

Substantive Change Policy

Effective Date: July 1, 2020

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I. Purpose

The Middle States Commission on Higher Education (MSCHE or the Commission) seeks to ensure that member institutions sustain ongoing compliance with Commission standards for accreditation, requirements of affiliation, policies and procedures, and federal compliance requirements while undergoing institutional changes that are considered substantive. The purpose of this policy is to ensure that the Commission reviews substantive changes and takes an accreditation action before these changes are implemented. See the accompanying documents *Substantive Change Procedures*, *Complex Substantive Change Procedures*, and *Substantive Change Guidelines*. See also the Commission's *Teach-Out Plans and Agreements Policy and Procedures* as some substantive changes require a separate teach-out plan review in conjunction with the substantive change request.

II. Statement of Policy

The Commission shall grant or reaffirm an institution's accreditation for the scope of accreditation that exists at the time of review. Candidate for accreditation status or accreditation status cannot be acquired by, transferred, or extended to any third party. The Commission shall not automatically include substantive changes within the institution's scope of accreditation but shall require the institution to submit a substantive change request to the Commission for review and action before it will be included within the institution's scope of accreditation. The Commission shall accept other required notifications of institutional changes that are defined in federal regulation *34 CFR § 602.22(b)* pursuant to Commission policies and procedures.

Prior to implementation, the Commission shall require member institutions to submit a substantive change request for the following types of changes (see *Substantive Change Guidelines* for descriptions):

1. Substantial Change in Mission or Objectives
2. Change in Legal Status, Form of Control, or Ownership
3. Significant Departure from Existing Educational Programs
4. Alternative Delivery Method
5. Direct Assessment Programs
6. Higher Credential Level
7. Change in Measures of Student Progress
8. Substantial Increase in the Number of Clock or Credit Hours Awarded
9. Written Arrangements (Domestic and International)
10. Establishment, Relocation, Reclassification, or Closure of Additional Locations

11. Establishment, Relocation, Reclassification, or Closure of Branch Campuses
12. Relocation or Reclassification of Main Campus
13. Institutional Closure
14. Experimental Sites Initiatives (ESI) as Required by the United States Department of Education (USDE)

In accordance with federal regulation *34 CFR § 602.22(b)*, member institutions that have been placed on warning, probation, or show cause by the Commission in the past three years or are under a provisional certification for participation in title IV, HEA programs shall be required to submit a substantive change request to the Commission for approval prior to implementation. All other institutions shall notify the Commission within 30 days of the following additional changes (see *Substantive Change Guidelines* for descriptions):

1. Change in an Existing Program's Method of Delivery
2. Aggregate Change of 25 Percent or More of Program's Curriculum
3. Customized Pathways or Modified Programs
4. Written Arrangements for the Provision of 1-24 Percent of an Educational Program

Unless otherwise specified in a Commission action, the earliest allowable effective date of a substantive change shall be the date of the Commission's action to include it within the scope of accreditation. The Commission shall not offer retroactive approval for substantive changes. The Commission reserves the right to decline to review a substantive change and may take any other action available to it in accordance with *Accreditation Actions Policy and Procedures*.

The Commission shall monitor the implementation of substantive changes to ensure the institution's ongoing compliance with the Commission's standards for accreditation, requirements of affiliation, policies and procedures, and federal compliance requirements in accordance with the procedures for monitoring in *Accreditation Review Cycle and Monitoring Policy and Procedures*.

III. Procedures

The Commission staff will develop procedures as are necessary to ensure the consistent implementation of policies. See the Commission's *Substantive Change Procedures*, *Substantive Change Guidelines*, and *Substantive Change Request Form*. Because of the level of complexity of some substantive changes, the Commission shall review certain changes under the *Complex Substantive Change Procedures*, at its discretion. Any of the types of substantive change may be considered complex.

