any of the listed transactions.

Staff Determination: The agency does not meet the requirements of this section. It must provide documentation of its training of staff and peer reviewers in the review of applications for changes in ownership, and documentation demonstrating its effective application of its policy and procedures in the review of change in ownership applications.

Analyst Remarks to Response:

In its response, HLC submitted documentation to demonstrate that it provided training on the revised change of ownership, structure or control policy and procedures to staff, Board of Trustee members, and peer reviewers, as well as the topics and materials covered.

For the implementation of its change of ownership, structure or control policy, HLC provided examples from three institutions. Each example demonstrated that HLC follows its published policies and procedures for approving changes of ownership, structure or control, and included the documentation associated with each step of the review.

Staff Determination: The agency meets the requirements of this section.

(ix) The acquisition of any other institution or any program or location of another institution.

(x) The addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution that has ceased operating before all students have completed their program of study.

Discussion: These criteria were not previously identified as a compliance issue, but the agency was required to address them as a result of new regulatory requirements.

In June 2010, the agency revised and adopted a revision of its policies to include the acquisition of an institution, program, or location and the addition of a permanent location for purposes of conducting a teach-out. The acquisition of another institution or location of another institution as a transaction requires the agency's review and approval under the Change of Control, Structure or Organization section of the agency's Criteria of Accreditation and the acquisition of a program of another institution or the acquisition of a campus or additional location acquired as a result of a teach-out is included under the agency's substantive change policies.

Staff Determination: The agency meets the requirements of this section.

(viii) (A) If the agency's accreditation of an institution enables it to seek eligibility to participate in title IV, HEA programs, the establishment of an additional location at which the institution offers at least 50 percent of an educational program. The addition of such a location must be approved by the agency in accordance with paragraph (c) of this section unless the accrediting agency determines, and issues a written determination stating that the institution has—

(1) Successfully completed at least one cycle of accreditation of maximum length offered by the agency and one renewal, or has been accredited for at least ten years;
(2) At least three additional locations that the agency has approved; and
(3) Met criteria established by the agency indicating sufficient capacity to add additional locations without individual prior approvals, including at a minimum satisfactory evidence of a system to ensure quality across a distributed enterprise that includes—

(i) Clearly identified academic control;

(ii) Regular evaluation of the locations;

(iii) Adequate faculty, facilities, resources, and academic and student support systems;

(iv) Financial stability; and

(v) Long-range planning for expansion.

(B) The agency's procedures for approval of an additional location, pursuant to paragraph (a)(2)(viii)(A) of this section, must require timely reporting to the agency of every additional location established under this approval.

(C) Each agency determination or redetermination to preapprove an institution's addition of locations under paragraph (a)(2)(viii)(A) of this section may not exceed five years.

(D) The agency may not preapprove an institution's addition of locations under paragraph (a)(2)(viii)(A) of this section after the institution undergoes a change in ownership resulting in a change in control as defined in 34 CFR 600.31 until the institution demonstrates that it meets the conditions for the agency to preapprove additional locations described in this paragraph.

(E) The agency must have an effective mechanism for conducting, at reasonable intervals, visits to a representative sample of additional locations approved under paragraph (a)(2)(viii)(A) of this section.

Previous Issue or Problem: During the agency's last recognition review (2007), Department staff identified that the agency's definition of an additional location did not conform to the regulation included within the Secretary's Criteria for Recognition. HLC's definition limited an additional location as one that offers 50% or more of the courses leading to one of its degree programs AND at which the institution enrolls 100 or more students (unduplicated headcount) in an academic year. The regulation does not offer the agency an option to limit the definition of an additional location based on student enrollment.

Discussion: In response to the Department's finding, in 2008 the agency revised its definition of an additional location to remove the previously limiting language.

Subsequently, the Department expanded its requirements regarding agency approval of additional locations under this section of the regulations to include an optional approval process that the agency could implement if the institution met certain criteria concerning additional locations. In June 2010, the agency adopted revised policy language to reflect these regulatory changes. The revised policy also defines an additional location as a location at which the institution offers at least 50% of an educational program without any other limitations or caveats.

