Memorandum

To: State Board of Higher Education
Through: Interim Chancellor Larry Skogen
Copy: Chancellor’s Cabinet
From: Murray Sagsveen, Chief of Staff, North Dakota University System
Subject: Potential Constitutional Measure 3 Issues Related to Accreditation
Date: May 28, 2014

Executive Summary

Accreditation ensures educational excellence and financial integrity of higher education institutions. Actions by North Dakota public officials in 1937 caused accreditation to be lost at one of our colleges, and public protest about the action influenced a constitutional amendment that created today’s State Board of Higher Education.

The amendment, now known as Article VIII, Section 6, has been updated several times, and there have been many efforts by the Legislature over the years to eliminate or change the authority of the Board. In 2013, several resolutions were introduced with that intent, and one (HCR 3047) passed. It is now on the November 4 ballot as Constitutional Measure 3 and replaces the eight-member citizen governing Board with a three-member, full-time Commission.

The Higher Learning Commission (HLC) has twice responded to inquiries about this legislation’s potential impact on the accreditation of the institutions within the North Dakota University System (NDUS). HLC said that it carefully considers the governance of an institution in determining whether it merits accreditation. It pointed to HLC policies and eligibility requirements that refer to an autonomous, public governing board that “possesses and exercises the necessary legal power to establish and review the basic policies that govern the institution.”

HLC also indicated that it must review governance changes prior to their taking effect to determine if the institutions will remain in compliance with HLC requirements. If Measure 3 passes on Nov. 4, it will trigger a rapid series of events to develop legislation that will create the new Commission, which would be operational by July 1, 2015. HLC cannot make a decision on accreditation until it reviews the enabling legislation, which will likely not complete the legislative process until the final days of the 2015 session. That provides very little time between final passage and the June 2015 meeting of the HLC board when an application for a governance change must be submitted. A site visit must be completed, a report compiled, and a recommendation made in order for HLC to act on the application. Failure to obtain approval prior to July 1 could trigger action such as placing all NDUS institution on “notice” or “probation” – and could result in the loss of accreditation of all NDUS institutions.
In addition to overall accreditation by the HLC, there are dozens of schools and programs within the institutions that are also accredited by various governing bodies and may require preapproval of a chance in governance. Examples are the Accreditation Commission for Education in Nursing, the Council for the Accreditation of Educator Preparation, the Accreditation Council for Pharmacy Education, the National Architectural Accrediting Board, the International Assembly of Collegiate Business Education, the National Automotive Technician Education Foundation, to name just a few.

Under Title IV, accreditation is one of the primary eligibility requirements for students to receive federal financial aid, such as federal student loans, Perkins Loans, Pell Grants, and Federal Work Study. As one academic affairs leader said, "If you don't have financial aid, you can kiss the campus goodbye." Therefore, loss of accreditation would likely have a devastating impact on enrollment. Even a 10 percent enrollment decline is estimated to have in a $150 million negative impact on NDUS.

In summary, all indications are that the loss of accreditation, or even the HLC's imposition of sanctions as a result of the passage of Measure 3, could substantially harm the 11 institutions of the NDUS and the students who are attending them.

This memorandum includes the following major topics:

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**ND Constitution – Article VIII, Section 6**

In 2013, the North Dakota Legislative Assembly approved House Concurrent Resolution (HCR) 3047, which would – if voters approve at the general election on November 4, 2014 – repeal Article VIII, Section 6, of the North Dakota Constitution, which has been governing higher education in this State since 1939.¹

¹ See Appendix 1, which includes the final version of HCR3047 (now Constitutional Measure 3), a marked up copy showing the amendments added in the Senate, and the bill actions report.
A 1978 law review article, authored by the legal advisor to NDSU, summarized events that led to what is now Article VIII, Section 6, of the North Dakota Constitution:

The establishment of the North Dakota State Board of Higher Education was a result of the state's first fifty years of experience in operating a state-wide system of public schools and colleges. The particular form given to the Board as a constitutionally autonomous body grew out of the highly charged political atmosphere brought about in the state during its fourth and fifth decades by the activities of William "Wild Bill" Langer and the Nonpartisan League.

The constitution approved by the people of North Dakota upon attaining statehood in 1889 directed the first session of the state legislature to provide for a "uniform system of free public schools...up to and including the normal and collegiate course." The 1889 constitution also gave the legislature the responsibility of providing for the maintenance of such schools and of taking other appropriate steps for the educational benefit of the State's citizens. Finally, the constitution expressly stated that, "All colleges, universities, and other educational institutions...shall remain under the absolute control of the state."

The legislature exercised these constitutional responsibilities by establishing a State Board of Education for the control of high schools, several boards of trustees (one for the state normal schools and one for each of the other institutions of (higher education), and, later, a single Board of Regents for all of the higher education institutions.

This system of legislative control of public education endured for some thirty years until its demise following the 1918 general election. When N. C. MacDonald, the Nonpartisan League candidate for Superintendent of Public Instruction was defeated in that election by a woman educator named Minnie Nielson, Governor Lynn Frazier (also a member of the NPL and a close political associate of MacDonald) retaliated. He persuaded the 1919 session of the legislature to assign the functions of the State Board of Education and the Board of Regents to a new Board of Administration, with responsibility for all penal, welfare and educational institutions in the state. While the Superintendent of Public Instruction was given a seat on the board, along with the Commissioner of Agriculture, control of the board was held by three members appointed by the Governor.

This transfer of educational responsibility for the state's educational system from the legislative to the executive branch was made complete when the Board of Administration proceeded to name N. C. MacDonald as
1st executive director, thus making Minnie Nielson, who had defeated him for the superintendent’s office, effectively subordinate to him.

These developments set the stage for an even greater political conflict that was to lead to the establishment of the State Board of Higher Education and hopefully a more secure system of education in North Dakota. In 1937 “Wild Bill” Langer was the Governor and three of the five Board of Administration members were his appointees. That year the Board instituted what was to be called "The A. C. Purge" by firing seven faculty and staff members at the North Dakota Agricultural College, including the state county agent leader. The Board also relieved the Director of the Experiment Station and Extension Service from his duties and accepted the resignation of the College president. The stated reasons for the actions were “economy and efficiency,” but many people believed they were intended to give Langer control of Experiment Station and Extension Service funds and appointments, including the ability to allocate about $20,000,000 per year in benefit payments to farmers under the Agricultural Adjustment Act and to use farm and home demonstration agents for political purposes.

Public protest of the Board’s actions increased following the decision in April 1938 of the North Central Association of Colleges and Secondary Schools to remove the N.D.A.C. from its list of accredited schools, on the grounds that there had been “undue interference” by the Board in the internal administration of the college, that faculty morale had declined to the point that the quality of instruction was "seriously jeopardized," and that the legal structure and organization of the Board of Administration provided no assurance of a "stable and constructive leadership" or of a "sufficient degree of autonomy" for the N.D.A.C. and the other institutions of higher education in the State.

Public dissatisfaction with the Board’s role in bringing about this disaster found an obvious outlet in the form of support for an initiated measure placed on the June 1938 primary election ballot. The measure called for the transfer of control over higher education institutions in North Dakota from the Board of Administration to a constitutionally independent State Board of Higher Education. Following its approval by a vote of 93,156 to 71,448, the measure was adopted as Article 54 of the Amendments to the North Dakota Constitution.2

Article 54 has been updated and amended several times since 1938. Article 54 was renumbered Article VIII, Section 6 in 1979.3 Subsection 6(d) was amended

3 N.D.C.C. § 46-03-11.1.
in 1964, Subsection 1 in 1972, and Subsections 2 and 4 in 1976. The current language is at Appendix 2.

**Recent Efforts to Amend Article VIII, Section 6**

HCR 3047 was not the only recent effort to eliminate or change the authority of the State Board of Higher Education.

In 2007, Representative Skarpohl and four other legislators introduced HCR 3019, which would have strengthened the role of the Chancellor by requiring the president of each institution to report directly to the Chancellor. The resolution would also have authorized the legislature to determine the membership of the nominating committee. The House defeated this resolution.

In 2011, four legislators introduced HCR 3046 (Appendix 3) to replace the State Board of Higher Education and the Department of Public Instruction with a department of education (i.e., pre-school through graduate school). The measure would have authorized the governor to appoint the director of the department for a renewable three-year term and to remove the director for cause. The House of Representatives amended and approved the resolution (52-40), but it failed in the Senate (7-40).

In 2013, legislators introduced several resolutions directed at the SBHE.

House Concurrent Resolution 3008 (Appendix 4), introduced by Representative Dosch and others, would have eliminated any references in the Constitution to the individual campuses. The House Judiciary Committee voted a “do pass” (7-6), but the House defeated the resolution (45-47).

House Concurrent Resolution 3042 (Appendix 5), introduced by Representative Becker and others, would have replaced the SBHE with an elected higher education commissioner and would have repealed the existing Article VIII, Section 6, in the Constitution. The House Education Committee voted “do not pass” (9-4), and the House defeated the resolution (21-70).

House Concurrent Resolution 3044 (Appendix 6), introduced by Representative Maragos, would have allowed the referral of any roll call vote of the SBHE. The House Judiciary Committee voted “do pass” on the resolution (8-5), but it was not approved by the House (23-71).

Senate Concurrent Resolution 4028 (Appendix 7), introduced by Senator Miller, would have replaced the SBHE with a council of regents, which would have included three voting members (Governor or designee, Superintendent of Public Instruction, and Agriculture Commissioner) and eight nonvoting members (two individuals appointed by the Governor, three individuals appointed by the
majority leader of the House, and three individuals appointed by the majority leader of the Senate). This resolution failed in the Senate (13-34).

The prime sponsor of HCR 3046 (2011), along with six other legislators, introduced HCR 3047 (Appendix 1), to replace the State Board of Higher Education with a department of higher education. The prime sponsor explained his intent in the initial hearing on the resolution:

[The responsibilities for higher education] would go in the Executive branch of government; it clarifies any issues regarding the independence of the fourth branch of government. The fourth branch of government has always been a debate that we’ve had with the Board of Higher Education. Many times when they come to testify, we will hear them say, that this bill contravenes the spirit of article 8 of the ND Constitution which grants the Board of Higher Education full authority [over] the institutions under its control. Then they talk about the fact that we do not have the authority as the Legislature, basically to address anything other than funding. I tend to disagree with that because if you read further into the article 8, where it says the State Board of Higher Education shall have full authority to organize or reorganize within constitutional and statutory limitations. So we can have that debate all we want, but in the end the Legislature has a very inherent responsibility in the governance of higher education.4

One member of the House Education Committee expressed concern about partisan political influences on higher education if higher education would be directed by a member of the governor’s cabinet:

I am not sure this bill...will solve any problems. I understand what they are trying to do, but I think that position then becomes a lot more political. To be really honest, I like this bill when the Republicans are in control and there is a Republic [sic] Governor, but I’m not sure if I would like this bill nearly as well if a Democrat [is] in control. I’m not saying that to generate any tense feelings, but just to let you know that I think it becomes more political.5

The House Education Committee voted a “do pass” on the resolution (7-6).

During the floor debate on the resolution, the prime sponsor and other legislators supporting the resolution emphasized that the proposed change (i.e., to replace the State Board of Higher Education with a department of higher education in the executive branch) would provide more control over higher education. For

5 Comments by Representative Rust, Minutes of the House Education Committee at page 1, March 12, 1013.
example, the committee member who carried the bill to the floor explained: "This measure…would allow us to operate this department in a similar fashion to our Department of Human Services, our Department of Transportation, our Department of Commerce, and our Department of Workers Compensation….Why should higher ed[ucation] be handled so much differently?"

The House passed the resolution, as initially introduced, on March 15, 2013 (64-28).

On March 20, 2013, the Higher Learning Commission (HLC) sent a letter to the Legislative Council concerning HCR, as introduced. The letter stated, in part:

It would not be appropriate for me to comment directly on the legislation, especially as it is still in development. However, there are Commission requirements that you and others may want to consider as this legislation develops. The Commission carefully considers the governance of an institution in determining whether it merits accreditation. Several Commission requirements pertain to institutional governance. In particular:

- Eligibility Requirement [#3] requires that an institution eligible for accreditation have a governing board with the necessary legal power to establish and review basic policies that govern the institution;
- Criterion Two, Core Component 2.C, requires that an accredited institution have a governing board that is sufficiently autonomous to make decisions in the best interest of the institution; and
- Criterion Five, Core Component 5.B requires that an accredited institution have a governance structure, including a governing board, that promotes effective leadership.

In addition, two of the Commission’s Assumed Practices (A.8, A.9) are predicated on the expectation that an accredited institution have a governing board. Clearly the concept behind the requirement for a governing board is that the collective wisdom of the governing board members working collaboratively with the chief executive officer and the faculty provides the optimal approach for oversight of a college or university and one that is premised on concepts in state statutes and common law for the oversight of profit and not-for-profit corporations. Finally, I should note that Commission policy provides the Commission with the authority, and indeed the

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responsible, for assuring the compliance at all times of an accredited institution with these and other requirements.  

The Senate Judiciary Committee considered the resolution on March 27, 2013, apparently after receiving the March 20 letter from the HLC. The committee’s minutes reflect comments by Senator Grindberg concerning accreditation:

He explains there has been common concern with the Higher Education Learning Commission and North Central Accreditation out of Chicago. He goes on to say accreditation is voluntary and the U.S. Department of Education requires Institutions to be accredited at their choice. He gives examples of the benefits of being accredited. He questions how an independent entity could say to ND they are no longer going to accredit us because we change the governance.

Chancellor Shirvani testified at the March 27 hearing. He cautioned:

If HCR 3047 passes the legislature and the proposed constitutional amendment is approved by the electorate, the eleven institutions of higher education in North Dakota will face losing their accreditation. This will result in a cascade of financial and other problems for the state, our students, our faculty and our institutions. It is not an overstatement to say that loss of accreditation would be disastrous for North Dakota.

On April 8, Senator Hogue, chair of the Judiciary Committee offered amendments to HCR 3047. The following day, he explained that “some members of the Higher Ed Board feel it is the 4th branch of Government.” One committee moved a “do not pass” on the resolution, which was defeated (3-4). The committee then approved the proposed amendment (6-1) and approved the resolution as amended (4-3).

During the debate on the Senate floor, the chair of the Senate Judiciary Committee (who carried the bill) explained one of the primary reasons for HCR 3047: “The ambiguity in our Constitution today as to whether or not the Board of Higher Education serves as a quasi separate branch of government or whether or not it is subordinate to the Legislative and Executive Branches of government.”

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8 The referenced assumed practices, eligibility requirement and criteria are at Appendix 9.
9 Minutes of the Senate Judiciary Committee at page 1, March 27, 2013.
10 Statement of Chancellor Ham Shirvani to the Senate Judiciary Committee, March 27, 2013. The written statement is at tab Appendix 10.
11 The resolution showing the amendments is at tab Appendix 1.
12 Minutes of the Senate Judiciary Committee, April 8, 2013.
13 Floor debate on April 18, 2013 (video at 8:16:59-8:17).
The Senate then amended the resolution to replace the State Board of Higher Education with a full-time three-member commission. The Senate (25-21) and House (55-34) passed the resolution as amended.

On January 5, 2014, the HLC responded to an inquiry from the North Dakota Legislative Council concerning HCR 3047 (Appendix 11). Dr. Manning’s letter stated, in part:

The Commission has not received a detailed implementation plan for the new governance structure and therefore the details of how this structure would work remain unclear. Thus I can comment only on the structure as it is described in the legislation itself. I believe the proposed structure as described in the legislation raises questions about whether, once the structure goes into effect, the institutions would be in compliance with the Commission’s requirements on governance as I explained them in the previous letter.

A change in the governance structure of an institution of the magnitude of what is proposed in the legislation falls under the Commission’s Change of Control, Structure or Organization policy. The Commission must review such changes to determine prior to their taking effect whether the institution undergoing the governance change will remain in compliance with the Commission requirements and thus whether accreditation will continue once the governance change is implemented. The details of how and when this review by the Commission will take place have not yet been determined, but the review will need to take place well before the implementation date of July 1, 2015 stated in the legislation.

Higher Learning Commission Requirements and Criteria

The March 20, 2013, letter from the Higher Learning Commission to the Legislative Council referenced one eligibility requirement and two criteria. Each is quoted below.\(^{14}\)

Eligibility Requirements:

\(* * *\)

3. Governing Board
The institution has an independent governing board that possesses and exercises the necessary legal power to establish and review the basic policies that govern the institution.

Criterion Two. Integrity: Ethical and Responsible Conduct
The institution acts with integrity; its conduct is ethical and responsible.

\(^{14}\) The documents are at Appendix 9.
Core Components

2.C. The governing board of the institution is sufficiently autonomous to make decisions in the best interest of the institution and to assure its integrity.

1. The governing board’s deliberations reflect priorities to preserve and enhance the institution.
2. The governing board reviews and considers the reasonable and relevant interests of the institution’s internal and external constituencies during its decision-making deliberations.
3. The governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests, or other external parties when such influence would not be in the best interest of the institution.
4. The governing board delegates day-to-day management of the institution to the administration and expects the faculty to oversee academic matters.

Criterion Five. Resources, Planning, and Institutional Effectiveness
The institution’s resources, structures, and processes are sufficient to fulfill its mission, improve the quality of its educational offerings, and respond to future challenges and opportunities. The institution plans for the future.

Core Components

5.B. The institution’s governance and administrative structures promote effective leadership and support collaborative processes that enable the institution to fulfill its mission.

1. The institution has and employs policies and procedures to engage its internal constituencies—including its governing board, administration, faculty, staff, and students—in the institution’s governance.
2. The governing board is knowledgeable about the institution; it provides oversight for the institution’s financial and academic policies and practices and meets its legal and fiduciary responsibilities.
3. The institution enables the involvement of its administration, faculty, staff, and students in setting academic requirements, policy, and processes through effective structures for contribution and collaborative effort.

If Voters Approve Constitutional Measure 3
Voter approval of Constitutional Measure 3 on November 4 will trigger a series of events:
• November 5 – The nominating committee established by the constitutional amendment may\textsuperscript{15} begin the process of submitting nominations to the governor for the full-time three-member commission.
• December 4 – SBHE to pre-file proposed transition legislation with the Legislative Council on or before December 4.\textsuperscript{16}
• January 6, 2015 - The Legislative Assembly will convene.
• January – February (est.) – The governor is to appoint three persons to the Commission of Higher Education.
• March – April (est.) – The Senate is to conduct confirmation hearings on the appointees.
• January – April – The Legislative Assembly will act on the pre-filed transition bill, which could be substantially amended. To be effective by July 1, the bill must have an emergency clause and be approved by a 2/3 majority in both the House and Senate (without an emergency clause, the legislation would be effective August 1, 2015). The governor could either sign or veto any transition legislation.
• April 29 – Final legislative day.
• May, June – Transition preparations within the NDUS.
• June – Anticipated decision by the HLC on accreditation and other related issues after an onsite visit by a HLC team and the team’s report to the HLC president
• June 30 – Final day for the State Board of Higher Education.
• July 1 – Commission of Higher Education operational.

**Compliance with HLC Policy**

The current situation creates challenges to comply with HLC *Policy INST.B.20.040 Change of Control, Structure or Organization* (Appendix 12), which states:

\textsuperscript{15} Section 3 of HCR3047 states: “EFFECTIVE DATE. If approved by the electors, this measure becomes effective on July 1, 2015” (i.e., it does not authorize any activity prior to July 1, 2015). However, for example, HCR3046 (2011) stated in section 6: “EFFECTIVE DATE. If approved by the voters, section 2 of this measure becomes effective upon approval, and sections 1, 3, 4, and 5 of this measure become effective on January 1, 2015.” Accordingly, it appears the nominating committee does not have express authority to nominate, the governor does not have express authority to appoint, and the senate does not have express authority to confirm prior to the July 1, 2015, effective date.

\textsuperscript{16} When the constitutional amendment to establish the SBHE was approved in June 1938, it did not require any implementing legislation because it included a self-implementation clause (i.e., “This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action”). HCR 3047 does not have similar language.
• "An institution shall receive Commission approval prior to undergoing a transaction that affects, or may affect, how corporate control, structure or governance occurs at the accredited...institution."

• "Approval shall be at the sole discretion of the Commission's Board of Trustees."

• "The Board shall withdraw the accreditation...of an institution that completes a CHANGE OF CONTROL, STRUCTURE OR ORGANIZATION without receiving prior Commission approval from the Board of Trustees. The Higher Learning Commission president will take a recommendation for withdrawal to the Board upon learning of the change that took place without prior Commission approval. Prior to the Board's review, the institution will be informed about the recommendation and will have at least 14 calendar days to prepare and submit a response that the Board will have available when it considers the President's recommendation for withdrawal."

• "An institution affiliated with the Commission must notify Commission staff of any other CHANGE OF CONTROL, STRUCTURE, OR ORGANIZATION that is not separately identified in this policy or that may be separately identified in the policy but may not be reasonably known by, or under the control of, the accredited institution...These changes include, but are not limited to...changes in the structure and composition of the Board of Trustees of the institution...."

Also, Dr. Manning's January 5 letter clearly advises: "The details of how and when this review by the Commission will take place have not yet been determined, but the review will need to take place well before the implementation date of July 1, 2015...."

We will not know until November 4 whether the voters will approve Constitutional Measure 3. Also, we will likely not know until many weeks into the session, the final language in the transition legislation. Accordingly, I asked HLC's VP for Legal and Government Affairs when the SBHE should apply for approval of a governance change, and she informed that the appropriate time would be after transition/implementation legislation has been signed by the governor.17

The HLC would likely take the following procedural steps upon receipt of a NDUS application for approval of a governance change:
1. Schedule a site visit to the NDUS (similar to the April 28-29 visit)
2. The HLC team would report to the HLC president
3. The HLC president would submit a recommendation to the HLC board of directors
4. The HLC board of directors would act on the NDUS application.

17 Discussion with Karen Solinski and Dr. John W. Marr, Jr. (chair of the HLC team) on April 28, 2014.
If the HLC waits until passage of transition legislation and then determines that an approved constitutional amendment and implementing legislation violates the spirit and letter of HLC Policy INST.B.20.040, the State of North Dakota will have a serious challenge. During the conversation with the HLC’s VP for Legal and Government Affairs, I inquired about the steps that the HLC would likely take. She advised that the HLC could:

- Place all institutions in the NDUS on “notice” in accordance with HLC Policy INST.E.10.010 (Appendix 12)
- Place all institutions in the NDUS on “probation” in accordance with HLC Policy INST.E.20.010 (Appendix 12)
- Issue an “order to show cause” as to why accreditation should not be removed in accordance with Policy INST.E.30.010. (Appendix 12)
- Withdraw accreditation of all institutions in the NDUS in accordance with HLC Policy INST.E.60.010 (Appendix 12)

If the HLC sanctions the institutions within the NDUS, the institutions would be at risk (e.g., loss of students, loss of grants, loss of reputation, etc.) until corrective action could be taken. However, the necessary corrective action could depend upon whether the HLC focuses on the constitutional amendment, the transitional legislation, or both:

- Infirmities in the transitional legislation could not be addressed until January 2017, unless the governor called a special session, and appropriate corrective legislation would be enacted.
- Infirmities in the underlying constitutional amendment could be corrected only if the Legislative Assembly, in the 2017 session or an earlier special session, adopted another resolution to place an appropriate constitutional measure on the ballot and then only if the voters later approved the corrective constitutional measure at a special or general election.

It is apparent that, because of HCR3047 and Dr. Ellen Chaffee’s 2013 complaint to the HLC, the HCR is closely monitoring governance-related issues. The NDUS has not yet received a report from the HLC’s April 28-29 site visit, which was triggered by Dr. Chaffee’s complaint, but the HLC signaled its concern in a footnote to a report concerning the transfer of the Sanford College of Nursing to NDSU:

It is important to note that the Commission recently conducted an Advisory Visit to evaluate governance at the system-level in North Dakota. This Visit may affect the accreditation status of NDSU and other public institutions in North Dakota in the future and may result in an action formally identifying monitoring or other Commission action related to governance. It is premature at this stage to draw any conclusions related
to the governance of NDSU beyond those formal conclusions identified in the last comprehensive evaluation in 2005-06.\textsuperscript{18}

Also, an earlier HLC report concerning the North Dakota State School of Science included a comment about the structure of the SBHE:

The structure of the SBHE was a subject of debate in the last legislative session and several issues were brought to the attention of the Higher Learning Commission. An HLC visit has been scheduled March 2014 to investigate how the colleges and SBHE work together to ensure compliance.\textsuperscript{19}

**Title IV Implications of Sanctions of Withdrawal of Accreditation**

Brenda Zastoupil, NDUS Director of Financial Aid, has explained the implications of loss of accreditation:

I can assume that action would be immediately taken by the Dept. of Education (DOE) as accreditation is one of the primary foundations of a school receiving authorization to offer Title IV aid. The Chancellor would most likely receive a letter asking him to respond as the DOE oversees the Title IV aid programs. Title IV aid includes federal student loans, Perkins Loans, Pell Grants, Federal Supplemental Opportunity Grants (FSEOG), Federal Work Study. I can also assume that the schools could be flagged for a program review. Program review priority is given to schools that, among other criteria, “are reported to have deficiencies or financial aid problems by the appropriate state agency or accrediting agency.” * * *

To be eligible for Title IV aid authorization, schools must be accredited by a nationally recognized accrediting agency.

* * *

I can assume that if the schools are placed on notice or probation, the DOE will do the same and follow the situation to ensure corrective action is taken and the accreditation issue is resolved. Nothing I read leads me to believe that suspension would ensue if schools were only placed on notice or probation, however. If HLC withdrew accreditation, I would think that the DOE would likewise withdraw authority to participate in the Title IV programs. National accreditation, again, being a basic criterion of

\textsuperscript{18} Staff Summary Report to the Board of Trustees for Change of Control, Structure, or Organization as Requested by Sanford College of Nursing and North Dakota State University at note 1 (May 16, 2014)

\textsuperscript{19} Systems Appraisal Feedback Report in response to the Systems Portfolio of North Dakota State College of Science for the Higher Learning Commission at p. 34 (February 27, 2014).
eligibility.\textsuperscript{20}

Documents from the Department of Education website, which support Zastoupil's comments, are at Appendix 13.