IV. Definitions

The following definitions are used in this policy and/or procedures:

- A. Accreditation materials.** All documentation related to accreditation activities including but not limited to the institution's written reports to the Commission, submitted evidence, team reports, institutional responses, confidential briefs, complaints or third-party comments, action notifications, substantive change requests, transcripts of proceedings, team rosters, and any correspondence of record. Accreditation materials are considered confidential information are retained as part of the institutional record in accordance with the Commission's *Maintenance and Retention of Commission Records Policy and Procedures*.

- B. Additional location.** A domestic or international facility or location that is geographically apart from the main campus and at which the institution offers at least 50 percent of the requirements of an educational program. As required by federal regulation *34 CFR § 602.24(f)(1-3)*, the Commission utilizes the federal definition of additional location found in *34 CFR §600.2*.
- C. Branch campus.** A domestic or international facility or location of an institution that is geographically apart from the main campus of the institution, at which the institution offers at least 50 percent of the requirements of an educational program, and which is independent of the main campus. The branch campus is considered to be independent of the main campus if it is permanent in nature; offers credit bearing or title IV eligible courses in educational programs leading to a degree, certificate, or other recognized educational credential; has its own faculty and administrative or supervisory organization; and has its own budgetary and hiring authority. As required by federal regulation *34 CFR § 602.24(f)(1-3)*, the Commission utilizes the federal definition of branch campus found in *34 CFR § 600.2*.
- D. Change of ownership.** A change in ownership of an institution resulting in a change in control may include, but is not limited to, the following types of transactions (*34 CFR § 600.31*):
1. the acquisition of the institution by another entity;
 2. the acquisition by the institution of another educational entity;
 3. a merger with another institution;
 4. a consolidation with another institution;
 5. the division of one institution into two or more institutions;
 6. the sale of an institution;
 7. the acquisition or sale of a controlling interest in an institution
 - a. a controlling interest in a for-profit entity is a shareholder who holds or controls both 25 percent or more of the outstanding shares and more shares of voting stock than any other shareholder. If the change in ownership is due to the retirement or death of the owner or a controlling shareholder, and the ownership is transferred either to a family member or to a person with ownership interest who has been involved in the management of the institution for at least two years preceding the transfer, the institution should contact the staff liaison to determine whether approval is necessary (*34 CFR §600.31*);
 - b. for a nonprofit entity, a controlling interest is the acquisition by an entity of the ability to control the material decisions of the governing board through the ownership of a membership interest in the institution or control through reserved powers of appointment of board members and/or approval of fundamental corporate actions of the institution;
 8. beginning or ending public sponsorship and control;
 9. the transfer of the liabilities of an institution to its parent corporation;
 10. a transfer of substantially all the educational business of an institution, including a transfer through a joint venture or other contractual arrangement;
 11. a change in status as a for-profit, nonprofit or public institution (i.e. legal status for purposes of compliance with federal regulation); or
 12. any other transaction or modification of the ownership or governing body of the

institution that changes or has the potential to change the control of the institution or its fundamental structure or organization.

The granting of a security interest in the assets of the educational business of an institution does not constitute a change in control. A change of control involving two institutions, one within the Commission's region and another outside of the region, requires review and action by the Commission.