The agency's policy reflects the language of some of the regulatory requirements, and the agency's narrative restates it. Most clearly reflecting that the agency's review includes the criteria required by this

section of the criteria is found in the agency's substantive change request documents for requesting additional locations. The agency requires institutions to provide comprehensive responses regarding academic control, evaluation, adequacy of resources and support systems, financial stability and long-range planning. What is less clear is how the agency will assess this information and make its determination that an institution has or has not sufficient capacity to provide management and oversight of additional locations across a distributed enterprise. The agency would be expected to reflect consistency in its review. The agency has not provided any examples of its review and approval to reflect its assessment of institutional capacity and consistency in its review.

In an earlier section, the agency provided a description of a Web-based notification system it created to receive timely reporting (required under this section) of additional locations established by an institution, but it is not clear what is the agency's definition of timely; nor has the agency provided documentation/evidence of the institutions' use of the reporting system to demonstrate HLC's knowledge of the additional locations of its accredited institutions

Staff Determination: The agency does not meet the requirements of this section. It must provide evidence of its review and approval of requests to establish additional locations under the requirements of this section of the criteria. The agency must also demonstrate that its Web-based reporting system is an effective mechanism for timely reporting and agency knowledge of the additional locations established by its accredited institutions.

Analyst Remarks to Response:

In response to the new regulations, the agency developed three processes for approving additional locations.

The first, a "Regular Review", is the standard review for institutions that want to establish an additional location and requires HLC prior approval.

The second, called "Desk Review", is a review process for eligible institutions that pre-establishes an institution's experience and viability for operating additional locations. This process enables the agency to complete a review, in advance, of the institution thus enabling the agency to complete reviews of these institutions' requests to establish additional locations more expeditiously.

The third process, called "Notification", is the newly-established process whereby the agency conducts a comprehensive review of an eligible institution under the requirements of this criterion. Once the institution is approved under the Notification process, it has agency pre-approval to establish additional locations, without submitting individual requests for up to five years.

In response to the requirement that the agency provide evidence of its review and approval of requests to establish additional locations under the requirements of this section of the Criteria, the agency provided examples from three institutions requesting approval to establish an additional location via the Regular Review, and a list of two institutions qualified to apply for the Notification process. Although the agency provided examples of its Regular Review process, HLC did not provide evidence of its review of institutions that have undergone a Notification review.

Due to the pre-approval timeframe of 5 years for the Notification process, Department staff determined that HLC must provide evidence of its review and approval of requests to apply for this process and establish additional locations under the requirements of this section of the Criteria. While the agency has not had an institution submit an application to the Notification process, Department staff noted that it is highly likely that the agency will receive an application to this process within 12 months, and therefore will be able to provide documentation of implementation of the process within that time period.

Also, in response to the Department staff concerns that the agency demonstrate that its Web-based reporting system is an effective mechanism for timely reporting and that the agency is knowledgeable of the additional locations established by its accredited institutions, HLC provided additional information and documentation regarding the web-based notification program (MACRO). Institutions approved for an expedited review process are required to submit any new additional location through MACRO at least 30 days prior to recruiting and matriculating students at that location. By its documentation of its notification, and instruction on use, of MACRO to institutions, the agency has demonstrated its implementation of the timely reporting requirement for additional locations of institutions approved for an expedited review

process.

Staff Determination: The agency does not meet the requirements of this section. It must provide evidence of its review and approval of institutions under the Notification process.

(3) The agency's substantive change policy must define when the changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution.

Discussion: The agency was required to address this criterion as a result of new regulatory requirements and the October 2009 OPE review of the agency's substantive change policies and procedures.