Loss of Title IV funding would be devastating to students attending the eleven NDUS institutions. Title IV disbursements during the 2012-2013 academic year to students at NDUS institutions were:\textsuperscript{21}

- Pell Grant/Perkins/FSEOG/Work-Study = $46,471,152 disbursed to 50,516 students
- Federal subsidized/unsubsidized/Parent PLUS/Graduate PLUS loans = $224,072,899 disbursed to 23,112 students

The vice president of academic affairs of one NDUS institution bluntly summarized the importance of financial aid: "If you don't have financial aid, you can kiss the campus goodbye."\textsuperscript{22}

Other Accreditation Issues

This memorandum has focused on HLC accreditation, which is the cornerstone accreditation for all NDUS institutions. However, separate schools and programs at the NDUS institutions are also accredited. The documents at Appendix 14 list the accredited schools and programs at each institution, the accrediting organizations, and whether the accrediting organizations may require preapproval of a change in governance such as Constitutional Measure 3. The accredited schools and programs are summarized below:

Bismarck State College
- Automotive Collision Technology, Automotive Technology – National Automotive Technicians Education Foundation
- Carpentry (Residential) – Associated General Contractors of America
- Electrical Transmission Systems Technology – North American Electric Reliability Council
- Engineering Technology – Accreditation Board for Engineering Technology
- Medical Laboratory Technology, Phlebotomy Technician – National Accrediting Agency for Clinical Laboratory Science
- Nuclear Power Technology – Nuclear Energy Institute, Institute of Nuclear Power Operations
- Paramedic Technology, Surgical Technology – Commission on Accreditation of Allied Health Education Programs

\textsuperscript{20} Email from Brenda Zastoupil (May 12, 2014).
\textsuperscript{21} May 27, 2014, email from Brenda Zastoupil, NDUS Director of Financial Aid.
\textsuperscript{22} Comment by Lenore M. Koczon, PhD, Vice President for Academic Affairs, Minot State University (May 14, 2014).
• Practical Nursing, AND-RN, North Dakota Board of Nursing\textsuperscript{23}
• All Career and Technology Education Programs – Department of Career and Technical Education\textsuperscript{24}

Dakota College at Bottineau
• Medical Transcription – Association of Healthcare Documentation Integrity (AHDI)
• Nursing (Associate Degree, candidate) – Higher Learning Commission
• Nursing (Practical, candidate) – Accreditation Commission for Education in Nursing
• Paramedic Technology (candidate) – Commission on Accreditation of Allied Health Programs (CAAHEP), Committee on Accreditation for the EMS Professions (CoAEMSP)

Dickinson State University
• Nursing – Accreditation Commission for Education in Nursing
• Environmental Health – National Environmental Health Science and Protection Accreditation Council
• Teacher Education – Council for the Accreditation of Educator Preparation (CAEP), f/k/a National Council for Accreditation of Teacher Education (NCATE)
• Business/Management – International Assembly for Collegiate Business Education
• Music – National Association of Schools of Music

Lake Region State College
• Automotive Technology – National Automotive Technician Education Foundation
• Fitness Trainer Technician – Commission on Accreditation of Allied Health Education Programs
• Nursing (candidate) – Accreditation Commission for Education in Nursing

Mayville State University
• Teacher Education – Council for the Accreditation of Educator Preparation (CAEP), f/k/a National Council for Accreditation of Teacher Education (NCATE)

Minot State University
• College of Education and Health Sciences
  • Teacher Education – Council for the Accreditation of Educator Preparation (CAEP), f/k/a National Council for Accreditation of Teacher Education (NCATE)

\textsuperscript{23} The North Dakota Board of Nursing “approves” nursing programs, but does not “accredit” them.
\textsuperscript{24} The Department “approves” programs, but does not “accredit” them.
• Nursing – Accreditation Commission for Education in Nursing
• School Psychology – National Association of School Psychologists
• Speech Pathology – The American Speech-Language-Hearing Association
• Social Work – The Council on Social Work Education
• Education of the Deaf – Council on Education of the Deaf
• Addiction Studies – The National Addiction Studies Accreditation Commission
• Athletic Training – Commission on Accreditation of Athletic Training Education
• College of Arts & Science
  • Division of Music – National Association of Schools of Music
• College of Business
  • BADM, BIT & Acct. & Finance – International Assembly of Collegiate Business Education

North Dakota State School of Science
• Auto Body Repair and Refinishing Technology, Automotive Technology - National Automotive Technicians Education Foundation, Inc. (NATEF)
• Dental Hygiene and Dental Assisting - Commission on Dental Accreditation of the American Dental Association
• Diesel Technology - Associated Equipment Distributors, Inc
• Health Information Technician - Commission on Accreditation for Health Informatics and Information Management Education (CAHIM), in cooperation with American Health Information Management Association (AHIMA)
• Occupational Therapy Assistant - Accreditation Council of Occupational Therapy Education (ACOTE)
• Pharmacy Technician - American Society of Health System Pharmacists
• Practical Nursing - National League for Nursing Accrediting Commission (NLNAC) and ASN and Practical Nursing Programs have full approval by the North Dakota Board of Nursing
• Academic Services Center - National Association of Developmental Education (NADE)

North Dakota State University
• College of Agriculture, Food Systems and Natural Resources
  • Veterinary Technology – American Veterinary Medical Association Committee on Veterinary Technician Education and Activities
  • Food Science – Institute of Food Technologists
• College of Arts, Humanities and Social Sciences
  • Architecture Program – National Architectural Accrediting Board
  • Landscape Architecture Program – Landscape Architectural Accreditation Board
  • School of Music – National Association of Schools of Music
- Department of Theater Arts – National Association of Schools of Theatre
- Department of Visual Arts – National Association of Schools of Art and Design
- College of Business
  - College of Business – Association to Advance Collegiate Schools of Business
- College of Engineering
  - All undergraduate programs except Construction Management – Agricultural and Biosystems Engineering (ABET)
  - Construction Management - American Council for Construction Education
- College of Human Development & Education
  - Hospitality and Tourism Management – Accreditation Commission for Programs in Hospitality Administration
  - Exercise Science – Commission on Accreditation of Allied Health Education Programs
  - Coordinated Program in Dietetics and Didactic Program in Dietetics – American Dietetic Association
  - Family Financial Planning – Certified Financial Planner Board of Standards, Inc.
  - Athletic Training – Commission on Accreditation of Athletic Training Programs
  - Couple and Family Therapy Program – Commission on Accreditation of Marriage and Family Therapy Education
  - Community Counseling; School Counseling; Counselor Education and Supervision – Council for Accreditation of Counseling and Related Educational Programs
  - Interior Design – Council for Interior Design Accreditation
  - Secondary Teachers, K-12 Teachers in Music and Physical Education; Education Administration; School and Community Counseling; Masters of Education and Masters of Science in Education – National Council for Accreditation of Teacher Education and North Dakota Education Standards and Practices Board
- College of Pharmacy, Nursing, and Allied Sciences
  - Pharmacy Program – Accreditation Council for Pharmacy Education
  - Nursing Program – Commission on Collegiate Nursing Education and North Dakota Board of Nursing
  - Allied Sciences – Committee on Accreditation for Respiratory Care
- College of Science and Mathematics
  - Psychological Clinical Science PhD Program – American Psychological Association’s Commission on Accreditation

University of North Dakota
• Art & Design – National Association of Schools of Art & Design
• Aviation Department (Commercial Aviation and Air Traffic Control) – Aviation Accreditation Board International
• Degree Programs in BAcc, BBA, BA Econ; MA acc, MBA, MS AE – AACSM International, The Association to Advance Collegiate Schools of Business
• Chemistry – Committee on Professional Training & American Chemical Society
• Speech Language Pathology (Masters) – Council on Academic Accreditation in Audiology & Speech-Language Pathology
• Computer Science (B.A.) – Computing Accreditation Commission of the Accreditation Board for Engr and Technology
• Coordinated Program in Dietetics – Commission on Accreditation for Dietetics Education (the Accreditation Agency for the American Dietetic Association
• Basic & Advanced Programs for Education (Baccalaureate, Master, Doctorate, Specialist Diploma) – North Dakota Education Standards & Practices Board
• Civil Engineering, Electrical Engineering, Geological Engineering, Mechanical Engineering, Chemical Engineering – Accreditation Board for Engineering & Technology (ABET)
• Law – American Bar Association (Section of Legal Education and Admissions to the Bar)
• Music – National Association of Schools of Music
• Music Therapy (Baccalaureate Degree) – American Music Therapy Association
• Nurse Anesthesia – Council on Accreditation of Nurse Anesthesia Educational Programs
• Nursing (Baccalaureate and Masters) – North Dakota Board of Nursing
• Clinical Psychology – American Psychological Association
• Counseling Psychology (PhD) – American Psychological Association
• Public Administration (Masters) – National Association of Schools of Public Affairs and Administration
• Social Work (graduate and undergraduate) – Council on Social Work Education
• Technology – Association of Technology, Management, and Applied Engineering
• Theatre Arts – National Association of Schools of Theatre
• School of Medicine – Liaison Committee on Medical Education of the American Medical Association & Association of American Medical Colleges
• School of Medicine (M.D.) – Accreditation Council for Continuing Medical Education, Accreditation Council for Graduate Medical Education
• Athletic Training – Commission on Accreditation of Athletic Training Education
• Medical Lab Science – National Accrediting Agency for Clinical Laboratory Science
• Cytotechnology – Commission on Accreditation of Allied Adult Education Programs, Accreditation Review Committee for Cytotechnology
• Histotechnology – National Accrediting Agency for Clinical Laboratory Science
• Internal Medicine Residency, Psychiatry Residency, Surgery Residency, Family Medicine Residency (Bismarck, Minot) – Accreditation Council for Graduate Medical Education
• Occupational Therapy (including OT at Casper College, WY) – The American Occupational Therapy Association
• Physical Therapy – Commission on Accreditation in Physical Therapy Education
• Physicians Assistant – Accreditation review Commission on Education for the Physician Assistant
• Transitional Year for UND School of Medicine & Health Sciences / Sanford Health, Fargo – Accreditation Council for Graduate Medical Education

Valley City State University
• Teacher Education – Council for the Accreditation of Educator Preparation (CAEP), f/k/a National Council for Accreditation of Teacher Education (NCATE)
• Music – National Association of Schools of Music

Williston State College
• Diesel Technology – National Automotive Technicians Education Foundation (NATEF)
• Nursing Program – North Dakota State Board of Nursing (Approval)

Students may be very sensitive to accreditation of programs. For post-graduation employment or licensing purposes, a student may need evidence of graduation from an accredited program, whether it be a diesel technician program at NDSCS or law program at the UND School of Law.

There is no way to accurately determine how many individuals would decline to apply to an NDUS institution or how many current NDUS students would transfer to a non-NDUS institution if the NDUS institutions would be placed on notice/probation or if accreditation would be withdrawn. However, even a modest loss of enrollment, such as 5% or 10%, could have a serious financial impact on each institution. The Vice Chancellor for Administrative Affairs has estimated that a 5% decline in enrollment could result in a $75 million revenue loss during the next biennium; a 10% decline in enrollment could result in a $150 million revenue loss (see spreadsheet at Appendix 15).
Some ramifications may be difficult to quantify. If the HLC would sanction the NDUS institutions, other accrediting organizations could similarly place the programs at NDUS institutions under a microscope, which could involve:

- More reports
- More site visits
- More faculty and staff time diverted from their primary responsibilities
- More cost to each institution

**Conclusion**

This memorandum does not address whether the NDUS could be better governed by a full-time, three-member commission instead of an eight-member citizen governing board. Instead, the purpose of this memorandum is to:

- Point out to the SBHE that the HLC, in its policies, has indicated a preference for a public governing board;
- Remind the SBHE that the HLC correspondence to the Legislative Council has questioned both the initial and final versions of HCR 3047.
- Express concern that there may be very little time between the final passage of transition legislation and an anticipated June 2015 meeting of the HLC board for the SBHE to apply for a governance change, for the HLC to complete a site visit and report to the HLC president, for the HLC president to submit a recommendation to the HLC board, and for the HLC board to act on the SBHE application.
- Explain that the failure to obtain HLC approval for a governance change prior to July 1, 2015, could result in the loss of accreditation of all NDUS institutions.
- And further explain that disapproval of an SBHE application by the HLC would clearly place the NDUS institutions at risk because it would likely trigger action by the HLC to:
  - place all NDUS institutions on “notice”;
  - place all NDUS institutions on “probation”;
  - issue an order to show cause why accreditation shouldn’t be withdrawn; or
  - withdraw accreditation.

Accreditation is a status conferred by national and regional accrediting bodies to ensure educational excellence and financial integrity of higher education institutions and programs. All indications are that loss of accreditation, or even the HLC’s imposition of sanctions (e.g., “notice,” “probation,” or an “order to show cause”) could substantially harm the eleven institutions in the University System – and the nearly 50,000 students who are attending those institutions.

Please feel free to individually contact me at 701-328-1499 (direct line), Murray.Sagsveen@NDUS.edu, or 701-426-1905 (mobile) if you have any questions about this memorandum.
Appendix 1
A concurrent resolution to create and enact a new section to article VIII of the Constitution of North Dakota, relating to the creation of a commission of higher education; to repeal section 6 of article VIII of the Constitution of North Dakota, relating to the state board of higher education; and to provide an effective date.

**STATEMENT OF INTENT**

This measure would create a three-member commission of higher education beginning on July 1, 2015, to oversee and administer the provision of all public higher education in this state.

**BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

That the following proposed new section to article VIII of the Constitution of North Dakota and the repeal of section 6 of article VIII of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1.** A new section to article VIII of the Constitution of North Dakota is created and enacted as follows:

1. A three-member commission of higher education is created for the purpose of overseeing and administering the provision of public higher education at sites that include Bismarck, Bottineau, Devils Lake, Dickinson, Fargo, Grand Forks, Mayville, Minot, Valley City, Wahpeton, and Williston.

2. The governor shall appoint each member of the commission from a list of at least three nominees agreed to by a majority of the following:
   a. The speaker of the house of representatives;
   b. The president pro tempore of the senate;
   c. The chief justice of the North Dakota supreme court;
   d. The superintendent of public instruction; and
   e. A representative of an educational interest group selected by three of the four aforementioned individuals.

3. The governor shall ensure that one member of the commission has leadership experience in a private sector business, industry, or service, and that one member, at the time of appointment, holds a professional position within the higher education sector. Each member of the commission must be confirmed by the senate.

4. The term of office for each commission member is four years, except that the initial terms must be staggered by lot so that no more than one member’s term expires each year. Each term begins on July first and members may be reappointed to three consecutive terms.

5. A member of the commission is subject to removal by impeachment in the same manner as that established for the removal of the governor.
6.  a. The commission has full executive responsibility for the management and operation of the North Dakota university system, within constitutional and statutory requirements and limitations.

b. The commission shall hire a president for each institution within the system and each president shall report to the commission.

7. The legislative assembly may provide for the appointment of an advisory board that includes a faculty and a student representative.

SECTION 2. REPEAL. Section 6 of article VIII of the Constitution of North Dakota is repealed.

SECTION 3. EFFECTIVE DATE. If approved by the electors, this measure becomes effective on July 1, 2015.
HOUSE CONCURRENT RESOLUTION NO. 3047

Sixty-third
Legislative Assembly
of North Dakota

Introduced by

Representatives Carlson, Martinson, Nathe, Vigesaa
Senators Grindberg, Hogue, Schaible

A concurrent resolution to create and enact a new section to article VII of the Constitution of North Dakota, relating to the creation of a department of higher education; to repeal section 6 of article VIII of the Constitution of North Dakota, relating to the state board of higher education; and to provide an effective date.

STATEMENT OF INTENT

This measure would create a department of higher education beginning on July 1, 2015, with the charge that the department oversee and administer the provision of all public higher education in this state.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE
SENATE CONCURRING THEREIN:

That the following proposed new section to article VIII of the Constitution of North Dakota and the repeal of section 6 of article VIII of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. A new section to article VIII of the Constitution of North Dakota is created and enacted as follows:

1. The department of higher education is created for the purpose of overseeing and administering the provision of public higher education at sites that include Bismarck, Bottineau, Devils Lake, Dickinson, Fargo, Grand Forks, Mayville, Minot, Valley City, Wahpeton, and Williston.

2. The governor shall appoint the director of the department of higher education, who shall serve as the chief executive officer of the department. The appointment must be for a term of three years and may be renewed for like terms. The director may be removed by the governor for cause.

3. The director must:
a. Have a dossier that reflects national stature as a scholar and leader;

b. Have a record of senior level managerial experience in education, business, the public sector, or government;

c. Be uniquely familiar with the broad spectrum of higher education administration and delivery; and

d. Be committed to the development and maintenance of an educational system that provides opportunities for students, through academic pursuits and technical training, to meet the educational and workforce challenges of the current decade and beyond.

4.2 The governor shall appoint each member of the commission from a list of at least three nominees agreed to by a majority of the following:

a. The speaker of the house of representatives;

b. The president pro tempore of the senate;

c. The chief justice of the North Dakota supreme court;

d. The superintendent of public instruction; and

e. A representative of an educational interest group selected by three of the four aforementioned individuals.

3. The governor shall ensure that one member of the commission has leadership experience in a private sector business, industry, or service, and that one member, at the time of appointment, holds a professional position within the higher education sector. Each member of the commission must be confirmed by the senate.

4. The term of office for each commission member is four years, except that the initial terms must be staggered by lot so that no more than one member's term expires each year. Each term begins on July first and members may be reappointed to three consecutive terms.

5. A member of the commission is subject to removal by impeachment in the same manner as that established for the removal of the governor.

6. a. The director-commission has full executive responsibility for the management and operation of the North Dakota university system, within constitutional and statutory requirements and limitations.
Sixty-third
Legislative Assembly

b. The director commission shall hire a president for each institution within the system and each president shall report to the director commission.

7. The legislative assembly may provide for the appointment of an advisory board that includes a faculty and a student representative.

SECTION 2. REPEAL. Section 6 of article VIII of the Constitution of North Dakota is repealed.

SECTION 3. EFFECTIVE DATE. If approved by the electors, this measure becomes effective on July 1, 2015.
**North Dakota Legislative Branch**  
**Bill Actions for HCR 3047**

Send me to Bill No. (9090):

HJ=House Journal, SJ=Senate Journal

Introduced by Rep. Carlson, Martinson, Nathe, Vigesaa

Introduced by Sen. Grindberg, Hogue, Schaible

A concurrent resolution to create and enact a new section to article VIII of the Constitution of North Dakota, relating to the creation of a commission of higher education; to repeal section 6 of article VIII of the Constitution of North Dakota, relating to the state board of higher education; and to provide an effective date.

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Appendix 2
ARTICLE VIII
EDUCATION

Section 1. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

Section 2. The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education.

Section 3. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

Section 4. The legislative assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific, and agricultural improvements.

Section 5. All colleges, universities, and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.

Section 6.
1. A board of higher education, to be officially known as the state board of higher education, is hereby created for the control and administration of the following state educational institutions, to wit:
   a. The state university and school of mines, at Grand Forks, with their substations.
   b. The state agricultural college and experiment station, at Fargo, with their substations.
   c. The school of science, at Wahpeton.
   d. The state normal schools and teachers colleges, at Valley City, Mayville, Minot, and Dickinson.
   e. The school of forestry, at Bottineau.
   f. And such other state institutions of higher education as may hereafter be established.

2. a. The state board of higher education consists of eight members. The governor shall appoint seven members who are qualified electors and taxpayers of the state, and who have resided in this state for not less than five years immediately preceding their appointments. These seven appointments are subject to confirmation by the senate.
   
   The governor shall appoint as the eighth member of the board a full-time resident student in good academic standing at an institution under the jurisdiction of the state board. Except for the student member, no more than two
persons holding a bachelor's degree from a particular institution under the jurisdiction of the state board of higher education may serve on the board at any one time. Except for the student member, no person employed by any institution under the control of the board shall serve as a member of the board and no employee of any such institution may be eligible for membership on the state board of higher education for a period of two years following the termination of employment.

The governor shall nominate from a list of three names for each position, selected by action of four of the following five persons: the president of the North Dakota education association, the chief justice of the supreme court, the superintendent of public instruction, the president pro tempore of the senate, and the speaker of the house of representatives and, with the consent of a majority of the members-elect of the senate, shall appoint from the list to the state board of higher education seven members. The governor shall ensure that the board membership is maintained in a balanced and representative manner. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for four years, and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled. A member may not be appointed to serve for more than two terms. If a member is appointed to fill a vacancy and serves two or more years of that term, the member is deemed to have served one full term.

b. In the event any nomination made by the governor is not consented to and confirmed by the senate, the governor shall again nominate a candidate selected from a new list. The nomination shall be submitted to the senate for confirmation and the proceedings shall continue until an appointee has been confirmed by the senate or the session of the legislature has adjourned.

c. If a term expires or a vacancy occurs when the legislature is not in session, the governor may appoint from a list selected as provided, a member who shall serve until the opening of the next session of the legislature, at which time the appointment must be certified to the senate for confirmation. If the appointee is not confirmed by the thirtieth legislative day of the session, the office shall be deemed vacant and the governor shall nominate another candidate for the office. The same proceedings shall be followed as are set forth in this section. If the legislature is in session at any time within six months prior to the date of the expiration of the term of any member, the governor shall nominate a successor from a list selected as above set forth, within the first thirty days of the session and upon confirmation by the senate the successor shall take office at the expiration of the incumbent's term. No person who has been nominated and whose nomination the senate has failed to confirm is eligible for an interim appointment. On or before July first of each year, beginning in 1995, the governor shall appoint a student member from a list of names recommended by the executive board of the North Dakota student association for a term of one year, beginning on July first. A student member may not serve more than two consecutive terms.

3. The members of the state board of higher education may only be removed by impeachment for the offenses and in the manner and according to the procedure provided for the removal of the governor by impeachment proceedings.

4. Each appointive member of the state board of higher education, except the student member, shall receive compensation set by the legislative assembly for the time actually spent devoted to the duties of the member's office. All members shall receive necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of their office.
5. The legislature shall provide adequate funds for the proper carrying out of the functions and duties of the state board of higher education.

6. a. The state board of higher education shall hold its first meeting at the office of the state board of administration at Bismarck, on the 6th day of July, 1939, and shall organize and elect one of its members as president of such board for a term of one year. It shall also at said meeting, or as soon thereafter as may be practicable, elect a competent person as secretary, who shall reside during his term of office in the city of Bismarck, North Dakota. Said secretary shall hold office at the will of the board. As soon as said board is established and organized, it shall assume all the powers and perform all the duties now conferred by law upon the board of administration in connection with the several institutions hereinbefore mentioned, and the said board of administration shall immediately upon the organization of said state board of higher education, surrender and transfer to said state board of higher education all duties, rights, and powers granted to it under the existing laws of this state concerning the institutions hereinbefore mentioned, together with all property, deeds, records, reports, and appurtenances of every kind belonging or appertaining to said institutions.

b. The said state board of higher education shall have full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control. The said state board of higher education shall have full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.

c. Said board shall prescribe for all of said institutions standard systems of accounts and records and shall biennially, and within six (6) months immediately preceding the regular session of the legislature, make a report to the governor, covering in detail the operations of the educational institutions under its control.

d. It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in subsection 6a." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.

e. The said state board of higher education shall have the control of the expenditure of the funds belonging to, and allocated to such institutions and also those appropriated by the legislature, for the institutions of higher education in this state; provided, however, that funds appropriated by the legislature and specifically designated for any one or more of such institutions, shall not be used for any other institution.
7. a. The state board of higher education shall, as soon as practicable, appoint for a term of not to exceed three (3) years, a state commissioner of higher education, whose principal office shall be at the state capitol, in the city of Bismarck. Said commissioner of higher education shall be responsible to the state board of higher education and shall be removable by said board for cause.

b. The state commissioner of higher education shall be a graduate of some reputable college or university, and who by training and experience is familiar with the problems peculiar to higher education.

c. Such commissioner of higher education shall be the chief executive officer of said state board of higher education, and shall perform such duties as shall be prescribed by the board.

8. This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action.
Appendix 3
Sixty-second
Legislative Assembly
of North Dakota

Introduced by
Representatives Carlson, R. Kelsch, Skarphol, Vigesaa

1. A concurrent resolution to create and enact a new section to article VIII of the Constitution of North Dakota, relating to the creation of a department of education; to amend and reenact sections 2 and 5 of article V and section 3 of article IX of the Constitution of North Dakota, relating to the superintendent of public instruction and creation of a department of education; to repeal section 6 of article VIII of the Constitution of North Dakota, relating to the state board of higher education; and to provide an effective date.

STATEMENT OF INTENT

This measure would create a department of education beginning on January 1, 2015, with the charge that the department oversee and administer the provision of all public education in this state.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE
SENATE CONCURRING THEREIN:

That the following proposed new section to article VIII, the proposed amendments to sections 2 and 5 of article V and section 3 of article IX, and the repeal of section 6 of article VIII of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2012, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 2 of article V of the Constitution of North Dakota is amended and reenacted as follows:

Section 2. The qualified electors of the state at the times and places of choosing members of the legislative assembly shall choose a governor, lieutenant governor, agriculture commissioner, attorney general, auditor, insurance commissioner, three public service commissioners, secretary of state, superintendent of public instruction, tax commissioner, and treasurer. The legislative assembly may by law provide for a department of labor to be administered by a public official who may be either elected or appointed.
The powers and duties of the agriculture commissioner, attorney general, auditor, insurance
commissioner, public service commissioners, secretary of state, superintendent of public
instruction, tax commissioner, and treasurer must be prescribed by law. If the legislative
assembly establishes a labor department, the powers and duties of the officer administering that
department must be prescribed by law.

SECTION 2. AMENDMENT. Section 5 of article V of the Constitution of North Dakota is
amended and reenacted as follows:

Section 5. The qualified electors shall choose the elected state officials at a time
designated by the legislative assembly. The elected state officials shall serve until their
successors are duly qualified. Terms of office of the elected officials except the public service
commissioners are four years, except that in 2004 the agriculture commissioner, attorney
general, secretary of state, and tax commissioner are elected to a term of two years and that
the term of the superintendent of public instruction elected in 2012 expires as of January 1,
2015. The terms of the public service commissioners are six years, so arranged that one of
them is elected every two years. The terms of the governor and lieutenant governor begin on
December fifteenth following their election.

If two or more candidates for any executive office other than for governor and lieutenant
governor receive an equal and highest number of votes, the legislative assembly in joint session
shall choose one of them for the office.

SECTION 3. A new section to article VIII of the Constitution of North Dakota is created and
enacted as follows:

1. The department of education is created for the purpose of overseeing and
administering the provision of public education in this state, including early childhood
education, elementary and high school education, and higher education at sites that
include Bismarck, Bottineau, Devils Lake, Dickinson, Fargo, Grand Forks, Mayville,
Minot, Valley City, Wahpeton, and Williston.

2. Subject to confirmation by the legislative assembly, the governor shall appoint the
director of the department of education, who shall serve as the chief executive officer
of the department. The appointment must be for a term of three years and may be
renewed for like terms. The director is removable by the governor for cause.
3. The director must hold a doctoral degree from an accredited institution, be uniquely familiar with the broad spectrum of educational delivery and administration, and committed to the development and maintenance of an educational system that provides opportunities for students, through academic pursuits and technical training, to meet the educational and workforce challenges of the current century and beyond.

4. There is created an eleven-member educational council. Each member must be appointed by the governor, with the advice and consent of four from among the following: the majority and minority leader of the house of representatives, the majority and minority leader of the senate, the president pro tempore of the senate, and the speaker of the house. The council must be a balanced and representative group of individuals who by training and experience each have a profound knowledge and understanding of the purpose and mission of education at all levels, and collectively understand the function of education with respect to agriculture, the arts, commerce and finance, manufacturing, mineral extraction, natural resources, and the professions.

5. The term of office for each member of the educational council begins on January first and has a duration of three years. The initial appointments must be staggered by lot so that no more than four positions terminate at any one time. An individual may not serve more than two consecutive terms. If an individual is appointed to fill a vacancy, that service is not counted as a term for purposes of this section unless that service exceeds one year.

6. Annually, the governor shall appoint one member to serve as chairman of the educational council. The individual may be reappointed as chairman but may not serve more than two consecutive terms in that role.

7. The chairman shall call all meetings of the educational council and shall call a special meeting of the council within seven days when petitioned to do so by five council members. The council shall meet at least once every calendar quarter.

8. Each member of the educational council is entitled to receive per diem compensation in the amount provided to members of the legislative assembly plus reimbursement for expenses as provided by law for state officers if the member is attending meetings or performing duties directed by the council.
9. The educational council shall provide advice and guidance to the director of the department of education in all matters pertaining to the delivery and administration of education in this state, including academic standards, accountability, budgetary and financial matters, managerial and operational matters, and regulatory and legislative matters. The council may form workgroups, task forces, and subcommittees to seek additional information and outside expertise in order to fully and adequately perform the functions with which the council is charged.

SECTION 4. AMENDMENT. Section 3 of article IX of the Constitution of North Dakota is amended and reenacted as follows:

Section 3. The superintendent of public instruction, governor, attorney general, secretary of state and, state treasurer, and the director of education comprise a board of commissioners, to be denominated the "board of university and school lands". Subject to the provisions of this article and any law that may be passed by the legislative assembly, the board has control of the appraisement, sale, rental, and disposal of all school and university lands, and the proceeds from the sale of such lands shall be invested as provided by law.

SECTION 5. REPEAL. Section 6 of article VIII of the Constitution of North Dakota is repealed.

SECTION 6. EFFECTIVE DATE. If approved by the voters, section 2 of this measure becomes effective upon approval, and sections 1, 3, 4, and 5 of this measure become effective on January 1, 2015.
North Dakota Legislative Branch
Measure Actions

Introduced by Rep. Carlson, R. Kelsch, Skarphol, Vigesaa
A concurrent resolution to create and enact a new section to article VIII of the Constitution of North Dakota, relating to the creation of a department of education; to amend and reenact sections 2 and 5 of article V and section 3 of article IX of the Constitution of North Dakota, relating to the superintendent of public instruction and creation of a department of education; to repeal section 6 of article VIII of the Constitution of North Dakota, relating to the state board of higher education; and to provide an effective date.