- E. Clock hour.** A period of time consisting of: (i) A 50- to 60-minute class, lecture, or recitation in a 60-minute period; (ii) A 50- to 60-minute faculty-supervised laboratory, shop training, or internship in a 60-minute period; (iii) Sixty minutes of preparation in a correspondence course; or (iv) in distance education, 50-60 minutes in a 60 minute period of attendance in a synchronous class, lecture, or recitation where there is opportunity for direct interaction between the instructor and students. (*federal definition found in 34 CFR § 600.2*)
- F. Commission representative.** Any individual who represents or serves the Commission, including but not limited to peer evaluators, Commission staff, and Commissioners.
- G. Competency Based Education (CBE).** A program that organizes content according to what a student knows and can do, often referred to as a “competency.” CBE programs also generally have very clear claims for student learning, stress what students can do with the knowledge and skills they acquire, and have assessments that provide measurable evidence of competency. Student progress is determined by mastery of each competency. Because CBE focuses on whether students have mastered these competencies, there is a focus on learning outcomes rather than time spent in a classroom. Direct assessment is a subset of competency-based education (CBE).
- H. Complex substantive change.** A proposed change which requires more in-depth review and/or requires the Commission to assign or engage a peer evaluator with specialized professional expertise (e.g., accounting, legal, etc.). Changes in legal status, form of control, or ownership are always considered complex. However, in addition to this type, any of the types of substantive change may be considered “complex” depending on the nature and scope of the change, at the discretion of the Commission staff. Examples include (but are not limited to) a change in the status of multiple locations, multiple types of change that are submitted simultaneously, and some institutional closures. See *Complex Substantive Change Procedures*.
- I. Control.** Control (including the terms controlling, controlled by, and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an institution, corporation, partnership, other entity, or individual, whether through the ownership of voting securities, by contract, in governance documents, or otherwise. (*federal definition found in 34 CFR § 600.31(b)*). The indirect power to direct or cause the direction of management of an institution means the right of another entity to appoint a majority of the governing board representatives or the reservation by another entity of the right to decide or to approve certain fundamental decisions of an institution.
- J. Correspondence course.** A course provided by an institution under which the institution provides instructional materials, by mail or electronic transmission, including

examinations on the materials, to students who are separated from the instructors. Interaction between instructors and students in a correspondence course is limited, is not regular and substantive, and is primarily initiated by the student. If a course is part correspondence and part residential training, the course is considered to be a correspondence course. A correspondence course is not distance education. (*federal definition found in 34 CFR §602.3.*)

- K. Credit hour.** An amount of student work defined by an institution, as approved by the institution's accrediting agency or State approval agency, that is consistent with commonly accepted practice in postsecondary education and that reasonably approximates not less than (i) One hour of classroom or direct faculty instruction and a minimum of two hours of out-of-class student work each week for approximately fifteen weeks for one semester or trimester hour of credit, or ten to twelve weeks for one quarter hour of credit, or the equivalent amount of work over a different period of time; or (ii) At least an equivalent amount of work as required in (i) of this definition for other academic activities as established by the institution, including laboratory work, internships, practica, studio work, and other academic work leading to the award of credit hours; and permits an institution, in determining the amount of work associated with a credit hour, to take into account a variety of delivery methods, measurements of student work, academic calendars, disciplines, and degree levels. (*proposed federal definition in the proposed regulation draft for the Distance Education and Innovation Rulemaking process*)
- L. Direct assessment program.** An instructional program that, in lieu of credit hours or clock hours as a measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others. Direct assessment of student learning means a measure of a student's knowledge, skills, and abilities to provide evidence of the student's proficiency in the relevant subject area. (*federal definition found in 34 CFR § 602.3*) Direct assessment is a subset of competency-based education (CBE).
- M. Distance education.** Education that uses one or more of the following technologies to deliver instruction to students who are separated from the instructor or instructors and to support regular and substantive interaction between students and the instructor or instructors, either synchronously or asynchronously: (i) the internet; (ii) one-way or two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices; (iii) audio conferencing; or (iv) Other media used in a course in conjunction with any of the technologies listed above. Please see the complete federal definition of distance education, including substantive interaction in the *Substantive Change Guidelines*. (*proposed federal definition in the proposed regulation draft for the Distance Education and Innovation Rulemaking process*)
- N. Educational program.** A postsecondary educational program offered by an institution of higher education that leads to an academic or professional degree, certificate, or other recognized educational credential. (*federal definition found in 34 CFR § 602.3*)
- O. Location status.** A status assigned to each additional location and branch campus by the Commission to monitor substantive change; it is also used for billing purposes and

to determine which locations will be visited during the self-study evaluation (self-study site visits).