In June 2010, the agency adopted revised policies that identify the types of changes made or proposed by an institution that may require a comprehensive evaluation of the institution by the agency. Specifically, HLC expanded its substantive change policies and procedures to state that in certain cases where an institution has initiated a number of substantive changes such that it is no longer clear that the institution is substantially the same institution as it was at the time of the last comprehensive evaluation, the agency has the discretion to require a comprehensive review. These include:

1. extensive numbers of new or revised academic program
2. new campuses or additional locations;
3. significant new populations of students;
4. new delivery formats including distance, correspondence, compressed, or other formats;
5. frequent modifications to corporate or governance structures; or
6. involvement of the institution in one or more joint ventures, limited partnerships or other arrangements that may affect its academic programs, services, students, or governance structure.

With regard to the institution's involvement in joint ventures, limited partnerships, modifications of corporate governance structures resulting from change of ownership that might result in a comprehensive evaluation, the agency states that such changes might have been previously revised and approved under the Change of Control policy (see discussion above); however, they might have been approved with the expectation that the institution would not fundamentally change as a result of the transaction and now has indeed done so.

Staff Determination: The agency meets the requirements of this section.

(b) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, these procedures must specify an effective date, which is not retroactive, on which the change is included in the program's or institution's accreditation. An agency may designate the date of a change in ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change in ownership. Except as provided in paragraph (c) of this section, these procedures may, but need not, require a visit by the agency.

Discussion: This criterion was not previously identified as a compliance issue, but the agency was required to address it as a result of new regulatory requirements.

In June 2010, the Board of Trustees adopted revised policy language to include this federal regulatory change. HLC revised its numerous written policies specific to various types of substantive change requests and reviews. The agency's policies clearly state that the effective date for substantive changes will be on or after the date the Board of Trustees issues its approval and in no case will such an action be retroactive. For a change of control, the agency states the effective date of the Board of Trustees' action and the requirement that no effective date will be more than thirty days from the date of the Board's action. These timelines are compliant with the requirements of this section.

Staff Determination: The agency meets the requirements of this section.

(c)(1) A visit, within six months, to each additional location the institution establishes, if the institution--

- (i) Has a total of three or fewer additional locations;**
 - (ii) Has not demonstrated, to the agency's satisfaction, that it has a proven record of effective educational oversight of additional locations; or**
 - (iii) Has been placed on warning, probation, or show cause by the agency or is subject to some limitation by the agency on its accreditation or preaccreditation status;**
-

Discussion: This criterion was not previously identified as a compliance issue, but the agency was required to address it as a result of new regulatory requirements and the October 2009 OPE review of the agency's substantive change policies and procedures.

The agency revised its substantive change policies and procedures in regards to additional locations in June 2008. From 2008 until July 1, 2010, HLC reviewed and approved all institutional requests to add new additional locations via two processes - the Regular Review process and the Streamlined Review process. Elements of these different review processes include:

Regular Review process –
open to all institutions

a determination of the institution's fiscal and administrative capacity to operate an additional location, a site visit may occur through a focused evaluation prior to approval, or through a Site Confirmation Visit to the additional location within six months of approval

Streamlined Review process-

open only to institutions which have three or more approved and active off-campus additional locations, a determination of the institution's fiscal and administrative capacity to operate an additional location, and .

a visit required within six months if the institution did not demonstrate that it had experience in creating and managing multiple additional locations, or was not in good standing with the agency.

These processes contain the regulatory requirements of this criterion. In June 2010, the Board of Trustees adopted revised policy language to reflect federal regulatory changes. However, while the agency's Substantive Change Application for Additional Locations that is completed for both types of requests does clearly require an institution to address its fiscal and administrative capacity to operate the additional location(s) requested, what is less clear is how the agency will assess this information. The agency has not provided any examples of its review and approval to reflect its assessment of institutional fiscal and administrative capacity and consistency in its review. Also, while the agency has developed a standardized site visit form to verify in a consistent manner the extent to which the location has the personnel, facilities, and resources the institution claimed to have in its application for approval; the agency has not demonstrated its use.