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Appendix 4
Sixty-third Legislative Assembly of North Dakota

HOUSE CONCURRENT RESOLUTION NO. 3008

Introduced by

Representatives Dosch, Klemin, Schatz
Senators Bowman, Sitte, Wanzek

1 A concurrent resolution to amend and reenact subsection 1 of section 6 of article VIII and
2 sections 12 and 13 of article IX of the Constitution of North Dakota, relating to the names,
3 locations, and missions of state institutions of higher education.
4
5 STATEMENT OF INTENT
6 This measure removes references to the names, locations, and missions of state institutions of
7 higher education.
8
9 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE
10 SENATE CONCURRING THEREIN:
11 That the following proposed amendments to subsection 1 of section 6 of article VIII and
12 sections 12 and 13 of article IX of the Constitution of North Dakota are agreed to and must be
13 submitted to the qualified electors of North Dakota at the general election to be held in 2014, in
14 accordance with section 16 of article IV of the Constitution of North Dakota.
15
16 SECTION 1. AMENDMENT. Subsection 1 of section 6 of article VIII of the Constitution of
17 North Dakota is amended and reenacted as follows:
18
19 1. A board of higher education, to be officially known as the state board of higher-
20 education, is hereby created for the control and administration of the following state-
21 educational institutions, to wit:
22 a. The state university and school of mines, at Grand Forks, with their-
23 substations.
24 b. The state agricultural college and experiment station, at Fargo, with their-
25 substations.
26 c. The school of science, at Wahpeton.
27 d. The state normal schools and teachers colleges, at Valley City, Mayville, Minot,
28 and Dickinson.
29 e. The school of forestry, at Bottineau.
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f. The state board of higher education shall administer the state
institutions of higher education as may hereafter be established.

SECTION 2. AMENDMENT. Section 12 of article IX of the Constitution of North Dakota is
amended and reenacted as follows:

Section 12. The following public institutions of the state are permanently located at the
places hereinafter named, each to have the lands specifically granted to it by the United States
in the Act of Congress approved February 22, 1889, to be disposed of and used in such manner
as the legislative assembly may prescribe subject to the limitations provided in the article on
school and public lands contained in this constitution.

1. The seat of government at the city of Bismarck, in the county of Burleigh.
2. The state university and the school of mines at the city of Grand Forks, in the county of
   Grand Forks.
3. The North Dakota state university of agriculture and applied science at the city of
   Fargo, in the county of Cass.
4. A state normal school at the city of Valley City, in the county of Barnes, and the
   legislative assembly in apportioning the grant of eighty thousand acres of land for
   normal schools made in the Act of Congress referred to shall grant to the said normal
   school at Valley City, as aforementioned, fifty thousand (50,000) acres, and said lands
   are hereby appropriated to said institution for that purpose.
5. The school for the deaf and dumb of North Dakota at the city of Devils Lake, in the
   county of Ramsey.

6-3. A state training school at the city of Mandan, in the county of Morton.
7. A state normal school at the city of Mayville, in the county of Traill, and the legislative
   assembly in apportioning the grant of lands made by Congress in the Act aforesaid for
   state normal schools shall assign thirty thousand (30,000) acres to the institution
   hereby located at Mayville; and said lands are hereby appropriated for said purpose.
8. A state hospital for the insanementally ill at the city of Jamestown, in the county of
   Stutsman. And the legislative assembly shall appropriate twenty thousand acres of
   the grant of lands made by the Act of Congress aforesaid for other educational and
   charitable institutions to the benefit and for the endowment of said state hospital.
5. An institution; and there shall be located for the developmentally disabled at or near the city of Grafton, in the county of Walsh, an institution for the feebleminded, on the grounds purchased by the secretary of the interior for a penitentiary building.

SECTION 3. AMENDMENT. Section 13 of article IX of the Constitution of North Dakota is amended and reenacted as follows:

Section 13. The following public institutions are located as provided, each to have so much of the remaining grant of one hundred seventy thousand acres of land made by the United States for "other educational and charitable institutions" as is allotted by law:

1. A soldiers' veterans' home, when located, or such other charitable institution as the legislative assembly may determine, at the city of Lisbon, in the county of Ransom, with a grant of forty thousand acres of land.

2. The school for the blind at the city of Grand Forks, in the county of Grand Forks or at such other location as may be determined by the legislative assembly to be in the best interests of the students of such the institution and the state of North Dakota.

3. A school of forestry, or such other institution as the legislative assembly may determine, at such place in one of the counties of McHenry, Ward, Bottineau, or Rolette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the legislative assembly.

4. A school of science or such other educational or charitable institution as the legislative assembly may prescribe, at the city of Wahpeton in the county of Richland, with a grant of forty thousand acres.

5. A state college at the city of Minot in the county of Ward.

6. A state college at the city of Dickinson in the county of Stark.

7. A state hospital for the mentally ill at such a place within this state as shall be selected by the legislative assembly.

No other institution of a character similar to any one of those located by article IX, section 12, or this section may be established or maintained without an amendment of this constitution.
North Dakota Legislative Branch
Bill Actions for HCR 3008

A concurrent resolution to amend and reenact subsection 1 of section 6 of article VIII and sections 12 and 13 of article IX of the Constitution of North Dakota, relating to the names, locations, and missions of state institutions of higher education.

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<td>Second reading, failed to adopt yea's 45 nay's 47</td>
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SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3008: A concurrent resolution to amend and reenact subsection 1 of section 6 of article VIII and sections 12 and 13 of article IX of the Constitution of North Dakota, relating to the names, locations, and missions of state institutions of higher education.

ROLL CALL
The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS. The roll was called and there were 45 YEAS, 47 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Beadle; Becker; Bellew; Bohning; Brabandt; Brandenburg; Damschen; Delzer; Dockter; Dosch; Drovdal; Fehr; Froseth; Grande; Hatlestad; Headland; Heilman; Karls; Kasper; Keiser; Kempenich; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Loysen; Louiser; Meier; Monson; Nathe; Porter; Rohr; Ruby; Schatz; Schmidt; Streyle; T Thoreson; Toman; Trottier; Weisz; Wieland

NAYS: Amerman; Anderson; Boe; Boschee; Carlson; Delmore; Frantvog; Glassheim; Gruchalla; Guggisberg; Haak; Hanson; Hawken; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kelsh, J.; Kelsh, S.; Kiefert; Kreun; Maragos; Martenson; Mock; Mooney; Muscha; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Pollert; Rust; Sanford; Silbernagel; Skarphol; Steiner; Strinden; Vigesaa; Wall; Williams; Zaiser; Speaker Devlin

ABSENT AND NOT VOTING: Bletter; Sukut

HCR 3008 was declared lost on a recorded roll call vote.

**************

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3047: A concurrent resolution to create and enact a new section to article VIII of the Constitution of North Dakota, relating to the creation of a department of higher education; to repeal section 6 of article VIII of the Constitution of North Dakota, relating to the state board of higher education; and to provide an effective date.

ROLL CALL
The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS. The roll was called and there were 64 YEAS, 28 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Anderson; Beadle; Becker; Bellew; Bohning; Brabandt; Brandenburg; Carlson; Damschen; Delzer; Dockter; Dosch; Drovdal; Fehr; Frantvog; Froseth; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kreun; Laning; Larson; Loysen; Lousier; Maragos; Martenson; Meier; Nathe; Nelson, J.; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Silbernagel; Streyle; Thoreson; Toman; Trottier; Vigesaa; Wall; Weisz; Wieland; Williams; Speaker Devlin

NAYS: Amerman; Boe; Boschee; Delmore; Glassheim; Grande; Gruchalla; Guggisberg; Haak; Hanson; Hogan; Holman; Hunskor; Kelsh, J.; Kelsh, S.; Kretschmar; Mock; Monson; Mooney; Muscha; Nelson, M.; Onstad; Oversen; Rust; Skarphol; Steiner; Strinden; Zaiser

ABSENT AND NOT VOTING: Bletter; Sukut

HCR 3047 was declared adopted on a recorded roll call vote.

**************

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3042: A concurrent resolution to amend and reenact sections 2 and 5 of article V and section 6 of article VIII of the Constitution of North Dakota, relating to the election of a higher education commissioner; and to provide an effective date.
Appendix 5
A concurrent resolution to amend and reenact sections 2 and 5 of article V and section 6 of article VIII of the Constitution of North Dakota, relating to the election of a higher education commissioner; and to provide an effective date.

STATEMENT OF INTENT

This measure would provide for the election of a higher education commissioner at the general election in 2016 and provide for the creation of a higher education advisory council.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed amendments to sections 2 and 5 of article V and section 6 of article VIII of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 2 of article V of the Constitution of North Dakota is amended and reenacted as follows:

Section 2. The qualified electors of the state at the times and places of choosing members of the legislative assembly shall choose a governor, lieutenant governor, agriculture commissioner, attorney general, auditor, higher education commissioner, insurance commissioner, three public service commissioners, secretary of state, superintendent of public instruction, tax commissioner, and treasurer. The legislative assembly may by law provide for a department of labor to be administered by a public official who may be either elected or appointed.

The powers and duties of the agriculture commissioner, attorney general, auditor, higher education commissioner, insurance commissioner, public service commissioners, secretary of state, superintendent of public instruction, tax commissioner, and treasurer must be prescribed
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by law. If the legislative assembly establishes a labor department, the powers and duties of the
officer administering that department must be prescribed by law.

SECTION 2. AMENDMENT. Section 5 of article V of the Constitution of North Dakota is
amended and reenacted as follows:

Section 5. The qualified electors shall choose the elected state officials at a time
designated by the legislative assembly. The elected state officials shall serve until their
successors are duly qualified. Terms of office of the elected officials except the public service
commissioners are four years, except that in 2004 the agriculture commissioner, attorney
general, secretary of state, and tax commissioner are elected to a term of two years. The terms
of the public service commissioners are six years, so arranged that one of them is elected every
two years. The higher education commissioner may not serve more than two full terms. The
terms of the governor and lieutenant governor begin on December fifteenth following their
election.

If two or more candidates for any executive office other than for governor and lieutenant
governor receive an equal and highest number of votes, the legislative assembly in joint session
shall choose one of them for the office.

SECTION 3. AMENDMENT. Section 6 of article VIII of the Constitution of North Dakota is
amended and reenacted as follows:

Section 6.

1. A board of higher education, to be officially known as the state board of higher
education, is hereby created for the control and administration of the following state-
educational institutions, to wit:

a. The state university and school of mines, at Grand Forks, with their substations;
b. The state agricultural college and experiment station, at Fargo, with their
substations;
e. The school of science, at Wahpeton;
d. The state normal schools and teachers colleges, at Valley City, Mayville, Minot,
and Dickinson;
e. The school of forestry, at Bottineau;
f. And such other state institutions of higher education as may hereafter be
established:
The state board of higher education consists of eight members. The governor shall appoint seven members who are qualified electors and taxpayers of the state, and who have resided in this state for not less than five years immediately preceding their appointments. These seven appointments are subject to confirmation by the senate.

The governor shall appoint as the eighth member of the board a full-time resident student in good academic standing at an institution under the jurisdiction of the state board. Except for the student member, no more than two persons holding a bachelor's degree from a particular institution under the jurisdiction of the state board of higher education may serve on the board at any one time.

Except for the student member, no person employed by any institution under the control of the board shall serve as a member of the board and no employee of any such institution may be eligible for membership on the state board of higher education for a period of two years following the termination of employment.

The governor shall nominate from a list of three names for each position, selected by action of four of the following five persons: the president of the North Dakota education association, the chief justice of the supreme court, the superintendent of public instruction, the president pro tempore of the senate, and the speaker of the house of representatives and, with the consent of a majority of the members elect of the senate, shall appoint from the list to the state board of higher education seven members. The governor shall ensure that the board membership is maintained in a balanced and representative manner. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for four years, and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled. A member may not be appointed to serve for more than two terms. If a member is appointed to fill a vacancy and serves two or more years of that term, the member is deemed to have served one full term.

In the event any nomination made by the governor is not consented to and confirmed by the senate, the governor shall again nominate a candidate selected from a new list. The nomination shall be submitted to the senate for confirmation.
and the proceedings shall continue until an appointee has been confirmed by the
senate or the session of the legislature has adjourned.

e: If a term expires or a vacancy occurs when the legislature is not in session, the
governor may appoint from a list selected as provided, a member who shall serve
until the opening of the next session of the legislature, at which time the
appointment must be certified to the senate for confirmation. If the appointee is
not confirmed by the thirtieth legislative day of the session, the office shall be
deemed vacant and the governor shall nominate another candidate for the office.
The same proceedings shall be followed as are set forth in this section. If the
legislature is in session at any time within six months prior to the date of the
expiration of the term of any member, the governor shall nominate a successor
from a list selected as above set forth, within the first thirty days of the session
and upon confirmation by the senate the successor shall take office at the
expiration of the incumbent's term. No person who has been nominated and
whose nomination the senate has failed to confirm is eligible for an interim
appointment. On or before July first of each year, beginning in 1995, the governor
shall appoint a student member from a list of names recommended by the
executive board of the North Dakota student association for a term of one year,
beginning on July first. A student member may not serve more than two
consecutive terms.

3: The members of the state board of higher education may only be removed by
impeachment for the offenses and in the manner and according to the procedure
provided for the removal of the governor by impeachment proceedings.

4: Each appointive member of the state board of higher education, except the student-
member, shall receive compensation set by the legislative assembly for the time
actually spent devoted to the duties of the member's office. All members shall receive
necessary expenses in the same manner and amounts as other state officials for
attending meetings and performing other functions of their office.

5: The legislature shall provide adequate funds for the proper carrying out of the
functions and duties of the state board of higher education.
The state board of higher education shall hold its first meeting at the office of the state board of administration at Bismarck, on the 6th day of July, 1939, and shall organize and elect one of its members as president of such board for a term of one year. It shall also at said meeting, or as soon thereafter as may be practicable, elect a competent person as secretary, who shall reside during his term of office in the city of Bismarck, North Dakota. Said secretary shall hold office at the will of the board. As soon as said board is established and organized, it shall assume all the powers and perform all the duties now conferred by law upon the board of administration in connection with the several institutions hereinbefore mentioned, and the said board of administration shall immediately upon the organization of said state board of higher education, surrender and transfer to said state board of higher education all duties, rights, and powers granted to it under the existing laws of this state concerning the institutions hereinbefore mentioned, together with all property, deeds, records, reports, and appurtenances of every kind belonging or appertaining to said institutions.

b: The said state board of higher education shall have full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control. The said state board of higher education shall have full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.

e: Said board shall prescribe for all of said institutions standards systems of accounts and records and shall biennially, and within six (6) months immediately preceding the regular session of the legislature, make a report to the governor, covering in detail the operations of the educational institutions under its control.

d: It shall be the duty of the heads of the several institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education: and said state board of higher-
education shall consider said budgets and shall revise the same as in its
judgment shall be for the best interests of the educational system of the state;
and thereafter the state board of higher education shall prepare and present to
the state budget board and to the legislature a single unified budget covering the
needs of all the institutions under its control. "Said budget shall be prepared and
presented by the board of administration until the state board of higher education
organizes as provided in subsection 6a." The appropriations for all of said
institutions shall be contained in one legislative measure. The budgets and
appropriation measures for the agricultural experiment stations and their
substations and the extension division of the North Dakota State University of
agriculture and applied science may be separate from those of state educational
institutions:

e: The said state board of higher education shall have the control of the expenditure
of the funds belonging to, and allocated to such institutions and also those
appropriated by the legislature, for the institutions of higher education in this
state; provided, however, that funds appropriated by the legislature and
specifically designated for any one or more of such institutions shall not be used
for any other institution.

7: a. The state board of higher education shall, as soon as practicable, appoint for a
term of not to exceed three (3) years, a state commissioner of higher education,
whose principal office shall be at the state capitol, in the city of Bismarck. Said
commissioner of higher education shall be responsible to the state board of
higher education and shall be removable by said board for cause;

b. The state commissioner of higher education shall be a graduate of some
reputable college or university, and who by training and experience is familiar
with the problems peculiar to higher education;

c. Such commissioner of higher education shall be the chief executive officer of said
state board of higher education, and shall perform such duties as shall be
prescribed by the board;

1. a. The higher education commissioner shall hold a graduate degree from an
accredited institution of higher education, be familiar with higher education,
delivery and administration, and be committed to the development and
maintenance of an educational system that provides opportunities for students,
through academic pursuits and technical training, to meet current and future
educational and workforce challenges.

b. The higher education commissioner shall oversee and administer the provision of
public higher education at sites that include Bismarck, Bottineau, Devils Lake,
Dickinson, Fargo, Grand Forks, Mayville, Minot, Valley City, Wahpeton, and
Williston.

c. The higher education commissioner shall:

(1) Appoint and remove the president of each institution;
(2) Prescribe a uniform system for the accounting, budgeting, and reporting of
data, by each institution; and
(3) Do all things necessary and proper for the effective and efficient
administration of the North Dakota university system, subject to statutory
requirements and limitations.

2. a. The higher education advisory council consists of seven, nine, or eleven
members, appointed by the governor, with the advice and consent of four from
among the following: the majority and minority leader of the house of
representatives, the majority and minority leader of the senate, and the president
pro tempore of the senate.

b. The higher education advisory council must be a balanced and representative
group of individuals who by training and experience each have a profound
knowledge and understanding of the purpose and mission of higher education
and collectively understand the function of higher education with respect to
agriculture, the arts, commerce and finance, manufacturing, mineral extraction,
natural resources, and the professions. One member of the council must be a
full-time student in good standing at a public institution under the control of the
commissioner.

c. The term of office for each member of the higher education advisory council
begins on January first and has a duration of two years. The initial appointments
must be staggered by lot so that no more than four positions terminate at any one
time in the case of a seven-member council, no more than five positions.

terminate at any one time in the case of a nine-member council, and no more
than six positions terminate at any one time in the case of an eleven-member
council. An individual may not serve more than two consecutive terms. If an
individual is appointed to fill a vacancy, that service is not counted as a term for
purposes of this section unless that service exceeds one year.

d. Annually, the governor shall designate one member of the higher education
advisory council to serve as chairman. The individual may be reappointed as
chairman but may not serve more than two consecutive terms in that role. The
chairman shall call all meetings of the council and shall call a special meeting of
the council within seven days when petitioned to do so by at least half of the
council members. The council shall meet at least once every calendar quarter.

e. Each member of the higher education advisory council, except the student, is
entitled to receive per diem compensation in the amount provided to members of
the legislative assembly. Each member of the council is entitled to receive
reimbursement for expenses as provided by law for state officers if the member is
attending meetings or performing duties directed by the council.

f. The higher education advisory council shall provide advice and guidance to the
higher education commissioner in all matters pertaining to the delivery and
administration of higher education in this state, including academic standards,
accountability, budgetary and financial matters, managerial and operational
matters, and regulatory and legislative matters.

8-3. This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action.

SECTION 4. EFFECTIVE DATE. If approved by the electors, sections 1 and 2 of this Act
become effective January 1, 2016, and the higher education commissioner is to be first elected
at the general election in 2016. The commissioner will take office January 1, 2017. Section 3 of
this Act becomes effective January 1, 2017.
North Dakota Legislative Branch
Bill Actions for HCR 3042

Send me to Bill No. (9999):  

HJ=House Journal; SJ=Senate Journal
Introduced by Rep. Becker, Beadle, Dockter, Loosens, Rohr, Schatz
Introduced by Sen. Poolman
A concurrent resolution to amend and reenact sections 2 and 5 of article V and section 6 of article VIII of the Constitution of North Dakota, relating to the election of a higher education commissioner, and to provide an effective date.

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Appendix 6
A concurrent resolution to create and enact a new section to article III of the Constitution of North Dakota, relating to referral of actions of the state board of higher education.

STATEMENT OF INTENT

This measure would allow the electors of the state to refer to a vote of the electors any action taken by the state board of higher education.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed new section to article III of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. A new section to article III of the Constitution of North Dakota is created and enacted as follows:

Any formal action requiring a roll call vote of the state board of higher education may be referred to the electors of the state for approval or rejection. All relevant provisions under this article which relate to the referral of legislative Acts are applicable to the referral of actions of the state board of higher education. The filing of a petition containing a sufficient number of signatures to refer an action of the state board of higher education suspends the operation or effect of the action pending the result of the vote on the matter. An action of the state board of higher education which is approved by the electors becomes effective immediately upon the certification of the result by the state canvassing board. An action of the state board of higher education which is rejected by the electors is void immediately upon the certification of the result by the state canvassing board.
North Dakota Legislative Branch
Bill Actions for HCR 3044

Send me to Bill No. (9999):

HJ=House Journal, SJ=Senate Journal

Introduced by Rep. Maragos

A concurrent resolution to create and enact a new section to article III of the Constitution of North Dakota, relating to referral of actions of the state board of higher education.

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<td>House</td>
<td>Second reading, failed to adopt yeas 23 nays 71</td>
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A concurrent resolution to amend and reenact section 6 of article VIII of the Constitution of North Dakota, relating to the creation of a North Dakota university system council of regents; and to provide an effective date.

STATEMENT OF INTENT

This measure would create a council of regents for the purpose of overseeing the administration of higher education in this state.

BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed amendment to section 6 of article VIII of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 6 of article VIII of the Constitution of North Dakota is amended and reenacted as follows:

Section 6.

4. A board of higher education, to be officially known as the state board of higher education, is hereby created for the control and administration of the following state educational institutions, to wit:

a. The state university and school of mines, at Grand Forks, with their substations.

b. The state agricultural college and experiment station, at Fargo, with their substations.

c. The school of science, at Wahpeton.

d. The state normal schools and teachers colleges, at Valley City, Mayville, Minot, and Dickinson.
Sixty-third
Legislative Assembly

1  e. The school of forestry, at Bottineau:
2  f. And such other state institutions of higher education as may hereafter be
3  established:
4  2. a. The state board of higher education consists of eight members. The governor-
5  shall appoint seven members who are qualified electors and taxpayers of the-
6  state, and who have resided in this state for not less than five years immediately
7  preceding their appointments. These seven appointments are subject to-
8  confirmation by the senate:

9  The governor shall appoint as the eighth member of the board a full-time-
10  resident student in good academic standing at an institution under the jurisdiction-
11  of the state board. Except for the student member, no more than two persons-
12  holding a bachelor's degree from a particular institution under the jurisdiction-
13  of the state board of higher education may serve on the board at any one time.

14  Except for the student member, no person employed by any institution under the-
15  control of the board shall serve as a member of the board and no employee of-
16  any such institution may be eligible for membership on the state board of higher-
17  education for a period of two years following the termination of employment.

18  The governor shall nominate from a list of three names for each position,
19  selected by action of four of the following five persons: the president of the North-
20  Dakota education association, the chief justice of the supreme court, the-
21  superintendent of public instruction, the president pro tempore of the senate, and-
22  the speaker of the house of representatives and, with the consent of a majority of-
23  the members elect of the senate, shall appoint from the list to the state board of-
24  higher education seven members. The governor shall ensure that the board-
25  membership is maintained in a balanced and representative manner. The term of-
26  office of members appointed to fill vacancies at the expiration of said terms shall-
27  be for four years, and in the case of vacancies otherwise arising, appointments-
28  shall be made only for the balance of the term of the members whose places are-
29  to be filled. A member may not be appointed to serve for more than two terms. If
30  a member is appointed to fill a vacancy and serves two or more years of that-
31  term, the member is deemed to have served one full term.
b: In the event any nomination made by the governor is not consented to and confirmed by the senate, the governor shall again nominate a candidate selected from a new list. The nomination shall be submitted to the senate for confirmation and the proceedings shall continue until an appointee has been confirmed by the senate or the session of the legislature has adjourned.

e: If a term expires or a vacancy occurs when the legislature is not in session, the governor may appoint from a list selected as provided, a member who shall serve until the opening of the next session of the legislature, at which time the appointment must be certified to the senate for confirmation. If the appointee is not confirmed by the thirtieth legislative day of the session, the office shall be deemed vacant and the governor shall nominate another candidate for the office. The same proceedings shall be followed as are set forth in this section. If the legislature is in session at any time within six months prior to the date of the expiration of the term of any member, the governor shall nominate a successor from a list selected as above set forth, within the first thirty days of the session and upon confirmation by the senate the successor shall take office at the expiration of the incumbent’s term. No person who has been nominated and whose nomination the senate has failed to confirm is eligible for an interim appointment. On or before July first of each year, beginning in 1995, the governor shall appoint a student member from a list of names recommended by the executive board of the North Dakota student association for a term of one year, beginning on July first. A student member may not serve more than two consecutive terms.

3: The members of the state board of higher education may only be removed by impeachment for the offenses and in the manner and according to the procedure provided for the removal of the governor by impeachment proceedings.

4: Each appointive member of the state board of higher education, except the student member, shall receive compensation set by the legislative assembly for the time actually spent devoted to the duties of the member’s office. All members shall receive necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of their office.
6. a. The state board of higher education shall hold its first meeting at the office of the state board of administration at Bismarck, on the 6th day of July, 1939, and shall organize and elect one of its members as president of such board for a term of one year. It shall also at said meeting, or as soon thereafter as may be practicable, elect a competent person as secretary, who shall reside during his term of office in the city of Bismarck, North Dakota. Said secretary shall hold office at the will of the board. As soon as said board is established and organized, it shall assume all the powers and perform all the duties now conferred by law upon the board of administration in connection with the several institutions hereinbefore mentioned, and the said board of administration shall immediately upon the organization of said state board of higher education, surrender and transfer to said state board of higher education all duties, rights, and powers granted to it under the existing laws of this state concerning the institutions hereinbefore mentioned, together with all property, deeds, records, reports, and appurtenances of every kind belonging or appertaining to said institutions.

b. The said state board of higher education shall have full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control. The said state board of higher education shall have full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.

c. Said board shall prescribe for all of said institutions standard systems of accounts and records and shall biennially, and within six (6) months immediately preceding the regular session of the legislature, make a report to the governor, covering in detail the operations of the educational institutions under its control.
d. It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control."Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in subsection 6a." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.

e. The said state board of higher education shall have the control of the expenditure of the funds belonging to, and allocated to such institutions and also those appropriated by the legislature, for the institutions of higher education in this state; provided, however, that funds appropriated by the legislature and specifically designated for any one or more of such institutions, shall not be used for any other institution.

7. a. The state board of higher education shall, as soon as practicable, appoint for a term of not to exceed three (3) years, a state commissioner of higher education, whose principal office shall be at the state capitol, in the city of Bismarck. Said commissioner of higher education shall be responsible to the state board of higher education and shall be removable by said board for cause.

b. The state commissioner of higher education shall be a graduate of some reputable college or university, and who by training and experience is familiar with the problems peculiar to higher education.
Such commissioner of higher education shall be the chief executive officer of said
state board of higher education, and shall perform such duties as shall be
prescribed by the board.

8-1. A council of regents is created to oversee the administration of the North Dakota
university system.

2. The council consists of:
   a. The following voting members:
      (1) The governor or the governor's designee, who shall serve as the chairman;
      (2) The superintendent of public instruction; and
      (3) The agriculture commissioner; and
   b. The following nonvoting members:
      (1) Two individuals appointed by the governor;
      (2) Three individuals appointed by the majority leader of the House of
          Representatives; and
      (3) Three individuals appointed by the majority leader of the Senate.

3. The term of a nonvoting member is two years. A nonvoting member may not serve in
   that position for more than four consecutive years.

4. The council of regents shall appoint a chancellor to serve as the chief executive officer
   of the North Dakota university system.
   a. The chancellor must be a graduate of an accredited institution of higher
      education and by training and experience must be familiar with the administration
      and delivery of higher education.
   b. The chancellor shall serve at the pleasure of the council.

5. The chancellor shall:
   a. Appoint and remove the president of each institution in the system;
   b. Prescribe a uniform system for the accounting, budgeting, and reporting of data,
      by each institution; and
   c. Do all things necessary and proper for the effective and efficient administration of
      the North Dakota university system, subject to statutory requirements or
      limitations.
6. This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action.

SECTION 2. EFFECTIVE DATE. If approved by the electors, this measure becomes effective January 1, 2015.
North Dakota Legislative Branch
Bill Actions for SCR 4028

A concurrent resolution to amend and reenact section 8 of article VIII of the Constitution of North Dakota, relating to the creation of a North Dakota university system council of regents, and to provide an effective date.

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<td>SJ 024</td>
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<td>Second reading, failed to adopt yeas 13 nays 34</td>
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March 20, 2013

Ms. Anita Thomas, Counsel
North Dakota Legislative Council
600 East Boulevard Avenue
Bismarck, ND 58505-0360

Dear Ms. Thomas:

I have recently become aware of a proposed constitutional amendment in North Dakota that would change the governance of eleven institutions in North Dakota that are accredited by the Higher Learning Commission ("the Commission"). You have also contacted us about this proposed amendment.