- P. Main campus.** A parcel of land owned by, controlled by, leased by, or allocated for use by an institution within the same reasonably contiguous geographic area, in which the institution's primary administration, classroom buildings, residence halls, library, and other buildings are housed, and the facilities are used by the institution in direct support of or in a manner related to, the institution's educational purposes.
- Q. Other Instructional Site (OIS).** Any off-campus site, other than those meeting the definition of a main campus, branch campus, or additional location, at which the institution offers one or more credit-bearing or title IV eligible courses. Sites designated as other instructional sites do not require substantive change approval. However, substantive change approval is required to *reclassify* other instructional sites to or from a branch campus or additional location.
- R. Peer evaluator.** An individual who is selected and assigned to an accreditation activity by the Commission staff. This individual is part of the multi-level accreditation decision-making process and will participate in the proposal of an accreditation action. Peer evaluator is not intended to include a Commissioner serving in an official Commissioner capacity on a committee or the Commission. Peer evaluator is not intended to include an assistant or any other observer of an accreditation activity.
- S. Reclassification.** When educational offerings at an existing site change enough to move the site into a new category (see definitions of main campus, branch campus, additional location, and other instructional site).
- T. Relocation.** When an institution moves an existing approved main campus, branch campus, or additional location to a new physical location.
- U. Scope of accreditation.** The institution's accreditation status covers a defined scope of educational offerings, including but not limited to credential levels, delivery methods, and locations (branch campuses, additional locations, and other instructional sites) which have been reviewed by the Commission during accreditation activities. Any changes proposed by a member institution that are considered substantive must be reviewed through the substantive change review process prior to implementation in order to be included within the institution's scope of accreditation by the Commission.
- V. Site closure.** A site or location (main campus, branch campus, or additional location) at which instruction has ceased or will cease and the institution has no plans to use the location to offer instruction any longer. The location will be removed from the institution's scope of accreditation. If the site provides 100 percent of at least one program, a teach-out plan is required.
- W. Teach-out.** A process during which an institution or institutional location that provides 100 percent of at least one program engages in an orderly closure or when, following the closure of an institution or location, another institution provides an opportunity for the students of the closed school to complete their program, regardless of their academic progress at the time of closure. (*federal definition found in 34 CFR § 600.2, slightly*

modified to remove the word “program”)

- X. Teach-out agreement.** A written agreement between two or more institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study if an institution, or an institutional location that provides 100 percent of at least one program offered, ceases to operate before all enrolled students have completed their program of study. (*federal definition 34 CFR § 600.2*)
- Y. Teach-out plan.** A written plan developed by the institution that provides for the equitable treatment of students to complete their education, including any teach-out agreements that the institution has entered into or intends to enter into with another institution. (*federal definition found in 34 CFR § 600.2*)
- Z. Written arrangement.** A written arrangement wherein an institution outsources some portion of one or more of its educational programs or educational business operations to a third-party provider. For purposes of substantive change, the institution is outsourcing more than 25 percent but less than 50 percent of credit-bearing educational programs to another institution or organization that is not certified to participate in title IV, HEA programs. See the Commission’s *Substantive Change Guidelines, Third-Party Providers Guidelines and Contracts by Accredited and Candidate Institutions for Education-Related Services*.

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Related Documents: *Accreditation Activities Guidelines; Accreditation Actions Policy; Accreditation Actions Procedures; Accreditation Review Cycle and Monitoring Policy; Accreditation Review Cycle and Monitoring Procedures; Complex Substantive Change Procedures; Substantive Change Guidelines; Substantive Change Procedures; Travel Policy; Travel Procedures; Dues and Fees Policy; Dues and Fees Procedures; Contracts by Accredited and Candidate Institutions for Education-related Services; Credit Hour Policy; Related Entities; Teach-Out Plans and Agreements Policy; Teach-Out Plans and Agreements Procedures; Third Party Providers Guidelines;*

Federal Regulations: 34 CFR Part §600.2 Definitions; 34 CFR §602 The Secretary’s Recognition of Accrediting Agencies, §602.22 Substantive change and §602.24(b) Closed institution; 34 CFR Part §668: Student Assistance General Provisions; and 34 CFR Part §600.31 – Change in ownership resulting in a change in control for private nonprofit, private for-profit and public institutions.