Staff Determination: The agency does not meet the requirements of this section. It must provide evidence of its review and approval of requests to establish additional locations under the requirements of this section of the criteria.

Analyst Remarks to Response:

In its response to 602.22(a)(1)(viii), HLC provided examples from three institutions requesting an additional location via the Regular Review process. These applications for an additional location were reviewed by staff and peer reviewers for sufficient fiscal and administrative capacity and demonstrated consistency of review.

For the site visits, HLC responded by providing documentation of an Additional Location Confirmation Visit and a Multi-Site Visit Report conducted during the 2009-2010 academic year, as none have been conducted during the 2010-2011 academic year. These reports demonstrate that HLC has implemented its additional location visit requirements, and that it reviews the personnel, facilities, and resources as claimed by the institution to support the additional location.

Staff Determination: The agency meets the requirements of this section.

(c)(2) An effective mechanism for conducting, at reasonable intervals, visits to a representative sample of additional locations of institutions that operate more than three additional locations; and

Discussion: This criterion was not previously identified as a compliance issue, but the agency was required to address it as a result of new regulatory requirements and as a result of the OPE review in October 2009 of the agency's substantive change procedures.

The agency has a documented process for site visiting a representative sample of additional locations at institutions that operate more than three additional locations. Significant elements of the process include the number and selection of locations visited, the interval for conducting site visits, number of evaluators, the duration of the visit, the assessment review and report.

Visit Interval/Number/Selection of Locations:

The agency states that institutions with three or more locations will be "eligible" for this review five years into or since its last comprehensive evaluation. The visits to a single institution's sample of additional locations occur only once during its accreditation cycle.

The agency's Multi-Site review process establishes a representative sample of locations to be between 2 and 7 locations for institutions with additional locations numbering from 3 to 150+. For example, according to the agency, if an institution has sixty (60) locations the agency has determined that a visit to 4 additional locations is an effective measurement. The agency indicated that it would require visits to a minimum of 4 percent of an institution's additional locations (in the case of an institution operating 150 additional locations) and a maximum of 67 percent of an institution's additional locations (in the case of an institution operating three additional locations). While one might infer that the decrease in the percentage of additional locations constituting a representative sample is a function of the institution's having demonstrated that it is capable of operating multiple additional locations, the agency did not provide any further basis for how it determined that (for example) 4 is a representative sample of locations to visit for an institution that has 60 additional locations (7 percent of the institution's additional locations). The document indicates that the agency, at its discretion, can conduct more visits but provides no clarification of the factors that would prompt that action.

The agency stated in its procedural document that the "Commission will only visit a proportion of the additional locations at which a full degree program(s) or degree completion programs are available." This limitation on the selection process can result in the agency not selecting a representative sample of additional locations at institutions that offer a large number of non-degree programs and/or have large numbers of additional locations; it does not fulfill the requirement of having a representative sample of additional locations. Beyond this, the agency did not provide any additional written information about its role, and that of the institution, in the selection of locations. It may be inferred that it is actually the institution that selects the locations as the agency documents state that, "At the time of the initial notification, the Commission will also provide an up-to-date list of active additional locations, and will request that the institution designates an individual to coordinate the Multi-Site Visit. Typically that person will be the coordinator of off-campus education, an administrator for one or more of the additional locations, or the Academic Dean." The agency does not indicate that it provides guidance on what is a representative sample or that it has identified and established selection criteria to direct the selection of additional locations.

Participant Evaluators/ Duration of Visit

The agency sends one person (a peer reviewer) to conduct an up-to 1-day review of the additional location. However, it is not clear how the agency selects evaluators based on qualitative criteria or that it provides training specific to the assessment/review criteria for this type of review. The agency does accommodate the site visit to the operations of the location to include scheduling evenings and weekends as necessary.