It would not be appropriate for me to comment directly on the legislation, especially as it is still in development. However, there are Commission requirements that you and others may want to consider as this legislation develops. The Commission carefully considers the governance of an institution in determining whether it merits accreditation. Several Commission requirements pertain to institutional governance. In particular:

- Eligibility Requirement #2 requires that an institution eligible for accreditation have a governing board with the necessary legal power to establish and review basic policies that govern the institution;
- Criterion Two, Core Component 2.C, requires that an accredited institution have a governing board that is sufficiently autonomous to make decisions in the best interest of the institution; and
- Criterion Five, Core Component 5.B requires that an accredited institution have a governance structure, including a governing board, that promotes effective leadership.

In addition, two of the Commission’s Assumed Practices (A.8, A.9) are predicated on the expectation that an accredited institution have a governing board. Clearly the concept behind the requirement for a governing board is that the collective wisdom of the governing board members working collaboratively with the chief executive officer and the faculty provides the optimal approach for oversight of a college or university and one that is premised on concepts in state statutes and common law for the oversight of profit and not-for-profit corporations. Finally, I should note that Commission policy provides the Commission with the authority, and indeed the responsibility, for assuring the compliance at all times of an accredited institution with these and other requirements.
My staff and I are available to answer any questions you or members of the North Dakota State Legislative Assembly may have about accreditation requirements. Please contact Karen Solinski, Vice President for Legal and Governmental Affairs at ext. 111 or ksolinski@hlcommission.org.

Sincerely,

Sylvia Manning

Sylvia Manning
President

cc: Karen Solinski, Vice President for Legal and Governmental Affairs, Higher Learning Commission
Appendix 9
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Section One: Criteria and Requirements

Policy Title: Eligibility Requirements
Number: CRRT.A.10.010

An institution must meet all Eligibility Requirements before it is granted Candidate status. It must present initial evidence that it meets these requirements before a pre-application interview is scheduled with the Commission. Through submission of the Preliminary Information Form (PIF) it must present full evidence that it meets these requirements before a site visit for Candidacy is scheduled.

1. Jurisdiction of the Commission
The institution falls within the Commission’s jurisdiction as defined in the Commission’s Bylaws (Article III). The Commission extends accreditation and candidacy for accreditation to higher education institutions that are 1) incorporated 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, or operating under federal authority within these states, and 2) have substantial presence, as defined in Commission policy, within these states.

2. Legal Status
The institution is appropriately authorized in each of the states, sovereign nations, or jurisdictions in which it operates to award degrees, offer educational programs, or conduct activities as an institution of higher education. At least one of these jurisdictions must be in the HLC region.

3. Governing Board
The institution has an independent governing board that possesses and exercises the necessary legal power to establish and review the basic policies that govern the institution.

4. Stability
The institution demonstrates a history of stable operations and consistent control during the two years preceding the submission of the PIF.

5. Mission Statement
The institution has a statement of mission approved by its governing board and appropriate for a degree-granting institution of higher education. The mission defines the nature and purpose of the higher learning provided by the institution and the students for whom it is intended.

6. Educational Programs
The institution has educational programs that are appropriate for an institution of higher education. The Commission may decline to evaluate an institution for status with the Commission if the institution’s mission or educational programs fall outside areas in which the Commission has demonstrated expertise or lacks appropriate standards for meaningful review.

In appropriate proportion, the institution’s programs are degree-granting and involve coursework provided by the institution, establishing the institution’s commitment to degree-granting higher education.
responds to their needs as its mission and capacity allow.

Criterion Two. Integrity: Ethical and Responsible Conduct
The institution acts with integrity; its conduct is ethical and responsible.

Core Components

2.A. The institution operates with integrity in its financial, academic, personnel, and auxiliary functions; it establishes and follows fair and ethical policies and processes for its governing board, administration, faculty, and staff.

2.B. The institution presents itself clearly and completely to its students and to the public with regard to its programs, requirements, faculty and staff, costs to students, control, and accreditation relationships.

2.C. The governing board of the institution is sufficiently autonomous to make decisions in the best interest of the institution and to assure its integrity.
   1. The governing board’s deliberations reflect priorities to preserve and enhance the institution.
   2. The governing board reviews and considers the reasonable and relevant interests of the institution’s internal and external constituencies during its decision-making deliberations.
   3. The governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests, or other external parties when such influence would not be in the best interest of the institution.
   4. The governing board delegates day-to-day management of the institution to the administration and expects the faculty to oversee academic matters.

2.D. The institution is committed to freedom of expression and the pursuit of truth in teaching and learning.

2.E. The institution ensures that faculty, students, and staff acquire, discover, and apply knowledge responsibly.
   1. The institution provides effective oversight and support services to ensure the integrity of research and scholarly practice conducted by its faculty, staff, and students.
   2. Students are offered guidance in the ethical use of information resources.
   3. The institution has and enforces policies on academic honesty and integrity.

Criterion Three. Teaching and Learning: Quality, Resources, and Support
The institution provides high quality education, wherever and however its offerings are delivered.

Core Components

3.A. The institution’s degree programs are appropriate to higher education.
   1. Courses and programs are current and require levels of performance by students appropriate to the degree or certificate awarded.
   2. The institution articulates and differentiates learning goals for its undergraduate, graduate, post-baccalaureate, post-graduate, and certificate programs.
   3. The institution’s program quality and learning goals are consistent across all modes of delivery and all locations (on the main campus, at additional locations, by distance delivery, as dual credit, through contractual or consortial arrangements, or any other modality).
4.C. The institution demonstrates a commitment to educational improvement through ongoing attention to retention, persistence, and completion rates in its degree and certificate programs.

1. The institution has defined goals for student retention, persistence, and completion that are ambitious but attainable and appropriate to its mission, student populations, and educational offerings.

2. The institution collects and analyzes information on student retention, persistence, and completion of its programs.

3. The institution uses information on student retention, persistence, and completion of programs to make improvements as warranted by the data.

4. The institution’s processes and methodologies for collecting and analyzing information on student retention, persistence, and completion of programs reflect good practice. (Institutions are not required to use IPEDS definitions in their determination of persistence or completion rates. Institutions are encouraged to choose measures that are suitable to their student populations, but institutions are accountable for the validity of their measures.)

**Criterion Five. Resources, Planning, and Institutional Effectiveness**

The institution’s resources, structures, and processes are sufficient to fulfill its mission, improve the quality of its educational offerings, and respond to future challenges and opportunities. The institution plans for the future.

**Core Components**

5.A. The institution’s resource base supports its current educational programs and its plans for maintaining and strengthening their quality in the future.

1. The institution has the fiscal and human resources and physical and technological infrastructure sufficient to support its operations wherever and however programs are delivered.

2. The institution’s resource allocation process ensures that its educational purposes are not adversely affected by elective resource allocations to other areas or disbursement of revenue to a superordinate entity.

3. The goals incorporated into mission statements or elaborations of mission statements are realistic in light of the institution’s organization, resources, and opportunities.

4. The institution’s staff in all areas are appropriately qualified and trained.

5. The institution has a well-developed process in place for budgeting and for monitoring expense.

5.B. The institution’s governance and administrative structures promote effective leadership and support collaborative processes that enable the institution to fulfill its mission.

1. The institution has and employs policies and procedures to engage its internal constituencies—including its governing board, administration, faculty, staff, and students—in the institution’s governance.

2. The governing board is knowledgeable about the institution; it provides oversight for the institution’s financial and academic policies and practices and meets its legal and fiduciary responsibilities.

3. The institution enables the involvement of its administration, faculty, staff, and students in setting academic requirements, policy, and processes through effective structures for contribution and collaborative effort.

5.C. The institution engages in systematic and integrated planning.
1. The institution allocates its resources in alignment with its mission and priorities.

2. The institution links its processes for assessment of student learning, evaluation of operations, planning, and budgeting.

3. The planning process encompasses the institution as a whole and considers the perspectives of internal and external constituent groups.

4. The institution plans on the basis of a sound understanding of its current capacity. Institutional plans anticipate the possible impact of fluctuations in the institution’s sources of revenue, such as enrollment, the economy, and state support.

5. Institutional planning anticipates emerging factors, such as technology, demographic shifts, and globalization.

5.D. The institution works systematically to improve its performance.

1. The institution develops and documents evidence of performance in its operations.

2. The institution learns from its operational experience and applies that learning to improve its institutional effectiveness, capabilities, and sustainability, overall and in its component parts.

Policy Title: Assumed Practices (effective January 2013)

Policy Number: CRRT.B.10.020

Foundational to the Criteria and Core Components is a set of practices shared by institutions of higher education in the United States. Unlike Criteria and Core Components, these Assumed Practices are (1) generally matters to be determined as facts, rather than matters requiring professional judgment and (2) unlikely to vary by institutional mission or context.

A. A. Integrity: Ethical and Responsible Conduct

1. The institution has a conflict of interest policy that ensures that the governing board and the senior administrative personnel act in the best interest of the institution.

2. The institution has ethics policies for faculty and staff regarding conflict of interest, nepotism, recruitment and admissions, financial aid, privacy of personal information, and contracting.

3. The institution provides its students, administrators, faculty, and staff with policies and procedures informing them of their rights and responsibilities within the institution.

4. The institution provides clear information regarding its procedures for receiving complaints and grievances from students and other constituencies, responds to them in a timely manner, and analyzes them to improve its processes.

5. The institution makes readily available to students and to the general public clear and complete information including:
   a. statements of mission, vision, and values
   b. full descriptions of the requirements for its programs, including all pre-requisite courses
   c. requirements for admission both to the institution and to particular programs or majors
   d. policies on acceptance of transfer credit, including how credit is applied to degree requirements. (Except for...
courses articulated through transfer policies or institutional agreements, the institution makes no promises to prospective students regarding the acceptance of credit awarded by examination, credit for prior learning, or credit for transfer until an evaluation has been conducted.)

e. all student costs, including tuition, fees, training, and incidentals; its financial aid policies, practices, and requirements; and its policy on refunds

f. policies regarding academic good standing, probation, and dismissal; residency or enrollment requirements (if any)

g. a full list of its instructors and their academic credentials

h. its relationship with any parent organization (corporation, hospital, or church, or other entity that owns the institution) and any external providers of its instruction.

6. The institution assures that all data it makes public are accurate and complete, including those reporting on student achievement of learning and student persistence, retention, and completion.

7. The institution portrays clearly and accurately to the public its current status with the Higher Learning Commission and with specialized, national, and professional accreditation agencies.

a. An institution offering programs that require specialized accreditation or recognition by a state licensing board or other entity in order for its students to be certified or to sit for the licensing examination in states where its students reside either has the appropriate accreditation and recognition or discloses publicly and clearly the consequences to the students of the lack thereof. The institution makes clear to students the distinction between regional and specialized or program accreditation and the relationships between licensure and the various types of accreditation.

b. An institution offering programs eligible for specialized accreditation at multiple locations discloses the accreditation status and recognition of the program by state licensing boards at each location.

c. An institution that advertises a program as preparation for a licensure, certification, or other qualifying examination publicly discloses its pass rate on that examination, unless such information is not available to the institution.

8. The governing board and its executive committee, if it has one, include some “public” members. Public members have no significant administrative position or any ownership interest in any of the following: the institution itself; a company that does substantial business with the institution; a company or organization with which the institution has a substantial partnership; a parent, ultimate parent, affiliate, or subsidiary corporation; an investment group or firm substantially involved with one of the above organizations. All publicly-elected members or members appointed by publicly-elected individuals or bodies (governors, elected legislative bodies) are public members.¹

9. The governing board has the authority to approve the annual budget and to engage and dismiss the chief executive officer.¹

10. The institution documents outsourcing of all services in written agreements, including agreements with parent or affiliated organizations.

11. The institution takes responsibility for the ethical and responsible behavior of its contractual partners in relation to actions taken on its behalf.

¹ *Institutions operating under federal control and authorized by Congress are exempt from these requirements. These institutions must have a public board that includes representation by individuals who do not have a current*
Appendix 10
North Dakota University System
HCR 3047 – Senate Judiciary Committee
March 27, 2013
Harim A. Shirvani

Good morning, Mr. Chairman and members of the committee. I am Harim Shirvani, Chancellor of the North Dakota University System. I appear before you today on behalf of the State Board of Higher Education in opposition to HCR 3047. I will outline the reasons why this bill will be harmful to our university system, educational institutions, students, faculty and staff.

If HCR 3047 passes the legislature and the proposed constitutional amendment is approved by the electorate, the eleven institutions of higher education in North Dakota will face losing their accreditation. This will result in a cascade of financial and other problems for the state, our students, our faculty and our institutions. For example, if we lose accreditation, students at our campuses will be ineligible for federal financial aid. This would significantly obstruct their ability to attend college in North Dakota because they will have to pay all tuition and other costs out-of-pocket. The burden on students – especially those who do not have significant financial resources of their own – would be enormous. Enrollment would drop precipitously because of the financial barriers to students and also because students would not want to obtain degrees from unaccredited institutions. We would likely lose many faculty members for the same reason, and the drop in enrollment may make several, if not all, of our institutions financially unworkable. It is not an overstatement to say that loss of accreditation would be disastrous for North Dakota.

The reason we would lose accreditation if HCR 3047 results in a constitutional amendment is because the amendment would eliminate an independent board for the North Dakota University System. In the United States, colleges and universities – including all eleven institutions in the North Dakota University System – are accredited by the Higher Learning Commission (HLC). The HLC imposes several requirements on institutions that necessitate an independent board. These are outlined in the attached letter that Ms. Sylvia Manning, the President of HLC, sent to Ms. Anita Thomas at the Legislative Council. Ms. Manning forwarded a copy of the letter to me, and I offer it to you for your consideration. I would also like to draw your attention specifically to the HLC’s Core Component 2.C, which states that an accredited institution must have a governing board that is “sufficiently autonomous to make decisions in the best interest of the institution and to assure its integrity.” A Governor-appointed, cabinet-level Director of Higher Education – as proposed in HCR 3047 – would not satisfy that Core Component. Nor would it comport with the other provisions laid out in Ms. Manning’s letter.

I appreciate your time today and will now take any questions you may have for me.
Appendix 11
January 5, 2014

Ms. Anita Thomas, Counsel
North Dakota Legislative Council
600 East Boulevard Avenue
Bismarck, ND 58505-0360

Dear Ms. Thomas:

I am writing in response to your inquiry regarding North Dakota House 2013 Concurrent Resolution 3047 dated December 10, 2013, and transmitted by email again on January 6, 2014. I enclose a copy of my letter of March 20, 2013, in which I drew your attention to several Higher Learning Commission requirements regarding governance that I thought the legislature should be aware of in developing any legislation to change the current governance arrangements for the state university system. I received a few other inquiries from individuals in North Dakota about the Commission’s requirements on governance relative to the proposed legislation, and I provided those individuals with a copy of my letter to you.

The Commission has not received a detailed implementation plan for the new governance structure and therefore the details of how this structure would work remain unclear. Thus I can comment only on the structure as it is described in the legislation itself. I believe the proposed structure as described in the legislation raises questions about whether, once the structure goes into effect, the institutions would be in compliance with the Commission’s requirements on governance as I explained them in the previous letter.

A change in the governance structure of an institution of the magnitude of what is proposed in the legislation falls under the Commission’s Change of Control, Structure or Organization policy. The Commission must review such changes to determine prior to their taking effect whether the institution undergoing the governance change will remain in compliance with Commission requirements and thus whether accreditation will continue once the governance change is implemented. The details of how and when this review by the Commission will take place have not yet been determined, but the review will need to take place well before the implementation date of July 1, 2015 stated in the legislation.

The Commission is conducting a visit to the state university system in the spring of 2014 to examine the current state university governance system. While the purpose of the visit is not specifically to examine the proposed new governance structure in the legislation, I expect that in
the course of that review the on-site team will also have questions about the legislation and legislators' plans for the future of governance in North Dakota.

If you have further questions, please contact Karen Solinski, Vice President for Legal and Governmental Affairs at ext. 111 or ksolinski@hlcommission.org.

Sincerely,

Sylvia Manning

Sylvia Manning
President

cc: Karen Solinski, Vice President for Legal and Governmental Affairs
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Policy Title: Change of Control, Structure, or Organization
Number: INST.B.20.040

An institution shall receive Commission approval prior to undergoing a transaction that affects, or may affect, how corporate control*, structure or governance occurs at the accredited or candidate institution (hereinafter the “affiliated institution”). Approval of the transaction resulting in the CHANGE OF CONTROL, STRUCTURE, OR ORGANIZATION shall be necessary prior to its consummation to effectuate the continued accreditation of the institution subsequent to the closing of the proposed transaction.

*Control shall be understood to mean the possession, direct or indirect, of the power to direct or cause the direction of, the management and policies of an institution, corporation, partnership or other entity, whether through the ownership of voting securities, by contract or otherwise. (See related definition at 34 CFR § 600.31(b).)

Eligibility for Change of Control
No institution shall be deemed eligible for CHANGE OF CONTROL, STRUCTURE OR ORGANIZATION merely by virtue of having accredited or candidate status with the Commission. Approval shall be at the sole discretion of the Commission’s Board of Trustees (“the Board” or “the Commission’s Board”). An institution shall apply for Commission approval of a proposed CHANGE OF CONTROL, STRUCTURE OR ORGANIZATION transaction through processes outlined in this policy and must demonstrate to the satisfaction of the Commission’s Board that the transaction and the institution affiliated with the Commission that will result from the transaction meet the requirements identified in this policy and that approval of the proposed CHANGE OF CONTROL, STRUCTURE OR ORGANIZATION is in the best interest of the Commission.

In those cases in which the Commission’s Board decides to approve a proposed CHANGE OF CONTROL, STRUCTURE, OR ORGANIZATION, it may decide so subject to conditions on the institution or its accreditation. In those cases in which the Commission’s Board decides, in its sole discretion, that the proposed transaction builds a new institution bypassing the Eligibility Process and initial status review by means of a comprehensive evaluation, the Commission Board shall not approve the CHANGE OF CONTROL, STRUCTURE OR ORGANIZATION.

The Board will not consider for approval any proposed CHANGE OF CONTROL, STRUCTURE OR ORGANIZATION involving an institution that is under sanction, Show-Cause or loss of status or authorization from any other recognized accrediting agency or state entity or is under investigation by any state entity, or involving a buyer or investor who owns such an institution except as described in this policy. The Board will also not consider for approval any proposed CHANGE OF CONTROL, STRUCTURE OR ORGANIZATION for an institution the Board has determined within the previous twelve months to merit withdrawal of accreditation, even if a formal action to withdraw accreditation has not yet taken place.

The Board will consider a CHANGE OF CONTROL, STRUCTURE OR ORGANIZATION for a Commission-affiliated institution on sanction or under Show-Cause only if there is substantial evidence that the proposed transaction resolves the issues the institution must address during the sanction or Show-Cause period and the transaction otherwise meets each of the Approval Factors identified in this policy.

Types of Transactions
The transactions that require prior Commission approval\(^1\) include, but are not limited to, the following:

1. Sale or transfer to, or acquisition by, a new owner of all, or a substantial portion, of the institution’s assets, or the assets of a branch campus or site (not including any transfer that constitutes only the granting of a security interest);
2. Merger or consolidation of an institution with one or more institutions or entities. This includes the consolidation of an institution not accredited or in candidate status with the Commission into the structure of an institution holding status with the Commission;
3. The division of the affiliated institution into one or more institutions or entities;
4. Stock transactions including Initial Public Offerings of stock as well as those transactions wherein an individual, entity or group\(^2\) acquires and controls 25% of the total outstanding shares of stock of the affiliated institution, or an individual, entity or group increases or decreases its control of shares to greater or less than 25%, through individual or cumulative transactions, of the total outstanding shares of the stock of the institution;
5. Change of corporate form, governance structure, or conversion, including, but not limited to, change from Limited Partnership to Corporation, from Limited Liability Corporation to a Corporation, from a Not-for-Profit Corporation to a For-Profit Corporation, a Private to Public, a Not-for Profit Corporation controlled by members to one controlled by its Board of Directors, significant change in the size of the institution’s governing board;
6. Any of the transactions in items 1 through 5 above involving a parent corporation that owns or controls the affiliated institution or in any intermediate subsidiary of a parent corporation where that subsidiary has a controlling relationship to the institution and where the transaction may reasonably affect the control of the accredited institution as determined by the Commission or by the U.S. Department of Education;
7. Sale, transfer, or release of an interest in the affiliated institution such that there is change in the management or governance of the institution; and
8. Transfer of substantial academic or operational control of the affiliated institution to a third-party entity.

\textbf{Change of Control, Structure, or Organization Without Prior Commission Approval}

The Board shall withdraw the accreditation or candidacy of an institution that completes a CHANGE OF CONTROL, STRUCTURE OR ORGANIZATION without receiving prior Commission approval from the Board of Trustees. The Higher Learning Commission President will take a recommendation for withdrawal to the Board upon learning of the change that took place without prior Commission approval. Prior to the Board’s review, the institution will be informed about the recommendation and will have at least 14 calendar days to prepare and submit a response that the Board will have available when it considers the President’s recommendation for withdrawal.

\textbf{Notification to the Commission Regarding other Transactions}

An institution affiliated with the Commission must notify Commission staff of any other CHANGE OF CONTROL, STRUCTURE, OR ORGANIZATION that is not separately identified in this policy or that may be separately identified in the policy but may not be reasonably known by, or under the control of, the accredited institution, a parent entity or intermediate subsidiary prior to the transaction (e.g., disposal of stock by an investor). These changes include, but are not limited to, changes in the Chief Executive Officer of the affiliated institution, changes in the structure and composition of the Board of Trustees of the institution, other than those due to normal or mid-term completion of Board members’ terms or removal or replacement of Board members or revision of corporate bylaws through regular review processes, and sale or transfer of a block of stock that constitutes less than 25% but more than 10% of the total outstanding voting shares of the affiliated institution, its corporate parent or other entity in a controlling relationship with the institution. These changes must be reported

\(^1\) Such transactions may or may not also require approval from the U.S. Department of Education.
\(^2\) For a definition of a “group” see Section 13(d)(3) of the Securities and Exchange Act of 1934.
to the Commission as soon as they are reasonably known to the institution. While such changes are to be reported for information, staff may determine in certain cases that they do constitute a Transaction that must be approved under this policy or that require Commission follow-up under Commission policies related to monitoring.

Policy Number Key
Section INST: Institutional Policies
Chapter B: Requirements for Achieving and Maintaining Affiliation
Part 20: Defining the Affiliated Entity

Last Revised: February 2010
First Adopted: June 2009 and February 2010
Revision History:
Notes: Policies combined November 2012 – 3.3, 3.3(a), 3.3(b), 3.3(e), 3.3(f).
Related Policies:
CHANGE OF CONTROL, STRUCTURE, OR ORGANIZATION:
COMMISSION PROCEDURE

INTRODUCTION
This document provides an overview of the review process and a list of required materials for a Change of Control, Structure or Organization (hereinafter, "Change of Control"). Institutions contemplating a Change of Control should consult Commission Policy INST.A.20.040: Change of Control, Structure, or Organization available in Commission Policies on the Commission Web site, ncahlc.org, and should contact the staff liaison as early in the process as possible. Candid and timely communication between the Commission and the institution will facilitate the review process.

Policy Background
Commission policy on Change of Control, Structure or Organization, revised in June 2009 and in February 2010, makes clear that Commission oversight extends beyond transactions such as merger or sale to transactions that change, or have the potential to change, the control of an institution or its fundamental structure and organization. The policy also stipulates that only the Board of Trustees can take action on a Change of Control request; Commission staff and peer reviewers provide information to the Board for review. See Policies INST.B.20.040 and INST.F.20.070 for the complete policy, including a more comprehensive list of transactions that this policy affects.

Institutional Eligibility for Change of Control
Approval of any proposed Change of Control is at the discretion of the Board of Trustees. An institution must file an appropriate application, as described in this document. The Board will determine whether the proposed Change of Control meets the requirements of the Commission.

The Board may consider a Change of Control for an institution under Commissioner sanction or Show-Cause only when there is substantial evidence that the proposed transaction will help the institution resolve all the issues that led to the sanction or the Show-Cause order. The Board will not consider a Change of Control for an institution that has had its Commission accreditation withdrawn, even if that action is not yet a final decision, or where the institution has been notified of the Board’s intent to withdraw accreditation.

An institution that has had its accreditation withdrawn or that has been placed on sanction or Show-Cause by another recognized accreditor will not be considered for inclusion as a component of an institution accredited by the Commission.

Approval Factors
The Board will review a Change of Control against the approval factors outlined in Commission policy:

1) 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 affiliated institution;
2) The ongoing 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, Assumed Practices, and Criteria for Accreditation;

4) Sufficiency of financial support for the transaction; and

5) Previous experience in higher education, qualifications, and resources of new owners, Board members or other individuals who play a key role in the institution or related entities subsequent to the transaction.

If the Board determines in its sole discretion that the institution or the transaction fails to meet any of the approval factors, the Board will not approve the proposed Change of Control.

**PROCESS OVERVIEW**

**Process Timeline**

When an institution considers a Change of Control, it should initiate a conversation with its Commission staff liaison as soon as possible. Because the Change of Control policy requires that the Board of Trustees review and act on these requests, the deadline for a Change of Control application is based on the Board of Trustees meeting schedule. An institution seeking a Change of Control should submit its application no later than six months prior to the Board meeting at which it wishes the Board to review the proposed change.

<table>
<thead>
<tr>
<th>Deadline for Change of Control Applications</th>
<th>Board Meeting</th>
</tr>
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<tbody>
<tr>
<td>August 1 (of the previous year)</td>
<td>February</td>
</tr>
<tr>
<td>December 1 (of the previous year)</td>
<td>June</td>
</tr>
<tr>
<td>May 1</td>
<td>November</td>
</tr>
</tbody>
</table>

Submission of a Change of Control application by the deadline for a particular meeting does not guarantee that the application will be reviewed at that meeting. The Commission staff liaison will notify the institution of the review process and timeline.

**Step One: Initial Interaction Review by Staff**

An institution should begin the process by requesting an Initial Interaction Review by staff. Commission staff will review any available relevant documents, such as Contract of Sale or Letter of Intent, to determine if the change being contemplated requires formal approval under this policy. The initial Interaction Review will give Commission staff the necessary context to plan for further review.

**Step Two: Application Submission**

The application should be received by the deadlines provided for Board review at a particular meeting (again, note that submission by the stated deadline does not guarantee review at the next Board meeting). The required list of materials is below. These documents should be in final form and signed by the appropriate parties. The buyer or other parties should contribute to those portions of the document that
discuss the institution after the closing. Commission staff will review these materials and, as needed, may request revisions or additional information to better assess the projected impact of the change. All institutional materials must be submitted electronically. Commission staff will provide specific instructions for submission during the Initial Interaction Review or upon request.

The burden is on the institution to prepare and submit a thorough application that contains all documents relevant to explaining the transaction and the effect on the accredited institution. In some cases, the institution may need to submit documents not listed herein to establish that the proposed Change of Control meets the Commission’s approval factors. It is the institution’s responsibility to determine what additional documents in its initial filing and in any subsequent filings will make that showing.

**Step Three: Fact-Finding Review**

Commission staff may determine that the complexity of the transaction necessitates additional review. A Fact-Finding Review can take a variety of forms, and some transactions may require a combination of these forms:

- A two-day campus visit that includes Commission staff and peer reviewers;
- A meeting in the Commission office with institutional leadership and proposed buyers, investors or other relevant parties;
- A desk review of the Change of Control application by an external expert, such as a transactional attorney.

Reviewers will provide a report to staff and the Board, but will not make a formal recommendation to staff or the Board. The Fact-Finding Report, if applicable, will be embedded in the staff report.

**Step Four: Staff Report**

Commission staff will prepare a staff report that may contain a recommendation regarding the extension of accredited or candidate status of the institution subsequent to the proposed transaction. Commission staff will provide the Board of Trustees and the institution a copy of the staff report as well as the Fact-Finding Report, if applicable.

**Step Five: Institutional Response**

The institution will have fourteen (14) calendar days to respond to the staff report. In this response, the institution should address any concerns that staff raise in the report. The response will be shared with the Board prior to the meeting at which it will review the proposed change.

**Step Six: Board Decision**

The Board will consider the approval factors listed above in determining whether to approve the Change of Control. Again, if it is determined that the proposed transaction does not meet one or more of the approval factors, the Board will not approve the Change of Control.