The assessment is documented in a standardized format and addresses either 6 or 11 areas depending

on whether the review is at additional location of an institution that was approved to establish additional locations under the criteria of 602.22(c) or 602.22(a)(2)(viii). The agency has provided, as example, a report of a Multi-Site Visit conducted in 2009.

The review areas covered by the report are comprehensive of a location's operation and delivery of education, and each area includes guidance to the reviewer which helps to focus the review.

While the agency has demonstrated its effective application of a documented process for site visiting additional locations at institutions that have 3+ locations, the agency has not provided sufficient information to conclude that its process is effective in targeting an appropriate representative sample of the additional locations of an institution, particularly those of institutions with significant numbers of additional locations and locations that offer 50% or more of a non-degree program.

Staff Determination:

The agency does not meet the requirements of this section. It must demonstrate that it has developed and implemented an effective mechanism to review an appropriate representative sample of additional locations in order to assess the continued capacity of the institution relative to its oversight of the education it provides at additional locations.

Analyst Remarks to Response:

In its response, HLC described its basis for and selection of the number of additional locations to be reviewed during a Multi-Site Visit, as well as the protocol used to determine the appropriate number of additional locations to visit. The agency takes into account many factors when determining the number of additional locations to visit, and is not based solely on proportionality to total number of additional locations. The determining factors include total number of additional locations, geographic distribution, programs offered, approach to off-campus instruction, and pattern of growth. In addition, HLC defined when it will conduct additional Multi-Site Visits on a more frequent basis to institutions, such as to institutions which have many locations and/or which expand significantly on a yearly basis. The agency provided documentation of implementation of this expanded protocol by providing the additional locations selected for Multi-Site Visits to be conducted in the 2010-2011 academic year.

In regards to the additional location selection process, HLC indicated that the selection occurs by agency staff only, and that the additional locations to be visited are selected from the list of additional locations which offer 50% or more of a program or a complete degree program. This process is described in the Multi-Site Visit Sampling and Scheduling protocol.

The peer reviewer is specifically trained in Multi-Site Visits, has experience in conducting comprehensive reviews, and has either employment or evaluation experience at an institution that offers distributed education at off-campus locations. HLC provided the training agenda and information used by the agency to prepare peer reviewers for this type of review and usage of the Multi-Site Visit form.

The agency has demonstrated that the documented selection process is an effective mechanism to review an appropriate representative sample of additional locations to assess the continued capacity of the institution relative to its oversight of the education provided.

Staff Determination: The agency meets the requirements of this section.

§602.24 Additional procedures certain institutional accreditors must have.

If the agency is an institutional accrediting agency and its accreditation or preaccreditation enables those institutions to obtain eligibility to participate in Title IV, HEA programs, the agency must demonstrate that it has established and uses all of the following procedures:

(c) Teach-out plans and agreements.

(1) The agency must require an institution it accredits or preaccredits to submit a teach-out plan to the agency for approval upon the occurrence of any of the following events:

(i) The Secretary notifies the agency that the Secretary has initiated an emergency action against an institution, in accordance with section 487(c)(1)(G) of the HEA, or an action to

limit, suspend, or terminate an institution participating in any title IV, HEA program, in accordance with section 487(c)(1)(F) of the HEA, and that a teach-out plan is required.

(ii) The agency acts to withdraw, terminate, or suspend the accreditation or preaccreditation of the institution.

(iii) The institution notifies the agency that it intends to cease operations entirely or close a location that provides one hundred percent of at least one program.

(iv) A State licensing or authorizing agency notifies the agency that an institution's license or legal authorization to provide an educational program has been or will be revoked.

Previous Issue or Problem: During the agency's last recognition review (2007), Department staff noted that although HLC had a policy broadly addressing institutional closings and teach-out plans, the policy did not require an institution to submit a teach-out plan to the agency for approval.

Discussion: In response to the Department's finding of non-compliance, the agency expanded its teach-out policy and accompanying procedures to require an institution to submit a teach-out plan to the agency for approval that comply with the requirements of this criterion. The agency policy and procedures include guidance to institutions about what the institution should provide in a teach-out plan as well as timelines for its submission. Subsequent to the agency's action, the Department expanded the regulatory requirement relative to teach-outs, which became effective July 1, 2010. The agency has provided revised policy language that has been adopted by the Commission

Staff Determination: The agency meets the requirements of this section.

(2) The agency must evaluate the teach-out plan to ensure it provides for the equitable treatment of students under criteria established by the agency, specifies additional charges, if any, and provides for notification to the students of any additional charges.

Discussion: This criterion was not previously noted as a compliance issue, but the agency was required to address it as a result of new regulatory requirements. In accordance with its revised policies, the agency expanded its teach-out procedures to require an institution to submit a teach-out plan to the agency for approval. The agency procedures provide specific criteria and guidance to institutions about what the institution must include in a teach-out plan including the requirement that the plan make provision for the equitable treatment of students by ensuring that they are able to complete the educational program in which they were enrolled immediately prior to notification that the site or campus would close ;that students can complete such degree programs within a reasonable period of time; and for prompt notification of additional charges to students, if any, as well as timelines for its submission. The agency provided an example of its review of a teach-out situation with one of its accredited institutions (under its previous policies) that demonstrates its comprehensive review and approval in a teach-out situation

Staff Determination: The agency meets the requirements of this section.

(3) If the agency approves a teach-out plan that includes a program that is accredited by another recognized accrediting agency, it must notify that accrediting agency of its approval.

Discussion: This criterion was not previously noted as a compliance issue, but the agency was required to address it as a result of new regulatory requirements.

HLC's revised policy complies with the requirement of this section regarding the agency's obligation to notify program accreditors of its approval of a teach-out plan. However, the agency has not provided documentation of implementation of the policy. Compliance with the criteria for recognition is based on an

agency's demonstration of its effective application, as applicable.

Staff Determination: The agency does not meet the requirements of this section. It must provide evidence of its application of the requirement, if applicable.

Analyst Remarks to Response:

In its response, HLC provided documentation of implementation of its policy to notify programmatic accreditors of the approval of any teach-out plans. Specifically, the agency provided a copy of the notification to a programmatic accreditor of the teach-out of an additional location that offered a program accredited by that other agency.

Staff Determination: The agency meets the requirements of this section.

(4) The agency may require an institution it accredits or preaccredits to enter into a teach-out agreement as part of its teach-out plan.

Discussion: This criterion was not previously noted as a compliance issue, but the agency was required to address it as a result of new regulatory requirements. The agency has provided revised policy language that indicates that the agency may require an institution to submit a teach-out agreement with its teach-out plan under certain circumstances.

Staff Determination: The agency meets the requirements of this section.

(5) The agency must require an institution it accredits or preaccredits that enters into a teach-out agreement, either on its own or at the request of the agency, with another institution to submit that teach-out agreement to the agency for approval. The agency may approve the teach-out agreement only if the agreement is between institutions that are accredited or preaccredited by a nationally recognized accrediting agency, is consistent with applicable standards and regulations, and provides for the equitable treatment of students by ensuring that--

(i) The teach-out institution has the necessary experience, resources, and support services to--

(A) Provide an educational program that is of acceptable quality and reasonably similar in content, structure, and scheduling to that provided by the institution that is ceasing operations either entirely or at one of its locations; and

(B) Remain stable, carry out its mission, and meet all obligations to existing students; and

(ii) The teach-out institution demonstrates that it can provide students access to the program and services without requiring them to move or travel substantial distances and that it will provide students with information about additional charges, if any.

Previous Issue or Problem: During the agency's last recognition review (2007), Department staff noted that although HLC had a policy broadly addressing institutional closings and teach-out agreements, the policy did not require an institution to submit a teach-out agreement to the agency for approval if the agreement is with another institution.

Discussion: In response to the Department's finding of non-compliance, the agency expanded its teach-out policy and accompanying procedures to require an institution to submit a teach-out agreement to the agency for approval. However, the agency's revised policies on teach-out agreements do not comply with the criteria.