The Board has several options available to it upon review of the proposed transaction, including, but not limited to, the following:
• Approve the proposed Change of Control with or without conditions, such as limitations on new educational programs, student enrollment growth, development of new campuses or additional locations;

• Defer consideration of the proposed transaction until the next scheduled Board meeting pending receipt of additional information or action by a third party;

• Require additional review through the Eligibility Process or a Fact-Finding Review regarding whether the proposed Change of Control constitutes the creation of a new institution such that the Board requires the institution to undergo a period of time in candidacy or an initial status evaluation;

• Deny the proposed Change of Control.

The Commission staff will communicate the Board of Trustees decision to the institution and the U.S. Department of Education through an official action letter subsequent to the Board meeting. The Board action will also be included in the list of Board actions available on the Commission Web site. In those circumstances where the proposed transaction is highly publicized, the Commission may at its discretion post a Public Disclosure Notice on the Commission Web site.

• In the event of approval or approval with conditions: See Steps Seven and Eight.

• In the event of additional review by the Eligibility Process or a Fact-Finding Review: The Board will set forth the purpose and timeline for this review, and the results of the additional review will be available to the Board at its next meeting. If the Board determines that the transaction forms a new institution requiring a period of time in Candidacy, then the institution will have the opportunity to appeal the Change of Control Candidacy as described in Policy INST.D.90.010 Appeals.

• In the event of deferral: The Board will outline the specific information it requires and will set a timeline for the submission of that information and the Board review of the Change of Control.

• In the event of denial: Denial of a Change of Control is not appealable. An institution denied a Change of Control may resubmit its request for approval. However, it will be treated as a new request, subject to the same processes and fees as the previous review. Commission staff will provide a timetable for consideration of the new application at the time of submission.

If the Board denies the Change of Control, nothing in the Board’s action prevents the institution from proceeding with the transaction for reasons it determines to be appropriate. The Board’s action denies the extension of accreditation after the closing of the transaction, however. Should the transaction close without the prior approval of the Board, Commission policy allows the Board to withdraw the accreditation of the institution. The Board would do so in a separate meeting (as provided for in the Commission Bylaws) and in a separate action from the Change of Control denial. Withdrawal of accreditation is an appealable action under Commission Policy INST.D.90.010 Appeals.

Step Seven: Institutional Acknowledgement and Transaction Closing

If the Board approves the transaction (with or without conditions), the institution and other parties involved in the transaction have fourteen (14) calendar days after receipt of the Board action letter to indicate in writing that they accept the approval and any conditions. If the institution and other parties do not respond in writing to accept or decline the approval and any conditions, the Board may immediately act to rescind
approval. That action may be taken through a regularly scheduled or special meeting of the Board as provided for in the Commission Bylaws. The Board’s action may designate an effective date of approval of a change of control, structure or organization provided that such effective date will be not later than 30 days from the date of the action.

The institution must also notify the Commission in writing when the transaction is closed.

**Step Eight: Subsequent Evaluation**

The Commission will conduct a focused visit or other evaluation visit to the institution within six months of the close of the transaction. Additionally, the next comprehensive evaluation will take place no more than five years after the close of the transaction. These visits will verify that the institution, subsequent to the change, continues to meet the Commission’s Criteria for Accreditation and Eligibility Requirements and that it is meeting commitments it made to the Commission as part of the recommendation and approval process.

The visiting team may recommend that the institution be continued in status as a Candidate for Accreditation if it appears that the institution has changed significantly such that it no longer meets the Criteria for Accreditation but does meet the Eligibility Requirements.

**REQUIRED DOCUMENTS FOR THE CHANGE OF CONTROL APPLICATION**

A. General Introduction

The introduction provides a narrative description of the change, including the nature of the transaction, names and addresses of all relevant parties, the name of the institution, parent corporation or subsidiary entities that have a controlling relationship with the institution, any other institutions that are a part of the transaction and relationship to recognized accrediting agencies, any required internal or external approvals and anticipated dates of those approvals, and the projected closing date of the transaction. This document should provide readers with a broad overview of what change is proposed and how the controlling party intends to transform the institution subsequent to the transaction. This section should be no more than ten pages in length.

B. Transactional Documents

An institution should include the documents listed below that are appropriate for the nature of the transaction and that provide information relevant to understanding the effect of the transaction on the institution. If the transaction will occur at the level of a parent corporation or a subsidiary of a parent corporation holding a controlling relationship to the institution, include documents relevant to the outcome for the affiliated entity as well as documents that explain the changes in the parent or other entity. Begin this section with a short introduction that describes what documents are included and what documents from this list are not relevant to the transaction and therefore are not included in the packet.

1. Contract of sale or transfer, or purchase agreement, including all attachments, exhibits and related agreements or merger agreement, as applicable.
2. Revised or new Articles of Incorporation, Articles of Merger, etc., arising out of the transaction. Institutions must include the Articles of Incorporation for the buyer, all related corporations, and related investors.

3. New or revised corporate documents including Corporate Bylaws, Operating Agreement (LLC), Partnership or Joint Venture Agreement, etc. arising out of the transaction. Institutions must include the Bylaws for the buyer, all related corporations, and related investors.

4. For stock-related transactions, relevant filings completed with the Securities and Exchange Commission (SEC) including the S-1 and the 8-K as applicable.

5. Pre-acquisition packet filed with the U.S. Department of Education and information filed with the state higher education agency. Pre-acquisition review letter issued by the U.S. Department of Education and letter of approval from state higher education agency or a letter from such agency indicating why approval is not required.

6. Financial information to include the most recent external audit, current budget, Form 990, and six months of cash statements for the buyer, for the institution, and for any parent corporation or for a subsidiary holding a controlling or other relationship with the accredited institution. Buyers and institutions that are for-profit entities should submit two years of federal income tax forms for their corporation and related corporations under the same parent entity. Investors or other third parties must also provide their most recent external audit and tax return. If they do not have an audit, they must provide third-party verification from a bank or other source documenting the funds to support the transaction and other funds to support any investment to be made in the institution within the first year subsequent to the closing of the transaction.

7. Organizational chart showing the institution, any parent or holding companies, governing boards, and key administrators at all levels, currently in place and as anticipated by the transaction. Such charts should outline the relationship between the accredited institution and the corporate structure after the close of the transaction.

8. Lists of key administrators and governing board members, including qualifications and disclosure statements, at the institution and at each corporate level senior to the institution subsequent to the transaction. Identify any hiring or recruiting that must be done at these levels as a result of the transaction.

C. Institutional Statement

The institution should provide a narrative response to each of these questions. Include any additional exhibits not provided as Transactional Documents that substantiate and help explain the response. The institution should respond to each question with specific information about the institution as anticipated subsequent to the transaction and over the course of the next five years, and compare the current characteristics of the institution to those anticipated subsequent to the close of the transaction. Note that this section should not describe the current institution but the institution anticipated after the closing.

1. Explain the mission of the institution before the transaction. How will the mission change subsequent to the transaction? If the current mission will continue, how will the institution with new buyers or investors support the mission under new control or structure?
2. Outline the educational programs that the institution offers and explain how those programs will be continued and supported subsequent to the transaction. Identify any new programs the parties intend to initiate in the next five years and how these programs will be developed and by whom. Explain the learning and support resources for current and future programs. Include an academic plan prepared by the institution and the proposed buyers or investors that outlines planned academic programs and support services for the next five years.

3. Explain the current delivery mode(s) (on-ground, on-line, etc.) of the institution’s programs. Outline plans to change or expand any of the delivery modes and timeframe for such changes or expansion.

4. Provide the current student enrollment by department and modality (on-ground, on-line, iTV, etc.) at the institution. Outline plans in progress to support students through the transition and to assist students who may need or want to be transferred and taught-out if existing programs will be terminated or modified in the next twelve (12) months. Describe the anticipated student body subsequent to the transaction, the plans and targets for recruitment, and the basis on which these plans are deemed attainable.

5. Identify the projected enrollment for each quarter or semester for the next five years by campus, additional location or distance modality or correspondence by department at each degree level.

6. Provide the marketing plan for the institution for the next five years after the closing. How will the institution market to new or continuing students as well as to different populations of students?

7. Provide the business plan for the next five years after the closing. How will the institution assure it can meet its debt or other financial obligations? What improvements or expansions to technology or infrastructure will be necessary to sustain financial operations, support current or planned enrollment increases, new educational programming, etc., and what will be the source of the funds? If the institution intends to use funds provided by an investor(s), what is the evidence of the investors’ commitment to continue to provide funds over time to sustain operations and expansion?

8. Describe immediate and long-range strategic planning for the institution and at the parent or corporate level as contemplated by the transaction and how it will affect the institution.

9. Explain the governance and management structure at the institution and at the parent or corporate level as contemplated by the transaction and how it will affect the institution.

10. Explain the knowledge of and experience in higher education, or with accreditation, of any of the buyers, investors or other key parties in the transaction. Include key administrators in place or being hired.

11. Describe the current faculty including the number of faculty members in each department, a summary of their qualifications, the nature of their employment relationship (tenured, union, etc.) at the institution, and plans in progress to terminate, retain, or supplement those faculty members after the completion of the transaction. Provide numbers of full- and part-time faculty before the transaction and numbers anticipated within one year of the transaction. Provide drafts of all employment agreements or employment documents anticipated for update at or subsequent to closing as well as evidence that faculty have seen the draft documents and provided an acceptance or rejection of an offer of employment.

12. Explain the institution’s current efforts to assess student learning and what efforts will be undertaken subsequent to the transaction to ensure continuity or improvement of these efforts.
13. Explain how the institution will continue to meet each of the Eligibility Requirements and each of the Criteria for Accreditation, including each Core Component, subsequent to the completion of the transaction. (If the transaction intends to consolidate another institutional entity into the structure of an institution affiliated with the Commission, the narrative must establish that the accredited institution will have sufficient academic and corporate control of the other component as outlined in the Commission’s Eligibility Requirements.)

14. Outline how the institution has been working to address any challenges identified by the last comprehensive evaluation team and any issues to have been addressed in upcoming Commission monitoring. How will the transaction assist the institution in resolving the issues identified by the Commission?

15. Provide any other information important to understanding the transaction or the effect of the transaction on the institution.

CHANGE OF CONTROL AND TEACH-OUT

An institution that pursues a Change of Control during a period of financial exigency or other circumstances that could force the institution to close must submit a Teach-Out Plan (See Institutional Teach-Out Arrangements Document) for Commission approval with the Change of Control packet. The Teach-Out Plan should address what arrangements the institution would provide for students if the Change of Control were denied and the institution did not proceed with the transaction. The Teach-Out should also address what arrangements the institution would provide for students if the Change of Control were denied and the institution did proceed with the transaction, risking withdrawal of accreditation.

ADDITIONAL INFORMATION

Fees for Change of Control

The Commission assesses fees for Change of Control requests. All fees must be paid before the Board will review the proposed transactions. The fees for a Change of Control are listed in the Commission’s schedule of dues and fees posted on its Web site. The fee schedule is revised annually; new fees are effective on September 1.

- The Initial Interaction fee is nonrefundable, even if the transaction does not proceed or the Commission determines that it does not need to approve the transaction.
- If the transaction proceeds and the Commission determines that the transaction is a Change of Control requiring Commission approval, then the Commission will bill the Filing Fee upon the formal application filing.
- If the Commission incurs costs through the Fact-Finding Reviews or because of additional fees charged by professionals retained by the Commission to assist with the review, the Commission will bill the institution for those costs plus 15 percent.

QUESTIONS

Contact the Commission staff liaison or Legal and Governmental Affairs with questions or concerns.

*Check the Commission website for updates* · ncahlc.org
Policy Title: Notice
Number: INST.E.10.010

Notice is a public sanction that attaches to an institution’s accreditation status. This status indicates that an institution is at risk of being out of compliance with one or more Criteria for Accreditation, or Federal Compliance Requirements or out of conformity with the Assumed Practices but nevertheless is currently in compliance with these requirements. An action to impose Notice is a final action not subject to appeal.

In placing an institution on Notice the Board of Trustees will identify in the letter notifying the institution of the action the deficiencies at the institution that led to Notice. The letter will also specify a date for submission of a written report on the corrective measures taken by the institution during the Notice period and for a subsequent focused evaluation. The written report must provide clear evidence that the institution has ameliorated the deficiencies that led to the Notice action and is no longer at risk for compliance issues. The focused evaluation will determine whether claims made in the report are verifiable and demonstrate significant improvement in the deficient areas.

The Notice period will typically be one year and shall not exceed two years, commencing on the date of the Board’s action placing the institution on Notice until the date the Board determines whether the deficiencies that led to the institution being placed on Notice have been ameliorated. The filing of the report and the subsequent focused evaluation will take place within this time period as established by the Board. The Board of Trustees may impose Notice at the end of Probation or Show-Cause if the institution has demonstrated compliance with the areas previously identified as non-compliant but remains at risk related to those areas of non-compliance or other deficiencies.

If, at the end of the Notice period, the Board finds that the deficiencies leading to the Notice action have not been ameliorated, the Board may place the institution on Probation or may withdraw its accreditation following Commission policy. The Board is not required to provide a period of Probation to an institution prior to withdrawing its accreditation after the institution has been on Notice. The Board may also renew Notice if the institution complies with all the Criteria for Accreditation and Federal Compliance Requirements and is making progress but has not completely ameliorated the conditions that led to the Notice. This renewal will be available for an additional year if the institution was originally placed on Notice for one year or for an additional six months if the institution was originally placed on Notice for two years.

Process for Imposing or Removing Notice
Only the Board of Trustees, acting on the recommendation of any evaluation team, an Institutional Actions Council Committee, or the President, shall take action placing an institution on Notice. A team recommendation to place an institution on Notice, other than one arising from an advisory visit process, will automatically be referred to an Institutional Actions Council Hearing Committee. The Board will consider both the team recommendation and Institutional Actions Council Hearing Committee recommendations in its deliberations. The President of the Commission makes a recommendation for Notice resulting from an advisory visit process directly to the Board. In all cases, the Board of Trustees will act on a recommendation for Notice only if the institution’s chief executive officer has been given an opportunity of at least two (2) weeks to place before the Board of Trustees a written response to the recommendation.

The Board of Trustees, acting on the recommendation of the Commission President based on the focused evaluation report and recommendation or other information, may remove an institution from Notice; may
determine that the institution is not in compliance with one or more of the Criteria for Accreditation or Federal Compliance Requirements or is not in conformity with the Assumed Practices and place the institution on Probation or withdraw accreditation, following Commission policy; or, when the institution’s response and actions are insufficient or inadequate to make a judgment, may define a process for determining whether the institution is in compliance with one or more of the Commission’s Criteria for Accreditation, or Federal Compliance Requirements and is in conformity with all the Assumed Practices. For a renewal or extension of Notice, the Board may determine whether to call for another Notice report and focused evaluation or whether a previously scheduled evaluation visit shall consider whether the conditions of Notice have been satisfied.

Pathways Assignment
The Board shall reassign an institution on the Open Pathway to the Standard Pathway in the action that places the institution on Notice. The institution shall remain on the Standard Pathway until such time as it has reestablished its eligibility for the Open or AQIP Pathway as determined by a comprehensive evaluation. An institution on the AQIP Pathway if placed on Notice may remain on that Pathway or may be reassigned to the Standard Pathway as determined by the Board in the action placing the institution on Notice.

Substantive Change During the Notice Period
An institution on Notice may file one or more applications for substantive change during the Notice period. However, any application related to deficiencies identified in the Notice action will be subject to strict scrutiny and may be deferred by staff or by the Institutional Actions Council Committee for consideration by the Commission after the Board has removed Notice, or the application may be denied. An approval of a substantive change for an institution on Notice is not indicative of a determination by the Commission that an institution has corrected identified areas of deficiency.

An institution on Notice is not eligible for the Notification Program for Additional Locations and shall be removed from that program by staff after being placed on Notice. After Notice has been removed with no further sanction or Show-Cause imposed and provided that the Notice was not related to the quality of the institution’s off-campus instruction or related issues, the institution may apply after the next comprehensive evaluation or after a period of four years, whichever is longer, to be restored to the Notification Program. If the Notice was related to the quality of the institution’s off-campus instruction or related issues, the institution may not reapply until it has completed the ten years of good standing required for access to the Notification Program for Additional Locations.

Public Disclosure of Notice Actions
A Public Disclosure Notice for an institution on Notice will be available on the Commission’s website shortly after, but not more than twenty-four (24) hours after, the Commission notifies the institution of the action imposing Notice. An institution on Notice must notify its Board members, administrators, faculty, staff, students, prospective students, and any other constituencies about the action in a timely manner not more than fourteen (14) days after receiving the action letter from the Commission; the notification must include information on how to contact the Commission for further information; the institution must also disclose this status whenever it refers to its Commission accreditation.

Focused Evaluation at the End of the Notice Period
The focused evaluation conducted at the end of the Notice period will be conducted following Commission policies and procedures for focused evaluations conducted as routine monitoring. (See INST.F.10.010, Routine Monitoring.)

Policy Number Key
Section INST: Institutional Policies
Chapter E: Sanctions, Adverse Actions, and Appeals
Last Revised: February 2014
First Adopted: June 2000
Revision History: February 2011, June 2012, February 2014
Notes: Policies combined November 2012 – 2.5(a), 2.5(a)1, 2.5(a)2
Related Policies: INST.F.20.010 Special Monitoring
Policy Title:  Probation
Number:     INST.E.20.010

Probation is a public sanction that attaches to an institution’s accreditation status. This status indicates that an accredited institution is no longer in compliance with one or more of the Commission’s Criteria for Accreditation or Federal Compliance Requirements or is out of conformity with the Assumed Practices. The institution remains accredited while it is on Probation. An action to impose Probation is a final action not subject to appeal.

In placing an institution on Probation the Board of Trustees will identify in the letter notifying the institution of the action the specific areas of non-compliance that led to the Probation and the date for the institution’s next comprehensive evaluation at which time the institution must provide clear evidence of having ameliorated the areas of non-compliance as well as clear evidence of compliance with each of the Criteria for Accreditation including the Assumed Practices, or Federal Compliance Requirements.

The period for Probation shall not exceed two (2) years commencing with the date of the Board’s action placing the institution on Probation and concluding with the Board’s determination that Probation be removed and accreditation continued or that accreditation be withdrawn. The period for Probation may be less than two (2) years if the Board so determines. The comprehensive evaluation process will take place within the time period for the sanction established by the Board. If the institution has been on Notice prior to the imposition of Probation, the Board may take that history into account in determining the length of Probation. An institution that receives Probation for less than two (2) years is not entitled to the remainder of the two (2) years if, at the end of the probationary period, it has not been able to demonstrate compliance with the Criteria for Accreditation and Federal Compliance Requirements.

The Board is not required to have placed an institution on Notice prior to the imposition of Probation nor is the Board required to provide a period of Probation prior to withdrawing accreditation. In making the judgment about whether to provide a period of Probation the Board will weigh the capacity of the institution to resolve the areas of non-compliance within the probationary period, any harm that might result to students and the public from allowing the institution time to resolve areas of non-compliance while remaining accredited, and other factors.

The Board has the discretion at any time during the probationary period to reevaluate its decision to allow for a period of Probation if it receives evidence of additional non-compliance with the Criteria for Accreditation, including the Assumed Practices, or Federal Compliance Requirements or deteriorating conditions at the institution that have the capacity to affect the teaching and learning experience at the institution. In such cases the Board may move to Show-Cause or take other action provided for in these policies.

If the institution cannot provide evidence of ameliorating the areas of non-compliance within the timeframe specified by the Board for the Probation, or if the institution is found not to be in compliance with one or more of the Criteria for Accreditation, whether or not the areas of non-compliance are the same or different from those originally identified, the Board shall withdraw the institution’s accreditation or take other action as provided for in these policies.

Process for Imposing or Removing Probation
Only the Board of Trustees, acting on the recommendation of any evaluation team, an Institutional Actions Council Committee, or the President, shall take action placing an institution on Probation. A team
recommendation to place an institution on Probation, other than one arising from an advisory visit process, will automatically be referred to an Institutional Actions Council Hearing Committee. The Board will consider both the team recommendation and the Institutional Actions Council Hearing Committee recommendations in its deliberations. The President of the Commission makes a recommendation for Probation resulting from an advisory visit process directly to the Board. In all cases, the Board of Trustees will act on a recommendation for Probation only if the institution’s chief executive officer has been given an opportunity of at least two (2) weeks to place before the Board of Trustees a written response to the recommendation.

At the end of Probation the Board of Trustees will review recommendations from the comprehensive evaluation team that evaluated the institution and from the Institutional Actions Council Hearing Committee. In taking action, the Board of Trustees may choose to accept, reject, or modify these recommendations. The Board of Trustees may continue accreditation, withdraw accreditation or take other action as provided for in these policies, including imposing a period of Notice if the institution has remediated the areas of non-compliance but remains at risk in those areas or in relation to other deficiencies.

Pathways Assignment
An institution placed on Probation is also removed from any reaffirmation pathway until it is removed from Probation. An institution removed from Probation will be placed on the Standard Pathway for its next reaffirmation cycle.

If the Board of Trustees removes the institution from Probation and does not withdraw accreditation or issue an Order to Show-Cause, the Board shall reaffirm the institution’s accreditation and assign it to the Standard Pathway. The institution will have an evaluation to reaffirm accreditation no later than four (4) years after the Board acts to remove Probation although the Board may set the reaffirmation date earlier, and the institution will be placed in the Standard Pathway accordingly. The Board may also require interim monitoring as a part of its action. The institution will remain on the Standard Pathway until it completes the full ten (10)-year cycle. If at that time accreditation is reaffirmed without further sanction, it may be considered to be eligible for the Open or AQIP Pathways.

Substantive Change During the Probationary Period
An institution on Probation may file one or more applications for substantive change during the Probationary period. However, the institution must address in its application the question of why the change is immediately necessary and how the institution will manage the change while continuing to work to remedy the areas of non-compliance; the application will be subject to strict scrutiny by the Commission. The institution should anticipate that the application is likely to be denied or deferred by staff or by the Institutional Actions Council Committee for consideration by the Commission after the Board has removed Probation. An approval of a substantive change for an institution on Probation is not indicative of a determination by the Commission that an institution has corrected identified areas of non-compliance.

An institution on Probation is not eligible for the Notification Program for Additional Locations and shall be removed from that program by staff after being placed on Probation. The institution may not reapply until it has completed ten (10) years in good standing as required for access to the Notification Program for Additional Locations.

Public Disclosure of Probation Actions
A Public Disclosure Notice for an institution on Probation will be available on the Commission’s website shortly after, but not more than twenty-four (24) hours after, the Commission notifies the institution of the action imposing Probation. An institution on Probation must notify its Board members, administrators, faculty, staff, students, prospective students, and any other constituencies about the action in a timely manner not more than fourteen (14) days after receiving the action letter from the Commission; the notification must include information on how to contact the Commission for further information; the institution must also disclose this status whenever
it refers to its Commission accreditation.

**Comprehensive Evaluation Visit During Probation**

An institution on Probation shall undergo a comprehensive evaluation by the Commission according to a schedule set by the Commission’s Board of Trustees in placing the institution on Probation. While the evaluation will review the institution’s compliance with all the Criteria for Accreditation and Federal Compliance Requirements and conformity with the Assumed Practices, the Commission may determine, if the institution has had a recent comprehensive evaluation within the previous three (3) years prior to the imposition of Probation, that the visit will focus primarily on those areas in which the institution has been found to be non-compliant; therefore the Commission may attenuate some aspects of the visit unrelated to the issues involved in Probation.

The President of the Commission shall determine whether the institutional liaison or other Commission staff member will accompany evaluation visits related to Probation. The comprehensive evaluation for an institution undergoing such an evaluation during Probation has the following elements:

**Assurance Review.**

- Assurance Filing by the institution;
- Review by the comprehensive evaluation team composed of Commission Peer Reviewers appointed by Commission staff in accordance with team selection procedures; such review shall include analysis of the Assurance Filing as well as of information from the onsite visit conducted to the institution;
- Written report prepared by the comprehensive evaluation team outlining the team’s findings related to the evidence required of the institution and the conditions that led to the imposition of Probation. The report shall identify strengths and challenges or deficiencies for the institution.

The Assurance Review for an institution with distance or correspondence education shall include a specific focus on these forms of delivery.

**Assurance Filing.** Information assembled by the institution through a self-evaluative or self-study process:

1. evidence of remediation of the areas of non-compliance identified in the letter notifying the institution of Probation;
2. evidence of conformity with the Assumed Practices;
3. evidence of meeting the Criteria for Accreditation;
4. branch campus evaluation information, if applicable;
5. evidence of compliance with the Federal Compliance Requirements; and
6. any addenda requested by the team or the Commission during the evaluation process.

In addition, the Commission shall supply information, including but not limited to: summary data from the institution’s recent Institutional Update; records related to evaluation visits, official actions and correspondence; public comments, complaints and results of Commission-sponsored surveys; information from the institution’s accreditation file regarding other recognized accrediting agencies, when appropriate; and any other information the Commission deems appropriate together with any response the institution wishes to file with regard to this information.

**On-Site Visit.** A team of Peer Reviewers appointed by Commission staff in accordance with Commission procedures shall conduct a visit to the institution’s main campus and other institutional locations as shall be determined by the Commission based on its policies and procedures; for institutions that offer only distance or correspondence education, the team shall conduct its on-site visit to the institution’s administrative offices but may include other institutional locations.

The length of the visit shall be three (3) days, but the Commission shall retain discretion to lengthen or shorten the visit or require that team members conduct additional on-site visits to the institution’s facilities as a part of a particular Comprehensive Evaluation to examine specific issues.
Recommendations Arising from Comprehensive Evaluations During Probation. The team of Commission Peer Reviewers conducting a comprehensive evaluation during Probation shall in its written report make a recommendation to the Commission’s Board of Trustees for Commission action.

The team shall recommend whether to remove Probation, specifying interim monitoring that should be attached to the removal, or to withdraw accreditation. In recommending withdrawal of accreditation, the team may also recommend for the Board’s consideration an effective date for the withdrawal action.

These recommendations, along with the team’s written report, shall be forwarded to an Institutional Actions Council Hearing Committee and from there to the Commission’s Board of Trustees.

Institutional Responses to Recommendations Arising from Comprehensive Evaluations During Probation. An institution shall have the opportunity to provide a written response to the written report of a comprehensive evaluation following Commission policies for the provision of institutional responses. An institution shall have at least two weeks to prepare and submit an institutional response to the team report prior to review and action through the Commission’s decision-making processes.

Policy Number Key
Section INST: Institutional Policies
Chapter E: Sanctions, Adverse Actions, and Appeals
Part 20: Probation

Last Revised: February 2014
First Adopted: August 1988
Notes: Policies combined November 2012 – 2.5(b), 2.5(b)1, 2.5(b)2, 2.5(b)3
Related Policies: INST.G.10.020 Official Records (Institutional Responses within the Process), COMM.B.10.010 Staff Role and Responsibility
Policy Title: Show-Cause (Procedural Order)
Number: INST.E.30.010

The Board of Trustees may require an accredited institution to show cause, within a limited period of time not to exceed one (1) year, as to why its accreditation should not be removed. The basis for the issuance of a Show-Cause Order will be the Board’s determination that there is probable cause that the institution does not meet the Criteria for Accreditation or the Federal Compliance Requirements or is out of conformity with the Assumed Practices. The Show-Cause Order is public. The institution remains accredited while it is on Show-Cause. An order to show cause is a final action not subject to appeal.

The Board of Trustees will explain the reasons for its decision and areas of probable non-compliance in the Show-Cause Order and in the letter provided to the institution after the action to impose Show-Cause. The Show-Cause Order will require that an institution (1) present its case for continued accreditation by means of a report, known as a Show-Cause Report, that provides substantive evidence that the institution continues to meet each of the Criteria for Accreditation including the Assumed Practices, and Federal Compliance Requirements and has resolved the issues that led to the findings of probable non-compliance identified in the Show-Cause Order, and (2) host an on-site evaluation team to validate the report. The President of the Commission shall determine whether the institutional liaison or other Commission staff member will accompany the Show-Cause Evaluation Visit. The on-site team will produce a report that includes its findings regarding the institution’s compliance with the Criteria for Accreditation and the Federal Compliance Requirements and conformity with the Assumed Practices for consideration by the Board of Trustees. Only the Board of Trustees may issue a Show-Cause Order, and only the Board of Trustees may find that the Show-Cause Order has been addressed, and that the institution has demonstrated compliance with the Criteria for Accreditation and the Federal Compliance Requirements and conformity with the Assumed Practices.