The agency's policy [(3.9(c))], limits the requirement to submit teach-out agreements to the agency for

review and approval to institutions only in certain circumstances. Institutional accreditors that act as Title IV gatekeepers under this section of the criteria, must require any institution it accredits that enters into a teach-out agreement with another institution, either at the agency's direction or on its own, to submit that teach-out agreement to the accreditor for approval. The Department expects the accreditor, as integral to its approval process, to have procedures and criteria in place to evaluate the quality and viability of a successful implementation of the teach-out agreement that addresses subparts (i) and (ii) of this section of the criteria.

While the agency has developed some procedural guidance on submitting teach-out agreements, the guidance does not provide sufficient specificity to ensure that the agency receives sufficient information on which to make an informed assessment or approval. Neither has the agency provided evidence that it has a documented process for evaluating the components of a teach-out agreement to compare and conclude that the teach-out agreement will provide for the fair and equitable treatment of students.

Staff Determination: The agency does not meet the requirements of this section. It must amend its policies to require any of its accredited institutions that enter into a teach-out agreement with another institution to submit the teach-out agreement to the agency for review and approval as specified in this section of the criteria. The agency also must provide evidence of its effective application of its review and approval procedures.

Analyst Remarks to Response:

In its response, HLC documented that it modified its teach-out policy to require that a teach-out agreement entered into by any institution affiliated with HLC must be submitted for approval. The agency provided the revised teach-out policy, which is effective November 1, 2010. In addition, the agency updated its guidance document for institutions to reflect the revised policy and to provide more specific instruction on what information and documentation is necessary in terms of a teach-out plan or agreement to be submitted for approval by HLC.

In regards to the implementation of the policy, HLC provided the template to be used by staff to evaluate all teach-out plans and agreements to ensure consistency of review and to document the process. In addition, HLC provided an example of a teach-out plan submitted for an institution closing additional locations (prior to the policy revision). As this example illustrates a teach-out plan within a single institution and does not include a teach-out agreement with another institution, it is not an example of implementation of the requirements of this section of the Criteria, but documents an effort to demonstrate the rigor of the agency's review.

While the agency has not had a situation that requires it to apply the updated teach-out policy and guidance document, HLC provided evidence that it has thoughtfully developed a review instrument and procedures to enable the agency to make prudent decisions in the future.

Staff Determination: The agency meets the requirements of this section.

(d) Closed Institution.

If an institution the agency accredits or preaccredits closes without a teach-out plan or agreement, the agency must work with the Department and the appropriate State agency, to the extent feasible, to assist students in finding reasonable opportunities to complete their education without additional charges.

Previous Issue or Problem: During the agency's last recognition review (2007), Department staff identified that although HLC had a policy concerning institutional closings, the policy did not provide information on the agency's responsibility in assisting students in finding reasonable opportunities to complete their education without additional charges, if an institution closes without a teach-out plan or agreement.

Discussion: In response to the Department's finding of non-compliance, the agency expanded its policy on institutional closings to explicitly include its responsibility in assisting students to identify opportunities to complete their education without additional charges. This revision is compliant with the requirements of

this section.

Staff Determination: The agency meets the requirements of this section.

§602.27 Other information an agency must provide the Department.

(a)(6) The name of any institution or program it accredits that the agency has reason to believe is failing to meet its Title IV, HEA program responsibilities or is engaged in fraud or abuse, along with the agency's reasons for concern about the institution or program; and

(a)(7) If the Secretary requests, information that may bear upon an accredited or preaccredited institution's compliance with its Title IV, HEA program responsibilities, including the eligibility of the institution or program to participate in Title IV, HEA programs.

(b) If an agency has a policy regarding notification to an institution or program of contact with the Department in accordance with paragraph (a)(6) or (a)(7) of this section, it must provide for a case by case review of the circumstances surrounding the contact, and the need for the confidentiality of that contact. Upon a specific request by the Department, the agency must consider that contact confidential.

Previous Issue or Problem: During the agency's last recognition review (2007), Department staff found the agency not in compliance with this section of the criteria. Department staff determined that the agency's policy of notifying the institution when notifying the Department concerning fraud and abuse was inconsistent with the underlying reason for the requirement and would impede an investigation by the Department.

Discussion: In response to the Department's finding of non-compliance, the agency revised its policy on communications with the Department on issues relevant to this section of the criteria. These revisions are compliant with the requirements of this section. The agency also provided documentation of its compliant application of its policy.

Staff Determination: The agency meets the requirements of this section.

§602.28 Regard for decisions of States and other accrediting agencies.

(c) The agency may grant accreditation or preaccreditation to an institution or program described in paragraph (b) of this section only if it provides to the Secretary, within 30 days of its action, a thorough and reasonable explanation, consistent with its standards, why the action of the other body does not preclude the agency's grant of accreditation or preaccreditation.

Previous Issue or Problem: During the agency's last recognition review (2007), Department staff cited the agency because the agency's policy did not state that it would provide the Secretary with an explanation of why its grant of accreditation or preaccreditation/candidacy to an institution that has pending or final negative actions by a State agency is appropriate, or that the notification to the Secretary would be made within 30 days after making the decision, as required by this section of the Secretary's Criteria for Recognition.

Discussion: In June 2008, the agency adopted a revised notification policy that addresses the Department's concerns and complies with the requirements of this section of the criteria. The agency reports that it has not had this situation arise which required implementation of the policy.

Staff Determination: The agency meets the requirements of this section.

(d) If the agency learns that an institution it accredits or preaccredits, or an institution that offers a program it accredits or preaccredits, is the subject of an adverse action by another recognized accrediting agency or has been placed on probation or an equivalent status by another recognized agency, the agency must promptly review its accreditation or preaccreditation of the institution or program to determine if it should also take adverse action or place the institution or program on probation or show cause.

Previous Issue or Problem: During the agency's last recognition review (2007), Department staff identified that if another institutional accrediting agency takes an adverse action against an institution that already holds accredited or candidate status or is seeking accredited or candidate status, HLC would review the rationale for that action and determine whether to review the institution's affiliation. However, the policy did not state that it would initiate a prompt review when notified of an adverse action by a programmatic accrediting agency at one of its accredited or candidate institutions. HLC's policy did not conform to the regulation included within the Secretary's Criteria for Recognition, as the regulation did not allow for the agency to limit the circumstances before initiating a prompt review when notified of an adverse action by a recognized accrediting agency.

Discussion: In 2008, the agency revised its review policy to state that it would initiate a prompt review of institutions under adverse or probationary action initiated by recognized institutional, programmatic, or specialized accreditors to determine if further agency action is warranted.

HLC has a mechanism in place to receive notice of actions by other accrediting agencies and the institutions themselves. HLC provided documentation that it received notification from a specialized accrediting agency that had imposed a sanction on one of its programs located in an HLC-accredited institution and that HLC acted promptly in contacting the institution where the program is located, to seek additional information. However, the agency provided no documentation to verify its review, the outcome of its review or how it approaches a determination that/if further action is warranted.

Staff Determination: The agency does not meet the requirements of this section. It needs to provide additional documentation demonstrating that it has and applies effective procedures for taking prompt action to review its accreditation of institutions that are subject to adverse actions by other accrediting agencies.

Analyst Remarks to Response:

In its response, HLC described its process for obtaining additional information and taking appropriate action when informed of a sanction or adverse action taken by another accrediting agency. The process described meets the requirement of this Criteria and HLC provided an example of a review conducted in response to an adverse action taken by a programmatic accreditor.

Staff Determination: The agency meets the requirements of this section.

PART III: THIRD PARTY COMMENTS

The Department did not receive any written third-party comments regarding this agency.