**Process for Imposing or Removing a Show-Cause Order**

The Board of Trustees shall take action at the end of the Show-Cause period. If the institution has demonstrated to the sole satisfaction of the Board that it has ameliorated each finding of probable non-compliance identified by the Board detailed in the Show-Cause Order and that it meets each of the Criteria for Accreditation, including but not limited to the Assumed Practices and Federal Compliance Requirements, the Board may remove the institution from Show-Cause and cancel the Order; the Board may also reaffirm accreditation as required by the institution’s reaffirmation cycle with the Commission. The Board may remove the institution from Show-Cause subject to a period of Notice if the institution has demonstrated compliance with the Criteria for Accreditation, including but not limited to the Assumed Practices and Federal Compliance Requirements, but remains at risk related to those areas of non-compliance or other deficiencies.

If the institution has not demonstrated to the sole satisfaction of the Board 1) that it has ameliorated each area of non-compliance identified by the Board detailed in the Show-Cause Order and 2) that it meets each of the Criteria for Accreditation and Federal Compliance Requirements, the Board shall withdraw accreditation or take any other action provided for in Commission policy including Probation or Reconsideration, as appropriate, subject to the requirements of those policies provided that in no case shall the period of time provided to an institution determined to be non-compliant be more than two (2) years including the Show-Cause period.

In all cases, the Board of Trustees will act at the conclusion of a Show-Cause process only if the institution’s chief executive officer has been given opportunity to place before the Board of Trustees a written response to the Show-Cause Report and any other information arising in the Show-Cause process. An institution shall have at
least two (2) weeks to prepare and submit an institutional response to the team report prior to review and action by the Board of Trustees.

**Board Committee Hearing in Show-Cause**
At the time it establishes the order, or within a reasonable period of time thereafter, the Board of Trustees will name individuals to conduct a Board Committee Hearing in keeping with INST.D.70.010 Special Protocols Related to Adverse Actions. The hearing will occur after the on-site visit but prior to the Board of Trustees meeting at which the Board of Trustees will take final action on the Show-Cause Order.

**Pathways Assignment**
An institution placed on Show-Cause is removed from any reaffirmation pathway until it is removed from Show-Cause.

If, at the conclusion of the Show-Cause period, the Board of Trustees removes the institution from Show-Cause and does not withdraw accreditation or place the institution on Probation or take other action related to a finding of non-compliance, the Board shall assign the institution to the Standard Pathway. The institution will have an evaluation to reaffirm accreditation no later than four (4) years after the Board acts to remove Show-Cause and depending on the previous date of reaffirmation although the Board may set the reaffirmation date earlier, and the institution will be set in the Standard Pathway accordingly. The Board may also require interim monitoring as a part of its action. The institution will remain on the Standard Pathway until it completes a full ten (10)-year cycle and is then reaffirmed without further sanction at which time it may be considered for the Open or AQIP Pathways.

**Substantive Change During the Show-Cause Period**
The Commission will not consider for approval any substantive change during the Show-Cause period unless the institution can demonstrate that the change is required by law or by the requirements of a specialized accreditor or is essential for the institution to demonstrate compliance with the Criteria for Accreditation or Federal Compliance Requirements or to remain fiscally viable. Even if the Commission accepts the application after this showing of necessity, the application will be subject to strict scrutiny by the Commission and may be denied or deferred by staff or by the Institutional Actions Council Committee for consideration by the Commission after the Board has removed Show-Cause. An approval of a substantive change for an institution on Show-Cause is not indicative of a determination by the Commission that an institution has corrected identified areas of probable non-compliance.

An institution on Show-Cause is not eligible for the Notification Program for Additional Locations and shall be removed from that program by staff after being placed on Show-Cause. The institution may not reapply until it has completed ten (10) years in good standing as required for access to the Notification Program for Additional Locations.

**Public Disclosure of Show-Cause**
A Public Disclosure Notice for an institution on Show-Cause will be available on the Commission’s website after, but not more than twenty-four (24) hours after, the Commission notifies the institution of the action issuing the Show-Cause Order. An institution on Show-Cause must notify its Board members, administrators, faculty, staff, students, prospective students, and any other constituencies about the action in a timely manner not more than fourteen (14) days after receiving the action letter from the Commission; the notification must include information on how to contact the Commission for further information; the institution must also disclose this status whenever it refers to its Commission accreditation.

**Show-Cause Evaluation Visit**
An institution under a Show-Cause Order shall undergo a Show-Cause Evaluation Visit by the Commission according to a schedule set by the Commission’s Board of Trustees in placing the institution on Show-Cause. The
evaluation will review the institution's compliance with all the Criteria for Accreditation and Federal Compliance Requirements and conformity with the Assumed Practices. The visit will be narrowly tailored at the Commission's discretion to make this key determination.

A team of peer reviewers appointed by Commission staff in accordance with Commission procedures shall conduct a visit to the institution's main campus and other institutional locations as determined by the Commission based on its policies and procedures; for institutions that offer only distance or correspondence education, the team shall conduct its on-site visit to the institution's administrative offices but may include other institutional locations.

The length of the visit shall be three (3) days, but the Commission shall retain discretion to lengthen or shorten the visit or require that team members conduct additional on-site visits to the institution's facilities to examine specific issues.

The President of the Commission shall determine whether the institutional liaison or other Commission staff member will accompany evaluation visits related to Show-Cause.

**Institutional Responses to the Show-Cause Evaluation Visit Report**

An institution shall have the opportunity to provide a written response to the written report of a Show-Cause evaluation following Commission policies for the provision of institutional responses. An institution shall have at least two (2) weeks to prepare and submit an institutional response to the team report prior to review and action through the Commission's decision-making processes.

**Policy Number Key**

Section INST: Institutional Policies
Chapter E: Sanctions, Adverse Actions, and Appeals
Part 30: Show Cause

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Last Revised: February 2014
First Adopted: June 2000
Revision History: June 2006, November 2012, February 2014
Notes: Policies combined November 2012 – 2.5(c), 2.5(c)1, 2.5(c)2, 2.5(c)3
Related Policies: INST.E.70.010 Special Protocols Related to Adverse Actions, INST.B.30.040 Public Disclosure, COMM.B.10.010 Staff Role and Responsibility
Withdrawal of Accreditation

The Board of Trustees shall take action withdrawing the accreditation of an institution. The grounds for withdrawal of accreditation shall be that the institution does not meet one or more of the Criteria for Accreditation or Federal Compliance Requirements or fails to demonstrate conformity with the Assumed Practices or has not demonstrated a pattern of meeting the Obligations of Affiliation during the accreditation period.

This determination may be made by the Board after any of the following:

- a focused or comprehensive evaluation;
- a period of Notice or Probation;
- a Show-Cause process;
- a reconsideration process; or
- upon recommendation of the President, if an on-site visit has occurred within the year preceding.

A team recommendation to withdraw accreditation, other than one arising from an advisory visit process, will automatically be referred to an Institutional Actions Council Hearing Committee. The Board will consider both the team recommendation and the Institutional Actions Council Hearing Committee recommendations in its deliberations. A recommendation for withdrawal of accreditation by the President is made directly to the Board, and there is no Institutional Actions Council Hearing in this case.

In all cases, the Board of Trustees will act on a recommendation for withdrawal only if the institution’s chief executive officer has been given opportunity of at least two (2) weeks to place before the Board of Trustees a written response to the recommendation.

In addition, an institution may also lose its accreditation if it fails to meet institutional Obligations of Affiliation within a designated time after being warned of non-compliance, if it ceases to operate as an educational institution, or if its legal authorization to operate and grant degrees is terminated. The President shall take a recommendation to the Board calling for withdrawal in such cases; the institution need not have had an on-site visit within the previous year.

Withdrawal of accreditation is an adverse action and thus is not a final action and is subject to appeal.

Public Disclosure After Withdrawal of Accreditation

A Public Disclosure Notice for an institution that has had its accreditation withdrawn will be available on the Commission’s website shortly after, but not more than twenty-four (24) hours after, the Commission notifies the institution of the action. Since an institution may appeal this decision by the Commission, the public notice shall also include clear reference to the appeal options available to the institution and official comments that the institution provides to be included in the notice. An institution under withdrawal must notify its Board members, administrators, faculty, staff, students, prospective students, and any other constituencies about the action in a timely manner not more than fourteen (14) days after receiving the action letter from the Commission; the notification must include information on how to contact the Commission for further information; the institution must also disclose this status whenever it refers to its Commission status.

Denial of Accreditation
The Board of Trustees shall take action denying accreditation to an institution. The grounds for denial of accreditation shall be that the institution does not meet one or more of the Eligibility Requirements, the Assumed Practices, or the Criteria for Accreditation, or has not demonstrated a pattern of meeting the Obligations of Affiliation during the candidacy period.

This determination may be made by the Board after any of the following:

- a comprehensive evaluation; or
- a reconsideration process of the accreditation of an institution awarded within the preceding one (1) year.

A team recommendation to deny accreditation will automatically be referred to an Institutional Actions Council Hearing Committee. The Board will consider both the team recommendation and the Institutional Actions Council Hearing Committee recommendations in its deliberations.

In all cases, the Board of Trustees will act on a recommendation for denial only if the institution’s chief executive officer has been given opportunity to place before the Board of Trustees a written response to the recommendation.

Denial of accreditation is an adverse action and thus is not a final action and is subject to appeal except in cases where the Board, in taking such action, denies an institution’s early application for accreditation prior to the end of the candidacy period and thereby continues the institution’s candidate for accreditation status or extends that status to a fifth year, as provided for in Commission policy.

**Denial or Withdrawal of Candidate for Accreditation Status**

The Board of Trustees shall take actions denying or withdrawing the candidate for accreditation status of an institution. The grounds for denial or withdrawal of candidacy shall be that the institution does not meet one or more of the Eligibility Requirements, the Assumed Practices, and Federal Compliance Requirements or that there is not sufficient evidence to support the judgment that all of the Criteria for Accreditation can reasonably be met within the period of candidacy, or the remainder of the candidacy period if withdrawal of candidacy is being considered.

This determination may be made by the Board after any of the following:

- in the case of denial of candidacy, a comprehensive evaluation;
- in the case of withdrawal of candidacy, a comprehensive, focused or other evaluation during candidacy;
- a reconsideration process; or
- upon recommendation of the President, if an on-site visit has occurred within the year preceding.

A team recommendation to deny or withdraw candidacy, other than one arising from an advisory visit process, will automatically be referred to an Institutional Actions Council Hearing Committee. The Board will consider both the team recommendation and the Institutional Actions Council Hearing Committee recommendations in its deliberations. A recommendation for withdrawal of accreditation by the President is made directly to the Board, and there is no Institutional Actions Council Hearing in this case.

In all cases, the Board of Trustees will act on a recommendation for denial or withdrawal of candidacy only if the institution’s chief executive officer has been given opportunity to place before the Board of Trustees a written response to the recommendation.

In addition, an institution may also lose its candidate for accreditation status if it fails to meet institutional Obligations of Affiliation within a designated time after being warned of non-compliance, if it ceases to operate as an educational institution, or if its legal authorization to operate and grant degrees is terminated. The President
shall take a recommendation to the Board calling for withdrawal in such cases; the institution need not have had
an on-site visit within the previous year.

Denial or withdrawal of candidate for accreditation status is an adverse action and thus is not a final action and is
subject to appeal.

**Public Disclosure After Denial of Accreditation or Denial or Withdrawal of Candidate for Accreditation**

A Public Disclosure Notice for an institution that has had accreditation denied or candidacy withdrawn, or had
candidacy denied, will be available on the Commission’s website shortly after, but not more than twenty-four (24)
hours after, the Commission notifies the institution of the action. Since an institution may appeal this decision by
the Commission (except in cases where the Commission has extended an existing candidacy), the public notice
shall also include clear reference to the appeal options available to the institution and official comments that the
institution provides to be included in the notice. An institution under withdrawal or denial must notify its Board
members, administrators, faculty, staff, students, prospective students, and any other constituencies about the
action in a timely manner not more than fourteen (14) days after receiving the action letter from the Commission;
the notification must include information on how to contact the Commission for further information; the
institution must also disclose this status whenever it refers to its Commission status.

**Policy Number Key**

Section INST: Institutional Policies

Chapter E: Sanctions, Adverse Actions, and Appeals

Part 60: Denial or Withdrawal of Status

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Last Revised: February 2014
First Adopted: January 1983


Notes: Policies combined November 2012 - 2.5(f), 2.5(f)1, 2.5(f)2, 2.5(f)3, 2.5(f)4

Related Policies: INST.B.20.020 Candidacy
Appendix 13
Posted Date: July 12, 2013


Volume 2 - School Eligibility and Operations is presented below as a master PDF file, comprising a table of contents and chapters, followed by separate PDF files for each chapter of the volume. Scroll down the page to see all the hyperlinked titles for each chapter (listed as attachments). Opening the PDF files requires version 4.0 or greater of the free Adobe Acrobat Reader software.

Attachments/Enclosures:

**Volume 2 - School Eligibility and Operations Master File in PDF Format, 1MB, 166 Pages**

**Table of Contents in PDF Format, 178KB, 6 Pages**

**Introduction in PDF Format, 111KB, 2 Pages**

**Chapter 1 - Institutional Eligibility in PDF Format, 316KB, 12 Pages**

**Chapter 2 - Program Eligibility, Written Arrangements, & Distance Education in PDF Format, 448KB, 18 Pages**

**Chapter 3 - FSA Administrative & Related Requirements in PDF Format, 415KB, 22 Pages**

**Chapter 4 - Audits, Financial Standards, Limitations, & Cohort Rates in PDF Format, 446KB, 28 Pages**

**Chapter 5 - Updating Application Information in PDF Format, 263KB, 18 Pages**

**Chapter 6 - Providing Consumer & Safety Information in PDF Format, 618KB, 22 Pages**

**Chapter 7 - Record keeping, Electronic Processes, & Privacy in PDF Format, 270KB, 16 Pages**

**Chapter 8 - Campus Safety, Reports, & Other Requirements in PDF Format, 343KB, 10 Pages**

**Chapter 9 - Program Reviews, Sanctions, & Closeout in PDF Format,**
ACREDITATION

Generally, a school must be accredited or preaccredited by a nationally recognized accrediting agency or association (both referred to here as agencies) to be eligible.

Except as provided here, a school must be accredited by an agency that has the authority to cover all of the institution’s programs. An agency such as this is referred to as the school’s primary accrediting agency. A school can have only one primary accrediting agency.

A school may also be accredited by one or more programmatic accrediting agencies. A programmatic accrediting agency is one that accredits only individual educational programs that prepare students for entry into a profession, occupation, or vocation.

If a school is seeking to change primary accreditors, it must first provide the Department and the agencies all materials documenting the reasons for the change. Information on accreditation changes is in Chapter 5.

Alternatives to regular accreditation

The law provides two statutory alternatives to accreditation by a recognized accrediting agency. First, a public or private nonprofit institution may be preaccredited by an agency or association that has been approved by the Department to grant such preaccreditation. Second, public postsecondary vocational educational institutions may be eligible for FSA funds if accredited by a state agency that the Department determines to be a reliable authority.

Primary accreditor

The primary accreditor typically is an accrediting agency whose scope is institution-wide rather than only programmatic. A participating institution must tell the Department which accrediting agency it wants to serve as its primary accrediting agency for FSA eligibility. If a school offers only programs of a singular nature, the school’s primary accreditor may be an agency that accredits only those specific educational programs.

Dual accreditation

If a school is accredited by two agencies at the same time, the school must designate which agency’s accreditation will be used in determining institutional eligibility for FSA funds and must inform the Department via the E-App. Further, the school must provide to the Department and to both agencies all materials documenting the reasons for dual accreditation before the school adds the additional accreditation. See Chapter 5 for more on changes in accreditation and loss of eligibility.

ADMISSIONS STANDARDS

An eligible institution may admit as regular students only persons who have a high school diploma or its recognized equivalent, are beyond the age of compulsory school attendance in the state in which the school is located, or are dually enrolled in the college and a secondary school. Admissions standards also play a role in student eligibility, as discussed in Volume 1, Chapter 1.
In this chapter we discuss program reviews conducted at schools, sanctions and corrective actions, and procedures for schools that are ending their participation in one or more of the FSA programs.

PROGRAM REVIEWS BY THE DEPARTMENT

The Department of Education oversees the FSA programs to ensure they are administered properly. One way we do this is by conducting program reviews to confirm that schools meet FSA requirements for institutional eligibility, financial responsibility, and administrative capability. Program reviews identify compliance problems and suggest corrective actions.

If a school is cited in a program review for improperly disbursing FSA program funds, it must restore them as appropriate. If a school is cited for other serious program violations, it may be subject to correction and sanctions such as fines, emergency action, limitation, suspension, or termination, as discussed later in this chapter.

A program review covers many of the same areas as an audit (see Chapter 4), including fiscal operations and accounting procedures as well as compliance with the specific program requirements for student eligibility and awards. However, program reviews are not conducted annually at every school; priority is given to schools that meet criteria specified in the law (see the sidebar note on the next page).

Department program reviewers will

- analyze school records and identify weaknesses in the school’s procedures for administering FSA funds;
- determine how those weaknesses may subject FSA funds to potential or actual fraud, waste, and abuse;
- identify corrective actions that will strengthen the school’s future compliance with FSA rules and regulations;
- quantify the harm from any failings of the school and identify liabilities where noncompliance has lead to loss, misuse, or unnecessary spending of federal funds; and
- when necessary, refer schools for administrative action to protect the interests of students and taxpayers.

CHAPTER 9 HIGHLIGHTS

- Program reviews by the Department
- Corrective actions & sanctions
- Closeout procedures (when FSA participation ends)

Related information

→ Audit requirements—Chapter 4
→ Updating the E-App for changes to programs and locations—Chapter 5

FSA assessments
To assess your school’s compliance with the provisions of this chapter, see the FSA Assessment module for “Institutional Eligibility” (www.ifap.ed.gov/qahome/qaassessments/institutionalelig.html).
Program review priority

The law specifies that the Department gives priority in program reviews to schools that
• have a high cohort default rate or dollar volume of default,
• have a significant fluctuation in Pell Grant awards or FSA loan volume that is not accounted for by changes in the programs,
• are reported to have deficiencies or financial aid problems by the appropriate state agency or accrediting agency,
• have high annual dropout rates, or
• the Department determines may pose a significant risk of failing to comply with the administrative capability or financial responsibility requirements.

Scope of the review

A program review may be either a general assessment review, a focused review, or a compliance assurance review. A general assessment review is the most common type of review and is normally conducted to evaluate the school’s overall performance in meeting FSA administrative and financial requirements. A focused review is normally conducted to determine if the school has problems with specific areas of FSA program compliance. A compliance assurance review is a tool that is used to help validate the Department’s risk assessment system.

For general assessment, compliance assurance, and some focused reviews, the review team will randomly select student files. In general, a sample consists of 15 students from each award year under review. The review team will analyze the academic file, student account ledger, student financial aid file, and admissions file for each student in the sample.

Reviewers will also examine school records that are not specific to individual students. These records include required policies and procedures, fiscal records, and consumer information (i.e., the school’s website, school catalog(s), pamphlets, etc.).

It may be necessary for the reviewer to conduct interviews with school officials, including academic or education personnel or the registrar, admissions personnel, financial aid personnel, fiscal office personnel, placement officer, and/or campus security personnel. In addition, the reviewer may interview students.

Location of the review

Program reviews are typically conducted at the institution. However, in some circumstances institutions are asked to submit copies of selected records to the Department for review at its offices, and interviews are conducted via telephone rather than in person.

Notification of the review

Most reviews are announced up to 30 days prior to the review by a telephone call to the president and financial aid administrator. The school also receives written notice of the review and is asked to provide relevant materials prior to the start of the review (e.g., policies and procedures, consumer publications, a list of FSA recipients, etc.). The school will also be expected to make other records available on-site at the start of the review. In some cases, notice for the review is given the day before the review (via overnight delivery or fax), the morning of the review (via fax), or at the time the review team arrives at the school.

Schools are required to cooperate with the Department in the event of a program review and provide unrestricted access to any and all information requested to conduct the review. Failure to provide this access to the program review team may lead to an adverse administrative action.

20 USC 1099c-1(a)(2)

Department obligations

Regarding program reviews, the Department is required to
• establish guidelines designed to ensure uniformity of practice in the conduct of program reviews;
• make copies of all review guidelines and procedures available to all participating schools;
• permit schools to correct administrative, accounting, or record keeping errors if the errors are not part of a pattern and there is no evidence of fraud or misconduct;
• base any civil penalty assessed against a school resulting from a program review or audit on the gravity of the violation, failure, or misrepresentation;
• inform the appropriate state and accrediting agency whenever it takes action against a school;
• provide schools an adequate opportunity to review and respond to any program review report and related materials before a final report is issued;
• consider a school’s response in any final program review report or audit determination and include in that
  (1) a written statement addressing the school’s response;
  (2) a written statement of the basis for the report or determination; and
  (3) a copy of the school’s response.

20 USC 1099c-1(b)
Case Management & School Participation Teams

Case management is the Department's approach to oversight of schools that participate in the FSA programs. School Participation Management conducts program reviews, reviews compliance audits and financial statements, reviews recertification applications, and provides the Department with a picture of a school's overall compliance through the use of School Participation Teams.

FSAs School Eligibility Service Group (SESQ) coordinates the case management approach. School Participation Teams are staffed by personnel in the regions and in Washington, DC, and each is assigned a portfolio of schools. Each team is responsible for oversight functions for the schools in its portfolio. These functions include audit resolution, program reviews, financial statement analysis, initial eligibility and recertification, and method of payment.

The entire team will evaluate information on the school from a variety of sources to identify any compliance issues at the school. The team can then assess potential risk to the FSA programs and determine appropriate action. Once appropriate actions are decided upon, the case manager assigned to the school ensures that the recommended actions are taken.

School Participation Teams will collect and review information on a school from many sources, including but not limited to:

- applications for recertification,
- financial and compliance audits,
- state agencies,
- accrediting agencies and licensing boards,
- student complaints, and
- Department databases

A School Participation Team may decide to take actions that include but are not limited to:

- renewing full recertification or awarding only provisional certification;
- initiating a program review;
- establishing liabilities;
- developing a strategy for providing technical assistance;
- transferring the school to the cash monitoring or reimbursement payment method (see Volume 4: Processing Aid and Managing FSA Funds);
- requiring a letter of credit; and
- referring the school for an enforcement action.

Actions do not always have to be negative. For example, the School Participation Team can recommend a school for participation in the Quality Assurance Program.

Case management provides the additional benefit of permitting a school to contact one team that will have all information on the school available in one place. (For a list of phone numbers for the regional School Participation Teams, see the “Help” link on the IFAP website [http://ifap.ed.gov].

Administrative subpoena authority
HEA Sec. 490A
The Department has the authority to issue administrative subpoenas to assist in conducting investigations of possible violations of the provisions of FSA programs. In addition, the law authorizes the Department to request the Attorney General to invoke the assistance of any court of the United States for purposes of enforcing a subpoena if necessary.
Communication with state agencies

The HEA requires that each state, through at least one state agency, must
- furnish the Department, upon request, with information regarding licensing and other authorization for a school to operate in that state;
- promptly notify the Department of revocations of licensure or authorization; and
- promptly notify the Department of credible evidence that a school has committed fraud in the administration of the FSA programs or has substantially violated a provision of the HEA.

Department’s recognition of state agencies
Sec. 495 of the HEA
20 USC 1087–1(b)
34 CFR 603

Access to records

Access includes the right to copy records (including computer records), to examine computer programs and data, and to interview employees without the presence of management or the presence of the school’s or a servicer’s tape recorder.
Access and examination cite
34 CFR 688.24(f)

Appealing audit and program review determinations

The law allows for appeals of final audit or program review determinations. Note that only a final determination may be appealed. The letter conveying a final audit determination is clearly identified as a Final Audit Determination Letter and explains the appeals procedures. For a program review, the final determination letter is identified as a Final Program Review Determination Letter.
34 CFR Part 668 Subpart H

Entrance and exit/status conference

The review team will hold an entrance conference with school officials at the beginning of the review. The purpose of the entrance conference is to provide school officials with information about the review and the program review process and for reviewers to learn how federal student aid is processed at the school.

The review team will hold an exit or status conference at the end of a program review. The purpose of the exit conference is to inform school officials about the next steps in the process, summarize preliminary findings, advise school officials of any immediate changes that must be made, and/or provide details of any remaining outstanding items. If the fieldwork is not complete or the data has not been fully analyzed, a status meeting is conducted. A return visit may be necessary or an exit conference may be conducted via telephone after further analysis is completed.

Written report

The program review team prepares a preliminary written report after completion of the review. In most instances, this report will be sent to the school within approximately 60 days of the review. The school may respond to this report if it wishes to offer additional information to support its position or if it disagrees with any of the report’s findings. When the Department has fully considered the school’s response and any additional documentation provided by the school, the Department will send a Final Program Review Determination (FPRD) letter to the school.

Final Program Review Determination (FPRD)

An FPRD is a report that includes each finding identified in the program review report, the school’s response, and the Department’s final determination. The FPRD may require the school to take further action to resolve one or more of the findings. This action may include making student level adjustments in COD and the G5 payment system, and paying liabilities to the Department, student, or lenders on behalf of the student.

Any funds the school owes as a result of the FPRD must be repaid within 45 days of the school’s receipt of the FPRD unless the school submits an appeal to the Department or enters into a payment plan with ED’s Financial Management Group. The cover letter of the FPRD provides instructions on how to file an appeal. If payment or an appeal is not received within 45 days, the Department may elect to use administrative offset to collect the funds owed.

School Participation Team contacts

You can locate the School Participation Team for your region by going to the "Help" menu on the IFAP website and choosing Contact Information > Federal Student Aid Offices.
Accrediting Agency Role

The goal of accreditation is to ensure that the education provided by postsecondary educational institutions meets an acceptable level of quality. The Department recognizes agencies that meet established criteria, and such recognition is a sign that an agency has been determined to be a reliable authority on the quality of the institutions or programs the agency accredits.

An accrediting agency can be recognized by the Department for institutional or programmatic accreditation. An institutional accreditation agency accredits an entire institution. A programmatic accrediting agency accredits specific educational programs, departments, or schools within an institution.

An agency must have standards that effectively address the quality of a school or program in the following areas:
- success with respect to student achievement in relation to mission, including, as appropriate, consideration of course completion, state licensing examination, and job placement rates;
- curricula;
- faculty;
- facilities, equipment, and supplies;
- fiscal and administrative capacity as appropriate to the specific scale of operations;
- student support services;
- recruiting and admissions practices, academic calendars, publications, grading, and advertising;
- measures of program length and the objectives of the degrees or credentials offered;
- record of student complaints received by, or available to, the agency;
- record of compliance with the school's FSA program responsibilities, based on items such as default rate data and the results of compliance audits and program reviews and any other information that the Department may provide to the agency; and
- any additional accreditation standards the accrediting agency deems appropriate.

There are many additional statutory requirements a national accrediting agency must meet to qualify for recognition. For example, an accreditation agency must:
- consistently apply and enforce standards for accreditation that ensure that the education or training offered by an institution or program, including any offered through correspondence or telecommunications, is of sufficient quality to achieve its stated objectives for the duration of the school's accreditation period;
- perform, at regularly established intervals, on-site inspections and reviews of institutions of higher education (that may include unannounced site visits), with particular focus on educational quality and program effectiveness;
- agree to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action; and
- if it is an institutional accrediting agency, maintain adequate substantive change policies that ensure that any substantive change to the educational mission, program, or programs of an institution after an agency has accredited or preaccredited the institution do not adversely affect the capacity of the institution to continue meeting the agency’s standards.

Information and a complete list of agencies recognized by the Department can be found at www.ed.gov/admins/finaid/accred/index.html.

Department’s recognition of accrediting agencies
Sec. 496 of the HEA
20 USC 1099b
34 CFR 602
Corrective Actions & Sanctions

Sanctions
Sanctions include emergency actions, fines, limitations, suspensions, and terminations (see descriptions on next page). The Department may initiate actions against any school that:

- violates the law or regulations governing the FSA programs, its Program Participation Agreement, or any agreement made under the law or regulations; or
- substantially misrepresents the nature of its educational programs, its financial charges, or its graduates' employability. For details on misrepresentation, see Chapter 6.

In addition, the Department has the authority to terminate a school or program that no longer meets the eligibility criteria given in Chapter 1.

Similarly, the Department may also sanction a third-party servicer that performs functions related to the FSA programs. Further, the Department has the authority to sanction a group of schools or servicers if it finds that a person or entity with substantial control over all schools or servicers within the group has violated any of the FSA program requirements or has been suspended or debarred from program participation. See Chapters 1 and 4.

Criminal penalties
Criminal penalties
The law provides that any person who knowingly and willfully embezzles; misapplies; steals; obtains by fraud, false statement, or forgery; or fails to refund any funds, assets, or property provided or insured under Title IV of the Higher Education Act; or attempts to commit any of these crimes will be fined up to $20,000 or imprisoned for up to five years, or both. If the amount of funds involved in the crime is $200 or less, the penalties are fines up to $5,000 or imprisonment up to one year, or both.

Any person who knowingly and willfully makes false statements, furnishes false information, or conceals material information in connection with the assignment of an FSA program loan or attempts to do so, will, upon conviction, be fined up to $10,000 or imprisoned for up to one year, or both. This penalty also applies to any person who knowingly and willfully:

- makes, or attempts to make, an unlawful payment to an eligible lender of loans as an inducement to make, or to acquire by assignment, a loan insured under such part.
- destroys or conceals, or attempts to destroy or conceal, any record relating to the provision of FSA program assistance with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part.
Corrective Actions & Sanctions

Emergency action
The Department may take an emergency action to withhold FSA program funds from a school or its students if the Department receives information, determined by a Department official to be reliable, that the school is violating applicable laws, regulations, special arrangements, agreements, or limitations. To take an emergency action, the Department official must determine that:

- The school is misusing federal funds.
- Immediate action is necessary to stop this misuse.
- The potential loss outweighs the importance of using established procedures for limitation, suspension, and termination.

The school is notified by registered mail (or other expeditious means) of the emergency action and the reasons for it. The action becomes effective on the date the notice is mailed.

An emergency action suspends the school's participation in all FSA programs and prohibits the school from disbursing FSA program funds or certifying FFEL applications. The action may not last more than 30 days unless a limitation, suspension, or termination proceeding is initiated during that period. In that case, the emergency action is extended until the proceeding, including any appeal, is concluded. The school is given an opportunity to show cause that the action is unwarranted.

Fine
The Department may fine a school up to $27,500 for each statutory or regulatory violation. In determining the amount of the fine, the Department considers the gravity of the offense, the nature of the violation, and the school's size. The school is notified by certified mail of the fine action, the amount of the fine, and the basis for the action. A school has 20 days from the date of mailing to submit a written request for a hearing or to submit written material indicating why the fine should not be imposed.

Limitation
Under a limitation, the Department imposes specific conditions or restrictions upon a school as it administers FSA program funds. As a result, the school is allowed to continue participating in the FSA programs. A limitation lasts for at least 12 months. If the school fails to abide by the limitation's conditions, a termination proceeding may be initiated.

Suspension
A suspension removes a school from participation in the FSA programs for a period not to exceed 60 days (unless a limitation or termination proceeding has been initiated or the Department and the school agree to an extension). A suspension action is used when a school can be expected to correct an FSA program violation in a short time.

Corrective action
As part of any fine, limitation, or suspension proceeding, the Department may require a school to take corrective action. This may include making payments to eligible students from its own funds or repaying illegally used funds to the Department. In addition, the Department may offset any funds to be repaid against any benefits or claims due the school.

Termination
A termination ends a school's participation in the FSA programs. A school that has violated the law or regulations governing the FSA programs, its PPA, or any other agreement made under FSA regulations and was terminated from participating in the FSA programs generally may not apply to be reinstated for at least 18 months.

Possibility of reinstatement
A school requesting reinstatement in the FSA programs must submit a fully completed E-App to the Department and demonstrate that it meets the standards in 34 CFR Part 668. As part of the reinstatement process, the school must show that it has corrected the violations on which its termination was based, including repaying all funds (to the Department or to the eligible recipients) that were improperly received, disbursed, caused to be disbursed, or withheld. The Department may approve the request, deny the request, or approve the request subject to limitations (such as granting the school provisional certification). If the Department approves the reinstatement request, the school will receive a new ECAR and enter into a new PPA.
**Notification requirement**

34 CFR 600.40

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(d) Except as otherwise provided in this part, if an institution ceases to satisfy any of the requirements for eligibility under this part—

(1) It must notify the Secretary within 30 days of the date that it ceases to satisfy that requirement; and

(2) It becomes ineligible to continue to participate in any HEA program as of the date it ceases to satisfy any of the requirements.

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**School Participation Team contacts**

A school that is ending participation in one or more FSA programs should contact the School Participation Team for its region (listed on IFAP under the “Help” menu; go to Contact Information > Federal Student Aid Offices).

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**Effect on student eligibility for interest subsidies**

A student enrolled at a school that loses eligibility or discontinues participation in the Direct Loan program can continue to receive interest subsidies if the student enrolls and remains enrolled at an eligible school.

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**Closeout Procedures (When FSA Participation Ends)**

A school may stop participating in the FSA programs voluntarily or may be required to leave involuntarily, as described below. In either situation, it must follow the closeout procedures specified in the FSA regulations.

**Involuntary withdrawal from FSA participation**

A school’s participation ends in the following circumstances:

- the school closes or stops providing instruction for a reason other than normal vacation periods or as a result of a natural disaster that directly affects the school or its students (see details on next page);

- the school loses its accreditation (see details on next page);

- the school loses its state licensure;

- the school loses its eligibility (see details on next page);

- the school’s PPA expires;

- the school’s participation is terminated under Subpart G;

- the school’s provisional certification is revoked by the Department;

- the school’s cohort default rate exceeds allowable limits; or

- the school files a petition for bankruptcy or the school, its owner, or its CEO is responsible for a crime involving FSA funds.

**Closeout procedures when participation ends**

In general, a school that ceases to be eligible must notify its School Participation Team within 30 days of its loss of eligibility to participate in the FSA programs.

The school must also comply with the following minimum requirements:

- Within 45 days of the effective ending date of participation, submit to the Department all financial reports, performance reports, and other reports, as well as a dated letter of engagement for an audit by an independent certified public accountant of all FSA program funds received. The completed audit report must be submitted to the Department within 45 days after the date of the letter of engagement.

- Report to the Department on the arrangements for retaining and storing (for the remainder of the appropriate retention period described in Chapter 7) all records concerning the school’s management of the appropriate FSA programs.

- Tell the Department how the school will provide for collecting any outstanding FSA loans held by the school.

- Refund students’ unearned FSA student assistance. (See Volume 5, Chapter 2.)
End of FSA participation

School closes or stops providing instruction
If the school closes its main campus or stops providing instruction on its main campus, its loss of eligibility includes all its locations and programs.

If a school ceases to provide educational instruction in all FSA-eligible programs, the school should make arrangements for its students to complete their academic programs. If the school chooses to enter into a formal teach-out arrangement, the school should contact the appropriate School Participation Team for guidance.

School loses eligibility
A school loses its eligibility to participate in the FSA programs when it no longer meets the requirements of 34 CFR Part 600, certain requirements of Part 668, or when the Department terminates the school under Subpart G of the General Provisions.

Voluntary withdrawal from FSA participation
For any number of reasons, a school may voluntarily withdraw from participating in one or all of the FSA programs. For instance, a school might wish to withdraw from the Perkins Loan Program to work on lowering high student loan cohort default rates. To withdraw from one or all of the FSA programs, the school must notify the Department via the electronic application. For more information on these requirements and procedures, contact the appropriate School Participation Team.

A school that withdrew voluntarily (for instance, to lower its default rate) can request to participate again without the waiting period required for a school that was terminated from the program involuntarily or withdrew voluntarily while under a show cause or suspension order.

Withdrawing from the FSA programs while under a termination order or other sanction—or to avoid being placed under them—is not considered a voluntary withdrawal.

School loses primary accreditation
When a school loses its institution-wide accreditation, the Department generally may not certify or recertify that school to participate in any FSA program for two years after the school has had its accreditation withdrawn, revoked, or otherwise terminated for cause or after a school has voluntarily withdrawn under a show cause or suspension order. If a school wishes to be reinstated, it must submit a fully completed E-App to the Department.

The Department will not recertify a school that has lost its institution-wide accreditation in the previous two years unless the original accrediting agency rescinds its decision to terminate the school's accreditation. In addition, if a school voluntarily withdrew from accreditation during the last two years under a show cause or suspension order, the Department will not recertify the school unless the original order is rescinded by the accrediting agency. Finally, a school may not be recertified on the basis of accreditation granted by a different accrediting agency during the two-year period.

There are two exceptions to the two-year rule:

1. If the Department determines that loss of institution-wide accreditation was due to the school's religious mission or affiliation, the school can remain certified for up to 18 months while it obtains alternative accreditation.

2. If a school's institution-wide accrediting agency loses its Department recognition, the school has up to 18 months to obtain new accreditation.

Note that it is possible for accreditation to be withdrawn from one of the programs at a school without affecting the accreditation (and eligibility) of other programs at the school.
**Definition of commitment**

A commitment under the Pell and TEACH grant programs occurs when a student is enrolled and attending the school and has submitted a valid Student Aid Report to the school or when a school has received a valid institutional student information report.

A commitment under the Campus-Based Programs occurs when a student is enrolled and attending the school and has received a notice from the school of the amount that he or she can expect to receive and how and when that amount will be paid.

34 CFR 668.26(e)(1)

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**Teach-out plan**

34 CFR 668.14(b)(31)
Federal Register October 29, 2009

Also see:
Teach-out plan definition
34 CFR 600.2
Eligibility of additional locations for teach-out purposes
34 CFR 600.32(d)

---

**Recovery of loan discharges when branch/location closes**

If an additional location or branch of an institution closes and borrowers who attended the school obtain loan discharges by reason of the closure of the location or branch (or improper ATB or loan certifications), the Department will pursue recovery against the larger institution, its affiliates, and its principals.

20 USC 1087(c)(1)

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In addition, a school that closes must refund to the federal government or, following written instructions from the Department, otherwise distribute any unexpended FSA funds it has received (minus its administrative cost allowance, if applicable).

**Unpaid commitments**

If a school's participation ends during a payment period, but the school continues to provide education in the formerly eligible program until the end of the payment or enrollment period, the school may use the FSA funds in its possession to—

- satisfy unpaid Pell Grant or Campus-Based Program commitments made to students for that payment period or for previously completed payment periods before the school's participation ended.
- use the FSA funds in its possession to satisfy unpaid Direct Loan commitments made to students for that period of enrollment before participation ended by delivering subsequent Direct Loan disbursements to the students or by crediting them to their accounts (if the first disbursement already was delivered or credited to the students' accounts before the school's participation ended).

Note that the school may request additional funds from ED to meet these commitments.

**Teach-out plan**

A school must submit a teach-out plan to its accrediting agency if

- ED initiates an emergency action or initiates the limitation, suspension, or termination of the school’s participation in any FSA program;
- the school’s accrediting agency acts to withdraw, terminate, or suspend the accreditation or preaccreditation.
- the school’s state licensing or authorizing agency revokes the institution’s license or legal authorization to provide an educational program.
- the school intends to close a location that provides 100% of at least one program.
- the school otherwise intends to cease operations.
Closure of a branch or location

A separate closeout audit is not required if a school closes an additional location or a branch campus because the next due compliance audit for the school must report on the use of FSA program funds at the closed location. However, the school must notify the Department of the additional location or branch closure. See Chapter 5 for information on reporting information to the Department.

Loss of eligibility or withdrawal from the Direct Loan Program

If a school is notified that it has lost its eligibility to participate in the Direct Loan Program and the school does not intend to appeal the decision, it must immediately inform all current and prospective students of its loss of eligibility. The school must also explain that it can no longer originate Direct Loans for students or parents. If the school appeals its loss of eligibility within the required timeframe, the school may continue originating Direct Loans during the appeal process. Once a final decision on the appeal is made, the school must take the actions described in the Department’s final appeal determination letter.

If a school plans to withdraw from participation in the Direct Loan Program, it must notify the Department of its decision in writing. Once the effective date of withdrawal has been established, the school is prohibited from disbursing loan funds to the student. However, if your school made a first disbursement to the student before it lost eligibility, it may still be able to make a subsequent disbursement to that student. See the conditions in 34 CFR 668.26(d).
Appendix 14
<table>
<thead>
<tr>
<th>Program</th>
<th>Accrediting or Approving Body</th>
<th>Contact Person (Program Level)</th>
<th>Contact Person (Institution Level)</th>
<th>Likely Impact of Measure 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Automotive Collision Technology</td>
<td>NATEF*</td>
<td>Richard Malsam, Assoc. Prof. of Auto Collision</td>
<td>Dr. Stacey Iken</td>
<td>No likely impact so long as regional accreditation remains intact</td>
</tr>
<tr>
<td>Automotive Technology</td>
<td>NATEF*</td>
<td>Lee Friese, Assoc. Pro. Of Auto Tech</td>
<td>Dr. Stacey Iken</td>
<td>No likely impact so long as regional accreditation remains intact</td>
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<tr>
<td>Carpentry (Residential)</td>
<td>Associated General Contractors of America</td>
<td>Earl Torgerson, Assoc. Prof. of Carpentry</td>
<td>Dr. Stacey Iken</td>
<td>No likely impact so long as regional accreditation remains intact</td>
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<tr>
<td>Electrical Transmission Systems Technology</td>
<td>NERC+</td>
<td>Alicia Uhde, Program Manager</td>
<td>Bruce Emmil</td>
<td>No likely impact so long as regional accreditation remains intact</td>
</tr>
<tr>
<td>Engineering Technology</td>
<td>ABET**</td>
<td>Dave Sagsveen, Assoc. Prof. of Engineering</td>
<td>Dr. Stacey Iken</td>
<td>No likely impact so long as regional accreditation remains intact</td>
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<td>Medical Laboratory Technology</td>
<td>NAACLS***</td>
<td>Angie Uhlich, Assoc. Prof. of Med Lab Tech</td>
<td>Dr. Stacey Iken</td>
<td>No likely impact so long as regional accreditation remains intact</td>
</tr>
<tr>
<td>Nuclear Power Technology</td>
<td>NEI-INPO++</td>
<td>Kyren Miller, Program Manager</td>
<td>Bruce Emmil</td>
<td>No likely impact so long as regional accreditation remains intact</td>
</tr>
<tr>
<td>Program</td>
<td>Accreditation Body</td>
<td>Instructor</td>
<td>Approval Officer</td>
<td>Approval Note</td>
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<td>------------------------------------------------------</td>
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<tr>
<td>Paramedic Technology</td>
<td>CAAHEP</td>
<td>Darci Grunett, Asst. Prof. of Paramedic Tech</td>
<td>Dr. Stacey Iken</td>
<td>No likely impact so long as regional or national accreditation is maintained</td>
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<tr>
<td>Phlebotomy Technician</td>
<td>NAACLS***</td>
<td>Angie Uhlich, Assoc. Prof. of Med Lab Tech</td>
<td>Dr. Stacey Iken</td>
<td>No likely impact so long as regional accreditation remains intact</td>
</tr>
<tr>
<td>Practical Nursing</td>
<td>NDBON^**</td>
<td>Suzie McShane</td>
<td>Dr. Stacey Iken</td>
<td>No likely impact so long as regional or national accreditation is maintained</td>
</tr>
<tr>
<td>ADN-RN</td>
<td>NDBON^**</td>
<td>Suzie McShane</td>
<td>Dr. Stacey Iken</td>
<td>No likely impact so long as regional or national accreditation is maintained</td>
</tr>
<tr>
<td>Surgical Technology</td>
<td>CAAHEP</td>
<td>Trudy Riehl, Assoc. Prof. of Surg Tech</td>
<td>Dr. Stacy Iken</td>
<td>No likely impact so long as regional or national accreditation is maintained</td>
</tr>
<tr>
<td>All Career and Tech Ed Programs</td>
<td>^^^</td>
<td></td>
<td></td>
<td>No likely impact so long as regional or national accreditation is maintained</td>
</tr>
</tbody>
</table>

*National Automotive Technicians Education Foundation  
**Accreditation Board for Engineering Technology—changed in 2005 to simpley ABET  
***National Accrediting Agency for Clinical Laboratory Science  
+ North American Electric Reliability Council  
++ Nuclear Energy Institute – Institute of Nuclear Power Operations  
^Commission on Accreditation of Allied Health Education Programs  
^^North Dakota Board of Nursing—does not “accredit” nursing programs, but does “approve” them.
Dept. of CTE reviews and approves CTE programs in the community colleges every five years. They don’t “accredit” programs, but do “approve” them. If NDUS lost regional accreditation, our CTE programs would likely no longer meet requirements for Perkins funding.
Subject: RE: Accredited Programs - Dakota College at Bottineau
Date: Tuesday, May 27, 2014 4:50:43 PM Central Daylight Time
From: Brooks, Larry
To: Sagsveen, murray
CC: Grosz, Ken

Greeting Mr. Sagsveen,

On behalf of Dr. Ken Grosz, Campus Dean for Dakota College at Bottineau (DCB), I am submitting the following information on DCB’s program accreditation as requested in your email message dated May 27, 2014.

Response from Dakota College at Bottineau

Program: Medical Transcription
Accrediting Organization: – Association of Healthcare Documentation Integrity (AHDI)
Contact Person: Melissa Coleman
Impact of Measure #3: No impact. This program has been placed on inactive status and will likely be terminated.
Accrediting Organization URL: NA

Nursing, Associate Degree (candidate)
Accrediting Organization:
Contact Person: Diane Sjol
Impact of Measure #3: Julie Traynor, Director of the Dakota Nursing Program, thought as long as we had (and kept) approval from the Higher Learning Commission we would be okay.
Accrediting Organization URL: http://www.acenursing.net/manuals/Policies.pdf

Nursing, Practical (candidate)
Accrediting Organization: Accreditation Commission for Education in Nursing
Contact Person: Diane Sjol
Impact of Measure #3: Julie Traynor, Director of the Dakota Nursing Program, thought as long as we had (and kept) approval from the Higher Learning Commission we would be okay.
Accrediting Organization URL: http://www.acenursing.net/manuals/Policies.pdf

Paramedic Technology (candidate)
Accrediting Organization: Commission on Accreditation of Allied Health Programs (CAAHEP) - Committee on Accreditation for the EMS Professions (CoAEMSP)
Contact Person: Mary Jund
Impact of Measure #3: DCB would have to notify CoAEMSP of any governance change.
Accrediting Organization URL: http://www.caahep.org/Content.aspx?id=18 (page 17)

Please feel free to contact me if you have any question/concerns of need additional information.

Larry

Larry Brooks
Associate Dean for Academic Affairs
Dakota College at Bottineau
(701) 228-5457
From: Sagsveen, murray  
Sent: Tuesday, May 27, 2014 12:39 PM  
To: Clark, David; Grosz, Ken; Richman, John; Kelley, Robert Otis; Nadolny, Raymond  
Subject: FW: Accredited Programs  
Importance: High

If possible, request that you provide this information by the end of the day. If unable to provide the five items requested in the May 12 email, please simply list the accredited programs on the attached and return to me. I will be providing this information to the SBHE on Thursday.

MGS

Murray G. Sagsveen, J.D.  
Chief of Staff/Ethics Officer/Director of Legal Services  
NORTH DAKOTA UNIVERSITY SYSTEM  
600 E Boulevard Ave, Dept 215  
Bismarck, ND 58505-0230  
701.328.1499  
murray.sagsveen@ndus.edu

From: <Sagsveen>, Murray Sagsveen < >  
Reply-To: Murray Sagsveen <murray.sagsveen@ndus.edu>  
Date: Monday, May 12, 2014 3:08 PM  
To: "CEOS@LISTSERV.NODAK.EDU" <CEOS@LISTSERV.NODAK.EDU>  
Subject: Accredited Programs

Good afternoon!
Higher Learning Commission Policy INST.8.20.040 (Change of Control, Structure or Organization) states, in part: "An institution shall receive Commission approval prior to undergoing a transaction that affects, or may affect, how corporate control, structure or governance occurs at the accredited institution." Accordingly, if voters approve HCR 3047, now Constitutional Measure 3 (http://www.legis.nd.gov/assembly/63-2013/documents/13-3047-04000.pdf?20130624132314), the SBHE must apply to the HLC for a change in governance. FYI, two letters from the HLC are attached. This issue will be addressed during the May 29 SBHE meeting.

Voter approval of Constitutional Measure 3 could also trigger the requirement for your institution to report or apply to other accrediting organizations concerning programs or schools within the institution. Accordingly, with the Chancellor's approval, I am requesting that you reply with the following information:

1. Programs or separate schools, at your institution, which are accredited by organizations other than the HLC.
2. Name of the accrediting organization and the program or school accredited.
3. The contact person at your institution who is primarily responsible for accreditation.
4. Whether voter approval of Constitutional Measure 3 will trigger a requirement to seek approval of the governance change from each accrediting organization.
5. The URL for each accrediting organization's policy that would require your institution to seek approval of the governance change.

Request that you (or the staff member who is primarily responsible for accreditation) contact me at the earliest opportunity if you have any questions about this matter.

Murray
Murray G. Sagsveen, J.D.
Chief of Staff/Ethics Officer/Director of Legal Services

NORTH DAKOTA UNIVERSITY SYSTEM

600 E Boulevard Ave, Dept 215
Bismarck, ND 58505-0230
701.328.1499
Murray, Here is the response to the five questions you asked about accredited programs from my VPAA Keith Stenehjem. This should answer them appropriately.

Gary,

The only program at this time would be NCATE/CAEP. I had Carol research this, so the comment.

Feedback from NDACTE members says #4 isn’t a problem-CAEP doesn’t really look at system level governance.

Dr. Carol Enger

So the suggested response to Murray would be:

1. Programs or separate schools, at your institution, which are accredited by organizations other than the HLC.
   Teacher Education Programs

2. Name of the accrediting organization and the program or school accredited.
   NCATE/CAEP - Teacher Education Programs

3. The contact person at your institution who is primarily responsible for accreditation.
   Dr. Keith Stenehjem, VPAA

4. Whether voter approval of Constitutional Measure 3 will trigger a requirement to seek approval of the governance change from each accrediting organization.
   No. NDACTE members says #4 isn’t a problem-CAEP doesn’t look at system level governance.

5. The URL for each accrediting organization’s policy that would require your institution to seek approval of the governance change.
   N/A

Keith

From: NDUS Chief Executive Officers [mailto:CEOS@LISTSERV.NODAK.EDU] On Behalf Of Sagsveen, murray
Sent: Monday, May 12, 2014 3:08 PM
To: CEOS@LISTSERV.NODAK.EDU
Subject: Accredited Programs
Importance: High

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Murray

Murray G. Sagsveen, J.D.
Chief of Staff/Ethics Officer/Director of Legal Services

NORTH DAKOTA
University System
600 E Boulevard Ave, Dept 215
Bismarck, ND 58505-0230
Subject: RE: Accredited Programs  
Date: Tuesday, May 13, 2014 5:47:13 PM Central Daylight Time  
From: Nelson, Brandi  
To: Sagsveen, murray  
CC: Halvorson, Lloyd, Darling, Doug  

Mr. Sagsveen,  
Please find below Lake Region State College’s response to your email request regarding accrediting organizations. Please contact me if you have further questions.  
Thank you,  
Brandi Nelson  
Director of Institutional Effectiveness  
701/662-1509  

1. Automotive Technology  
2. National Automotive Technician Education Foundation  
3. Brandi Nelson  
4. No  
5. N/A  

1. Fitness Trainer Technician  
2. Commission on Accreditation of Allied Health Education Programs  
3. Brandi Nelson  
4. Yes  

1. Nursing  
2. The nursing program is a candidate for accreditation by the Accreditation Commission for Education in Nursing  
3. Brandi Nelson  
4. Yes  

From: NDUS Chief Executive Officers [mailto:CEOS@LISTSERV.NODAK.EDU] On Behalf Of Sagsveen, murray  
Sent: Monday, May 12, 2014 3:08 PM  
To: CEOS@LISTSERV.NODAK.EDU  
Subject: Accredited Programs  
Importance: High  

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Murray

Murray G. Sagsveen, J.D.
Chief of Staff/Ethics Officer/Director of Legal Services

NORTH DAKOTA UNIVERSITY SYSTEM
600 E Boulevard Ave, Dept 215
Bismarck, ND 58505-0230
701.328.1499
Accredited Programs
North Dakota State School of Science
May 27, 2014

- **Auto Body Repair and Refinishing Technology** - National Automotive Technicians Education Foundation, Inc. (NATEF), 101 Blue Seal Drive, Suite 101, Leesburg, VA 20175, (703) 669-6650

- **Automotive Technology** - National Automotive Technicians Education Foundation, Inc. (NATEF), 101 Blue Seal Drive, Suite 101, Leesburg, VA 20175, (703) 669-6650

- **Dental Hygiene and Dental Assisting** - Accredited by the Commission on Dental Accreditation of the American Dental Association, 211 East Chicago Ave., Suite 1900, Chicago, IL 60611, (312) 440-4653

- **Diesel Technology** - Associated Equipment Distributors, Inc., 615 W. 22nd St., Oak Brook, IL 60523, (630) 574-0650

- **Health Information Technician** - Accredited by the Commission on Accreditation for Health Informatics and Information Management Education (CAHIM), in cooperation with American Health Information Management Association (AHIMA), 233 N. Michigan Ave., 21st Floor, Chicago, IL 60601-5809. (312) 233-1100

- **Occupational Therapy Assistant** - Accredited by Accreditation Council of Occupational Therapy Education (ACOTE) 4720 Montgomery Lane, PO Box 31220, Bethesda, MD 20824-1220, (301) 652-2682

- **Pharmacy Technician** - American Society of Health System Pharmacists, 7272 Wisconsin Ave., Bethesda, MD 20814, (301) 657-3000

- **Practical Nursing** - Accredited by National League for Nursing Accrediting Commission (NLNAC) and ASN and Practical Nursing Programs have full approval by the North Dakota Board of Nursing. 3343 Peachtree Road NE, Suite 500, Atlanta, GA 30326, (404) 975-5000

- **Academic Services Center** - National Association of Developmental Education (NADE), 500 N. Estrella Parkway Suite B2 PMB 412, Goodyear, AZ 85338, (877) 233-9455
# NORTH DAKOTA STATE UNIVERSITY

## College of Agriculture, Food Systems and Natural Resources
Specialized Accreditations

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Veterinary Technology</td>
<td>Committee on Veterinary Technician Education and Activities (CVTEA) of the American Veterinary Medical Association (AVMA)</td>
<td>Teresa Sonsthagen, Co-Director</td>
<td>No effect</td>
<td><a href="https://www.avma.org/professionaldevelopment/education/accreditation/programs/pages/cvtea-process.aspx">https://www.avma.org/professionaldevelopment/education/accreditation/programs/pages/cvtea-process.aspx</a></td>
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<td>Food Science</td>
<td>Institute of Food Technologists</td>
<td>Clifford Hall, Program Coordinator</td>
<td>No effect</td>
<td><a href="http://www.ift.org/Community/Students/Approved-Undergrad-Programs/Education-Standards.aspx">http://www.ift.org/Community/Students/Approved-Undergrad-Programs/Education-Standards.aspx</a></td>
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## College of Arts, Humanities and Social Sciences
Specialized Accreditations

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<tbody>
<tr>
<td>Architecture &amp; Landscape</td>
<td>National Architectural Accrediting Board (NAAB)</td>
<td>David Bertolini, Chair. Department</td>
<td>The department chair does not</td>
<td><a href="http://www.naab.org/accreditation/home">http://www.naab.org/accreditation/home</a></td>
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<td>Architecture Program</td>
<td>Architecture and Landscape Accreditation Board</td>
<td>of Architecture and Landscape</td>
<td>think this will trigger a requirement to seek approval from NAAB</td>
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<tr>
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<td>Architecture Program: LAAB, Landscape Architectural Accreditation Board</td>
<td>Architecture</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>701-231-8615</td>
<td>It’s possible that the Measure 3 change may not fulfill the last part of NAST standard II.D.1.a.(3): “Governance and administrative structures and activities shall...include a board of trustees with legal and financial responsibilities and adequate public representation.”</td>
<td><a href="http://www.asla.org/accreditation/laab.aspx">http://www.asla.org/accreditation/laab.aspx</a></td>
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<tr>
<td>Music &amp; Theatre</td>
<td>National Association of Schools of Music; NDSU School of Music (NASM)</td>
<td>Dr. John Miller</td>
<td>It's possible that the Measure 3 change may not fulfill the last part of NAST standard II.D.1.a.(3): “Governance and administrative structures and activities shall...include a board of trustees with legal and financial responsibilities and adequate public representation.”</td>
<td>NA</td>
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<tr>
<td>School of Music</td>
<td></td>
<td>701-231-7933</td>
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<td></td>
</tr>
<tr>
<td>Department of Theatre Arts</td>
<td>National Association of Schools of Theatre; Department of Theatre Arts (NAST)</td>
<td>Rooth Varland</td>
<td>It's possible that the Measure 3 change may not fulfill the last part of NAST standard II.D.1.a.(3): “Governance and administrative structures and activities shall...include a board of trustees with legal and financial responsibilities and adequate public representation.”</td>
<td>NA</td>
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<td>701-231-7788</td>
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<td>College of Business</td>
<td>Specialized Accreditations</td>
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<tr>
<td>-----------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>1. Degrees &amp; Programs</td>
<td>2. Accrediting Agency</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>College of Business</td>
<td>Association to Advance Collegiate Schools of Business (AACSB)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Contact</td>
<td>Dr. Ron Johnson</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>701-231-8805</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><a href="mailto:Ronald.d.johnson@ndsu.edu">Ronald.d.johnson@ndsu.edu</a></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Measure 3 Effect</td>
<td>No effect</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. URL</td>
<td>NA</td>
<td></td>
<td></td>
<td></td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>College of Engineering</th>
<th>Specialized Accreditations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Degrees &amp; Programs</td>
<td>2. Accrediting Agency</td>
</tr>
<tr>
<td>College of Engineering – all undergraduate programs</td>
<td>Agricultural and Biosystems Engineering (ABET)</td>
</tr>
<tr>
<td></td>
<td>Civil Engineering (ABET)</td>
</tr>
<tr>
<td></td>
<td>Computer Engineering (ABET)</td>
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<td></td>
<td>Construction Engineering (ABET)</td>
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<tr>
<td></td>
<td>Electrical Engineering (ABET)</td>
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<tr>
<td></td>
<td>Industrial Engineering (ABET)</td>
</tr>
<tr>
<td></td>
<td>Manufacturing Engineering (ABET)</td>
</tr>
<tr>
<td>3. Contact</td>
<td>Dr. Gary R. Smith, Dean of Engineering for all programs</td>
</tr>
<tr>
<td></td>
<td>701-231-7525</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:Gary.smith@ndsu.edu">Gary.smith@ndsu.edu</a></td>
</tr>
<tr>
<td>4. Measure 3 Effect</td>
<td>By laws of ABET require notification of the change in governance if our accreditation status as a university changes. The impact would be determined by ABET. Excerpt From ABET II.H.1. The institutional administrative officer responsible for ABET accredited programs will notify the ABET Senior Director for Accreditation Operations of changes that potentially impact the extent to which an accredited program satisfies ABET accreditation criteria or</td>
</tr>
<tr>
<td>5. URL</td>
<td><a href="http://www.abet.org/apcm-2014-2015/IH">http://www.abet.org/apcm-2014-2015/IH</a> Changes During the Period of Accreditation</td>
</tr>
</tbody>
</table>
| Mechanical Engineering (ABET)  
Construction Management (American Council for Construction Education) ACCE | policies. A third party may also notify ABET of a change to an accredited program. The institution provides ABET with detailed information about the nature of each change and its impact on the accredited program. Such changes include, but are not limited to:  
II.H.1.b.(4) Status of Institutional Accreditation |

ACCE requires institutions to be accredited by the appropriate regional accrediting agency, which would be the HLC. If that relationship is dropped, NDSU would lose its accreditation with ACCE.

Excerpt from ACCE  
1.3 Institution and Program Eligibility  
To be considered for accreditation, a program in construction education must:  
1.3.1 Be located in an institution of higher learning that is legally authorized under applicable law to provide a program of education beyond that of the secondary level. Furthermore, in the case of those institutions in the United States, be accredited by the appropriate regional accrediting agency, and in the case of other countries, be accredited by the accrediting agency appropriate for its locale, if such exists.  
|
|-----------------------|----------------------|------------|-------------------|-------|
| (B.S./B.A.) Hospitality and Tourism Management | Accreditation Commission for Programs in Hospitality Administration | Dr. Amelia Asperin 701-231-5720 Amelia.asperin@ndsu.edu | No effect | NA |
| Exercise Science (B.S.) | Commission on Accreditation of Allied Health Education Programs: Committee on Accreditation for the Exercise Sciences | Dr. Donna Terbizan 701-231-7792 d_terbizan@ndsu.edu | No effect | NA |
| Coordinated Program in Dietetics and Didactic Program in Dietetics | American Dietetic Association/Council of Accreditation | Dr. Elizabeth Hilliard 701-231-7480 Elizabeth.hilliard@ndsu.edu  
Dr. Ardith Brunt 701-231-7475 Ardith.brunt@ndsu.edu | No effect | NA |
| Family Financial Planning (Option in Child Development and Family Science M.S.) and Certificate | Certified Financial Planner Board of Standards, Inc. | Dr. Jim Deal 701-231-7568 Jim.deal@ndsu.edu | No effect | NA |
| Athletic Training (MATrg) | Commission on Accreditation of Athletic Training Programs (CAATE) | Dr. Pam Hansen 701-231-8093 Pamela.j.hansen@ndsu.edu | No effect | NA |
| Couple and Family Therapy Program (M.S.) | Commission on Accreditation of Marriage and Family Therapy Education | Dr. Tom Carlson 701-231-8279 Tom.carlson@ndsu.edu | No effect | NA |
| Community Counseling (M.S./M.Ed.); School Counseling (M.S./M.Ed.); Counselor Education and Supervision (Ph.D.) | Council for Accreditation of Counseling and Related Educational Programs | Dr. Brenda Hall 701-231-8077 Brenda.hall@ndsu.edu | No effect | NA |
| Interior Design (B.S./B.A.) | Council for Interior Design Accreditation | Dr. Susan Ray-Degges 701-231-7218 Susan.ray-degges@ndsu.edu | No effect | NA |
| Secondary* Teachers, K-12 Teachers in Music (Vocal and Instrumental) and Physical Education; Education Administration (Masters and Specialist); School and Community Counseling; Masters of Education and Masters of Science in Education | National Council for Accreditation of Teacher Education  
North Dakota Education Standards and Practices Board | Dr. Stacy Duffield 701-231-7102 Stacy.duffield@ndsu.edu  
Dr. Jeanette Hoffman 701-231-7127 Jeanette.hoffman@ndsu.edu | No effect | NA |
### College of Pharmacy, Nursing, and Allied Sciences
#### Specialized Accreditations

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Pharmacy Program</td>
<td>Accreditation Council for Pharmacy Education</td>
<td>Dr. Charles D. Peterson 701-231-7609 <a href="mailto:Charles.peterson@ndsu.edu">Charles.peterson@ndsu.edu</a></td>
<td>If there is a change in governance for Higher Education in North Dakota, it would require us to send an official notice of substantive change involving the accredited program to the appropriate program accrediting body. The notice of substantive change then goes to the accrediting body's Board of Directors as an item of information or where appropriate or concerns action by the Board. The accrediting bodies require that they be housed in an institution of higher education that is fully accredited.</td>
<td></td>
</tr>
<tr>
<td>Nursing Program</td>
<td>Commission on Collegiate Nursing Education North Dakota Board of Nursing</td>
<td>Dr. Carla Gross 701-231-7772 <a href="mailto:Carla.gross@ndsu.edu">Carla.gross@ndsu.edu</a></td>
<td>Same as above</td>
<td></td>
</tr>
<tr>
<td>Allied Sciences</td>
<td>Committee on Accreditation for Respiratory Care</td>
<td>Polly Olson 701-231-8133 <a href="mailto:Pollyolson@ndsu.edu">Pollyolson@ndsu.edu</a></td>
<td>Same as above</td>
<td></td>
</tr>
</tbody>
</table>

### College of Science and Mathematics
#### Specialized Accreditations

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>*Psychological Clinical Science PhD program (Department of Psychology) <em>(will apply for accreditation in two years)</em></td>
<td>American Psychological Association's Commission on Accreditation, which is recognized as an accrediting body by the Council for Higher Education Accreditation</td>
<td>Paul D. Rokke 701-231-8626 <a href="mailto:Paul.rokke@ndsu.edu">Paul.rokke@ndsu.edu</a></td>
<td>Accreditation by the American Psychological Association requires that the Program is sponsored by an institution of higher education accredited by a nationally recognized regional accrediting body in the United States. Thus, as long as NDSU remains an accredited institution we would not need to seek additional approval from this organization as a result of a governance change.</td>
<td>[pdf](<a href="http://www.apa.org/ed/accreditatio">http://www.apa.org/ed/accreditatio</a> n/about/policies/guiding-principles.pdf), Section III. Accreditation Domains and Standards, A. Doctoral Graduate Programs, Domain A: Eligibility, for additional details. [online](<a href="http://www.apa.org/ed/accreditatio">http://www.apa.org/ed/accreditatio</a> n/index.aspx)</td>
</tr>
</tbody>
</table>
### College of Education and Health Sciences

<table>
<thead>
<tr>
<th>Accredited Program</th>
<th>Accreditation Agency</th>
<th>Contact Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teacher Education</td>
<td>NCATE / CAEP</td>
<td>Neil Nordquist, Dean of CEHS</td>
</tr>
<tr>
<td>Nursing</td>
<td>Accreditation Commission for Education in Nursing (ACEN)</td>
<td>Nicole Roed, Chair of the Department of Nursing</td>
</tr>
<tr>
<td>School Psychology</td>
<td>National Association of School of Psychologists (NASP)</td>
<td>Dr. Darren Dobrinski, Program Director</td>
</tr>
<tr>
<td>Speech Pathology</td>
<td>The American Speech-Language-Hearing Association (ASHA)</td>
<td>Leisa Harmon, Chair of the Department of Communication Disorders</td>
</tr>
<tr>
<td>Social Work</td>
<td>The Council on Social Work Education (CSWE)</td>
<td>Susan Peterson, Director of Social Work</td>
</tr>
<tr>
<td>Education of the Deaf</td>
<td>Council on Education of the Deaf (CED)</td>
<td>Dr. Holly Pederson, Program Coordinator</td>
</tr>
<tr>
<td>Addiction Studies</td>
<td>The National Addiction Studies Accreditation Commission (NASAC)</td>
<td>Dr. Vicki Michels, Program Director &amp; Department Chair Elect</td>
</tr>
<tr>
<td>Athletic Training</td>
<td>Commission on Accreditation of Athletic Training Education (CAATE)</td>
<td>Dr. Heather Golly, Program Director</td>
</tr>
</tbody>
</table>

### College of Arts & Science

<table>
<thead>
<tr>
<th>Accredited Program</th>
<th>Accreditation Agency</th>
<th>Contact Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division of Music</td>
<td>National Association of Schools of Music (NASM)</td>
<td>Dr. Kenneth Bowles, Chair of the Department of Music</td>
</tr>
</tbody>
</table>

### College of Business

<table>
<thead>
<tr>
<th>Accredited Program</th>
<th>Accreditation Agency</th>
<th>Contact Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>BADM, BIT &amp; Acct. &amp; Finance.</td>
<td>International Assembly of Collegiate Business Education (IACBE)</td>
<td>Dr. Jacek Mrozik, Dean of the College of Business</td>
</tr>
<tr>
<td>Program Accreditation</td>
<td>Accrediting Organization</td>
<td>Program/Accreditation Contact Person</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Nursing</td>
<td>Accreditation Commission for Education in Nursing (ACEN); [formerly the NLNAC] (BSN program 2013-2021; AASPN program 2007-2015)</td>
<td>Dr. Mary Anne Marsh, Chair Department of Nursing</td>
</tr>
<tr>
<td>Environmental Health</td>
<td>National Environmental Health Science and Protection Accreditation Council (EHAC) (2010-2016)</td>
<td>Dr. Lynn Burgess, Department of Natural Science</td>
</tr>
<tr>
<td>Teacher Education</td>
<td>Council for the Accreditation of Educator Preparation [CAEP, formerly NCATE] (2010-2017)</td>
<td>Mr. Kevin Moberg, Chair Department of Teacher Education</td>
</tr>
<tr>
<td>Business/Management</td>
<td>International Assembly for Collegiate Business Education (IACBE), (2010-2018)</td>
<td>Dr. Charles Conrick, Department of Business &amp; Management</td>
</tr>
<tr>
<td>Music</td>
<td>National Association of School Music (NASM) (Associate Membership 2004; Full Membership 2012)</td>
<td>Dr. Bruce Southard, Department of Music</td>
</tr>
<tr>
<td>ACCREDITING AGENCY</td>
<td>DEGREES AND PROGRAMS</td>
<td>CONTACT</td>
</tr>
<tr>
<td>--------------------</td>
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<td>---------</td>
</tr>
<tr>
<td>Higher Learning Commission / North Central Association of Colleges &amp; Schools</td>
<td>INSTITUTIONAL</td>
<td>Joan Hawthorne</td>
</tr>
<tr>
<td>National Association of Schools of Art &amp; Design</td>
<td>Art &amp; Design</td>
<td>Art Jones</td>
</tr>
<tr>
<td>Aviation Accreditation Board International (Note Change in Name)</td>
<td>Aviation Department (Commercial Aviation and Air Traffic Control)</td>
<td>Kent Lovelace</td>
</tr>
<tr>
<td>AACSB International - The Association to Advance Collegiate Schools of Business</td>
<td>Degree Programs in BA, BBA, BAEcon, MAcc, MBA, MSAE</td>
<td>Michelle Garske</td>
</tr>
<tr>
<td>Committee on Professional Training &amp; American Chemical Society</td>
<td>Chemistry</td>
<td>David Pearce</td>
</tr>
<tr>
<td>Council on Academic Accreditation in Audiology &amp; Speech-Language Pathology</td>
<td>Speech Language Pathology (Masters Program)</td>
<td>Manish Rami</td>
</tr>
<tr>
<td>Computing Accreditation Commission (CAC) of the Accreditation Board for Engr and Technology (ABET)</td>
<td>Computer Science (Bachelor of Science)</td>
<td>Tom O’Neill</td>
</tr>
<tr>
<td>Commission on Accreditation for Dietetics Education (the Accrediting Agency for the American Dietetic Association) (Note slight change in agency title)</td>
<td>Coordinated Program in Dietetics</td>
<td>Steve Light</td>
</tr>
<tr>
<td>National Council for Accreditation of Teacher Education (NCATE)</td>
<td>Basic &amp; Advanced Programs for Education (Baccalaureate, Master, Doctorate, Specialist Diploma)</td>
<td>Barbara Combs</td>
</tr>
</tbody>
</table>
## Accredited Programs at UND

<table>
<thead>
<tr>
<th>Accreditation Board</th>
<th>Program/Programs</th>
<th>Contact Person</th>
<th>Website/link</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Dakota Education Standards &amp; Practices Board</td>
<td>Reading Education (MS); Teaching &amp; Learning (PhD); Physical Education (BS; teacher education option); Counseling (MS-School Counseling Option); Basic &amp; Advanced Programs for Education (Baccalaureate, Master, Doctorate, Specialist Diploma)</td>
<td>N/A</td>
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</tr>
<tr>
<td>American Bar Association (Section of Legal Education and Admissions to the Bar)</td>
<td>Law</td>
<td>Kathryn Rand</td>
<td><a href="http://www.americanbar.org/groups/legal_education/resources/standards.html">http://www.americanbar.org/groups/legal_education/resources/standards.html</a></td>
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<tr>
<td>American Music Therapy Association</td>
<td>Music Therapy Baccalaureate Degree Program</td>
<td>Michael Wittgraf</td>
<td></td>
</tr>
<tr>
<td>Council on Accreditation of Nurse Anesthesia Educational Programs (COA)</td>
<td>Nurse Anesthesia</td>
<td>Steve Light</td>
<td><a href="http://home.coa.us.com/Pages/default.aspx">http://home.coa.us.com/Pages/default.aspx</a></td>
</tr>
<tr>
<td>Commission on Collegiate Nursing Education (CCNE)</td>
<td>Baccalaureate and Master's Nursing Degree Programs</td>
<td>Steve Light</td>
<td><a href="http://www.aacn.nche.edu/ccne-accreditation">http://www.aacn.nche.edu/ccne-accreditation</a></td>
</tr>
<tr>
<td>North Dakota Board of Nursing</td>
<td>Baccalaureate and Master's Nursing Degree Programs</td>
<td>Steve Light</td>
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</tr>
<tr>
<td>American Psychological Association</td>
<td>Clinical Psychology</td>
<td>Jeff Weatherley</td>
<td>See separate document</td>
</tr>
<tr>
<td>National Association of Schools of Public Affairs and Administration (NASPAA)</td>
<td>Public Administration (Masters)</td>
<td>Michelle Garske</td>
<td><a href="http://www.naspaa.org">http://www.naspaa.org</a></td>
</tr>
<tr>
<td>Council on Social Work Education</td>
<td>Social Work (undergraduate)</td>
<td>Steve Light</td>
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<tr>
<td>Accreditation Body (ACM)</td>
<td>Program</td>
<td>Contact Person</td>
<td>Website</td>
</tr>
<tr>
<td>-------------------------</td>
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<td>----------------------------------------------</td>
</tr>
<tr>
<td>National Association of Schools of Theatre</td>
<td>Theatre Arts</td>
<td>Emily Cherry</td>
<td><a href="http://nast.arts-accred.org/">http://nast.arts-accred.org/</a></td>
</tr>
<tr>
<td>Liaison Committee on Medical Education (LCME) of the American Medical Association &amp; Association of American Medical Colleges</td>
<td>School of Medicine</td>
<td>Ken Ruit for all</td>
<td>on separate Word document</td>
</tr>
<tr>
<td>Accreditation Council for Continuing Medical Education (ACCME)</td>
<td>School of Medicine, M.D.</td>
<td></td>
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<tr>
<td>Accreditation Council for Graduate Medical Education (ACGME)</td>
<td>School of Medicine, M.D.</td>
<td></td>
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</tr>
<tr>
<td>Commission on Accreditation of Athletic Training Education</td>
<td>Athletic Training</td>
<td></td>
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</tr>
<tr>
<td>National Accrediting Agency for Clinical Laboratory Science (NAACLS)</td>
<td>Medical Lab Science</td>
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<tr>
<td>Commission on Accreditation of Allied Adult Education Programs - Accreditation Review Committee for Cytotechnology</td>
<td>Cytotechnology</td>
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<tr>
<td>Accreditation Council for Graduate Medical Education (ACGME)</td>
<td>Family Medicine Residency in Bismarck</td>
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<tr>
<td>Accreditation Council for Graduate Medical Education (ACGME)</td>
<td>Family Medicine Residency in Fargo</td>
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<tr>
<td>Accreditation Council for Graduate Medical Education (ACGME)</td>
<td>Family Medicine Residency in Grand Forks</td>
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<tr>
<td>Accreditation Council for Graduate Medical Education (ACGME)</td>
<td>Family Medicine Residency in Minot</td>
<td></td>
<td></td>
</tr>
<tr>
<td>National Accrediting Agency for Clinical Laboratory Science (NAACLS)</td>
<td>Histotechnician</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accreditation Council for Graduate Medical Education (ACGME)</td>
<td>Internal Medicine Residency</td>
<td></td>
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<tr>
<td>Accredited Programs at UND</td>
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<tr>
<td>The American Occupational Therapy Association (ACOTE) (Note slight change in agency title)</td>
<td>Occupational Therapy (including OT at Casper College, Wyoming)</td>
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</tr>
<tr>
<td>Commission on Accreditation in Physical Therapy Education (CAPTE)</td>
<td>Physical Therapy</td>
<td></td>
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</tr>
<tr>
<td>Accreditation Review Commission on Education for the Physician Assistant (ARC-PA)</td>
<td>Physicians Assistant</td>
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<td></td>
</tr>
<tr>
<td>Accreditation Council for Graduate Medical Education (ACGME)</td>
<td>Psychiatry Residency</td>
<td></td>
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</tr>
<tr>
<td>Accreditation Council for Graduate Medical Education (ACGME)</td>
<td>Surgery Residency</td>
<td></td>
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<tr>
<td>Accreditation Council for Graduate Medical Education (ACGME)</td>
<td>Transitional Year: UND School of Med &amp; Health Sciences / Sanford Health, Fargo. Program 9993700086</td>
<td></td>
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</tr>
<tr>
<td>Accrediting Agency</td>
<td>Degrees and Programs</td>
<td>Date of Last Visit</td>
<td>Date of Next Visit</td>
</tr>
<tr>
<td>-------------------</td>
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<td>--------------------</td>
</tr>
<tr>
<td>National Council for Accreditation of Teacher Education (NCATE); now CAEP</td>
<td>Education</td>
<td>Fall 2008</td>
<td>Fall 2015</td>
</tr>
<tr>
<td>Higher Learning Commission</td>
<td>Institutional, not program specific</td>
<td>Fall 2011</td>
<td>Fall 2021</td>
</tr>
<tr>
<td>National Association of Schools of Music</td>
<td>Music</td>
<td>Fall 2007</td>
<td>2017</td>
</tr>
</tbody>
</table>
Subject: Re: Accredited Programs

Date: Tuesday, May 27, 2014 3:08:05 PM Central Daylight Time

From: Nadolny, Raymond
To: Sagsveen, murray

Priority: High

Murray,

Williston State has two additional Locations:

1. Dakota Nursing--Minot Site - Minot, ND;
2. The Petroleum Safety and Technology Center - Williston, ND.

Other Accrediting Bodies: The Diesel Technology Program is accredited by the National Automotive Technicians Education Foundation (NATEF). The Nursing Program (CP and AAS) is approved by the North Dakota State Board of Nursing.

Contact Person for Accreditation: Kaylyn Bondy

I do not believe the last two items apply to us. I have copied Kaylyn in case she has anything to add. Please let me know if you need additional information.

Raymond A. Nadolny, Ph.D.
President | Williston State College
1410 University Avenue, Williston, ND 58801
raymond.nadolny@willistonstate.edu
www.willistonstate.edu | 701.770.7475

From: <Sagsveen>, murray <murray.sagsveen@ndus.edu>
Date: Tuesday, May 27, 2014 at 12:39 PM
To: "Clark, David" <david.clark@bismarckstate.edu>, Ken Grosz <ken.grosz@dakotacollege.edu>, John Richman <john.richman@ndscs.edu>, Robert Kelley <robert.kelley@email.und.edu>, Raymond Nadolny <raymond.nadolny@willistonstate.edu>
Subject: FW: Accredited Programs

If possible, request that you provide this information by the end of the day. If unable to provide the five items requested in the May 12 email, please simply list the accredited programs on the attached and return to me. I will be providing this information to the SBHE on Thursday.

MGS

Murray G. Sagsveen, J.D.
Chief of Staff/Ethics Officer/Director of Legal Services

NORTH DAKOTA UNIVERSITY SYSTEM
600 E Boulevard Ave, Dept 215
Bismarck, ND 58505-0230
701.328.1499
murray.sagsveen@ndus.edu

From: <Sagsveen>, Murray Sagsveen <murray.sagsveen@ndus.edu>
Reply-To: Murray Sagsveen <murray.sagsveen@ndus.edu>
Date: Monday, May 12, 2014 3:08 PM
To: "CEOS@LISTSERV.NODAK.EDU" <CEOS@LISTSERV.NODAK.EDU>
Subject: Accredited Programs

Good afternoon!
Higher Learning Commission Policy INST.B.20.040 (Change of Control, Structure or Organization) states, in part: "An institution shall receive Commission approval prior to undergoing a transaction that affects, or may affect, how corporate control, structure or governance occurs at the accredited institution." Accordingly, if voters approve HCR 3047, now Constitutional Measure 3 (http://www.legis.nd.gov/assembly/63-2013/documents/13-3048-04000.pdf?20130624132314), the SBHE must apply to the HLC for a change in governance. FYI, two letters from the HLC are attached. This issue will be addressed during the May 29 SBHE meeting.

Voter approval of Constitutional Measure 3 could also trigger the requirement for your institution to report or apply to other accrediting organizations concerning programs or schools within the institution. Accordingly, with the Chancellor’s approval, I am requesting that you reply with the following information:

1. Programs or separate schools, at your institution, which are accredited by organizations other than the HLC.
2. Name of the accrediting organization and the program or school accredited.
3. The contact person at your institution who is primarily responsible for accreditation.
4. Whether voter approval of Constitutional Measure 3 will trigger a requirement to seek approval of the governance change from each accrediting organization.
5. The URL for each accrediting organization’s policy that would require your institution to seek approval of the governance change.

Request that you (or the staff member who is primarily responsible for accreditation) contact me at the earliest opportunity if you have any questions about this matter.

Murray

Murray G. Sagsveen, J.D.
Chief of Staff/Ethics Officer/Director of Legal Services

NORTH DAKOTA UNIVERSITY SYSTEM
600 E Boulevard Ave, Dept 215
Bismarck, ND 58505-0230
701.328.1499
Appendix 15
### Fall 2013 Enrollment Report Data:

<table>
<thead>
<tr>
<th>BSC</th>
<th>DCB</th>
<th>DSU</th>
<th>LRSC</th>
<th>MaSU</th>
<th>MISU</th>
<th>NDSCS</th>
<th>NDSU</th>
<th>UND</th>
<th>VCSU</th>
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<td>76.7%</td>
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<td>87.5%</td>
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### Fall 2014-15 Tuition Rates:

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<td>$10,385</td>
<td>$10,130</td>
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<td>$10,226</td>
<td>$31,982</td>
<td>$11,510</td>
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### Est ND Res Revenue (Rates x HCU x FT):

<table>
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<th>DCB</th>
<th>DSU</th>
<th>LRSC</th>
<th>MaSU</th>
<th>MISU</th>
<th>NDSCS</th>
<th>NDSU</th>
<th>UND</th>
<th>VCSU</th>
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<td>(11,501, $10,369, $30,550, $10,385, $10,130, $10,245, $10,226, $31,982, $11,510, $10,370, $12,248)</td>
<td>$2,513,854</td>
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### Est Nonres Revenue:

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<th>NDSCS</th>
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<th>VCSU</th>
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<td>$17,862,966</td>
<td>$9,902,748</td>
<td>$740,517,993</td>
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</table>

### Estimated Biennial Revenue Loss:

- **5%**
- **10%**

<table>
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<th>BSC</th>
<th>DCB</th>
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<th>LRSC</th>
<th>MaSU</th>
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<th>NDSCS</th>
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<th>VCSU</th>
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<td>$1,930,458</td>
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*Note: The table above lists the enrollment and revenue data for various institutions and programs, along with tuition rates and estimated revenue losses for different scenarios.*
### Estimated impact of 5%-10% loss of students

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<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
<th>(5)</th>
<th>(6)</th>
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<tr>
<td><strong>Table 10B - Headcount Enrollment by Residency (Fall 2013 Enrollment Report)</strong></td>
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<tr>
<td><strong>ND Residents</strong></td>
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<tr>
<td>Personal Expenses</td>
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<td></td>
</tr>
<tr>
<td><strong>Total Est Room, Board, Personal Expenses Per Student</strong></td>
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<tr>
<td><strong>Total Est Tuition, Fees &amp; Living Expenses Per Student</strong></td>
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<tr>
<td><strong>5% loss</strong></td>
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<tr>
<td><strong>10% loss</strong></td>
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<td></td>
</tr>
</tbody>
</table>

|                  |     |     |     |     |     |     |     |     |     |
| **Nonresidents:**|     |     |     |     |     |     |     |     |     |
| Minnesota        | 13,117 | $7,155 | $1,352 | $8,507 | $10,500 | $19,007 | $249,314,819 | $12,465,741 | $24,931,482 |
| WICHE/MHEC       | 5,854  | $9,582 | $1,352 | $10,934 | $10,500 | $21,434 | $125,474,636 | $6,273,732 | $12,547,464 |
| Other nonresidents | 4,267 | $17,056 | $1,352 | $18,408 | $10,500 | $28,908 | $123,350,436 | $6,167,522 | $12,335,044 |
|                  | 23,238 | $33,793 | $4,056 | $37,849 | $31,500 | $66,349 | $498,139,891 | $24,906,995 | $49,813,989 |

|                  |     |     |     |     |     |     |     |     |     |
| **Total Est Annual Loss of 5% or 10%** |     |     |     |     |     |     |     |     |     |
| **Est biennial loss** |     |     |     |     |     |     |     |     |     |
|                  | $47,503,619 | $95,007,237 |     |     |     |     |     |     |     |
|                  | $95,007,237 | $190,014,474 |     |     |     |     |     |     |     |

**Assumptions:**
1. Assumes HC are all full-time students
2. Assumes all at UND Fall 2014 rates